

**MINUTES
TRACY CITY PLANNING COMMISSION
REGULAR MEETING
JANUARY 24, 2024, 7:00 P.M.
CITY OF TRACY COUNCIL CHAMBERS
333 CIVIC CENTER PLAZA**

CALL TO ORDER

Chair Orcutt called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

Chair Orcutt led the pledge of allegiance.

ROLL CALL

Roll Call found Commissioner Boakye-Boateng, Commissioner English, Commissioner Penning, Vice Chair Atwal and Chair Orcutt present. Also present: Karin Schnaider, Assistant City Manager/Interim Development Services Director; Bijal Patel, City Attorney; Scott Claar, Senior Planner; Koosun Kim, City Engineer, present via WebEx; and Miranda Aguilar, Administrative Assistant.

MINUTES

Chair Orcutt introduced the Regular Meeting Minutes from the January 10, 2024 Planning Commission Regular Meeting.

Chair Orcutt requested to amend the January 10, 2024 Planning Commission Meeting Minutes to include an explanation of the informational item that was voted on.

ACTION: It was moved by Chair Orcutt and seconded by Vice Chair Atwal to approve the January 10, 2024 Planning Commission Regular Meeting Minutes with the amendment. A voice vote found Chair Orcutt, Vice Chair Atwal, Commissioner English, and Commissioner Penning in favor. Commissioner Boakye-Boateng abstained. Passed and so ordered; 4-0-0-1.

DIRECTOR'S REPORT REGARDING THIS AGENDA

None.

ITEMS FROM THE AUDIENCE

None.

1. NEW BUSINESS

- A. STAFF RECOMMENDS THAT THE PLANNING COMMISSION CONDUCT A PUBLIC HEARING, AND UPON CONCLUSION, ADOPT A RESOLUTION: (1) REJECTING THE APPEAL OF THE CITY ENGINEER'S DENIAL OF APPLICATION NUMBER TSM23-0002 REQUESTING AN AMENDMENT TO CONDITION OF APPROVAL B.8 OF THE FINAL MAP FOR THE TRACY HILLS KT-HILLVIEW PROJECT; AND (2) DENYING, AFTER DE NOVO REVIEW,**

APPLICATION NUMBER TSM23-0002 REQUESTING AN AMENDMENT TO CONDITION OF APPROVAL B.8 OF THE FINAL MAP FOR THE TRACY HILLS KT-HILLVIEW PROJECT. THIS APPEAL OF THE CITY ENGINEER'S DECISION WAS FILED BY LENNAR HOMES, JOINED BY TRACY PHASE 1B, LLC AND THE KT PROJECT OWNER, LLC, APPLICATION NUMBER APL23-0003 (COLLECTIVELY, APPELLANT).

Chair Orcutt addressed City Staff and asked if there was anything needed to be disclosed for the items tonight.

Scott Claar, Senior Planner, advised there were two public comments regarding tonight's Agenda which were both provided to each Commissioner.

Bijal Patel, City Attorney, advised the Commission that this is a quasi-judicial matter with the Public Hearing so if there was any information Commissioners wanted to disclose regarding communications they may have had outside of this public hearing they should do so.

Commissioner Boakye-Boateng stated he had a meeting with the applicant of tonight's items, but that it does not cause a bias for tonight's decisions.

Vice Chair Atwal stated he also had an opportunity to discuss the items with the applicant, but that it did not cause any bias.

Chair Orcutt stated he also met with the applicant and listened with a neutral stance.

Commissioner English stated she was contacted by the applicant but did not meet with them and wanted to discuss the items at tonight's Planning Commission Meeting.

Scott Claar, Senior Planner, presented the staff report and addressed questions from the Commission.

Koosun Kim, City Engineer, provided more details and stated he was present to answer any questions.

Karin Schnaider, Assistant City Manager/Interim Director of Development Services, addressed questions from the Commission.

Koosun Kim, City Engineer, addressed questions from the Commission.

Bijal Patel, City Attorney, addressed questions from the Commission.

Chair Orcutt opened the Public Hearing at 7:49 p.m.

Brian Olin, Division President for Lennar, addressed the Commission, explained they are not requesting a delay in the construction of the park, rather, they are requesting to modify conditions, and addressed questions from the Commission.

Bijal Patel, City Attorney, clarified some information regarding the process of an approval for a subdivision improvement agreement for the Commission and addressed questions from the Commission.

Karin Schnaider, Assistant City Manager/Interim Development Services Director, addressed questions from the Commission.

Christian Cebrian, Legal Counsel for Lennar Homes, addressed questions from the Commission.

Commission discussion followed.

Christian Cebrian, Legal Counsel for Lennar Homes, addressed questions from the Commission.

Karin Schnaider, Assistant City Manager/Interim Development Services Director, clarified some information regarding the findings.

Bijal Patel, City Attorney, addressed questions from the Commission.

Hans Van Ligten, Land Use Lawyer for Integral Communities and associated with Tracy Hills, addressed the Commission and clarified some facts regarding the application and provided a handout and requested it be provided to all the Commissioners regarding the project timeline.

Koosun Kim, City Engineer, addressed the commission with some clarifications.

Siva, via WebEx, addressed the Commission and would like more information regarding the planned park.

Karin Schnaider, Assistant City Manager/Interim Development Services Director, advised this discussion is not necessarily about the concept in the park, but Richard Joaquin, Parks Planning & Development Manager, may have the information the caller is requesting.

Brian Olin, Division President for Lennar, addressed the commission and clarified some comments that were made.

Seeing as no one else came forward Chair Orcutt closed the Public Hearing at 9:20 p.m.

Commission discussion continued.

ACTION: It was moved by Vice Chair Atwal and seconded by Commissioner Penning that the Planning Commission adopt a resolution:

1. Rejecting the appeal of the City Engineer's denial of application number TSM23-0002 requesting an amendment to condition of approval B.8 of the final map for Tracy Hills KT-Hillview; and

2. Denying, after De Novo review, Application Number TSM23-0002 requesting an amendment to Condition of Approval B.8 of the Final Map for Tracy Hills KT-Hillview.

