

# MEMORANDUM

*Department of Planning & Neighborhood Services*

To: Honorable Mayor and City Council

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**Through:** Thomas C. Williams, City Manager  
**From:** Felix J. Reliford, Acting P&NS Director *FJR*  
**Subject:** **Murphy Ranch Project-Staff Recommendation for Project Denial**  
**Date:** October 9, 2007

## 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 site is the last vacant parcel in the Milpitas Business Park that can accommodate new campus headquarter development.**

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. Of the 1,755 acres, only 130 acres remain undeveloped including 86 acres along North McCarthy Boulevard, 22 acres south of the SanDisk headquarters between South McCarthy Boulevard and Murphy Ranch Road and the 21.73 acre project site along Murphy Ranch Road (see Attachment D - Vacant Industrial Land Map). Cisco Systems has submitted plans to develop 240,000 square feet of office space on the 22 acres south of SanDisk, leaving the vacant property along Murphy Ranch Road as the last vacant space in this Business Park.

The subject site, if developed as an office/R&D campus, could accommodate a development of approximately 280,000 to 470,000 square feet. This is comparable to the existing Perry/Arrillaga site of 425,000 that Cisco recently leased.

The approval of this project could substantially limit the future opportunities for several adjacent high-tech companies within the Milpitas Business Park from expanding their businesses with the reduction of industrial land within the business park.

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, a decrease in industrial jobs to 46%, compared to 53% currently, thus exacerbating the jobs/housing balance, as households will increase by 47%. One of the recommendations of the "Industrial Land Conversion Assessment" completed by the Conley Consulting Group recommended that the City should preserve enough industrial acreage to accommodate the projected 4,780 additional industrial jobs in the year 2035. This would also permit easy movement of business within the City and to allow for new industrial ventures. (Attachment C).

A recent trend and interest to local companies and developers is the desire to intensify land uses to accommodate more office and industrial space. Developers and property owners in both the McCarthy Ranch Business Park and the Milpitas Business Park are looking to increase FAR's from 0.35 to 0.50. Applying this trend to estimate space needed to meet ABAG's anticipated job growth, the City will need between 148 and 187 acres of industrial zoned land. Milpitas currently does not have enough vacant land to meet and converting the Murphy Ranch project site to residential would further exacerbate this shortfall. Therefore staff recommends that the remaining 130 acres of available industrial land 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 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 Strategy 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.

**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.

With the adoption of the Midtown Specific Plan and Transit Area Specific Plan to be considered by the Council in the near future, these designated areas have been identified by the City as areas where desirable residential development and growth should occur and have been planned for in the future, The approval of this project would potentially encourage other residential developers to request General Plan and Zone Change Amendments outside of the specific plan areas, which would impact and reduce the availability of industrial land.

**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):

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

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.

# MEMORANDUM

## *Economic Development Commission*

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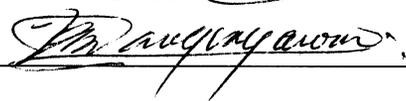
**To:** Mayor Esteves and City Council  
**From:** Economic Development Commission  
**Subject:** **Proposed Conversion of Industrial Land to Residential (Fairfield Residential)**  
**Date:** October 8, 2007

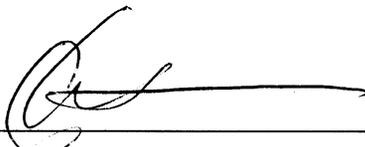
At its meeting on October 9, 2006 the Economic Development Commission approved the following "The Economic Development Commission finds that conversion of the 22 acres on McCarthy Boulevard creates a negative impact on the Midtown Specific Plan implementation and does not contribute anything substantial to the value of the community and recommends denial of the project and land use conversion." The vote was unanimous with Commissioner Maglalang absent.

The Commission re-iterated its position on the proposed Fairfield Residential conversion (the Murphy Ranch project) at its meeting on October 8, 2007, making the following findings:

- The City has either approved in the Midtown Specific Plan (109 acres) or is considering in the Transit Area Plan (200 acres), significant industrial to residential land use changes focused on high density housing. Housing located in these areas will provide true transit oriented development and help rebuild Downtown Milpitas into a stronger economic engine for the City.
- ABAG projects that by 2035, the industrial jobs available in Milpitas will decrease to approximately 46% of the total number of jobs compared to 53% currently. Moreover, as the number of households increase by 47%, total jobs will only increase by 39%.
- The Milpitas Business Park – those properties south of Highway 237, east of Coyote Creek, north of Tasman Drive and west of Interstate 880 – is prime industrial land that allows Milpitas to compete with San Jose, Santa Clara and Fremont for new campus development.
- Once the property converts to residential, it will not reconvert to industrial.

The Economic Development Commission believes that the City Council should uphold the recommendation of the Planning Commission and City staff to deny the Fairfield Residential request for land use change on Murphy Ranch Road.

  
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October 8, 2007

Dear People

John Bell

Raymond Wilson

From: Dick Peery [mailto:rtpeery@peery-arrillaga.com]  
Sent: Tue 9/25/2007 3:09 PM  
To: Geoff Bradley  
Cc: Jason Peery; Jeannette Schirtzinger; John Arrillaga, Jr.; davepeery@mac.com  
Subject: Murphy Ranch Project for Residential - Recommendation that request be denied.

Planning Commission and City Council  
City of Milpitas  
455 E. Calaveras Blvd.  
Milpitas, California

Regarding: Proposed Murphy Ranch Residential Project and our recommendation that this application be denied.

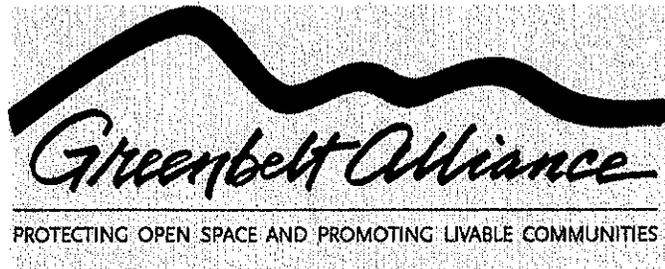
This letter is written to object to the proposed zoning change for the 21 acres on Murphy Ranch Road from Industrial to Residential and we agree with the staff recommendation that this request be denied.

The Zoning should remain unchanged as a change would not be compatible with the quality of the neighborhood and existing and future proposed uses.

We have developed almost all of the Buildings the immediate neighborhood and put in all the Major Streets and carefully planned the development of this area over the years and the quality speaks for itself. Because of the quality of the Office Park many prestigious tenants have located in the area including Cisco that just leased 400,000 sq feet of our buildings just on Tasman and McCarthy - We have just submitted building plans for another 230,000 square feet of Office space across the street from the proposed Residential development and the Cisco building complex and feel the office use continuation is a good one for this last vacant parcel of undeveloped property in the Park.

Thank you,

Richard T. Peery Partner  
Peery/Arrillaga Real Estate Investments  
2560 Mission College Blvd. Suite #101  
Santa Clara, California 95054  
Office 408-980-0130  
Cell 650-906-5959 or 650-380-3665  
e-mail rtpeery@peery-arrillaga.com



Tuesday, September 18, 2007

Mayor Jose Esteves  
And City Councilmembers,  
Planning Commissioners  
455 East Calaveras Boulevard  
Milpitas, CA 95035

**RE: Fairfield at Murphy Ranch Development – SUPPORT**

Dear Mayor Esteves, City Councilmembers, and Planning Commissioners:

Greenbelt Alliance, the Bay Area's land conservation and urban planning organization, endorses the Fairfield at Murphy Ranch development proposed by Fairfield Residential. Our Compact Development Team's (CDT) careful review of this project revealed the addition of housing to be a step in the right direction for this area. The CDT evaluated Fairfield at Murphy Ranch using an established set of guidelines designed with the goal of promoting compact infill development patterns and livable, transit-accessible communities with a wide range of housing options for families of all sizes and income levels.

In Milpitas and throughout the Bay Area, skyrocketing home prices mean that a majority of police officers, fire fighters, and teachers cannot afford to live where they work. The Fairfield at Murphy Ranch development features 659 compact homes and two acres of public open space on nearly 22 acres of land that previously functioned as a ranch. At the recommendation of City staff, the developer has opted to offer 132 of these units at below-market rates. Vibrant communities feature a diverse mix of incomes. Accordingly, the large amount of affordable homes is one of the greatest benefits of this development. This ensures that those working nearby, including both retail and technology workers, can afford to live in the community.

