

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS ADOPTING GENERAL PLAN AMENDMENT GP15-0002 AND SPECIFIC PLAN AMENDMENT ST15-0001 FOR 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 POINTE DRIVE, AND 231, 247-269, 274 AND 1757 HOURET COURT**

**WHEREAS**, on June 16, 2015, Lyon Communities submitted an application to the City for the following entitlements:

(1) General Plan Amendment and Transit Area Specific Plan Amendment to change the land use designation from Residential-Retail High Density Mixed (RRMU) to High Density Transit Oriented Residential (HDTOR) for a portion of Centre Pointe B;

(2) a Zoning Map Amendment to change the City’s Zoning Map from MXD2 to R3 for a portion of Centre Pointe B and a corresponding TASP Zoning District Map (Fig 5-21) amendment to change the zoning district designation on the same 3-acre portion of the Centre Pointe B subarea site from MXD2-TOD (Mixed Use-High Density with Retail/Transit Oriented Development Overlay) to R3-TOD (Multiple Family – High Density/Transit Oriented Development Overlay);

(3) an amendment to the previously approved District One, Lots 2, 3 and 4 Site Development Permit SD11-0001 and Conditional Use Permit UP11-0037, both to eliminate Lot 3 from the District 1 project and replace the two mixed use buildings on Lots 2 and 4 (totaling 392 dwelling units and 6,000 square feet of commercial retail) with two five-story mixed-use buildings consisting of 391 residential units and 17,421 square feet of ground floor retail and office space on Lot 2; and

(4) a Site Development Permit, Major Vesting Tentative Maps, and a Conditional Use Permit to allow for the development of a 175 room hotel, a 423 dwelling unit building with 56,982 square feet of retail space and 355 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**, an Addendum to the TASP EIR has been prepared for the Project in accordance with the California Environmental Quality Act (CEQA); and

**WHEREAS**, on October 28, 2015, the Planning Commission held a duly-noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties; and unanimously recommended approval of the Addendum and the Project to the City Council pursuant to adoption of Planning Commission Resolutions 15-035 and 15-036; and

**WHEREAS**, all proposed references and notices required by Government Code Sections 65352, 65353, 65356 and other legally-required procedures and notice provisions have been satisfied consistent with State law; and

**WHEREAS**, on November 17, 2015, the City Council held a duly-noticed public hearing and adopted a Resolution Adopting the Addendum to the previously certified Transit Area Specific Plan Environmental Impact Report prepared for the Project.

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

**SECTION 1. Recitals.** The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

**SECTION 2. Compliance With CEQA.** The City Council is hereby relying on the CEQA Addendum to the previously certified Transit Area Specific Plan Environmental Impact Report prepared for the Project in adopting the General Plan and Specific Plan amendments changing the land use designations.

**SECTION 3. General Plan Amendment Findings.** In support of the General Plan Amendment, and as required by Milpitas Municipal Code Section XI-10-57.02(G)(1), the City Council hereby finds:

- i. The proposed amendment is internally consistent with those portions of the General Plan, which are not being amended. In particular, the proposed amendment is limited to a map amendment to change the land use designation of an approximately 3-acre area from Residential Retail High Density Mixed Use to High Density Transit Oriented Residential. The 3-acre area is within the subarea of the TASP designated Centre Pointe B and lies immediately adjacent to other areas designated High Density Transit Oriented Residential and will allow the area to be developed consistent with the surrounding property. The proposed amendment will provide for greater land use compatibility with surrounding existing and proposed development. The proposed amendment does not change any other provisions of the General Plan and the General Plan would remain internally consistent.
- ii. The proposed amendment will not adversely affect the public health, safety, and welfare. In particular, the proposed amendment changes the land use designation of an approximately 3-acre area to the same land use designation of the properties to the south and west. The proposed amendment would allow for land uses compatible with the surrounding and proposed development, and would not adversely affect public health, safety and welfare. Development pursuant to the proposed amendment would be required to comply with the development standards of the TASP, as such standards may be amended through issuance of a conditional use permit, and would be within the range of environmental impacts, e.g., traffic, air emissions, noise, etc., projected to occur from buildout of the TASP such that it would not result in adverse effects on public health, safety and welfare. The TASP is a component of the City's General Plan and is consistent with the City's General Plan. Development consistent with the TASP would be considered consistent with the General Plan as well.