A roll call vote found Commissioner English, and Commissioner Penning in favor. Commissioner Boakye-Boateng, Vice Chair Atwal and Chair Orcutt against. Motion fails; 2-3-0-0.

Commission Discussion continues.

Bijal Patel, City Attorney, Scott Claar, Senior Planner, and Koosun Kim, City Engineer, each addressed the Commission and clarified some information.

ACTION: It was moved by Chair Orcutt and seconded by Vice Chair Atwal that the Planning Commission:

Change the current conditions to read, "Before approval of the first final map the subdivider shall enter into an agreement with the City, which shall be recorded against the property, which stipulates that by September 19, 2024, the Linear Park shall be completed and accepted by the City."

A roll call vote found Chair Orcutt, Vice Chair Atwal, Commissioner Boakye-Boateng in favor. Commissioner English and Commissioner Penning opposed. Passed and so ordered; 3-2-0-0.

ACTION: It was moved by Vice Chair Atwal and seconded by Commissioner English that the Planning Commission:

Meeting. Continue the public hearing to the February 28, 2024, Planning Commission

A voice vote found Chair Orcutt, Vice Chair Atwal, Commissioner Boakye-Boateng, Commissioner English, and Commissioner Penning in favor. Passed and so ordered; 5-0-0-0.

Chair Orcutt called for a recess at 10:20 p.m.

Chair Orcutt reconvened the meeting at 10:30 p.m.

- B. STAFF RECOMMENDS THAT THE PLANNING COMMISSION CONDUCT A PUBLIC HEARING, AND UPON CONCLUSION, ADOPT A RESOLUTION: (1) REJECTING THE APPEAL OF THE CITY ENGINEER'S DENIAL OF APPLICATION NUMBER TSM23-0001 REQUESTING AN AMENDMENT TO CONDITION OF APPROVAL B.9.A OF THE FINAL MAP FOR TRACY HILLS PHASE 1B; AND (2) DENYING, AFTER DE NOVO REVIEW, APPLICATION NUMBER TSM23-0001 REQUESTING AN AMENDMENT TO CONDITION OF APPROVAL B.9.A OF THE FINAL MAP FOR TRACY HILLS PHASE 1B. THIS**

APPEAL OF THE CITY ENGINEER'S DECISION WAS FILED BY LENNAR HOMES, JOINED BY TRACY PHASE 1B, LLC AND THE KT PROJECT OWNER, LLC, APPLICATION NUMBER APL23-0002 (COLLECTIVELY, APPELLANT).

Scott Claar, Senior Planner, suggested that since the project staff reports are so similar that the Commission open the Public Hearing for discussion and proceed with similar motions as Item 1.A if that is what the Commission wishes to do.

Chair Orcutt opened the Public Hearing at 10:32 p.m.

Christian Cebrian, Legal Counsel for Lennar Homes, states they are agreeable to same situation, with the understanding that we are bringing the record of the 1.A Item to 1.B, and they believe it provides a similar ground of evidence to support the four findings for Item 1.B. He also addressed questions from the Commission.

Brian Olin, Division President for Lennar, addressed questions from the Commission.

Karin Schnaider, Assistant City Manager/Interim Development Services Director, addressed the commission and clarified some information.

Seeing as no one else came forward Chair Orcutt closed the Public Hearing at 10:39 p.m.

ACTION: It was moved by Chair Orcutt and seconded by Vice Chair Atwal that the Planning Commission adopt a resolution:

1. Rejecting the appeal of the City Engineer's denial of application number TSM23-0001 requesting an amendment to condition of approval B.9.A of the final map for Tracy Hills Phase 1B; and
2. Denying, after De Novo review, application number TSM23-0001 requesting an amendment to condition of approval B.9.A of the final map for Tracy Hills Phase 1B.

A roll call vote found Commissioner Penning in favor. Commissioner Boakye-Boateng, Commissioner English, Vice Chair Atwal and Chair Orcutt against. Motion fails; 1-4-0-0.

ACTION: It was moved by Chair Orcutt and seconded by Vice Chair Atwal that the Planning Commission:

1. Change the current conditions to read, "Before approval of the first final map the subdivider shall enter into an agreement with the City, which shall be recorded against the property, which stipulates that by September 19, 2024, the Phase 1B neighborhood park shall be completed and accepted by the City."; and
2. Continue the public hearing to the February 28, 2024, Planning Commission Meeting.

A roll call vote found Chair Orcutt, Vice Chair Atwal, Commissioner Boakye-Boateng, Commissioner English, and Commissioner Penning in favor. Passed and so ordered; 5-0-0-0.

3. ITEMS FROM THE AUDIENCE

None.

4. DIRECTOR'S REPORT

Karin Schnaider, Assistant City Manager/Interim Development Services Director, stated there is funding available for the Commissioners to attend training and to please let Miranda Aguilar, Administrative Assistant, know which of the trainings you are available to attend, the one in March or the one in September.

5. ITEMS FROM THE COMMISSION

Commissioner Boakye-Boateng stated that some of the items brought to Commission have a lot of history behind them and requested timeline diagrams be listed as attachments to allow the Commissioners to process the items better.

Commissioner Atwal requested to receive the lengthy agenda items ahead of time as he received tonight's agenda over the weekend.

Chair Orcutt thanks staff for their work and answering questions.

6. ADJOURNMENT


ACTION: It was moved by Chair Orcutt and seconded by Commissioner English to adjourn.

A voice vote found Chair Orcutt, Vice Chair Atwal, Commissioner Boakye-Boateng, Commissioner English, and Commissioner Penning in favor. Passed and so ordered; 5-0-0-0.

Time: 10:46 p.m.