This site boasts a picturesque view of the hills and will offer residents a leisurely walk to VTA via Coyote Creek trail. In addition, by providing homes in a compact fashion, Fairfield Residential is able to provide an ample two acres of public open space for the larger Milpitas community to enjoy. Other amenities on-site, including a pool and exercise facilities, ensure that residents of this development can live a healthy, active, pedestrian-oriented lifestyle. The site plan itself includes numerous pedestrian pathways and enhanced connectivity to the larger area.

Much has been written recently about the strong connection between poorly-planned growth and global climate change. Given the rising concern about climate change, one method for reducing unnecessary car trips is providing only as much parking as is needed while expanding and encouraging other modes of transportation. Segregated land uses fuel much of the excessive need

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SOLANO/NAPA OFFICE • 1652 West Texas Street, Suite 163 Fairfield, CA 94533 • (707) 427-2308 • Fax (707) 427-2315  
SOUTH BAY OFFICE • 1922 The Alameda, Suite 213, San Jose, CA 95126 • (408) 983-0856 • Fax (408) 983-1001  
EAST BAY OFFICE • 1601 North Main Street, Suite 105, Walnut Creek, CA 94596 • (925) 932-7776 • Fax (925) 932-1970  
SONOMA/MARIN OFFICE • 555 5th Street, Suite 300B, Santa Rosa, CA 95401 • (707) 575-3661 • Fax (707) 575-4275  
info@greenbelt.org • www.greenbelt.org

to drive. Although the conversion of industrial land is not an issue that can be addressed with a one-size-fits-all solution, Greenbelt Alliance has determined this particular site is an appropriate place for remedying segregated land use patterns of the past to provide a more complete, integrated community. This area is fortunate to have an abundance of jobs and retail near VTA and SamTrans, and the City of Milpitas should make the most of this opportunity by mixing uses in this jobs-rich area.

Greenbelt Alliance endorses Fairfield at Murphy Ranch with two strong recommendations:

1. Transit Passes: One key way the developer can mitigate potential traffic impacts of these homes, as well as incentivize the use of nearby VTA and SamTrans service, is by providing free transit passes for residents of the development through Santa Clara County's Eco Pass program, which provides unlimited rides on VTA at a deep discount to residential developers. According to studies, providing free transit passes can reduce vehicular travel by anywhere from 4% to 22%, with an average decrease of 11%.
2. Unbundled Rental Parking: Another potential mitigation is unbundled parking. Research suggests that tenants have fewer cars and drive less when given the choice of whether to pay for a parking space each month. Unbundling parking allows for that choice and makes housing more affordable for everyone.

As of Sept. 18, the developer has committed to providing transit passes for residents via the Santa Clara County Eco Pass program. Fairfield Residential is still exploring the option of unbundling rental residential parking.

In closing, we encourage the Planning Commission and City Council's approval of the Fairfield at Murphy Ranch project as a means of protecting open space through the promotion of livable, pedestrian-friendly communities.

Regards,

/s/

Marla Wilson  
Livable Communities Outreach Coordinator

CC:  
Thomas C. Williams, City Manager  
Mary Lavelle, City Clerk

**Felix Reliford**

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**From:** Tom Williams  
**Sent:** Wednesday, October 03, 2007 6:08 PM  
**To:** Felix Reliford  
**Subject:** FW: Fairfield

Felix:

Please make sure you include as an attachment to City Council report.

Tom

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**From:** Diana Whitecar  
**Sent:** Wednesday, October 03, 2007 12:43 PM  
**To:** Tom Williams  
**Subject:** FW: Fairfield

Tom, Erich Stiger represents iStar which has significant industrial holdings in Milpitas. I would like to forward this email to the City Council.

Diana

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**From:** Erich Stiger [mailto:ESTiger@istarfinancial.com]  
**Sent:** Wednesday, October 03, 2007 11:59 AM  
**To:** Diana Whitecar  
**Subject:** Fairfield

Diana - I am traveling in NY this week, so won't be able to attend the city council meeting tomorrow night. However, I wanted to pass on a few of my thoughts on Fairfield's proposed residential plan down the street from some of our buildings. As you know, we own about 1 million square feet of R&D space in the area and have been very involved in the market for the past 10 years.

Briefly, here are a few of my thoughts on what is happening in the park and some concerns about bringing in residential to this one site at this time. I obviously don't know the specific proposed merits of the Fairfield plan, so these are really some general views:

- Any change to residential will be permanent. There is certainly time in the future to convert developed industrial sites to residential, but it is almost impossible to go the other way. Any residential additions to this park should be part of a more comprehensive plan that makes sure that such changes don't negatively impact the industrial prospects for the park. The time for that might be some point further in the future when higher density industrial projects lead to redevelopment of some of the park's older inventory.

- Opening the door to residential in a piecemeal fashion like this will lead to further projects. I am concerned that if more residential is added, we will start having issues with traffic and adjacent uses in the park. One of the things we have noticed, is that the park is still an attractive area for some of the valley's more traditional tech companies. Often times these are small to medium size companies who have some small batch manufacturing. I could see this becoming a concern if one of those users wanted to locate to a building that is then next door to a residential site.

- While I think there are definitely examples of successful residential projects adjacent to industrial sites, they aren't usually total islands like this will be.

10/5/2007

- The park's industrial prospects have been improving. Part of the reason we invested heavily in this area 10 years ago was that we could see that changes like the extension of Tasman allowing direct access to North San Jose, the development of the Cisco Campus and the addition of light rail, were all going to lead to fundamental transition in the park that would make it an attractive location for driving industries in the future. While that growth was set back dramatically by the tech downturn in 2001, we can see it picking up where it left off. This is especially true for the park's newer, class A space with expansions by Cisco and Sandisk and the continued lease-up of Irvine's McCarthy Ranch. The Fairfield site itself is more aligned with the newer part of the park where this growth has taken place, and is, thus, more likely to benefit (as an industrial site) from this growth.

- Even in older parts of the park, we have seen some significant improvement in the industrial market with leases to AMO and Spectra in two of our largest and most difficult buildings to lease.

Overall, while there may be a way to integrate residential uses into the park, a one-off project like this doesn't make sense to me. If this is to be considered at all, it should be as part of an overall plan that really looks at preserving and enhancing the growth prospects for the industrial market.

Please let me know if you have any questions.

Regards,  
Erich Stiger

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS DENYING  
GENERAL PLAN AMENDMENT NO. GP2005-11 TO CHANGE THE LAND USE  
DESIGNATION OF APPROXIMATELY 22 ACRES LOCATED AT THE SOUTHWEST  
CORNER OF TECHNOLOGY DRIVE & MURPHY RANCH ROAD FROM  
INDUSTRIAL PARK TO MULTI-FAMILY VERY HIGH DENSITY**

**WHEREAS**, the project applicant, Fairfield Residential LLC, has initiated this General Plan Amendment to change the land use designation of the property located at the southwest corner of Technology Drive & Murphy Ranch Road in the City of Milpitas, State of California, as further depicted in the maps contained in Exhibit A (“Property”), from Industrial Park to Multi-Family Very High Density; and

**WHEREAS**, the Planning Commission held a properly noticed public hearing on September 26, 2007 to consider General Plan Amendment No. GP2005-11; and

**WHEREAS**, all documents and other materials constituting the record for this matter, upon which the City’s decision and its findings are based, are located at the Planning Division of the City of Milpitas, 455 East Calaveras Blvd., Milpitas, CA 95035.

**NOW, THEREFORE, BE IT RESOLVED** that based on the entirety of the record, which includes without limitation, the Milpitas General Plan, the application and supporting documentation for the General Plan amendment, the Planning Commission meeting of September 26, 2007, the City Council meeting of October 16, 2007, including all staff reports, consultant reports, documents and minutes prepared in connection thereto, the City Council does hereby deny the General Plan Amendment (GP2005-11) to redesignate the approximate 22 acre site located at the southwest corner of Technology Drive and Murphy Ranch Road to a Multi-Family Very High Density designation.