**SECTION 4. Specific Plan Amendment Findings.** In support of the Specific Plan Amendment, and as required by Milpitas Municipal Code Section XI-10-57.02(G)(2), the City Council hereby finds:

- i. The proposed specific plan or specific plan amendment is consistent with the goals, objectives, policies, and programs of the General Plan, and is necessary and desirable to implement the provisions of the General Plan. In particular, the Project proposes a General Plan Amendment and Specific Plan Amendment that would amend the land use designation for this area to High Density Transit Oriented Residential. The proposed amendments would allow this area to be developed under the same land use designation and largely the same development standards as the existing uses to the west of the area, and proposed uses to the south. The proposed amendment maintains the goals of the General Plan and TASP to promote high density residential development close to retail and commercial areas and close to transit, including the BART station and VTA light rail line.
- ii. The uses proposed in the specific plan or in specific plan amendment are compatible with adjacent uses and properties. In particular, the proposed amendments would allow this area to be developed under the same land use designation and largely the same development standards as the existing uses to the west of the area, and proposed uses to the south. The proposed density of development would be compatible with existing and proposed surrounding residential development, and in carrying out the goals and objectives of the TASP would be compatible with proposed neighborhood serving retail and commercial uses proposed in the immediately surrounding area.
- iii. The proposed specific plan or specific plan amendment will not adversely affect the public health, safety and welfare. In particular, the proposed amendments will allow this area to be developed at a density of development that would be compatible with existing and proposed surrounding residential development. Development pursuant to the proposed amendment would be required to comply with the development standards of the TASP, as such standards may be amended by issuance of a conditional use permit, and would be within the range of environmental impacts, e.g., traffic, air emissions, noise, etc., projected to occur from buildout of the TASP such that it would not result in adverse effects on public health, safety and welfare.
- iv. The proposed specific plan amendment will not create internal inconsistencies within the specific plan. In particular, the proposed amendments are limited to map amendments to (1) change the specific plan land use

designation from Residential Retail High Density Mixed Use to High Density Transit Oriented Residential for an approximately 3-acre area. The 3-acre area is within the subarea designated Centre Pointe B and lies immediately adjacent to other areas designated for development pursuant to the Multiple Family High Density with Transit Oriented Residential Overlay specific plan zoning and land use designations. The proposed amendments do not change any other provisions of the TASP and the TASP would remain internally consistent.

**SECTION 5. General Plan Amendment Approval.** Therefore, General Plan Amendment No. GP 15-0002, changing the land use designations for an approximately 3-acre area within the Centre Pointe B subarea from Residential Retail High Density Mixed Use to High Density Transit Oriented Residential is hereby approved subject to the Conditions of Approval attached hereto as Exhibit 1. The map for the General Plan is hereby amended as attached hereto as Exhibit 2.

**SECTION 6. TASP Amendment Approval.** Therefore, Specific Plan Amendment No. ST 15-0001, amending the Transit Area Specific Plan (TASP) to change the land use designation of the same portion of Centre Pointe Site B discussed above from Residential Retail High Density Mixed Use to High Density Transit Oriented Residential, is hereby approved subject to the Conditions of Approval attached hereto as Exhibit 1. The map for the Transit Area Specific Plan is hereby amended as attached hereto as Exhibit 3.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_ 2015, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

ATTEST:

APPROVED:

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

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Christopher J. Diaz, City Attorney

## EXHIBIT 1

### CONDITIONS OF APPROVAL GP15-0002 AND ST15-0001.

A request for amendments to the City's General Plan and Transit Area Specific Plan to rezone approximately 3 acres located at APN's: 086-33-086, 86-33-087)

#### General Conditions

1. PJ ACCOUNT: Owner or operator shall pay all project job account balance due to the City and all costs for consultant time, including all City Attorney time and cost. (P)
2. To the fullest extent permitted by law, Applicant shall indemnify, defend with counsel acceptable to the City in its reasonable discretion, and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the project, including but not limited to, the approval of the discretionary permits, maps under the Subdivision Map Act, and/or the City's related determinations or actions under the California Environmental Quality Act. This indemnification shall include, but not be limited to, damages awarded against and due and payable by the City, if any, including costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Applicant or, City or both. The Applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand or, as applicable, to counsel of City's choosing, any amount owed pursuant to the indemnification requirements prescribed in this condition. City shall promptly notify the Applicant of any claim, action, or proceeding. If City fails to so promptly notify the Applicant, then the Applicant's indemnification obligations as set forth in this condition of approval shall thereafter terminate. The Applicant shall not be required to pay or perform any settlement unless the settlement is approved by the Applicant. (CA)

(P) = Planning

(CA) = City Attorney

**EXHIBIT 2  
GENERAL PLAN AMENDMENT**

**EXHIBIT 3**  
**TRANSIT AREA SPECIFIC PLAN AMENDMENT**