STAFF LIAISON



CHAIR

From: Cebrian, Christian H.
To: [Web - City Clerk; Planning Admin; CAO](#)
Subject: Planning Commission Agenda Items 1.A and 1.B
Date: Wednesday, January 24, 2024 11:02:46 AM
Attachments: [image001.png](#)
[Park COA Appeal Supplemental Letter with attachments.pdf](#)

Some people who received this message don't often get email from [REDACTED]. [Learn why this is important](#)

Caution: This is an external email. Please take care when clicking links or opening attachments.

Please see the attached correspondence regarding tonight's agenda items 1.A and 1.B. We would appreciate this letter being distributed to all members of the Planning Commission in advance of the meeting.

Thank you,

Christian H. Cebrian



Cox, Castle & Nicholson LLP
50 California Street | Suite 3200 | San Francisco, CA 94111

[REDACTED]

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File No. 106084

January 24, 2024

VIA E-MAIL

Secretary of the Planning Commission
c/o City Clerk
City of Tracy
333 Civic Center Drive
Tracy, CA 85376

cityclerk@cityoftracy.org
planningadmin@cityoftracy.org
attorney@cityoftracy.org

Re: Agenda Items 1.A and 1.B - Supplemental Information Regarding Pending Appeal of City Engineer’s TSM23-0001 AND TSM23-0002 Determination

Dear Secretary of the Planning Commission:

On behalf of Lennar Homes of California, LLC (“**Lennar**”), this letter provides further information regarding Lennar’s pending appeal of the denial of consideration of two (2) applications filed pursuant to Tracy Municipal Code (“**TMC**” or “**Municipal Code**”) §12.52.010 and the Subdivision Map Act, Government Code §66472.1 for modification of tentative map conditions after the filing of final maps.

1. Status of Parks

Lennar continues to make substantial and rapid progress on both the Tracy Hills Phase 1B (“**Phase 1B**”) park and the KT-Hillview (“**Hillview**”) park. Grading is complete. All underground utilities have been installed. All equipment has been ordered and the play structures are already located on-site. Overall, the parks are both approximately 85% complete. Also, as explained in our prior correspondence, bonds are in place to ensure we complete the work. Absent unanticipated weather or delivery delays, we expect construction for both parks to be completed and the grow-in period to begin by the end of February.

2. Proposed Conditions

Based on the current schedule of park construction being complete by the end of February, the 90-day grow-in period would then be complete at the end of May, 2024. The City would then inspect and set the parks for acceptance. It has recently taken several months to set

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an acceptance of an offer of dedication for acceptance onto a City Council agenda after a successful final inspection. This means that the requested timeline of 365 days is not providing an incentive to slow down its work if the condition is revised because based on the current construction and processing timelines, park acceptance could not occur until late Summer or early Fall.

Despite Lennar being completed with the physical work of constructing the Phase 1B park, under existing Condition B.9.a, the City will continue to withhold building permits until the park is accepted:

Before final inspection or occupancy of the 180th dwelling unit (whichever occurs first, except for up to fifteen model homes), the Phase 1B neighborhood park shall be completed and accepted by the City Council. If the Phase 1B neighborhood park is not completed and accepted by the City Council before the final inspection or occupancy of the 180th dwelling unit (whichever comes first, except for up to fifteen model homes), no further building permits (except for plumbing only building permits) shall be issued until the neighborhood park is completed and accepted by the City Council.

Similarly, according to the staff report, “the Building Division has been directed to not provide any final inspections beyond April 17, 2024 until the KT-Hillview park is completed and accepted by the City,” based on Hillview Condition B.8 which states:

“Before approval of the first Final Map, the Subdivider shall enter into an agreement with the City, which shall be recorded against the property, which stipulates that within 18 months following final inspection or occupancy of the first dwelling (except for up to ten model homes), the linear park shall be completed and accepted by the City.”

Lennar’s applications request that Phase 1B Condition B.9.a and Hillview Condition B.8 be revised to allow one year to complete the parks from the approval of each park’s Park Subdivision Improvement Agreement (“SIA”) to provide adequate time for the City to complete its acceptance process. This is the same timeline included in the SIAs for the parks approved by the City Council on September 19, 2023. Both revised Phase 1B Condition B.9.a and revised Hillview Condition B.8 would state:

The developer shall initiate the process to construct the park in a timely manner which includes the concept design approval from Parks Commission, approval of Park Improvement Plans, approval of the Park Name and Park Subdivision Improvement Agreement. Developer shall complete the Park construction no later than 365 days after the execution of the Park Subdivision Improvement Agreement.

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The revised conditions would continue to incentivize Lennar to move forward as quickly as possible for both parks.

3. Proposed Findings

As explained in our appeal letter, TMC § 12.52.010(g) implements Government Code § 66472.1 by permitting a modification to a tentative map condition if (i) “there are changes that make any or all of the conditions of the map no longer appropriate or necessary;” (ii) “the modifications do not impose any additional burden on the present fee owner of the property;” and (iii) “the modifications do not alter any right, title or interest in the real property reflected on the recorded map.” Government Code § 66472.1 also requires the City to make the standard findings for a map approval found in Government Code § 66474 which staff agrees can be made in the present appeals.

The staff report for the appeal hearing concludes that insufficient facts were available at the time the staff report was prepared to support the first three findings. We believe that adequate facts have now been developed to support the findings at issue.

