Attachment A

FAIRFIELD RESIDENTIAL LLC

Telephone (858) 457-2123
Facsimile (858) 457-1121

January 15, 2008

Mr. James Lindsay
Planning & Neighborhood Services Director
455 East Calaveras Boulevard
Milpitas, CA 95035

RE: Fairfield Residential Murphy Ranch Residential Development

Dear James:

This is a follow up to our meeting on December 13, 2007, when we discussed the parkland obligations for the subject project. We appreciate the City's explanation regarding the method of calculating the parkland obligation and how the City complies with the Quimby Act. While we now agree with the City's methodology for implementing the Quimby Act requirements, we do request a reconsideration of one aspect of the parkland obligation calculation.

Municipal Code Section XI-1-9.05-2 allows the City to entertain an alternative Persons per Household figure than the one determined by Staff. We request that the City consider a different Persons per Household factor for the apartment aspect of our development. Currently, the City utilizes 2.52 p/h for apartments with 5+ units. It does not account for unit mix or quality standards of the product. Fairfield is an industry leader in the development and management of luxury apartment communities. Overall, we have built and manage over 55,000 apartment homes in very diverse neighborhoods across the country. We keep very detailed demographic statistics for our communities.

Our development is 374 apartment homes, consisting of 8 studio; 166 one-bedroom; 180 two-bedroom; and 20 three-bedroom apartment homes. Given that nearly half the apartments are one-bedroom and studios; and all but 20 of the remaining apartments are two bedroom, the overall p/h will be less than 2.52. Based on our experience with this unit mix, we believe the overall p/h will be approximately 1.74. Attached is a spreadsheet of 10 similar Fairfield communities in California that support this p/h figure. However, given that Milpitas generally has a higher p/h than most cities, we believe our p/h here will be slightly higher than the average of our other communities, but not as high as 2.52. Therefore, we believe the following calculation should be used for our Apartment community:

8 Studios x 1 p/h	=	8	
166 1bdrm x 1.5	=	249	
180 2 bdrm x 2.5	=	450	
20 3 bdrm x 3.5	=	70	
Total:		777	(assumes 100% occupancy)
p/h (777/374)		2.08	

According to the 2000 Census, Milpitas has an overall p/h of 3.47 and a homeownership of 69.8%. Both of these figures are higher than the California average of 2.87 p/h and 56.9% ownership. We believe the higher ownership rate skews the data for apartment homes, as single family homes generally have more persons per household. We contend that apartment homes with a unit mix similar to ours, have much lower p/h than single family and townhome ownership ratios. Interestingly, our calculated p/h of 2.08 is about 20% above our overall California p/h average based on our communities, and the City of Milpitas p/h average is 21% above the State mean.

Therefore, we respectfully request the City consider an alternative p/h figure for our Apartment community, in accordance with Section XI-1-9.05-2 of the Municipal Code. Since the Code is silent on the appropriate process that the City will utilize to consider this alternative, we look forward to hearing from you as to how you will proceed with this request.

Please contact me to discuss or to set any follow up meetings regarding this matter.

Sincerely,

Ed McCoy
FF Development LP

Cc: Shon Finch
Suzanne Skov

Fairfield Residential Similar California Communities

Name of Property	Unit Mix (1s/2s/3s)	Total Units	Occupied Units	Occupants	Person/ Household
Alize	59/41/0	484	464	716	1.54
Aventine	60/40/0	386	356	651	1.83
Avila	63/37/0	498	462	825	1.79
Canyon Park	56/44/0	256	236	434	1.84
Granite Point	63/34/3	384	352	550	1.56
La Cima	50/50/0	514	462	741	1.60
Montecito Village	48/52/0	234	219	409	1.87
The Palm	33/67/0	168	163	268	1.64
Villages of Monterey	15/74/11	424	390	794	2.04
Westbrook	20/80/0	80	78	137	1.76
Totals:	**50/48/2**	**3428**	**3182**	**5525**	**1.74**

