

**RESOLUTION NO. 15-035**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS RECOMMENDING THE CITY COUNCIL APPROVE AN ADDENDUM TO THE CERTIFIED ENVIRONMENTAL IMPACT REPORT (STATE CLEARINGHOUSE NO. 2006032091) IN SUPPORT OF THE CENTRE POINTE AND HOURET COURT PROJECT LOCATED AT 1310-1360, 1400-1460 AND 1415-1475 MCCANDLESS DRIVE, 1463, 1501, 1507, 1515, 1536-1567, AND 1577-1601 CENTRE POINT DRIVE, AND 231, 247-269, 274 AND 1147 HOURET COURT**

**WHEREAS**, on June 3, 2008, by adoption of Resolution No. 7759, the City Council of the City of Milpitas certified the Environmental Impact Report (State Clearinghouse No. 2006032091) (the “EIR”), which disclosed and evaluated environmental impacts associated with, among other things, the adoption of the Transit Area Specific Plan (the “TASP”), which encompasses some 437 acres and plans for the development of 7,109 dwelling units, 340 hotel rooms, 287,075 square feet of retail space, and 993,843 square feet of office space and industrial uses. The EIR concluded that the TASP was self-mitigating, and thus no additional mitigation measures were required. The TASP includes development standards, goals and policies guiding development within the plan area. Because of the physical characteristics of the area, including major streets, railroads and creeks, the TASP also established subdistricts with specific goals and policies to accommodate those unique characteristics, among other things; and

**WHEREAS**, on June 3, 2008, by passage of Resolution No. 7760, the City Council adopted certain amendments to the Milpitas 1994 General Plan, as updated in January 2002, and also adopted the TASP; and

**WHEREAS**, in 2010, the City Council approved an application submitted by Integral Communities for a project within the TASP. Specifically, Integral Communities was granted a tentative map and conditional use permit to construct eight high-density residential buildings along McCandless Drive with significant retail and commercial space in the first two building along Great Mall Parkway. The project included a maximum of 1,328 dwelling units and 75,000 square feet of retail/commercial space. The project also included an Owner Participation Agreement (“OPA”) that the City Council approved on August 3, 2010 (collectively, the “2010 entitlements”); and

**WHEREAS**, on March 20, 2012, the City Council approved amendments to the 2010 entitlements to replace four of the eight buildings along McCandless Drive with a 200-unit townhouse project. The 2012 amendments included a Site Development Permit (SD11-0001) to review the architecture of the buildings, Conditional Use Permit (UP11-0037) to allow a grocery store on Lot 1, and Major Tentative Map (MT11-0002) for 27 townhouse building lots and associated common areas. The approved changes resulted in a net decrease of 226 dwelling units from District 2, and net increase of 6,000 square feet of ground floor retail for Lots 2 and 4 (collectively, the “2012 entitlements”); and

**WHEREAS**, subsequent to the approval of the 2012 entitlements development approved on Lots 2 and 4 thereby was constructed; and

**WHEREAS**, on June 16, 2015, Lyon Communities submitted an application to the City for an amendment to the previously approved Site Development Permit SD11-0001 and Conditional Use Permit UP11-0037 to eliminate Lot 3 from the District 1 project and replace the two mixed use buildings (totaling 392 dwelling units and 6,000 square feet of commercial retail) on Lots 2 and 3 with two five-story mixed-use buildings consisting of 391 residential units and 17,421 square feet of ground floor retail and office space and to allow the development of a 175 room hotel, a 423 dwelling unit building with 56,982 square feet of retail space and 352 for sale residential units with associated site improvements on 26.65 acres on Centre Pointe Drive and Houret Court parcels (APNs: 086-33-093, 086-33-101, 086-33-086, 086-33-087, 086-33-088, 086-33-089, 086-41-034, 086-41-033, 086-41-032, 086-41-009) located within the TASP area, and, more particularly, within the McCandless/Centre Pointe and Montague Corridor sub-districts of the TASP area (collectively, the “Centre Pointe and Houret Court Project” or “the Project”); and

**WHEREAS**, in order to evaluate the Centre Pointe and Houret Court Project pursuant to the California Environmental Quality Act (Public Resource Code § 21000, *et seq.*, “CEQA”) and Title 14 of the California Code of Regulations § 15000, *et seq.* (the “State CEQA Guidelines”), the City caused to be prepared an addendum to the EIR prepared for the TASP; and