As described above, despite construction anticipated to be completed for both parks by the end of February, the required procedural timeline will result in the City accepting the parks in the late Summer or early Fall. Lennar cannot accelerate this procedural timeline. Under the existing conditions, this means that even if Lennar satisfactorily completes construction of the park, the City will continue to withhold the issuance of building permits for several months after the end of construction. This is a disruption to the construction of homes that will not result in the parks being accepted on an earlier date. This means that the intent of the existing conditions, potentially withholding residential building permits as an incentive for the speedy delivery of the parks, is not being met. This is a change in circumstances that supports amending the conditions.¹

The proposed amendment also does not increase the burden on existing fee owners. The revised condition only directly impacts the park parcels and does not burden Lennar. The revised conditions do not impose any direct financial, maintenance or other obligation on the homeowners within the tracts. Any indirect burdens are also speculative. As described in this letter, the revised conditions will not result in a delay in the construction or acceptance of the parks. Homeowners will be able to enjoy the new parks on the same schedule with or without the amendment. The change will be Lennar and future homeowners will not be penalized by the withholding of building permits. Homeowners will be paying the same CFD assessment with or without the revision and the portion of those assessments earmarked for park maintenance will be held in reserve by the City for the same period of time with or without the revision.

¹ As shown in the attached Placerville staff report, “changes in circumstances” sufficient for a revised condition include fine tuning requirements when the original intent of the condition is not being achieved.

The critical fact in the Planning Commission's consideration of Lennar's request is that Lennar is not asking to delay the actual date that park construction will be complete and either park is accepted. It is asking that the conditions be revised to acknowledge the practical reality that the park are not yet complete; Lennar is seeking sufficient runway to have the parks accepted based on the ongoing accelerated park construction timeline without unneeded disruption to homebuilding activities.

Finally, the requested revisions does not impact "any right, title or interest in the real property reflected on the recorded map." As shown in all of the staff reports attached to this letter, this phrase is interpreted to refer to an ownership of a property right such as an easement, dedication, or fee interest in property. Lennar is the current fee owner of the park parcels and would remain so if the Planning Commission approves the revision. The revision would not impact the offer of dedication to the City. No parcel lines would be impacted by the revision. No homeowner has a property right in the park parcels, whether directly or pro-rata through a Homeowners' Association.

Therefore, we believe the record now before the Planning Commission readily supports the required findings.

We have provided proposed resolutions with this letter that include the following proposed Government Code § 66472.1 findings with the hopes that the Commission would find them helpful in the consideration of our appeal:

Phase 1B Change in Circumstances. Existing Condition B.9.a has resulted in the withholding of building permits which will delay the delivery of homes during the State's current housing crisis. Subdivider has made good faith efforts to timely deliver the park since the approval of the park SIA on September 19, 2023, but it is impracticable to complete the park prior to the issuance of the 180th certificate of occupancy. This change in circumstance makes the current condition unnecessary as it will not result in the faster delivery of the park to the community but will delay the delivery of homes. The requested revision will not significantly increase the amount of time available to Subdivider to complete the park and have it accepted by the City. Subdivider has provided the City adequate assurances that the revised condition of approval will not result in any further delay in the delivery of a complete park to the community than would occur under the existing condition. The revised condition fulfills the City's policy objectives of ensuring timely delivery of parks and of providing significant incentives for the Subdivider fulfill its obligations. Therefore, the revised condition makes existing Condition B.9.a no longer necessary.

Hillview Change in Circumstances. Existing Condition B.8 will result in the withholding of inspections in mid-April, 2024 which will delay the delivery of homes during the State's current housing crisis. Subdivider has made good faith efforts to timely deliver the park since the approval of the park SIA, but it is impracticable to complete the park prior to the date that is 18 months after the first occupancy of a residential unit. This change in circumstance makes the current condition unnecessary as it will not result in the faster delivery of the park to the community but will delay the delivery of homes. The requested revision will not significantly increase the amount

of time available to Subdivider to complete the park and have it accepted by the City. Subdivider has provided the City adequate assurances that the revised condition of approval will not result in any further delay in the delivery of a complete park to the community than would occur under the existing condition. The revised condition fulfills the City's policy objectives of ensuring timely delivery of parks and of providing significant incentives for the Subdivider fulfill its obligations. Therefore, the revised condition makes existing Condition B.8 no longer necessary.

Phase 1B and Hillview - No Additional Burden. The revised condition would not impose any additional financial, construction, or maintenance burden on existing fee owners within the map area and Subdivider has consented to the amendment without objection. Furthermore, Subdivider has provided the City adequate assurances that the revised condition of approval will not result in any further delay in the delivery of a complete park to the community than would occur under the existing condition. The revised condition fulfills the City's policy objectives of ensuring timely delivery of parks and of providing significant incentives for the Subdivider to fulfill its obligations. Therefore, the revised condition does not impose any additional burden on the present fee owners of the property within the map area.

Phase 1B and Hillview - No Alteration of Interests. The revised condition does not impact any property lines or easements within the map area therefore the revised condition does not alter any right, title or interest in the real property reflected on the recorded map. Subdivider is the fee owner of the park parcel and has made an irrevocable offer of dedication to the City. The revised condition will not impact Lennar or the City's interest in the park parcel.

We have also enclosed two staff reports from other jurisdictions for applications relying on Government Code § 66472.1 as further support the Planning Commission has a sufficient factual basis before it to make the required findings.

4. CEQA

The requested revisions would not result in any new or different impacts to the physical environment. Permits have already been issued for construction of the parks and park construction is well underway. The sites have been graded and all impacts to pre-development conditions have already occurred. We are not requesting a change in park size design, or location. Revised conditions would also not impact the timing of completion of construction and, in any event, any physical impact to the environment related to the timing of construction would be speculative. This means that no additional environmental review can be required under the California Environmental Quality Act's (CEQA) provisions related to environmental review (e.g., CEQA § 21166; CEQA Guideline 15162).² Instead, the Planning Commission can find

² Under CEQA Section 21166 and Section 15162 of the CEQA Guidelines, further environmental for an approved project cannot be required unless: (1) substantial changes are proposed in the project that will require major changes to the prior EIR due to the involvement of new environmental effects or a substantial increase in the severity of previously identified environmental impacts; (2) substantial changes occur with respect to the circumstances under

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that the certified EIR for the Project provides CEQA coverage for an approval of an amended conditions.