**PASSED and ADOPTED** this \_\_\_\_ day of \_\_\_\_\_ 2007, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

ATTEST:

APPROVED:

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

\_\_\_\_\_  
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

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

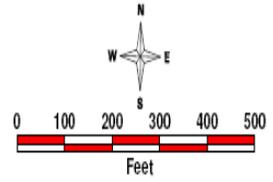
# EXHIBIT A

## Map of Property



City of Milpitas  
General Plan Amendment  
Exhibit A  
September 2007

-  R4 - Multi-Family Residential, Very High Density
-  Parcel Boundary



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**MILPITAS PLANNING COMMISSION AGENDA REPORT**

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Category: Public Hearing

Report Prepared by: Geoff I. Bradley

Public Hearing: Yes:  No:

Notices Mailed On: 9/14/07

Published On: 9/13/07

Posted On: 9/14/07

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**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

## 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**

<b>PERMIT</b>	<b>DESCRIPTION</b>
<b>GENERAL PLAN AMENDMENT (GP2003-1)</b>	Amend the General Plan land use designation from Industrial Park to Multi-Family Very High Density Residential
<b>ZONING MAP AMENDMENT (ZC2005-11)</b> 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.
<b>ENVIRONMENTAL IMPACT ASSESSMENT NO. EA2005-9</b>	Environmental Impact Report
<b>MAJOR VESTING TENTATIVE MAP NO. MA2005-7</b> 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.
<b>PLANNED UNIT DEVELOPMENT NO. PD2007-4 &amp; “S” ZONE NO. SZ2005-113</b> 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):

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

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
	<b>Total</b>	<b>374</b>		<b>Total</b>	<b>285</b>

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-foot 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 8.3 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**

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

**TOWNHOUSES**

	<b>Very Low</b>	<b>Low</b>	<b>Moderate</b>	<b>TOTALS</b>
1 bedroom	0	3	12	15
2 bedroom	0	2	13	15
3 bedroom	0	2	12	14
<b>Total</b>	<b>0</b>	<b>7</b>	<b>37</b>	<b>44</b>

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.

<b>R4 Development Standards</b>	<b>Proposed Design</b>	
<b>Deviations Shaded</b>	<b>Apartments</b>	<b>Townhouse</b>
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	
	Apartments	Townhouse
<b>Deviations Shaded</b>		
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%) <b>716 Spaces</b>	285 units / 570 spaces 86 spaces (15%) <b>371 spaces</b>
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 amount 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.

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

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-stripped, 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.

Mr. Sharma said that most of the events will be booked by adults and any youths who attend will be escorted by their parents and he doubts that any youths will be able to approach the bar counter.

Commissioner Sandhu asked about the medical clinic that the community center is proposing. Chair Williams said that question should not be included in the discussion because the topic is regarding a liquor license.

Commissioner Sandhu asked if they would serve alcohol in the restaurant? Mr. Bhatia said alcohol would not be served in the café.

Commissioner Sandhu asked if the receptions will be catered from outside and Mr. Bhatia said yes but only food, not alcohol.

Commissioner Tabladillo asked who would serve the alcohol. Mr. Bhatia said the India Community Center takes full responsibility and will not provide a bartender from the outside.

Commissioner Tabladillo asked how much training would the bartenders have? Mr. Bhatia said they would be trained every two years.

Chair Williams opened the public hearing.

There were no speakers from the audience.

**Motion** to close the public hearing.

M/S: Sandhu/Ciardella

AYES: 5

NOES: 0

**Motion** to approved Use Permit Amendment No. UA2007-11 based on the findings and special conditions in the staff report.

M/S: Sandhu/Ali-Santosa

AYES: 5

NOES: 0

**2. MURPHY RANCH/FAIRFIELD RESIDENTIAL PROJECT – GENERAL PLAN AMENDMENT NO. GP2005-11 & ZONE CHANGE NO. ZC2005-2, “S” ZONE NO. SZ2005-13, PLANNED UNIT DEVELOPMENT PERMIT NO. PD2007-4., MAJOR TENTATIVE MAP NO. MA2005-7 AND ENVIRONMENTAL IMPACT ASSESSMENT NO. EA2005-9**

Geoff Bradley, Project Planner, and Diana Whitecar, Economic Development Manager, presented a request for a General Plan Amendment, Rezoning, Site and Architectural Review (“S” Zone), Planned Unit Development, Major Tentative Map, and Environmental Impact Assessment to allow for the construction of 659 new residential units including a public park and trail connection on 21.73 acres located west of Murphy Ranch Road, south of Technology Drive, north of the Hetch Hetchy pipeline and east of Coyote Creek. The project has two sections, Murphy Ranch South, consisting of 285 townhouses on 14.15 acres and Murphy Ranch North, 374 rental apartments on 7.58 acres. The property is proposed to have the General Plan designation changed from Industrial Park to Multi-Family High Density Residential with a rezone from MP – Industrial Park to R4 - Multi Family High Density Residential, a Planned Unit Development Permit and request for approval of a Vesting Tentative Subdivision Map. An Environmental Impact Report has been prepared for the proposed project. Mr. Bradley recommended certification of the EIR and denial to the City Council.

Mr. Bradley also noted that attachments were distributed to the Commission tonight. The attachments include a letter from Dick Peery opposing the project, a letter from Greenbelt Alliance supporting the project, draft September 10<sup>th</sup> PRCRC minutes and the following new special conditions:

- **Revision to Engineering Condition #11**, “Prior to any building permit issuance, the developer shall pay a Milpitas Business Park traffic fee of \$397,600”, to read as follows: “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.” (Public Works)
- **Revision to Engineering Condition #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 for the proposed ingress/egress, Emergency Vehicle Access (EVA), parking and public trail access. 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.” (Public Works)
- **New Condition**: Provide plans and specifications for a Community Warning System for the review and approval of the Fire Marshall prior to issuance of any Building Permit for the project. The Community Warning System shall be installed, operational and accepted by the Fire Marshall prior to the occupancy of any residential units in the project. (Fire)
- **New Condition**: The final map shall reflect the dedication of 1.1 acres of public parkland to the City of Milpitas. The public park improvements, including those on the Hetch-Hetchy parcel, shall be accepted by the City prior to building permit finals or occupancy of any units within either the last 50% of the town-home units built or final occupancy of the apartment building which ever occurs first. (Planning)

Chair Williams asked if the Veritas campus would be reinstated? Diana Whitecar, Economic Development Manager, said there has been discussion but Veritas has not submitted an application.

Chair Williams said he is concerned about traffic in that area and how residents will be getting to businesses through Calaveras Boulevard and asked what type of traffic studies were done to address peak commute times.

**Brett Walinski, Hexagon Transportation Consultant, San Jose**, said the methods that are used for Traffic Impact Analysis by the congestion management program have been adopted by the City of Milpitas. The analysis of peak periods is done for a.m. and p.m. commute hours because those are the worst hours of the day. Within those hours of the day, they did look at the directional flow of traffic. He said the projections to and from retail areas, and to and from the job centers are all reflected in the Traffic Impact Analysis.

Chair Williams asked Mr. Walinski what he thought the impact was on residents going to businesses on Calaveras and coming back to their home. Mr. Walinski said there is some distance between the residential areas and commercial areas, more so than what it is typical in Milpitas given the character of the City, however the residents would be really close to jobs because it would be located within an industrial area.

Chair Williams introduced the applicant.

**Shon Finch, Fairfield Residential, 2410 Camino Ramon, San Ramon**, presented a PowerPoint presentation to the Commission requesting that they approve their project. He also pointed out that they would like to work with staff on Condition No. 11, traffic impact fee.

Chair Williams said the City has a high water table and asked when were the core drillings done in regards to the soil analysis. Mr. Finch recalled that the core drillings were done in the springtime and the water table was not an issue because there were no underground structures being proposed and everything is above grade.

Chair Williams asked if any studies were done in regards to the creek located right behind the project site. Mr. Finch said they did not study the ability of the levy but rather the soil itself, where the water table was and whether it could hold the structures. They found that the soil was stable enough and the project is outside the 100-year flood plane.

Chair Williams pointed out that the nearest grocery store is ½ mile outside the radius of the project site and Mr. Finch clarified that the project is actually .6 miles away, which is fairly close.

Chair Williams opened the public hearing

**John Cimino, Director of Maintenance Operation/Transportation for Milpitas Unified School District**, representing Dr. Karl Black, Superintendent, said the district has met with Fairfield, regarding the project's remote location to educational facilities and the impact that would have on transportation and student housing. They also talked about the Midtown Plan and Transit Area Plan and the impact that it is going to have on middle schools and high schools.

Chair Williams asked what would be the nearest elementary school and Mr. Cimino said Zanker school.

Chair Williams asked what would be the nearest middle school and Mr. Cimino said Rancho.

**Motion** to close the public hearing.

M/S: Sandhu/Tabladillo

AYES: 5

NOES: 0

Chair Williams felt that the project is beautiful however he wants that area to be maintained as an industrial area and is supportive of staff's recommendation.

Commissioner Ciardella said it is a wonderful project because it is close to the Transit Area Plan, however he felt it is just so far out of the area and doesn't conform to the General Plan. He is also supportive of staff's recommendation.

Commissioner Tabladillo said she agrees with her fellow Commissioners and felt that it is a beautiful project, but she has challenges considering the location and does not want to set precedence. She said there is raw land in Milpitas and wants the City to have the ability to try and attract new businesses. She does understand there are housing issues, but she felt that this location is so far out and remote from families and schools. She is in agreement with staff's recommendation.