MEMORANDUM

Department of Planning and Neighborhood Services

To: Thomas C. Williams, City Manager

Through: James Lindsay, Planning & Neighborhood Services Director

From: Sheldon S. Ah Sing, Senior Planner

Subject: **Park In-Lieu Fee Calculations**

Date: February 25, 2008

Background

The Quimby Act (CA Government Code Section 66477) allows a city to require dedication of land or the payment of in-lieu fees for park and recreation purposes as a condition of residential development. Milpitas' park dedication requirements are found in the General Plan and in the Milpitas Municipal Code (MMC) XI-1-9 (see Exhibit 1). The City has established a standard of 5 acres of park land for every 1,000 persons outside of the Midtown area and 3.5 acres of park land for 1,000 persons within the Midtown area. A reduced park land requirement was included in the Midtown Specific Plan to achieve the intensification and infill of the area (Midtown Specific Plan Policies 3.23 and 3.24).

Parkland Dedication Calculations Explained

MMC XI-1-9.05 contains a formula to estimate the population of a residential project in order to arrive at the required park land. The formula uses the housing types and population data from the most recent Census as a base and the annual persons per household estimate from the State Department of Finance (DOF) to account for yearly changes.

The formula is as follows:

$X=(B*C)/A$

A is the census year DOF estimated average population for all housing types

B is the census year count of average population for each unit type

C is the most recent DOF estimate average population for all unit types.

Using the Census and DOF information available and applying the formula we derive with the following:

Residential Unit Type	Persons per Household
Single Family Detached	3.87
Single Family Attached	3.07
Buildings w/ 2-4 units per building	3.13
Buildings w/ 5+ units per building	2.52

Murphy Ranch Example
The Murphy Ranch project includes 374 apartment units (a mix of studios, 1, 2, and 3 bedroom units).

374 units x **2.52 persons per household** = 943 total persons
943 people x 217.8 square feet of parkland per person (5 acres per 1,000 people) = 205,442 square feet or 4.72 acres of parkland

A minimum of 60% of the parkland dedication must be public park area (XI-1-9.06), or 2.83 acres in this example. A maximum of 40% of the required parkland may be private usable open space and applied as credit towards the overall requirement.

When considered with the 285 townhomes the total parkland required for the Murphy Ranch project is 9.18 acres. The approved project provides for the dedication of two acres of improved public park and 3.6 acres of private open space leaving 3.5 acres of required public parkland.

In lieu fee explained
MMC XI-1-9.09 gives the City Council the discretion to allow for all or a portion of the required parkland to provided via an in-lieu fee. Where a fee is to be paid in lieu of land dedication, the amount of such fee is based upon the fair market value of the amount of land which would otherwise be required to be dedicated. The City has contracted with an appraisal firm to provide the average value of one acre of land in the City each year which the Council has adopted by resolution. As of February 2007, the fair market value of one acre of land is approximately $2.4 million.

Murphy Ranch Example
The Murphy Ranch project would need to provide $8.4 million as an in-lieu fee for the remaining 3.5 acres of required parkland based on the estimated population using the standard persons per household rates.

Alternative Calculation
Pursuant to MMC XI-1-9.05-2 an applicant can submit a study on the estimated household sizes for their project to the City for approval when they object to the population density calculation in the ordinance. Fairfield has exercised this option and contends that based on data from other projects they manage that the Murphy Ranch project would only have 2.08 persons per household instead of the 2.52 ratio from the subdivision ordinance calculation. The revised calculation would be as follows:

374 units x **2.08 persons per household** = 778 total persons
778 people x 217.8 square feet of parkland per person (5 acres per 1,000 people) = 169,448 square feet or 3.89 acres of parkland

Applying Fairfield's person per household ratio reduces the project's total park requirement by 0.49 acres and therefore reduces the in-lieu fee amount by $1.1 million.

When comparing the population densities of Milpitas and the other cities where Fairfield has properties, it is very clear the Milpitas has a higher population per household. Only San Jose has a higher population per household for 2 to four unit types. See the attached tables for more information.

When looking at the unit type (studio & 1 bedrooms and 2 & 3 bedrooms) the Murphy Ranch project is below average with the studio and 1 bedroom mix than the other projects have, but are higher than the average when looking at 2 and 3 bedrooms mix. Only three of Fairfield's projects have 3 bedroom units. The Murphy Ranch project includes 5% of its unit mix toward 3 bedrooms.

