



May 7, 2014

**VIA E-MAIL ONLY**

Mr. Glenn Brown Integral Communities 500 La Gonda Way, Suite 102 Danville CA 94526	Mr. Hans Van Ligten Rutan & Tucker, LLP 611 Anton Blvd, Suite 1400 Costa Mesa, CA 92626
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**Re: Incompleteness of Application for Integral Centre Pointe Mixed-Use Project**  
**Public Hearing Date: Tuesday, June 3, 2014**  
**Public Hearing Time: 7:00 p.m. or shortly thereafter**  
**Public Hearing Location: Milpitas City Council Chambers**  
**455 East Calaveras Boulevard**  
**Milpitas, CA 95035**

Dear Mr. Brown and Mr. Van Ligten:

The City of Milpitas ("City") is in receipt of the letter dated April 10, 2014 from Mr. Hans Van Ligten, on behalf of The Centerpointe Project Owner, LLC ("Applicant"), requesting an appeal before the City Council pursuant to California Government Code Section 65943 relating to the Centerpointe Mixed-Use project. As noticed above, we have scheduled the appeal before the City Council during its regularly scheduled City Council meeting on Tuesday, June 3, 2014 at 7:00 p.m.

We are also in receipt of the separate letter to the City dated April 9, 2014 for the Centrepointe Mixed-Use Project from Mr. Glenn Brown relating to the outstanding issues with the incomplete Tentative Map, Conditional Use Permit and Site Development Permit applications. This letter also serves to respond to the latest submittal from the Applicant and to continue to work with the Applicant towards a complete application for a Tentative Map, Conditional Use Permit, and Site Development Permit. We are hopeful we can continue to work together to narrow the remaining issues or to resolve them altogether prior the appeal hearing.

## **Background**

By way of background, Applicant submitted a Major Tentative Map application to the City on June 12, 2013. On July 15, 2013, Applicant submitted details for a proposed project consisting of 604 dwelling units in wrap and townhome buildings with approximately 42,220 square feet of commercial/retail use ("First Submittal"). The City promptly reviewed the submitted documents and determined the application was incomplete. In a five page letter dated August 14, 2013, the City explained to the Applicant the outstanding issues and the required information and documents needed for a complete application.

Applicant resubmitted a revised project to the City on November 20, 2013 proposing 388 dwelling units in wrap and townhome buildings with approximately 35,900 square feet of commercial/retail use ("Second Submittal"). Again, the City promptly reviewed the revised submittals and responded in a four-page letter dated December 11, 2013 determining the revised submittals were incomplete as further explained in detail in the City's letter.

After several meetings, correspondence, and communications between the parties, Applicant submitted a revised project to the City on March 28, 2014 proposing 407 dwelling units in wrap and townhome buildings with approximately 36,012 square feet of commercial/retail use ("Third Submittal"). As with the prior two submittals, the City immediately reviewed the submittals and responded to the Applicant on April 1, 2014. In a three-page letter to the Applicant, the City explained how and why the application remains incomplete. Additionally, City staff met with the Applicant on April 9, 2014 to discuss the latest submittals and City's response. Shortly after our meeting, we received a letter from the Applicant's attorney requesting an appeal of the determination that the Applicant's application for a Tentative Map, Conditional Use Permit, and Site Development Permit for the proposed 407 dwelling units and 35,298 square feet commercial/retail is incomplete.

As you know, your latest submittal application on March 28, 2014 was deemed incomplete and not in compliance with the City's plans and zoning. To reiterate our prior communications, the application is incomplete as the information provided to the City is insufficient to make informed decisions regarding appropriate mixed-use land use changes in general plan land use, zoning designation, and in the Transit Area Specific Plan ("TASP") land use plan and zoning mixed-use districts. The City expects complete written applications identifying each requested change in land use and zoning. The application continues to be incomplete and not in compliance with the City's General Plan, Zoning, or TASP.

The issues identified below need to be addressed in your next submittal.

### **Overall Comments**

- As identified with previous submittals, the project needs to adhere to adopted Transit Area Specific Plan. City staff cannot thoroughly evaluate the proposal when fundamental land use and zoning inconsistencies exist. These inconsistencies affect numerous site development standards and other supporting documents and elements of the submittal. For example, the Storm Water Control Plan or proposed utilities cannot be reviewed when the site plan for the project is inconsistent with the TASP.
- Inconsistencies occur on the Title Sheet of the Tentative Map submittal and between the Tentative Map documents and the Architectural submittal regarding commercial square feet and parcel numbering. In addition, Architectural Sheet A0.0 includes a project comparison table that is not legible. This sheet also appears to identify parking spaces on Centre Pointe Drive that are to be counted toward the parking requirements of the proposed residential units.
- All street sections and street classifications for the proposed project shall conform to the TASP. Specifically, Bond Street shall be consistent with TASP Figure 3-2 and Figure 5-9 (New Local Streets) with on-street parking located along the east side of the street.