Commissioner Sandhu said this is a beautiful project and felt it is similar to the Riverwalk project on Montague Expressway located near an industrial area. He thinks it is a very good project and because the City is in short need of housing in that area, he supports the project.

Commissioner Ali-Santosa said the project is within reasonable walking distance of the Ranch 99 Supermarket and if the development does occur, employees are given the choice to walk home or ride a bike to work. He said he is in support of the project.

**Motion** to certify the Environmental Impact Report and recommend denial to Council.

M/S: Williams/Ciardella

AYES: 3 (Ciardella, Tabladillo and Williams)

NOES: 2 (Ali-Santosa and Sandhu)

**X.  
ADJOURNMENT**

The meeting was adjourned at 8:27 p.m. to the next regular meeting of October 10, 2007.

Respectfully Submitted,

Felix Reliford  
Principal Planner

Veronica Bejines  
Recording Secretary

**RESOLUTION NO. 506**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS  
RECOMMENDING DENIAL OF GENERAL PLAN AMENDMENT NO. GP2005-11  
AND TO CHANGE THE LAND USE DESIGNATION OF APPROXIMATELY 22  
ACRES LOCATED AT THE SOUTHWEST CORNER OF TECHNOLOGY DRIVE &  
MURPHY RANCH ROAD FROM INDUSTRIAL PARK TO MULTI-FAMILY VERY  
HIGH DENSITY**

**WHEREAS**, the project applicant, Fairfield Residential LLC, has initiated this General Plan Amendment to change the land use designation of the property located at the southwest corner of Technology Drive & Murphy Ranch Road in the City of Milpitas, State of California, as further depicted in the maps contained in Exhibit A ("Property"), from Industrial Park to Multi-Family Very High Density; and

**WHEREAS**, this General Plan amendment is accompanied by a proposal to change the Zoning District (ZC2005-11) for the Property to Multi-Family Very High Density "R4"; and

**WHEREAS**, the Planning Commission held a properly noticed public hearing on September 26, 2007 to consider General Plan Amendment No. GP2005-11; and

**WHEREAS**, all documents and other materials constituting the record for this matter, upon which the City's decision and its findings are based, are located at the Planning Division of the City of Milpitas, 455 East Calaveras Blvd., Milpitas, CA 95035.

**NOW, THEREFORE, BE IT RESOLVED** that based on the entirety of the record, which includes without limitation, the Milpitas General Plan, the application and supporting documentation for the General Plan amendment, the Planning Commission meeting of September 26, 2007, including all staff reports, consultant reports, documents and minutes prepared in connection thereto, the Planning Commission does hereby recommend to the City Council denial of the General Plan Amendment (GP2005-11) to redesignate the approximate 22 acre site located at the southwest corner of Technology Drive and Murphy Ranch Road to a Multi-Family Very High Density designation.

**PASSED, APPROVED, AND ADOPTED** this 26<sup>th</sup> day of September 2007, by the following vote:

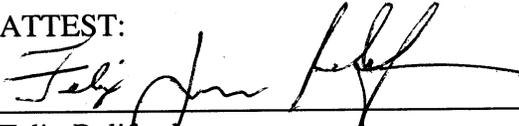
**AYES: 3 (Ciardella, Tabladillo and Williams)**

**NOES: 2 (Ali-Santosa and Sandhu)**

**ABSENT: 2 (Azevedo and Mandal)**

**ABSTAIN: 0**

**ATTEST:**

  
\_\_\_\_\_  
Felix Reliford  
Secretary to the Planning Commission  
City of Milpitas

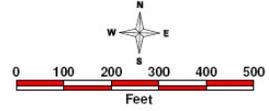
# EXHIBIT A

## Maps of Property



City of Milpitas  
General Plan Amendment  
Exhibit A  
September 2007

-  R4 - Multi-Family Residential, Very High Density
-  Parcel Boundary



**RESOLUTION NO. 507**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS RECOMMENDING THE CITY COUNCIL DENY A CHANGE BY ORDINANCE TO THE CITY'S ZONING MAP TO REZONE APPROXIMATELY 22 ACRES LOCATED THE SOUTHWEST CORNER OF TECHNOLOGY DRIVE & MURPHY RANCH ROAD FROM INDUSTRIAL PARK "MP" TO MULTI-FAMILY VERY HIGH DENSITY "R4"**

**WHEREAS**, the project applicant, Fairfield Residential LLC, has initiated a Zoning Change (ZC2005-11) to rezone the property located at the southwest corner of Technology Drive and Murphy Ranch Road in the City of Milpitas, State of California, as further depicted in the maps contained in Exhibit A ("Property"), from Industrial Park "MP" to Multi-Family Very High Density "R4"; and

**WHEREAS**, this Zoning Change is accompanied by a proposal to amend the General Plan (GP2005-11) to change the land use designation from Industrial Park to Multi-Family Very High Density; and

**WHEREAS**, the Planning Commission held a properly noticed public hearing on September 26, 2007 to consider Zoning Change No. ZC2005-11; and

**WHEREAS**, all documents and other materials constituting the record for this matter, upon which the City's decision and its findings are based, are located at the Planning Division of the City of Milpitas, 455 East Calaveras Blvd., Milpitas, CA 95035.

**NOW, THEREFORE, BE IT RESOLVED** that based on the entirety of the record, which includes without limitation, the Milpitas General Plan, the application and supporting documentation for the Zoning Change, the Planning Commission meeting of September 26, 2007, including all staff reports, consultant reports, correspondence, documents and minutes prepared in connection thereto, the Planning Commission does hereby recommend to the City Council denial of the Zoning Change (ZC2005-11).

**PASSED, APPROVED, AND ADOPTED** this 26<sup>th</sup> of September 2007, by the following vote:

**AYES: 3 (Ciardella, Tabladillo and Williams)**

**NOES: 2 (Ali-Santosa and Sandhu)**

**ABSENT: 2 (Azevedo and Mandal)**

**ABSTAIN: 0**

**ATTEST:**

  
\_\_\_\_\_  
Felix Reliford  
Secretary to the Planning Commission  
City of Milpitas

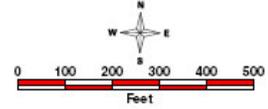
# EXHIBIT A

## Map of Property



City of Milpitas  
New Zoning Designation  
Sectional District Map No. 569  
Exhibit B  
September 2007

-  R4 - Multi-Family Residential, Very High Density
-  Parcel Boundary



Ordinance No. 38.774

Application No. GP2005-11, ZC2005-2, SZ2005-13, PD2007-4, MA2005-7 AND EA2005-9

Map prepared by the GIS Staff of the City of Milpitas

**CITY OF MILPITAS  
UNAPPROVED MINUTES**

**PARKS, RECREATION AND CULTURAL RESOURCES COMMISSION**

- Minutes:** Regular Meeting of the Parks, Recreation and Cultural Resources Commission
- Date of Meeting:** September 10, 2007
- Place of Meeting:** Community Center Room 7/8, 457 E. Calaveras Boulevard, Milpitas
- I. Call to Order** Commissioner Gray called the meeting to order at 7:05 pm
- II. Flag Salute** Commissioner Gray led the Pledge of Allegiance.
- III. Roll Call**  
Commissioners Present: Gray, Munzel, McGuire, Serena and Chang  
Commissioners Excused: Ku and Krommenhock (2)  
Alternates Absent: Cacao and Matau (2)  
Councilmember Absent: Gomez  
City Staff Present: Carol Randisi; Senior Supervisor and Salia Lopa; Public Services Assistant
- IV. Seating of Alternates** None
- V. Approval of Agenda** Motion to approve the agenda for September 10, 2007  
  
M/S: Munzel/McGuire Ayes: 5  
Excused: Ku and Krommenhock
- VI. Approval of Minutes** Motion to approve the minutes for August 6, 2007  
  
M/S: McGuire/Serena Ayes: 5  
Excused: Ku and Krommenhock
- VII. Public Forum**  
Harriet McGuire, 1620 Crater Lake Avenue in Milpitas. Mrs. McGuire invited the Commission to attend the Arts Day Milpitas 2007 event held on Saturday, October 6, 2007 from 10am-2pm at the Milpitas Civic center Plaza. She added that the event will have hands-on art activated, live/interactive art, musical entertainment, a Recycled Art Contest and a Poetry Slam, this event is open to all ages and admission is free. This program is held in collaboration with the City of Milpitas, Milpitas Arts Commission and Milpitas Community Library.
- VIII. Announcements and Correspondence**  
Carol Randisi, Senior Supervisor announced Commissioner Serena has been re-appointed and his term will expire in 2010.
- IX. Old Business**
- 1. June Site Visit Follow Up (Carol Randisi, Senior Supervisor)**

Supervisor Randisi informed the commission that the parks maintenance staff have an existing process for inspecting the community garden, documenting existing conditions, and taking care of problems. Commissioner Munzel suggested finding out the cost of removing raised bed and putting up a bond, so the City does not have to pay for removal fees. Commissioner McGuire suggested having the plot holder permanently removing the raised bed, instead of putting up bond. Commissioner Serena asked how many years has the raised bed been at the Community Garden. Supervisor Randisi responded since 1991. Commissioner Munzel stated that the rules of the Community Garden state the nothing permanent can be built at the Community Garden site. Supervisor Randisi asked Commissioner Munzel would like to make a motion to regarding community garden rule enforcement, and Commissioner Munzel stated yes.