Conclusions

The higher population per household across unit types for Milpitas as compared with other cities, coupled with the higher proportion of 2 and 3 unit bedroom units for the project supports the City's use of the existing formula.

Attachments:

Exhibit 1-MMC XI-1-9

Exhibit 2-Comparison of Fairfield Properties and Unit Mix

Exhibit 3-Comparison of Fairfield Property Locations and Persons per Household

Exhibit 1

SECTION 9 IMPROVEMENTS: DEDICATION OF LAND OR PAYMENT OF FEE OR BOTH, FOR RECREATIONAL PURPOSES

1-9.01 Authority
1-9.02 Subdividers Must Provide Park and Recreational Facilities
1-9.03 Application
1-9.04 Relation of Land Required to Population Density
1-9.05 Population Density
1-9.06 Amount of Land to be Dedicated
1-9.07 Amount of Fee in Lieu of Land Dedication
1-9.08 Credit for Private Open Space
1-9.09 Choice of Land or Fee
1-9.10 Time of Commencement Must be Designated
1-9.11 Limitation on Use of Land and Fees

1-9.01 Authority

9.01-1 The Subdivision Map Act enables cities and counties to require either the dedication of land, the payment of fees, or a combination of both, for park or recreational purposes as a condition of approval of a subdivision map; and

9.01-2 Before a city or county may avail itself of said Act, it must have a general plan containing a recreational element with definite principles and standards for the park and recreational facilities to serve the residents of the city or county;

9.01-3 The City Council of the City of Milpitas has adopted a general plan containing such recreational element. (Ord. 18.17 (part), 6/15/76)

1-9.02 Subdividers Must Provide Park and Recreational Facilities

Every subdivider who subdivides land shall dedicate a portion of such land, pay a fee, or do both, as set forth in this Section for the purpose of providing park and recreational facilities to serve future residents of such subdivision. (Ord. 18.17 (part), 6/15/76)

1-9.03 Application

The provisions of this Section shall apply to all subdivisions except:

(a) Industrial subdivisions.

(b) Condominium projects consisting of the subdivision of airspace in an existing apartment building which is more than five (5) years old when no new dwelling units are added.

(c) Divisions of land for which a parcel map is required unless made by or on behalf of a person engaged in the business of developing and selling real estate as distinguished from a private owner making an occasional sale (a person shall not be deemed to be engaged in the business of developing and selling real estate if he has made no more than four (4) sales in either of the last two (2) preceding years).

(d) Minor subdivisions which are not used for residential purposes. Provided, however, that the Planning Commission shall be empowered to condition the approval of any parcel map therefor as follows: if a building permit is requested for construction of a residential structure or structures on one (1) or more of the parcels within four (4) years, the fee required by Section XI-1-9.07 may

be required to be paid by the owner of each such parcel as a condition to the issuance of the building permit. (Ord. 18.17 (part), 6/15/76)

1-9.04 Relation of Land Required to Population Density

It is hereby found and determined:

9.04-1 That the public interest, convenience, health, welfare and safety require that eighteen and one-half (18-1/2) acres of property, for each one-thousand (1,000) persons residing within this City, be devoted to park and recreational purposes.

9.04-2 That said requirement will be satisfied in part by cooperative arrangements between the City and the local school districts and the County of Santa Clara to make available thirteen and one-half (13-½) acre of property for each one thousand (1,000) persons residing within the City for park and recreational purposes.

9.04-3 That, except for the Midtown Specific Plan area, the remainder of the required eighteen and one-half (18-½) acres shall be supplied by the requirements of this section and the recreation program of the City. Because of the scarcity of vacant land within the Midtown area only three and one-half (3½) acres shall be supplied by the requirements of this section and the recreation program of the City. (Ord. 18.32 (part), 4/2/02: Ord. 18.17 (part), 6/15/76)

1-9.05 Population Density

Population density for the purpose of this section shall be an estimated average for each of the following housing types: Single Family Attached, Single Family Detached, Multi-Family in buildings with between 2 and 4 units. Multi-Family in buildings with 5 or more units. This estimated average for each unit type ("X") shall be determined based on the formula below:

X=(BC)
A
(X equals B multiplied by C divided by A)

Where,
X Is the estimated current average population per each housing type.
A Is the Census year Department of Finance estimated average population for all unit types.
B Is the Census year count of average population for each unit type.
C Is the most recent Department of Finance estimate of average population for all unit types.