Alternatively, the Planning Commission could find its decision to amend the conditions is exempt from CEQA under its common-sense exemption because it can be found with certainty that amending the condition would not result in significant impacts to the environment.³ (See *Muzzy Ranch Co. v. Solano County Airport Land Use Com.* (2007) 41 Cal.4th 372, 389 [common sense exemption applied to the adoption of an airport compatibility plan because it implemented existing general plan and zoning provisions].)

The Planning Commission could make CEQA findings similar to those made for the 2021 amendments to the Tracy Hills Specific Plan such as:

An Environmental Impact Report (EIR) was certified by the City Council on April 5, 2016 for the Tracy Hills Specific Plan. The record demonstrates that the proposed amendments to the [Phase 1B or Hillview] Vesting Tentative Map Conditions of Approval will not result in new or substantially increased environmental impacts under CEQA Section 21166 and CEQA Guideline 15162, therefore no further environmental review is necessary. Permits have already been issued for construction of the park and park construction is nearing completion. The site has been graded and all impacts to pre-development conditions have occurred. The amendments would not result in a change in park size, design, or location.

and/or:

Section 15061(b)(3) of the State CEQA Guidelines states that an activity is covered by the common sense exemption that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA review. There is no possibility that the proposed amendments will result in a physical change in the environment. Permits have already been issued for construction of the park and park construction is nearing completion. The site has been graded and all impacts to pre-

which a project is to be undertaken which will require major changes to the prior EIR due to the involvement of new environmental effects or a substantial increase in the severity of previously identified environmental impacts; or (3) new information, which was not known and could not have been known with the exercise of reasonable diligence prior to certification, shows that new or substantially more severe significant impacts would result; that mitigation measures or alternatives previously shown to be infeasible would in fact be feasible to reduce one or more effects and the project proponent declines to adopt the measures or alternative; or mitigation measures or alternatives that are considerably different from those identified in the EIR would substantially reduce a significant impact, and the project proponent declines to adopt the measures or alternative.

³ CEQA Guidelines Section 15061(b)(3), which is also known as the common sense exemption, states in full: "The activity is covered by the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA."

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Public Comment -- Received 01/24/24
RE: Item 1.A & 1.B - Appeals
APL23-0003 & APL23-0002
AT TRACY HILLS DRIVE

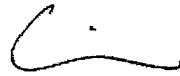
development conditions have occurred. The amendments would not result in a change in park size, design, or location.

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Thank you for your consideration of our appeal and we look forward to answering any questions you may have at the upcoming hearing.

Sincerely,

Cox, Castle & Nicholson LLP



Christian H. Cebrian

CHC:mlh
Attachments
106084\17294183v5

ATTACHMENT 1

TRACY PLANNING COMMISSION

RESOLUTION NO. 2024-_____

- 1. GRANTING THE APPEAL OF THE CITY ENGINEER'S DENIAL OF APPLICATION NUMBER TSM23-0002 REQUESTING AN AMENDMENT TO CONDITION OF APPROVAL B.8 OF THE FINAL MAP FOR TRACY HILLS KT-HILLVIEW; AND**
- 2. APPROVING, AFTER DE NOVO REVIEW, APPLICATION NUMBER TSM23-0002 REQUESTING AN AMENDMENT TO CONDITION OF APPROVAL B.8 OF THE FINAL MAP FOR TRACY HILLS KT-HILLVIEW.**

WHEREAS, the Tracy Hills Specific Plan was originally approved and annexed to the City in 1998, but development in the Tracy Hills Specific Plan Area did not begin until after a 2016 update to the Specific Plan; and

WHEREAS, on April 5, 2016, City Council certified an Environmental Impact Report and approved a General Plan Amendment and a comprehensive update to the Tracy Hills Specific Plan, as well as the Tracy Hills Phase 1A Vesting Tentative Subdivision Map; and

WHEREAS, the Tracy Hills Specific Plan Area consists of approximately 2,767 acres located in the vicinity of the existing Corral Hollow Road interchange and the proposed Lammers Road interchange on Interstate 580; and

WHEREAS, on November 10, 2020, the City Council approved a Vesting Tentative Subdivision Map for the Tracy Hills KT-Hillview Project to create 214 single-family residential lots, a park site, and various other parcels located east of Corral Hollow Road in the vicinity of Tracy Hills Drive; and

WHEREAS, on October 19, 2021, the City Council approved the final maps for Tracy Hills KT-Hillview; and

WHEREAS, Condition of Approval B.8 currently requires the KT-Hillview park to be completed and accepted by the City within 18 months following final inspection of the first single-family dwelling in KT-Hillview; and

WHEREAS, the Applicant submitted park plans for the KT-Hillview park on approximately January 11, 2022; and

WHEREAS, the City Council approved the KT-Hillview Park Subdivision Improvement Agreement on September 19, 2023; and

WHEREAS, it has not been practicable for Applicant to complete park construction and the City to accept the park since the September 19, 2023 approval of the SIA; and

WHEREAS, the date of the first dwelling unit inspection was October 17, 2022; and

WHEREAS, under the currently approved Condition of Approval B.8, Applicant's deadline for completion of the KT Hillview Park is April 17, 2024; and

WHEREAS, On October 23, 2023, Applicant submitted an application (Application Number TSM23-0002) to amend Condition B.8 to change the timing requirement for park completion; and

WHEREAS, the proposed amendment to Condition of Approval B.8 would change the deadline for park completion to a date 365 days from the execution date of the Subdivision Improvement Agreement related to the park construction, which would be September 19, 2024; and

WHEREAS, on December 7, 2023, the City Engineer issued a determination letter regarding Application Number TSM23-0002 denying the Application to amend the final map pursuant to the Subdivision Map Act on the grounds the amendment to the condition of approval and final map would result in additional burden on the present fee owners; and

WHEREAS, on December 14, 2023, Lennar Homes, joined by Tracy Phase 1B, LLC and The KT Project Owner, LLC, (collectively, "Appellant") filed an appeal of the City Engineer's decisions on both related applications to amend final map conditions; and