**MOTION: Rules of Community Garden need to be enforced.**  
**M/S: Munzel/McGuire**

## **2. Park Beautification**

Item tabled to October meeting, due to lack of Commissioners.

## **X. New Business**

### **1. Youth Sports Grant Requests (Aaron Bueno, Recreation Supervisor)**

On June 19, 2007, the Milpitas City Council approved and appropriated \$8,000.00 for the Youth Sports Assistance Fund for the 2007 - 2008 budget year. Included in the Commission packet for review and consideration are two (2) Organizational and one (1) Individual Youth Sports Assistance Fund applications.

One (1) Group Youth Sports Assistance Fund application was received from the Milpitas Tidal Waves in the amount of \$1,000, for hip-fins, stop watches and stretch chords training equipment, along with travel costs for the 2007 Monterey Bay Swim Classic campsites and competition relays.

Swim Team Coach Brad Helfenberger was in attendance to answer any questions of the commission. Commissioner McGuire asked Brad what is a hip fin. Brad responded that a hip fin is airplane wings on a belt, helps rotate body as they swim.

**MOTION to grant \$1,000 to the Milpitas Tidal Waves.**  
**M/S: Munzel/McGuire**  
Excused: Cacao, Ku, Krommenhock, Matau (4)  
All Ayes

One (1) Group Youth Sports Assistance Fund application was received from the Milpitas Youth Soccer Club (MYSC) in the amount of \$1,000, for field lining and other related costs for hosting their MYSC District 2 Jamboree Tournament on October 6-7, 2007.

Niranjan Gupta of Milpitas Youth Soccer Club was in attendance to answer any questions of the commission. Mr. Gupta informed the commission, that this is the first Jamboree Tournament being held in Milpitas and all players and all others involved are very excited. Commissioner Gray asked how many teams will be

competing in this tournament. Mr.Gupta responded there will be a total of 29 teams competing. Commissioner McGuire asked if there has been any problems with reserving of fields, as far as the priority levels of different organizations, since he knows in the past there was problems. Mr.Gupta responded there have been no problems with field usage at all. Mr.Gupta also wanted to thank his field permit coordinator Gloria Whitaker-Daniels for being so organized and for doing such a great job, handling all of the reservations.

MOTION to approve \$1,000 to Milpitas Youth Soccer Club (MYSC).

M/S: Munzel/Serena

Excused: Cacao, Ku, Krommenhock and Matau (4)

All Ayes

One (1) Individual Youth Sports Assistance Fund application was received from Nastassia Hamor in the amount of \$500, for entry fees, airfare, hotel and other travel costs for the Indoor Inline Speed Skating National Championships on July 15-20, 2008 in Omaha, Nebraska.

Nastassia Hamor was in attendance to answer any questions of the commission. Nastassia introduced herself to the commission and added that she has been speed skating for 7 years. Commissioner Gray asked if she has competed in any other states or is it just held in Nebraska. Nastassia responded that she has competed in Florida and internationally. Commissioner Gray asked if she trains in Milpitas. Nastassia responded yes that she trains at Cal Skate. Commissioner Munzel asked how fast can she skate. Nastassia responded she can do 100 meters in 9 seconds.

MOTION to approve \$500 to Nastassia Hamor.

M/S:Serena/Munzel

Excused: Cacao, Ku, Krommenhock and Matau



## **2. Murphy Ranch Project (Whitney McNair, Fairfield Residential)**



Whitney McNair of Fairfield Residential presented the Commission with an overview of the project. Ms.McNair also introduced Shawn Finch of Fairfield Residential who was in attendance to answer any questions of the commission. Murphy Ranch Project would include the construction of 659 new residential units on 21.7 acres, a public park and trail connection. The project includes 2 parts; Murphy Ranch South consisting of 285 for-sale single family attached homes (townhouses) on 14.15 acres, and Murphy Ranch North consisting of 374 rental apartments on 7.58 acres.

This development project includes a request to change the land use designation of the project site from "Industrial" to "High Density Residential." This project also includes a request to subdivide land for the proposed residential uses. After PRCRC review, the project will be presented to the Planning Commission and forwarded to the City Council for approval.

Commissioner Munzel asked Ms.McNair who is the builder/company in charge of this project. Ms.McNair responded Fairfield Residential LP. Commissioner Gray asked if this is going to be a gated community. Mr.Finch responded there will only be gates around the pool area. Commissioner Serena asked if this proposal for building on/around Hetch Hetchy has been approved. Commissioner Munzel answered Commissioner Serena's question, stating that there is to be no building around Hetch Hetchy area. Commissioner Munzel

added that only certain types of trees/structures can be built in this project, he stated this development looks as if over 1,200 people will be living in project area, calculating that it would house 600 people per acre. Munzel added that it is not enough room to accommodate that amount of people. Mr.Finch responded he understands the concerns of this project, however he feels this proposed project is a good structural space for residents. Commissioner Serena asked Mr.Finch if there is a restroom at the park area. Mr.Finch responded there are no restrooms in the plans. Supervisor Carol Randisi stated that 5 parking stalls for parking were provided by adjacent facilities along the Coyote Creek Trail entry points. Commissioner Munzel asked if there is a location in the plans where residents can have a bbq at the park area. Mr.Finch responded no there is no bbq at the park area.

The Commission collectively agreed to provide the following recommendations to the Planning Commission for their consideration when reviewing the project:

1. Provide all public park obligation on site rather than in lieu fees as a portion.
2. Consider providing bathroom facilities given the site location and surroundings.
3. Consider providing parking for park and trail users.

**XI. Staff Reports**

None.

**XII. Liaison Reports**

**1. City Council**

None.

**2. Community Advisory Commission (CAC)**

None.

**3. Senior Advisory Commission (SAC)**

Commissioner Gray reported the Craft Faire/Spaghetti Dinner Fundraiser has been moved to the month of March, more information to follow.

**4. Planning Commission**

**5. Youth Advisory Commission (YAC)**

Commissioner Munzel reported the Commission would be meeting on Thursday, September 13<sup>th</sup>, with their new commissioners.

**6. Milpitas Historical Society**

Commissioner McGuire reported the next meeting would be held on Wednesday, September 12<sup>th</sup>.

**7. Arts Commission**

Commissioner McGuire reported the Arts Day Milpitas 2007 event will be held on Saturday, October 6<sup>th</sup> from 10am-12pm at the Milpitas Civic Center Plaza.

**8. Non-Profit Sub-Committee**

Commissioner Gray reported all the Non-Profit paperwork has been submitted to the state.

**XIII. Future Agenda Items**

- Public Art Commission Presentation (November)
- Hetch Hetchy Park Playground Relocation Status Report (November)
- Library Project Report (November)
- Alviso Adobe Project Report (December)

**XIV. Adjournment**

With no further business, Chair Gray adjourned the meeting at 8:10 pm am to the next scheduled meeting on October 1, 2007, in the Committee Meeting Room, City Hall.

Respectfully Submitted,  
Salia Lopa, Recording Secretary

## IX. PUBLIC HEARING

### 1. GENERAL PLAN AMENDMENT NO. GP2005-11 AND ZONE CHANGE NO. ZC2005-2

**Dennis Carrington, Senior Planner**, presented a request to create 285 apartments and 374 apartments (total of 659 units) on 21.73 acres located west of Murphy Ranch Road, south of Technology Drive, north of the Hetch Hetchy pipeline and east of Coyote Creek. Mr. Carrington recommended denial based on the findings in the staff report.

Vice Chair Galang noted that in the staff report under site description, if a rezone and a General Plan Amendment are allowed and the applicant proceeds with 659 units, why would they have to have separate permit process. Mr. Carrington explained that if the Commission and Council move the project forward, staff would have to process a rezone, general plan amendment, site and architectural review, tentative map, amendment to the Octel Development agreement, and environmental review.