Additionally, a project's total population density shall be the sum of its population per each housing type. The basis for determining the total number of dwelling units shall be the number of such units permitted by the City on the property included in the subdivision at the time the tentative subdivision tract map is approved by the City.

9.05--2 If the subdivider objects to the population estimate as determined by the formula set forth hereinabove, the subdivider may submit for City approval a professionally prepared study on the estimated household sizes for the project. The City, in its sole discretion, may either utilize the estimate derived from the formula hereinabove or the estimate identified in the study. (Ord. 18.31 (part), 11/20/01: Ord. 18.30 (part), 6/23/98; Ord. 18.17 (part), 6/15/76)

1-9.06 Amount of Land to be Dedicated

9.06--1 The amount of land required to be provided as park land pursuant to this section in the adopted Midtown Specific Plan Area shall be the figure in which is the result of multiplying the project's estimated population (as calculated in Section 9.05) and 152.46 square feet (3.5

acres/1,000 people). In the Midtown Specific Plan Area at least, two (2) of every three and a half (3½) acres shall be provided as public park land (57.4%).

The amount of land required to be provided as park land pursuant to this section in the rest of the City shall be that figure which is the result of multiplying the project's estimated population (as calculated in Section 9.05) and 217.80 square feet (5 acres/1,000 people). Other than within the Midtown Areas of the City, at least, sixty percent (60%) of the required parkland requirement must be provided as public park lands. (Ord. 18.32 (part), 4/2/02: Ord. 19.30 (part), 6/23/98)

1-9.07 Amount of Fee in Lieu of Land Dedication

Where a fee is required to be paid in lieu of land dedication, the amount of such fee shall be based upon the fair market value of the amount of land which would otherwise be required to be dedicated pursuant to Subsection XI-1-9.06 hereof. "Fair market value" shall be determined as of the time of filing the final map in accordance with the following:

9.07-1 The fair market value as determined by the City Council, in line with the definition set out in Section 3.08 of this Chapter; or

9.07-2 If the subdivider objects to such evaluation he may, at his expense, obtain an appraisal of the property by a qualified real estate appraiser approved by the City, which appraisal may be accepted by the City Council if found reasonable; or

9.07-3 The City and subdivider may agree as to the fair market value. (Ord. 18.24(A) (part), 8/18/87; (Ord. 18.17 (part), 6/15/76)

1-9.08 Credit for Private Open Space

Where private open space for park and recreational purposes is provided in a proposed subdivision and such space is to be privately owned and maintained by the future residents of the subdivision, such areas shall be credited against the requirement of dedication for park and recreation purposes, (as set forth in Subsection XI-1-9.06 hereof), or the payment of fees in lieu thereof (as set forth in Subsection XI-1-9.07 hereof), provided the City Council finds it is in the public interest to do so, and that the following standards are met:

9.08-1 That yards, court areas, setbacks and other open areas required to be maintained by the zoning and building regulations shall not be included in the computation of such private open space; and

9.08-2 That the private ownership and maintenance of the open space is adequately provided for by written agreement; and

9.08-3 That the use of the private open space is restricted for park and recreational purposes by recorded covenants which run with the land in favor of the future owners of property within the tract and which cannot be defeated or eliminated without the consent of the City Council; and

9.08-4 That the proposed private open space is reasonably adaptable for use for park and recreational purposes, taking into consideration such factors as size, shape, topography, geology, access, and location of the private open space land; and
9.08-5 That facilities proposed for the open space are in substantial accordance with the provisions of the recreational element of the general plan, and are approved by the City Council. (Ord. 18.17 (part), 6/15/76)

1-9.09 Choice of Land or Fee

9.09-1 Procedure. The procedure for determining whether the subdivider is to dedicate land, pay a fee or both, shall be as follows:

(a) Subdivider. At the time of filing a tentative tract map for approval, the owner of the property shall, as a part of such filing, indicate whether he prefers to dedicate property for park and recreational purposes, or whether he desires to dedicate land for this purpose (and, if the latter, he shall designate the area thereof on the tentative tract map as submitted).