- Proposed commercial/retail use does not comply with the TASP and would require a Specific Plan Amendment. See Figure 3-1 and Table 3-1 of TASP. The TASP contains no provision for transferring commercial space.
- The TASP residential densities and/or commercial use for the below stated parcels are as follows:

Parcel #2 - Lot 086-33-087 (MXD2-TOD) proposes 62 residential units (22 units/acre) where the TASP requires between 83 – 136 (31 – 50 units/acre) residential units and a minimum of 16,554 square feet of commercial use.

Parcel #4 - Lot 086-33-089 (MXD3-TOD) proposes 145 residential units (24 units/acre) where the TASP requires between 121 – 222 residential units.

Parcel #1 – Lot 086-33-086 (MXD2-TOD) is not clear as the Architectural Plans and Tentative Map sheets identify different commercial square footage.

### **Outstanding Information and Issues**

In addition, the project is deemed incomplete because the following issues are unclear, incomplete, and/or inconsistent with the TASP:

#### *Tentative Map Submittal*

Sheet TM-1 Please update this sheet as follows:

1. Site Data:

- a. There are only four parcels for the subject project, not five. The four parcels shall be labeled and referred to as 1, 2, 3 and 4. This reference shall be corrected and used throughout the plans when describing the proposed use, zoning and build out tabulation.
- b. The parcels also have a “Site and Architectural Overlay (-S).
- c. Bond Street shall be identified and designed as a public street.
- d. The reference map shall include the outlines of the previously approved project, not the pending adjacent project.

Sheet TM-3 Please update this sheet as follows:

- a. The parcels should be labeled to be consistent with the title page.
- b. The acreage should be included for the existing parcels.

Sheet TM-4 Please update this sheet as follows:

- a. The proposed neighborhoods shall conform to the TASP Transit Area Plan Land Use Figure 3-1 and Zoning District Figure 5-21. The proposed non-conforming neighborhood segmentation is confusing when trying to analyze consistency with the Specific Plan.
- b. Bleeker Street extension is missing (inconsistency with TASP Figure 3-2 Street System).
- c. The footprint for the Montague pedestrian overcrossing is omitted. Place and clearly identify the footprint on the plan.
- d. Provide breakdown analysis of density and intensity by parcel (as previously referred to).
- e. Intersection of Newbury and Centre Pointe shall be straightened and aligned as a “T” intersection using best traffic safety practices and consistency with the Specific Plan (Figure 3-2).

Sheet TM-5 Proposed land use inconsistencies with the TASP are also related to proposed street section inconsistencies with the TASP. Please update this sheet as follows:

- a. Figure 1: Use Specific Plan Figure 5-17 New Pedestrian Retail Street Section.
- b. Figure 2: Use Specific Plan Figure 5-17 New Pedestrian Retail Street Section.
- c. With townhomes, the current Market Street cross-section is inconsistent with the character of the neighborhood.
- d. Figure 5: Specific Plan Figure 5-17 New Pedestrian Retail Street Section.

Sheet TM-6 Proposed land use inconsistencies with the TASP are also related to proposed street section inconsistencies with the TASP. Please update this sheet as follows:

- a. Figure 6: Specific Plan Figure 5-17 New Pedestrian Retail Street Section.
- b. Figure 7: Use Specific Plan Figure 5-9 New Local Streets.
- c. Figure 8: North of Bleeker Extension (to be shown on future submittal) to use Specific Plan Figure 5-17 New Pedestrian Retail Street Section. South of Bleeker Extension (to be shown on future submittal) to use Specific Plan Figure 5-9 New Local Streets.
- d. Figure 8: Existing Bond Street should be revised to reflect super-elevated section (for interim drainage) and bio-treatment areas. The project will reconstruct Bond Street in accordance with the TASP section (properly crowned section and parking along the project frontage).

Sheet TM-7 Proposed land use inconsistencies with the TASP are also related to proposed street section inconsistencies with the TASP. Please update this sheet as follows:

- a. Figure 12: Use Specific Plan Figure 5-17 New Pedestrian Retail Street Section.
- b. Figure 13: Use Specific Plan Figure 5-3.
- c. Figure 14: Identify height of the retaining wall.
- d. Figure 15: Use Figure 5-9.

Sheet TM-8 Please update this sheet as follows:

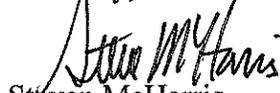
Surface parking can be accommodated between the building and Great Mall Parkway (See TASP cross section).

### Next Steps

Upon your resubmittal, submit six sets of plans, two sets of any required study and electronic copies of plans and studies with responses to the comments stated herein and attached.

If you have any questions regarding this matter, please contact me at (408) 586-3273.

Sincerely,



Steven McHarris

Planning & Neighborhood Services Director

- c: Tom Williams  
Michael J. Ogaz  
Evan Knapp  
Jeff Moneda