Commissioner Ali-Santosa noted that he had a meeting with a representative of Fairfield and he put it on the City Calendar.

Commissioner Mandal noted that he was contacted by the applicant to meet, however he could not meet because of his work schedule.

Commissioner Mandal asked what other areas in the City are compatible uses for Research and Development. Mr. Carrington showed the map area west of I-880, north of the City of San Jose, east of Coyote Creek and south of I-237 and McCarthy Ranch. He also pointed out similar industrial park land adjacent to California Circle and south of Calaveras and north of Montague.

Commissioner Mandal asked if there is available land south of Calaveras and Mr. Carrington said that it is pretty much built out however there are areas where there are vacant structures but very little vacant land.

Commissioner Mandal asked if the applicant was given information that they could build housing in the transit area plan and Mr. Carrington said yes.

Commissioner Mandal asked when was the environmental report prepared. Mr. Carrington said that staff would start processing the EIR if the Commission and City Council approve the project to move forward.

Commissioner Tabladillo asked if staff requested an EIR. Mr. Carrington said that the applicant is at the very beginning of the EIR stage where staff would review it if the Commission and Council move forward with the project.

Commissioner Tabladillo asked if there are similar projects where there are apartments located within an industrial area. Mr. Carrington pointed out Sinclair Horizons, a 100-unit development that was approved by the Commission and City Council about nine years ago and was converted from industrial to residential. He noted that staff received a request from the developer of this project to add 85 more residential units south of Sinclair Horizons. There is precedence for when there is a conversion for other people to request for further conversions and that is a major concern that staff has.

Commissioner Tabladillo asked in the area that the applicant is proposing to build, are there any potential businesses that are looking to expand. **Diana Whitecar, Economic Development Manager**, said that staff hasn't had any inquires at that site, however Sandisk wants to expand into two more of the Maxtor buildings and she felt that it is a prime area for future growth.

Chair Williams asked Ms. Whitecar if she has been in contact with many tech companies from Milpitas and if so, what are they looking for as far as growth. Ms. Whitecar explained that there are both sides of the story. Sandisk is a great example of someone that has moved into an empty building that had been vacant for more than 10 years and they have had a great first quarter reported. Maxtor was acquired by Seagate and they had over 1000 employees that will be dwindled down to one building. She felt that the City will see more growth of companies that are looking at Class A space that will be moving from another city to a new location, where they are paying the same rent somewhere but will have Class A space in Milpitas. Sunnyvale doesn't have Class A space, just Class B and Class C space, so when Sandisk came to Milpitas, Sunnyvale couldn't give them what they wanted. In Milpitas, Sandisk has a cafeteria and a fitness center and those are the kind of facilities staff wants in Milpitas and there is potential for growth.

Chair Williams said that Sinclair Horizons used to be a paint manufacturer facility and that was the only hazardous material in the area. He asked if the proposed location has the same type of hazardous materials. Mr. Carrington said there could be hazardous materials used in both areas in the future. He knows that the area next to Sinclair Horizons is classified as Class B and Class C space that in some cases have considerable vacancy rates and looking at risk assessments that were prepared for other projects in the vicinity there are several hazardous materials users in the area.

Chair Williams said that in the Sinclair Horizons area, there were other uses approved such as a karate studio, exercise facility and India Cultural center, and those projects, because of the proximity, were required to have monitoring plans in case of any leaks of hazardous materials. He said that the housing project would be in the same capacity and the same principal to ensure the industry around there would need to install certain monitoring devices of any potential escapes of hazardous gases.

Mr. Carrington said there would have to be a risk assessment that would be incorporated in the environmental impact report and would have to research potential exposures to the residents. There would also need to be mitigation measures used in place similar to the Indian Community center that require sensors to see what chemicals might be released to detect them. Systems would have to shut down the heating and ventilation and the air conditioning system and intake vents so that poisonous gases could not enter into the building. Staff felt it would be difficult to do that for 659 dwelling units in the event of a release and that is why staff is concerned that could put sizable populations at risk to exposure.

Chair Williams noted that he was contacted by the applicant to meet but declined to meet with them.

Chair Williams recalled when Joe McCarthy came forward to the Planning Commission for a housing deal and the big concern was the factory situation regarding the odor from San Jose's problems that this was a displeasing type of condition versus the potential hazardous materials in the area. He is very concerned about this project knowing about the past history of what has transpired over there from Joe McCarthy's proposed residential and subsequent suit by San Jose to Milpitas and he is also aware of a hotel that was going to be put in but it was denied because of the ground water issue, hazardous materials and the odor issue.

Commissioner Azevedo noted that he was asked to attend a meeting with the applicant and he declined.

Commissioner Mandal asked if the City of San Jose has any objections to this project. Mr. Carrington said that staff placed several calls to the City Attorney at the City of San Jose and he did not return the phone calls.

Chair Williams introduced the applicant.

**Ed McCoy, Fairfield Residential, 5510 Morehouse Drive, San Diego**, presented a request to create 285 apartments and 374 apartments (total of 659 units) on 21.73 acres located west of Murphy Ranch Road, south of Technology Drive, north of the Hetch Hetchy pipeline and east of Coyote Creek. Mr. McCoy recommended that the Commission approve their project and do not support staff's recommendation and let them continue through their process.

Chair Williams said in his presentation, he showed an aerial photo of where his company is located and a residential complex that was adjacent to some industries. In that general area, is there a sewage treatment plant or landfill type situation that is upwind of that particular complex. Mr. McCoy said there is a City dump to the north and to the east and there is a sewage treatment facility is north and west in Carlsbad about ten miles away.

Chair Williams asked if there is any of the outgassing from these particular sites going south from their locations. Mr. McCoy said there is housing directly across from the sewage treatment plant in Carlsbad.

Commissioner Ali-Santosa asked if the risk assessment was completed in June 2006. Mr. McCoy said that the risk assessment has not been submitted to staff because at the time it was completed, Fairfield was informed that staff wanted to move forward with a denial however the draft EIR has been submitted to staff.

Commissioner Ali-Santosa asked if the Commission was provided a copy of the EIR. Mr. Williams clarified that this is a recommendation of denial based on land use only. The City is not analyzing Fairfield's development project. Under the California Environmental Quality Act, it allows staff to go forward with a denial without going through the environmental phase. In talking to Fairfield, staff indicated that they could save them up to 9 months and another \$200,000 in the process because since last January, staff indicated that they weren't going to support the land use change. Fairfield agreed to move forward and tonight, staff can get a read this evening on whether Fairfield should come back to the Commission at a later date with a defined project, risk assessment and EIR that addresses their project. Mr. Williams reiterated that this is strictly a land use decision and the question tonight is should this be converted from prime industrial and research and development land to residential.

Mr. McCoy said that if the Commission approves the project going forward, does the project become a design review of the residential portion or does land use still become an issue. Mr. Williams said that land use is still an issue but staff will analyze the project and take it forward to the Commission and have them make a recommendation to Council to initiate the land use change and general plan amendment. It is not a guarantee that the project will be approved.

Commissioner Ali-Santosa said he is concerned that the Commission will make a decision without all full data and facts.

Mr. Williams clarified that the City's long-range plan is to have jobs and housing balance. There used to be 120,000 jobs in Milpitas and now there are 63,000 jobs. The residential market is becoming soft and there was a terrible recession in the 90's where residential development stalled. What staff brought to the Commission is a long-term plan to either continue in the future to attract corporate headquarters such as Sandisk, or move forward with a residential project to chase today's market demand. It is a long-range land use question, not a direct question to the Commission to judge Fairfield's specific development proposal. Basically the Commission is looking at the colors on the general plan map to make a determination on what the long-term land use plan should be for the City of Milpitas.

Commissioner Ali-Santosa needed clarification about the Octel agreement and asked what is the chance of the agreement being amended and if it is not amended, then Fairfield cannot build. Mr. McCoy said he would like to clarify the purpose of the Octel development agreement. The intent is to give the landowner the assurance that they could build office and research and development and to give the City the assurance that they would get a traffic impact fee. If this project moves forward, the agreement would have to be amended with the approval on both sides, or it could be terminated with both parties permission or it would expire September 2007.

Chair Williams opened the public hearing.

**Don Peoples, 3444 Spring Creek Lane, President of Milpitas' Downtown Association**, said the applicant made a lot of comparisons with the Midtown Specific Plan and Transit Area Plan, but this is nothing like that. In both of those situations, the community came together to determine what was the best for the City. He agrees with staff's assessment of this project, however if the Commission does consider the project, the applicant should use the Midtown plan and Transit Area Plan process to get a vision of the area. This plan is a tremendous deviation of what has been established. He said there is an active involvement in trying to prune the City's industrial area and what makes sense for the residents and the business and this doesn't fall into any of these categories. As a member of the Economic Development Commission, one of things they look at is assets and they know that the City has good industrial areas that when technology changes, they have the perfect setting to take advantage of the buildings. Mr. Peoples agrees with staff to deny the project.