WHEREAS, Tracy Municipal Code Section 12.12.060 states that a decision by the City Engineer under Title 12 (Subdivisions) may be appealed to the Planning Commission; and

WHEREAS, TMC Section 12.52.010 authorizes the Planning Commission to independently review and approve or deny a requested amendment to a final map. As such, in this hearing, the Planning Commission also is analyzing and determining, de novo, whether Appellant's request in Application Number TSM23-0002 should be granted; and

WHEREAS, California Government Code § 66472.1 governs amendments to final maps as follows:

"In addition to the amendments authorized by Section 66469, after a final map or parcel map is filed in the office of the county recorder, the recorded final map may be modified by a certificate of correction or an amending map, if authorized by local ordinance, if the local agency finds that there are changes in circumstances that make any or all of the conditions of the map no longer appropriate or necessary and that the modifications do not impose any additional burden on the fee owners of the real property, and if the modifications do not alter any right, title, or interest in the real property reflected on the recorded map, and the local agency finds that the map as modified conforms to Section 66474. Any modification shall be set for public hearing as provided for in Section 66451.3."; and

WHEREAS, Tracy Municipal Code Section 12.52.010(g) authorizes amendments of final maps, and incorporates from California Government Code § 66472.1 three required

findings to approve a final map amendment: (1) there are changes that make any or all of the conditions of the map no longer appropriate or necessary; (2) the modifications do not impose any additional burden on the present fee owner of the property; and (3) the modifications do not alter any right, title or interest in the real property reflected on the recorded map; and

WHEREAS, the Applicant submitted correspondence to the Planning Commission presenting facts supporting the required findings; and

WHEREAS, the Planning Commission conducted a public hearing to review and consider the appeal on January 24, 2024; and

WHEREAS, existing Condition B.8 will result in the withholding of inspections in mid-April, 2024 which will delay the delivery of homes during the State's current housing crisis. Subdivider has made good faith efforts to timely deliver the park since the approval of the park SIA, but it is impracticable to complete the park prior to the date that is 18 months after the first occupancy of a residential unit. This change in circumstance makes the current condition unnecessary as it will not result in the faster delivery of the park to the community but will delay the delivery of homes. The requested revision will not significantly increase the amount of time available to Subdivider to complete the park and have it accepted by the City. Subdivider has provided the City adequate assurances that the revised condition of approval will not result in any further delay in the delivery of a complete park to the community than would occur under the existing condition. The revised condition fulfills the City's policy objectives of ensuring timely delivery of parks and of providing significant incentives for the Subdivider fulfill its obligations. Therefore, the revised condition makes existing Condition B.8 no longer necessary.

WHEREAS, the revised condition would not impose any additional financial, construction, or maintenance burden on existing fee owners within the map area and Subdivider has consented to the amendment without objection. Furthermore, Subdivider has provided the City adequate assurances that the revised condition of approval will not result in any further delay in the delivery of a complete park to the community than would occur under the existing condition. The revised condition fulfills the City's policy objectives of ensuring timely delivery of parks and of providing significant incentives for the Subdivider to fulfill its obligations. Therefore, the revised condition does not impose any additional burden on the present fee owners of the property within the map area.

WHEREAS, the revised condition does not impact any property lines or easements within the map area therefore the revised condition does not alter any right, title or interest in the real property reflected on the recorded map. Subdivider is the fee owner of the park parcel and has made an irrevocable offer of dedication to the City. The revised condition will not impact Lennar or the City's interest in the park parcel.

WHEREAS, based on the facts in the record, the Planning Commission finds there is substantial evidence to support the following findings: (1) there are changes that make any or all of the conditions of the final map no longer appropriate or necessary; (2) the modifications do not impose any additional burden on the present fee owner of the property; (3) the modifications do not alter any right, title or interest in the real property reflected on the recorded map; and (4) the conditions as modified conform to Government Code Section 66474;

WHEREAS, an Environmental Impact Report (EIR) was certified by the City Council on April 5, 2016 for the Tracy Hills Specific Plan. The record demonstrates that the proposed amendments to the KT-Hillview Vesting Tentative Map Conditions of Approval will not result in

new or substantially increased environmental impacts under CEQA Section 21166 and CEQA Guideline 15162, therefore no further environmental review is necessary. Permits have already been issued for construction of the park and park construction is nearing completion. The site has been graded and all impacts to pre-development conditions have occurred. The amendments would not result in a change in park size, design, or location.

now, therefore, be it

RESOLVED: That the Planning Commission incorporates and adopts the foregoing recitals as findings of fact; and be it

FURTHER RESOLVED: That the Planning Commission finds there is substantial evidence in the record as a whole supporting all of the required findings required by California Government Code § 66472.1; and be it

FURTHER RESOLVED: That the Planning Commission hereby grants the appeal of the City Engineer’s denial of Application Number TSM23-0002 requesting an amendment to Condition of Approval B.8 of the Final Map for Tracy Hills KT Hillview; and be it

FURTHER RESOLVED: That the Planning Commission hereby approves, after *de novo* review under California Government Code § 66472.1 and Tracy Municipal Code Section 12.52.010(g), Application Number TSM23-0002 requesting an amendment to Condition of Approval B.8 of the Final Map for Tracy Hills KT Hillview. Condition B.8 is hereby amended to state: “The developer shall initiate the process to construct the park in a timely manner which includes the concept design approval from Parks Commission, approval of Park Improvement Plans, approval of the Park Name and Park Subdivision Improvement Agreement. Developer shall complete the Park construction no later than 365 days after the execution of the Park Subdivision Improvement Agreement.”

FURTHER RESOLVED, the City Engineer is directed to implement the amended condition in a manner consistent with Government Code Section 66472.1 and Tracy Municipal Code Section 12.52.020 through 12.52.050.