**WHEREAS**, pursuant to CEQA, when taking subsequent discretionary actions in furtherance of a project for which an EIR has been certified, the lead agency is required to review any changed circumstances to determine whether any of the circumstances under Public Resources Code section 21166 and State CEQA Guidelines section 15162 require additional environmental review; and

**WHEREAS**, staff evaluated the Centre Pointe and Houret Court Project in light of the standards for subsequent environmental review outlined in Public Resources Code section 21166 and State CEQA Guidelines section 15162 by preparing an Initial Study and accompanying technical letters; and

**WHEREAS**, based on that evaluation, staff concluded that the Environmental Public Record fully analyzed and mitigated all potentially significant environmental impacts, if any, that would result from the Centre Pointe and Houret Court Project, and therefore, no subsequent EIR or mitigated negative declaration is required; and

**WHEREAS**, based on that evaluation, staff also concluded that the Centre Pointe and Houret Court Project is consistent with the goals, policies, objectives and regulations of the City’s General Plan, Municipal Code, the Environmental Public Record, and all applicable mitigation measures identified in the Environmental Public Record; and

**WHEREAS**, because the Centre Pointe and Houret Court Project requires the City to make some changes and additions to the EIR, the City has prepared an addendum to the EIR pursuant to State CEQA Guidelines section 15164 (the “Centre Pointe and Houret Court Project Addendum”); and

**WHEREAS**, the Planning Commission has been provided the Centre Pointe and Houret Court Project Addendum and has reviewed it in connection with the EIR; and

**WHEREAS**, the Environmental Public Record is incorporated herein by this reference, and is available for inspection at City Hall at the Planning Department; and

**WHEREAS**, pursuant to State CEQA Guidelines section 15164, subdivision (c), the Centre Pointe and Houret Court Project Addendum is not required to be circulated for public review, but can be attached to the EIR; and

**WHEREAS**, notice of the October 28, 2015, public hearing before the Planning Commission for its review and consideration of a recommendation to the City Council as to approval of the Centre Pointe and Houret Court Project Addendum and Centre Pointe and Houret Court Project was provided in accordance with applicable law; and

**WHEREAS**, at its October 28, 2015, public hearing on the Centre Pointe and Houret Court Project Addendum and the Centre Pointe and Houret Court Project, the Planning Commission considered the Centre Pointe and Houret Court Project Addendum together with the EIR, and accepted oral and written testimony from interested persons; and

**WHEREAS**, the Planning Commission carefully considered all information pertaining to the Centre Pointe and Houret Court Project, including the staff report, the Centre Pointe and Houret Court Project Addendum together with the Environmental Public Record, and all of the information, evidence, and testimony presented at its public hearing; and

**WHEREAS**, all other legal prerequisites to the adoption of this Resolution have occurred.

**NOW, THEREFORE**, the Planning Commission of the City of Milpitas **RESOLVES** as follows:

**SECTION 1. Recitals.** The above recitals are incorporated herein by reference.

**SECTION 2. Compliance with CEQA.** State CEQA Guidelines section 15164 requires lead agencies to prepare an addendum to a previously certified EIR if some changes or additions to the project are necessary, but none of the conditions requiring preparation of a subsequent EIR are present. The Planning Commission has reviewed and considered the Environmental Public Record and finds that those documents taken together contain a complete and accurate reporting of all of the environmental impacts associated with the proposed Centre Pointe and Houret Court Project. The Planning Commission further finds that the Centre Pointe and Houret Court Project Addendum and administrative record have been completed in compliance with CEQA and the State CEQA Guidelines. The Planning Commission further finds and determines that the Centre Pointe and Houret Court Project Addendum reflects the City's independent judgment.

**SECTION 3. Findings Regarding Environmental Impacts.** Based on the substantial evidence set forth in the record, including but not limited to the Environmental Public Record and the Centre Pointe and Houret Court Project Addendum, the Planning Commission finds that an addendum is the appropriate document for disclosing the minor changes and additions that are necessary to account for the Centre Pointe and Houret Court Project. The Planning Commission further finds that based on the whole record before it, including but not limited to the Initial Study, the technical letters, and the staff report, none of the conditions under State CEQA

Guidelines section 15162 requiring subsequent environmental review have occurred because the modifications specified in the Centre Pointe and Houret Court Project Addendum:

- a) do not constitute substantial changes that would require major revisions of the Environmental Public Record due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and

**FACT:** The Centre Pointe and Houret Court Project consists of a total of 1,166 dwelling units (multi-family, townhouse, and loft products), 83,842 square feet of retail and commercial space, a 175 room hotel, and associated landscaping and improvements associated therewith. These uses and improvements are consistent with those envisioned in the TASP, which would allow for a maximum of 1,809 dwelling units and 92,316 square feet of ground floor retail within those portions of the TASP occupied by the Centre Pointe and Houret Court Project. The TASP also encouraged the development of a hotel use within its borders.