**Close the public hearing**

**Motion** to the close the public hearing.

M/S: Mandal/Azevedo

AYES: 6

NOES: 0

Commissioner Mandal said he is looking at a big picture point of view and staff's recommendation. The City is business friendly and welcomes developers here, but by looking at this prime land, building residential will create a big road block for expansion of high tech industry. There are examples of housing being located next to industrial areas however, the Commission has the opportunity to save this land for industrial. He recalled that Santa Clara approved a religious institution in the industrial area and there were a lot of kids there. One day, the institution took a case against the high tech industries that they were emitting gases, and that was an example of an incompatible use. He suggested that staff design a map of the City and define areas for high tech and other areas strictly for housing.

Mr. Williams said the roadmap is the General Plan and calls for R&D in this area. There are always changes to the map, for example, the Transit Area Plan is a change to allow housing, mixed use and retail. The Midtown Plan was another change that was adopted almost four years ago.

Commissioner Mandal said he is looking at this land use decision based on what is best for Milpitas.

Vice Chair Galang needed clarification on the following reason for denial:

2.a-G-2. Maintain a relatively compact urban form. *Residential, commercial and civic land uses should be located compactly together to foster a walkable, healthy, mixed-use environment. The placing of high density residential development away from other residential, commercial and land uses would diffuse the existing compact urban form of the City of Milpitas and place populations in location isolated from necessary facilities such as parks, schools, libraries, neighborhood commercial uses and day care. The City, with the adoption of the Midtown Specific Plan and the Draft Transit Area Specific Plan, provides for multi-family residential in effort to achieve this objective. This rezone and general plan amendment would be counterproductive to that objective.*

Mr. Carrington said that smart growth calls for close proximity of really compatible uses such as libraries, parks, neighborhood commercial, not large scale commercial like Milpitas Square, which is not family oriented. Smart growth needs to be done from the beginning, where all the land uses are planned together. What is being proposed will place kids far away from schools and will not have neighborhood residential uses nearby but will have commercial centers nearby.

Vice Chair Galang asked if the applicant would propose a daycare center, would that help. Mr. Carrington said that staff is looking for something more like a neighborhood, but the industrial area can't provide an elementary school or park nearby.

Commissioner Azevedo said that he supports Commissioner Mandal's thoughts about land use.

Commissioner Tabladillo said tonight is a land use policy, not the merit of the project itself. It is whether or not this land should be converted to residential over industrial. She has a lot of concerns about changing the City's current plan. The City is moving forward with the Economic Plan which was approved with Council and Commissioners to talk about a long term strategic plan and continue on and outlining an area where there is potential for long term growth. She just has concerns converting this piece of land and reiterated that Milpitas is not San Diego and San Jose and there is a sewage plant nearby and it does emit odors. She asked staff for clarification if they disagree with staff's recommendation.

Mr. Williams said the recommendation would be taken to City Council and the recommendation would be to initiate the rezone and General Plan Amendment and staff would run that concurrent with the development application.

Commissioner Tabladillo said the City needs an economic base and the ability to grow. Even though the Commission doesn't have all the facts, she is willing to take a gamble and not put families at risk. The future is uncertain and the Commission needs to stick with the Economic Plan.

Chair Williams said the key point is to ensure that the City is concentrating on the mixed use and residential area in the Midtown area. A lot of discussion was held during those meetings about three years ago, which talked about industrial areas in relation to the Midtown area to ensure that people had a place to work and how to take an older part of Milpitas and make it more viable and to a point where it starts producing as well as housing and support services. He appreciates the Planning Director's comments about looking at this project as a land use decision and maintaining consistency and to ensure that the City stay on course with the Midtown Plan. He is in support of staff's recommendation for denial.

**Motion** to recommend denial to the City Council of General Plan Amendment No. GP2005-11 and Zone Change No. ZC2005-2.

M/S: Azevedo/Mandal

AYES: 6

NOES: 0

**2. USE PERMIT NO. UP2006-11 AND "S" ZONE AMENDMENT NO. SA2006-22**

**Momo Ishijima, Associate Planner**, presented a request for an automotive repair shop in an existing industrial warehouse building located at 107 Minnis Circle and recommended approve with conditions based on the findings in the staff report.

Vice Chair Galang said he is concerned about potential noise issues. Ms. Ishijima said that noise issues will be reviewed during the building permit process and if there is a problem, the building department will require acoustic upgrades on the site. Also, if the Commission desires, they could recommend adding a condition that the applicant provide an acoustical study.

Vice Chair Galang said that during office hours, using compressors and other equipment at the same time cause a lot of noise. Mr. Williams said that any project has to comply with the City's noise ordinance, and if the Commission has a concern, they can request the applicant complete a noise study.

Ms. Ishijima added that she did inquiry with Code Enforcement if there were any outstanding issues in the area. A lot of the businesses in Minnis Circle are auto repair shops and noise was not brought up by Code enforcement. There is also no residential development within the vicinity

Commissioner Mandal said he has visited Minnis Circle to get his car repair and they did a great job. He asked if the applicant is in agreement with all of the conditions and Ms. Ishijima said yes.

Chair Williams introduced the applicant.

**Wayne Renshaw, Architect, representing M&S Collision, 255 North Market Street, #252, San Jose**, said relative to noise, Minnis Circle is a noisy neighborhood and the railroad tracks bring a lot of noise. There is also a lot of noise on Milpitas Blvd. and a Cement plant near the project site. He said the outside noise would exceed the noise of the shop itself. The compressor itself will be within the building and M&S said they will purchase a new compressor and they are a lot quieter.

City Attorney Mattas provided guidance to the Council on how they might proceed. Ms. Giordano then withdrew her original motion above, with the consent of Mr. Livengood.

(3) Motion: continue this matter on appeal for about 60 days, provide City staff and business owners an opportunity to sit down, take in the context of the whole center, and return to City Council at the second meeting in October with the appeal

Motion/Second: Councilmember Livengood/Councilmember Polanski

Mayor Esteves announced his support of the new motion.

Motion carried by a vote of: AYES: 5  
NOES: 0

**2. Entertainment Permit for St. John the Baptist Church "Autumn Festival" on September 15-17, 2006**

City Clerk Mary Lavelle explained the request for an Entertainment Event Permit for the second annual Autumn Festival in September. Two requests from the Church of the City were: (1) obtain some orange parking cones to assist with traffic flow set-up, and (2) to waive the fire inspection and permit fee of approximately \$400.

Ms. Lavelle introduced the church's Autumn Festival Committee Chair Mrs. Riza Santoro. She commented that the Committee still seeks a written letter of permission for parking at the nearby Serra Shopping Center. Mrs. Santoro also was working on obtaining the current insurance certificate that the City required.

Councilmember Livengood asked questions about the parking flow, and requested that the Festival Committee folks be very clear where patrons could park, with an emphasis on the east side of the street, so as to be courteous to businesses and homeowners in that downtown neighborhood.

The Mayor opened public hearing for comments.

**Don Peoples**, President of the Downtown Association, commented on the issue of parking in the area where the festival would be held. With kids and parents crossing the street, he requested St. John's maximize the parking on the east side of Abel, making lots of parking available. He offered his assistance to help get cooperation with other business and church owners to ensure that east side parking would be better for the festival goers, and ensure good cooperation.

(1) Motion: to close the public hearing

Motion/second: Councilmember Giordano/Councilmember Livengood

Motion carried by a vote of: AYES: 5  
NOES: 0

(2) Motion: Approve Entertainment Event Permit for St. John the Baptist Catholic Church's Autumn Festival for the weekend of September 15, 16 and 17, 2006, with all departmental conditions noted and waive the fire inspection permit fee

Motion/second: Councilmember Giordano/Councilmember Livengood

Motion carried by a vote of: AYES: 5  
NOES: 0

**3. General Plan Amendment Denial GP2005-11 and Zone Change Denial ZC2005-2 to Fairfield for Residential Use**

Planning Director Tom Williams reviewed the request from applicant Fairfield Residential LLC to seek a General Plan amendment with a rezone of land from industrial to a planned unit development (PUD) residential use. The land in question was in the western part of the City, near the research and development/technology center section of

Milpitas, near where Cisco, KLA Tencor, Maxtor/Seagate, and SanDisk companies do business in Milpitas. Fairfield Residential would propose 659 new residential units, both condominium and rental apartments.