The foregoing Resolution 2024-_____ was adopted by the Planning Commission on January 24, 2024, by the following vote:

AYES: COMMISSION MEMBERS:
NOES: COMMISSION MEMBERS:
ABSENT: COMMISSION MEMBERS:
ABSTENTION: COMMISSION MEMBERS:

CHAIR

ATTEST:

STAFF LIAISON

ATTACHMENT 2

TRACY PLANNING COMMISSION

RESOLUTION NO. 2024-_____

- 1. GRANTING THE APPEAL OF THE CITY ENGINEER'S DENIAL OF APPLICATION NUMBER TSM23-0001 REQUESTING AN AMENDMENT TO CONDITION OF APPROVAL B.9.A OF THE FINAL MAP FOR TRACY HILLS PHASE 1B; AND**
- 2. APPROVING, AFTER DE NOVO REVIEW, APPLICATION NUMBER TSM23-0001 REQUESTING AN AMENDMENT TO CONDITION OF APPROVAL B.9.A OF THE FINAL MAP FOR TRACY HILLS PHASE 1B.**

WHEREAS, the Tracy Hills Specific Plan was originally approved and annexed to the City in 1998, but development in the Tracy Hills Specific Plan Area did not begin until after a 2016 update to the Specific Plan; and

WHEREAS, on April 5, 2016, City Council certified an Environmental Impact Report and approved a General Plan Amendment and a comprehensive update to the Tracy Hills Specific Plan, as well as the Tracy Hills Phase 1A Vesting Tentative Subdivision Map; and

WHEREAS, the Tracy Hills Specific Plan Area consists of approximately 2,767 acres located in the vicinity of the existing Corral Hollow Road interchange and the proposed Lammers Road interchange on Interstate 580; and

WHEREAS, on November 10, 2020, the City Council approved the applicant of Tracy Phase 1B, LLC ("Applicant") for Vesting Tentative Subdivision Map for Tracy Hills Phase 1B to create 432 single-family residential lots, a park site, and various other parcels located in the vicinity of Tracy Hills Drive and the future Lammers Road extension; and

WHEREAS, on October 19, 2021, the City Council approved the final maps for Tracy Hills Phase 1B; and

WHEREAS, Condition of Approval B.9.a of the October 19, 2021 approval of the final map required the Phase 1B public park to be completed and accepted by the City before final inspection or occupancy of the 180th single-family dwelling within Phase 1B; and

WHEREAS, the Applicant submitted a comprehensive set of park plans for Tracy Hills Phase 1B on April 1, 2022; and

WHEREAS, the City Council approved the Phase 1 B Park Subdivision Improvement Agreement on September 19, 2023; and

WHEREAS, it has not been practicable for Applicant to complete park construction and the City to accept the park since the September 19, 2023 approval of the SIA; and

WHEREAS, On October 23, 2023, Applicant submitted an application (Application Number TSM23-0001) to amend Condition B.9.a; and

WHEREAS, the proposed amendment to Condition of Approval B.9.a would change the deadline to a date 365 days from the execution date of the Subdivision Improvement Agreement related to the park construction, which would be September 19, 2024; and

WHEREAS, on December 7, 2023, the City Engineer issued a determination letter regarding Application Number TSM23-0001 denying the Application to amend the final map pursuant to the Subdivision Map Act on the grounds the amendment to the condition of approval and final map would result in additional burden on the present fee owners; and

WHEREAS, on December 14, 2023, Lennar Homes, joined by Tracy Phase 1B, LLC and The KT Project Owner, LLC, (collectively, "Appellant") filed an appeal of the City Engineer's decisions on both related applications to amend final map conditions; and

WHEREAS, Tracy Municipal Code Section 12.12.060 states that a decision by the City Engineer under Title 12 (Subdivisions) may be appealed to the Planning Commission; and

WHEREAS, TMC Section 12.52.010 authorizes the Planning Commission to independently review and approve or deny a requested amendment to a final map. As such, in this hearing, the Planning Commission also is analyzing and determining, de novo, whether Appellant's request in Application Number TSM23-0001 should be granted; and

WHEREAS, California Government Code § 66472.1 governs amendments to final maps as follows:

"In addition to the amendments authorized by Section 66469, after a final map or parcel map is filed in the office of the county recorder, the recorded final map may be modified by a certificate of correction or an amending map, if authorized by local ordinance, if the local agency finds that there are changes in circumstances that make any or all of the conditions of the map no longer appropriate or necessary and that the modifications do not impose any additional burden on the fee owners of the real property, and if the modifications do not alter any right, title, or interest in the real property reflected on the recorded map, and the local agency finds that the map as modified conforms to Section 66474. Any modification shall be set for public hearing as provided for in Section 66451.3."; and

WHEREAS, Tracy Municipal Code Section 12.52.010(g) authorizes amendments of final maps, and incorporates from California Government Code § 66472.1 three required findings to approve a final map amendment: (1) there are changes that make any or all of the conditions of the map no longer appropriate or necessary; (2) the modifications do not impose any additional burden on the present fee owner of the property; and (3) the modifications do not alter any right, title or interest in the real property reflected on the recorded map; and

WHEREAS, the Applicant submitted correspondence to the Planning Commission presenting facts supporting the required findings; and

WHEREAS, the Planning Commission conducted a public hearing to review and consider the appeal on January 24, 2024; and

WHEREAS, existing Condition B.9.a has resulted in the withholding of building permits which will delay the delivery of homes during the State's current housing crisis. Subdivider has made good faith efforts to timely deliver the park since the approval of the park SIA on September 19, 2023, but it is impracticable to complete the park prior to the issuance of the 180th certificate of occupancy. This change in circumstance makes the current condition unnecessary as it will not result in the faster delivery of the park to the community but will delay the delivery of homes. The requested revision will not significantly increase the amount of time available to Subdivider to complete the park and have it accepted by the City. Subdivider has provided the City adequate assurances that the revised condition of approval will not result in any further delay in the delivery of a complete park to the community than would occur under the existing condition. The revised condition fulfills the City's policy objectives of ensuring timely delivery of parks and of providing significant incentives for the Subdivider fulfill its obligations. Therefore, the revised condition makes existing Condition B.9.a no longer necessary.