The Centre Pointe and Houret Court Project Addendum examined all the potential impacts of the Centre Pointe and Houret Court Project, including Aesthetics, Agricultural Resources, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Mineral Resources, Noise, Population and Housing, Public Services, Recreation, Transportation and Traffic, and Utilities and Service Systems.

Based on the analysis contained in the Centre Pointe and Houret Court Project Addendum, the changes proposed by the Centre Pointe and Houret Court Project have been evaluated against the analysis of environmental impacts in the Environmental Public Record to ensure the Centre Pointe and Houret Court Project will not result in any new significant impacts or substantially increase the severity of any previously analyzed impacts. The analysis in the Centre Pointe and Houret Court Project Addendum for the Centre Pointe and Houret Court Project concludes that the proposed changes would not create any new significant impacts, or impacts that are significantly different than those identified in the Environmental Public Record.

- b) do not constitute substantial changes with respect to the circumstances under which the Centre Pointe and Houret Court Project is developed that would require major revisions of the Environmental Public Record due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects; and

**FACT:** Conditions remain similar to those under which the prior environmental documents were prepared. No new development has occurred in the vicinity of the Centre Pointe and Houret Court Project that would warrant major revisions to the Environmental Public Record.

- c) do not present new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the Environmental Public Record documents were certified or adopted, as applicable, showing any of the following: (i) that the modifications would have one or more significant effects not discussed in the earlier environmental documentation; (ii) that significant effects previously examined would be substantially more severe than shown in the earlier environmental documentation; (iii) that mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects, but the applicant declined to adopt such measures; or (iv) that mitigation measures or alternatives considerably different from those analyzed previously would substantially reduce one or more significant effects on the environment, but which the applicant declined to adopt.

**FACT:** Those impacts which were identified in the Environmental Public Record as significant and unavoidable remain significant and unavoidable. However, the proposed Centre Pointe and Houret Court Project would not add to or further exacerbate those previously identified significant impacts. No new mitigation measures are required to mitigate environmental impacts associated with the Centre Pointe and Houret Court Project. Therefore, the Centre Pointe and Houret Court Project Addendum supports the City's consideration of the Centre Pointe and Houret Court Project, as outlined in the State CEQA Guidelines Section 15162 and 15164.

**SECTION 4. Approval of the Centre Pointe and Houret Court Project Addendum.**

The Planning Commission hereby recommends that the City Council **APPROVE** the Centre Pointe and Houret Court Project Addendum to the EIR prepared for the TASP, a true and correct copy of which is attached hereto as Exhibit A.

**SECTION 5. City Council Hearing.** The Interim Planning Director shall transmit this recommendation to the City Council, and the Planning Commission recommends that the Centre Pointe and Houret Court Project be scheduled for a hearing before the City Council.

**SECTION 6. Notice of Determination.** The Planning Commission recommends that the City Council direct staff to prepare, execute and file a CEQA Notice of Determination with the San Mateo County Clerk's Office within five (5) working days of the City Council's action on the Centre Pointe and Houret Court Project.

**SECTION 7. Custodian of Records and Location of Documents.** The Environmental Public Record and the Centre Pointe and Houret Court Project Addendum are on file and available for public review 455 East Calaveras Boulevard, Milpitas, CA 95035. The Interim Planning Director of the Planning Department is the custodian of these documents.

**PASSED AND ADOPTED** at a regular meeting of the Planning Commission of the City of Milpitas on October 28, 2015:

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Chair

**TO WIT:**

**I HEREBY CERTIFY** that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on October 28 2015 and carried by the following roll call vote:

<b>COMMISSIONER</b>	<b>AYES</b>	<b>NOES</b>	<b>ABSENT</b>	<b>ABSTAIN</b>
Sudhir Mandal				
Lawrence Ciardella				
Hon Lien				
Rajeev Madnawat				
Ray Maglalang				
Zeya Mohsin (Alternate)				
Demetress Morris				
Gurdev Sandhu				