The purpose for bringing forward this matter to City Council at this time was fourfold: to avoid excess time and expense; to provide direction sooner (pre-EIR) rather than later (following issuance of draft EIR); to act to deny the request, based solely on the land use issue in the City – not the merits of the specific project proposed; and, staff indicated its position to deny the project prior to formal submittal by applicant.

Mr. Williams provided a broad overview of the planning staff's perspective on land use in Milpitas, and the recommendation to maintain a large campus-type available industrial land in the region under discussion. This was a long-term view of what would be best for Milpitas. On July 26, the Planning Commission voted 6-0 to deny the land use change requested. The proposed change conflicted with the General Plan, in seven specific areas noted in the staff report. Furthermore, the re-zone would not actually promote "Smart Growth," as it does not meet the definition of that concept.

He reviewed how the City had accommodated business and housing already planned in the MidTown area along with the Great Mall redevelopment area.

Councilmember Giordano inquired if Fairfield had been in application with the City for one year. Staff replied that the original application was in February of 2005, when staff indicated no support to the applicant. In January of 2006 was the first time Mr. Williams met with Fairfield and provided the same indication, based solely on the land use (without any environmental review).

Vice Mayor Gomez asked if this was the first time the Council considered an early denial process and staff replied, most likely, yes. He asked what issues an Environmental Impact Report would analyze? Staff responded traffic, noise, land use impacts, soils, chemical products used by surrounding companies, and public services support needed such as schools, among other issues. Mitigation measures would be suggested in the EIR, also.

As a related issue, Vice Mayor Gomez inquired about the City staff's inventory of industrial land. He felt that information could help him make a decision. Mr. Williams anticipated that report in early September for completion and then brought to the City Council in October most likely. The Vice Mayor also inquired about an industrial land use conversion policy and whether there was a City policy; Mr. Williams said no.

Mayor Esteves noted he had received a letter received from KLA Tencor on this matter. He then invited comments from the applicant.

**Mark Faulkner**, Vice President of Fairfield Residential/Murphy Ranch project spoke, requesting the City Council allow his company to go through the full environmental and project planning process, to proceed with an EIR. He introduced his staff, which was available to answer questions. Also, a representative from Lucent Technologies – the property owner – was present in support of project moving forward.

**Ed McCoy**, Vice President of Fairfield Residential for the Murphy Ranch project, gave a powerpoint presentation (handout provided to Councilmembers) reviewing the history to date from Fairfield's point of view, and rebutted several of the points staff presented earlier. His company had spent \$600,000 to date on reports and plans, and would like to move forward on the potential housing project. Fairfield wished to stress the housing required in the City of Milpitas according to the City's Housing Element in the General Plan, and wished to proceed with the Murphy Ranch project to assist the City in meeting its goals.



were different now, with neighbors who did not all know each other in close neighborhoods any longer. The City should get on with the current trend, similar to the region around the Cisco buildings in neighboring San Jose.

Mayor Esteves called this a difficult situation, as he wanted to support staff and the Planning Commission position. He was scared that prime real estate would be used as housing. He looked at the site as a Milpitas Technology Center and did not want businesses to leave the city. It was not the EIR that was at issue, rather preservation of the site as a technology area in Silicon Valley. He supported the idea of "Smart Growth" and did not support a project if it was not Smart Growth.

(2) Motion: deny staff's recommendation to deny the General Plan amendment and rezone of land, and thus, allow the Fairfield/Murphy Ranch project to proceed with the process (conduct an Environmental Impact Report if they choose)

Motion/second: Councilmember Giordano/Councilmember Livengood

Motion carried by a vote of: AYES: 4  
NOES: 1 (Esteves)

The City Council then took an announced 10 minutes break at 9:15 PM. They reconvened at 9:25 PM.

## UNFINISHED BUSINESS

### 4. Introduce Ordinance No. 101.19 regarding PERS Agreement, and Adopt Resolution of Intent

Human Resources Director Carmen Valdez explained the request to amend the Public Employee Retirement System agreement for two specific benefits. Per negotiations with the Milpitas Police Officers Association, the City agreed to amend the contract with PERS to provide pre-retirement death benefits and 1959 Survivor benefits 4<sup>th</sup> level for local police only.

Government Code requires that the City disclose associated costs and adopt a Resolution of Intent. She stated the dollar amount representing the present value of Section 21548 benefit was \$151,245, while the City would not pay that amount, rather it represented the value to all the members eligible throughout the lifetime of the benefit. Accrual Liability for the City was \$100,775, amortized over a 20-year period. Approximate cost this year would be \$8,400. For Section 21574 benefit, there were no additional costs to disclose.

Mayor Esteves asked the total amount of the new MPOA contract agreement. Staff did not have the exact cost figures, but the Finance Director stated an estimate of \$1.5 or \$1.6 million dollar over three years.

Ms. Valdez recommended that the City Council waive the first reading beyond the title and introduce the Ordinance, and adopt the Resolution of Intention. She read the title of Ordinance No. 101.19 "An Ordinance of the City Council of the City of Milpitas Authorizing an Amendment to the Contract Between the City Council of the City of Milpitas and the Board of Administration of the California Public Employees' Retirement System to Provide Section 21548 (Pre-Retirement Optional Settlement 2 Death Benefit) and Section 21574 (4<sup>th</sup> Level of 1959 Survivor Benefits) for Local Police Members Only."

(1) Motion: Waive the first reading beyond the title of Ordinance No. 101.19

Motion/Second: Councilmember Livengood /Vice Mayor Gomez

Motion carried by a vote of: AYES: 5  
NOES: 0

might be in the best interest of the project but not necessarily in the best interest of the City. Commissioner Chua commented that she relies on City staff to review and analyze the TIA's regardless of who the consultant is. Commissioner Williams commented that he also has concerns regarding the methodology of how the TIA's are conducted. Vice Chair Nitafan commented that the applicant and consultant should be independent of each other.

## **NEW BUSINESS**

### **4. Work Session on Proposed Avaya Project**

Principal Planner Burkey gave an introductory overview of proposed a proposed 6-story, 200,000-sq. ft. office building on the west side of Murphy Ranch Road.

Carl Luppens of Townsend Capital LLC and Steve Eckersley of Avaya, presented the proposal for the Avaya project.

Commissioner Williams asked how many personnel would be at this location. Mr. Eckersley said that there would be approximately 600 to 800 personnel.

Commissioner Chua asked what they mean by regional headquarters. Mr. Eckersley replied that the Milpitas office would be the prime office facility for Avaya has in the western region of the United States. Ms. Chua asked if they currently have existing regional offices. Mr. Eckersley said that the nearest is the existing Milpitas campus.

Commissioner Lalwani asked what was the meaning of Avaya. Mr. Eckersley said that the word Avaya is a made-up word and has no meaning.

Commissioner Sandhu asked if there would be any manufacturing operations in this facility. Mr. Eckersley said there would not be any manufacturing operations, only

offices.

Commissioner Williams asked if they would allow for antennas to be placed on top of the structure. Mr. Lupens said they have no interest in antennas on top of the building.

Commissioner Chua said that she has no problem with a six-story building.

Commissioner Galang asked what the purpose of the football shaped roof design is. Mr. Eckersley said that it is rooftop equipmentscreen.

Vice Chair Nitafan suggested that the front of the building be made more pedestrian friendly.

Bill Smith of Smith and Smith Landscape Architects, gave a summary of the architecture of the proposed building.

Vice Chair Nitafan asked if the cafeteria and the conference rooms would be open to the public. Mr. Smith said that the cafeteria and the conference rooms would be for employee use only. Mr. Nifafan asked if the trees would all be the same. Mr. Smith said that at the next meeting he would bring back a tree list with a variety of trees to choose from.

Commissioner Galang asked if the recreation facility would be open to the public. Mr. Smith said that the recreation facility was for the employees.

Bob Evans of HDR Architects said that building architecture is the least developed part of the project at this point and asked the Commission which rendering they preferred.

Chair Hay said that he is supportive of both designs but prefers rendering no. 1.

Vice Chair Nitafan said that he prefers rendering no. 2.

Commissioner Chua said that it is one of the best designs that she has seen and noted that she prefers rendering no. 2.

Commissioner Galang said that he likes the design and prefers rendering no. 2

Commissioner Lalwani said that she likes the design and prefers rendering no. 1.

Commissioner Sandhu said that he prefers rendering no. 2.

Commissioner Williams said that he prefers rendering no. 1 and likes the colored glass.

**ADJOURNMENT**

There being no further business, the meeting was adjourned at 10:20 PM to the next regular meeting of February 28, 2001.

Respectfully Submitted,

STEVE BURKEY  
Secretary

KAREN RAMSAY  
Recording Secretary