(b) Action of City. At the time of the tentative tract map approval, the City Council shall determine as a part of such approval, whether to require a dedication of land within the subdivision, payment of a fee in lieu thereof, or a combination of both.

(c) Prerequisites for Approval of Final Map. Where dedication is required, it shall be accomplished in accordance with the provisions of the Subdivision Map Act. Where fees are required the same shall be deposited with the City prior to the approval of the final tract map. Open space covenants for private park or recreational facilities shall be submitted to the City prior to approval of the final tract map and shall be recorded contemporaneously with the final tract map.

9.09-2 Determination. Whether the City Council accepts land dedication or elects to require payment of a fee in lieu thereof, or a combination of both, shall be determined by consideration of the following:

(a) Recreational element of the City's general plan; and

(b) Topography, geology, access and location of land in the subdivision available for dedication; and

(c) Size and shape of the subdivision and land available for dedication.
The determination of the City Council as to whether land shall be dedicated, or whether a fee shall be charged, or a combination thereof, shall be final and conclusive. On subdivisions involving fifty (50) lots or less, only the payment of fees shall be required. (Ord. 18.17 (part), 6/15/76)

1-9.10 Time of Commencement Must be Designated

At the time the final tract map is approved the City Council shall designate the time when development of the park and recreational facilities shall be commenced. (Ord. 18.17 (part), 6/15/76)

1-9.11 Limitation on Use of Land and Fees

The land and fees received under this section shall be used only for the purpose of providing park and recreational facilities to serve the subdivision for which received and the location of the land and amount of fees shall bear a reasonable relationship to the use of the park and recreational facilities by the future inhabitants of the subdivision. (Ord. 18.17 (part), 6/15/76)

Exhibit 2

Comparison of Fairfield properties and unit mix

Property	Percent Studio / 1 bedrooms
Granite Point	63%
Aventine	60%
Avila	59%
Alize	59%
Canyon Park	56%
La Cima	50%
Montecito Village	48%
Murphy Ranch	47%
The Palm	33%
Westbrook	20%
Villages of Monterey	15%

Property	Percent 2 bedrooms
Westbrook	80%
Villages of Monterey	74%
The Palm	67%
Montecito Village	52%
La Cima	50%
Murphy Ranch	48%
Canyon Park	44%
Alize	41%
Aventine	40%
Avila	37%
Granite Point	34%

Property	Percent 3 bedrooms
Villages of Monterey	11%
Murphy Ranch	5%
Granite Point	3%
Westbrook	0%
The Palm	0%
Montecito Village	0%
La Cima	0%
Canyon Park	0%
Alize	0%
Aventine	0%
Avila	0%

		Bedroom Mix			
	Location	Studio / 1	2	3	Total
Villages of Monterey	Oceanside	64	313	47	424
Murphy Ranch	Milpitas	174	180	20	374
Granite Point	Sacramento	242	131	11	384
Westbrook	San Diego	16	64	0	80
The Palm	San Diego	55	113	0	168
Montecito Village	Oceanside	112	122	0	234
La Cima	San Diego	257	257	0	514
Canyon Park	San Ramon	143	113	0	256
Alize	Aliso Viejo	286	198	0	484
Aventine	Aliso Viejo	232	154	0	386
Avila	Rancho Santa Margarita	295	184	0	498

Exhibit 3

Comparison of Fairfield property locations and Persons per household

	Persons Per Household by Unit Type			
Location	Single Family Detached	Single Family Attached	Two - Four Units / Bldg.	Five + Units / Bldg.
Milpitas	3.88	3.08	3.14	2.52
Oceanside	3.31	2.24	2.36	2.31
Rancho Santa Margarita	3.45	2.28	2.47	1.98
San Diego	2.98	2.58	2.31	1.97
Aliso Viejo	2.98	2.32	2.11	1.89
Sacramento	2.85	2.31	2.07	1.76
San Ramon	3.08	2.07	1.64	1.55