WHEREAS, the revised condition would not impose any additional financial, construction, or maintenance burden on existing fee owners within the map area and Subdivider has consented to the amendment without objection. Furthermore, Subdivider has provided the City adequate assurances that the revised condition of approval will not result in any further delay in the delivery of a complete park to the community than would occur under the existing condition. The revised condition fulfills the City's policy objectives of ensuring timely delivery of parks and of providing significant incentives for the Subdivider to fulfill its obligations. Therefore, the revised condition does not impose any additional burden on the present fee owners of the property within the map area.

WHEREAS, the revised condition does not impact any property lines or easements within the map area therefore the revised condition does not alter any right, title or interest in the real property reflected on the recorded map. Subdivider is the fee owner of the park parcel and has made an irrevocable offer of dedication to the City. The revised condition will not impact Lennar or the City's interest in the park parcel.

WHEREAS, based on the facts in the record, the Planning Commission finds there is substantial evidence to support the following findings: (1) there are changes that make any or all of the conditions of the final map no longer appropriate or necessary; (2) the modifications do not impose any additional burden on the present fee owner of the property; (3) the modifications do not alter any right, title or interest in the real property reflected on the recorded map; and (4) the conditions as modified conform to Government Code Section 66474;

WHEREAS, an Environmental Impact Report (EIR) was certified by the City Council on April 5, 2016 for the Tracy Hills Specific Plan. The record demonstrates that the proposed amendments to the Phase 1B Vesting Tentative Map Conditions of Approval will not result in new or substantially increased environmental impacts under CEQA Section 21166 and CEQA Guideline 15162, therefore no further environmental review is necessary. Permits have already been issued for construction of the park and park construction is nearing completion. The site has been graded and all impacts to pre-development conditions have occurred. The amendments would not result in a change in park size, design, or location.

now, therefore, be it

RESOLVED: That the Planning Commission incorporates and adopts the foregoing recitals as findings of fact; and be it

FURTHER RESOLVED: That the Planning Commission finds there is substantial evidence in the record as a whole supporting all of the required findings required by California Government Code § 66472.1; and be it

FURTHER RESOLVED: That the Planning Commission hereby grants the appeal of the City Engineer's denial of Application Number TSM23-0001 requesting an amendment to Condition of Approval B.9.a of the Final Map for Tracy Hills Phase 1B; and be it

FURTHER RESOLVED: That the Planning Commission hereby approves, after *de novo* review under California Government Code § 66472.1 and Tracy Municipal Code Section 12.52.010(g), Application Number TSM23-0001 requesting an amendment to Condition of Approval B.9.a of the Final Map for Tracy Hills Phase 1B. Condition B.9.a is hereby amended to state: "The developer shall initiate the process to construct the park in a timely manner which includes the concept design approval from Parks Commission, approval of Park Improvement Plans, approval of the Park Name and Park Subdivision Improvement Agreement. Developer shall complete the Park construction no later than 365 days after the execution of the Park Subdivision Improvement Agreement."

FURTHER RESOLVED, the City Engineer is directed to implement the amended condition in a manner consistent with Government Code Section 66472.1 and Tracy Municipal Code Section 12.52.020 through 12.52.050.

The foregoing Resolution 2024-_____ was adopted by the Planning Commission on January 24, 2024, by the following vote:

AYES: COMMISSION MEMBERS:
NOES: COMMISSION MEMBERS:
ABSENT: COMMISSION MEMBERS:
ABSTENTION: COMMISSION MEMBERS:

CHAIR

ATTEST:

STAFF LIAISON

ATTACHMENT 3

City Manager's Report
November 13, 2018 City Council Meeting
Prepared By: Andrew Painter, City Planner



Item#: 11.1

Subject: Approve Map Amendment 18-01, modifying the building envelope on Lot 9 of the Quartz Mountain Subdivision Phase I Map, located at 2628 Kereka Court, and certify that the project is Categorically Exempt from the requirements of the California Environmental Quality Act pursuant to Section 15305; based on the Findings and subject to the Conditions of Approval contained in Exhibit D.

Project Description: The applicant is requesting approval to expand the boundaries of the designated building envelope established with the recordation of the Quartz Mountain Subdivision Phase I subdivision map. A "building envelope" refers to the area within the lot that can be used for construction of a single-family home and other accessory structures.

The building envelope expansion areas are located near the northeast corner and southeast corner of the site. See Exhibit A. Per the application, the expansion of the building envelope would:

- allow for construction of a new single-family residence on the portion of the lot that is most level, minimizing grading on the lot;
- bring the building envelope closer to Kereka Court to conform with the recorded building envelopes on the same side of street within the Quartz Mountain Subdivision; and
- result in the removal of five Ponderosa pine trees that were protected from removal being located outside of the existing building envelope by placing them within the proposed building envelope expansion where they could then be removed to establish defensible space for fire safety (see Exhibit B).

Note: The applicant states that the five Ponderosa pine trees were removed. The Planning Commission recommended Condition 4 (See Exhibit D) that would mitigate for this tree removal by the planting and maintaining of the trees for a minimum of five years following a certificate of occupancy for the proposed single-family home to be built on the lot.

In the event the property owner does not obtain a Certificate of Occupancy for the proposed single-family home within eighteen months of City approval of MA18-01, the City will initiate the recordation on the property title of a notice of non-compliance for failure to mitigate the removal of the five Ponderosa pines on Lot 9.

Background: At the October 16, 2018 Regular Meeting of the Planning Commission, a public hearing was conducted to consider Map Amendment (MA) 18-01. Commission Members Dziuba, Frenn and Kiehne were present at the meeting. Member List was absent. Also present was the project applicant and property co-owner Chris Baxter, and an unknown speaker.

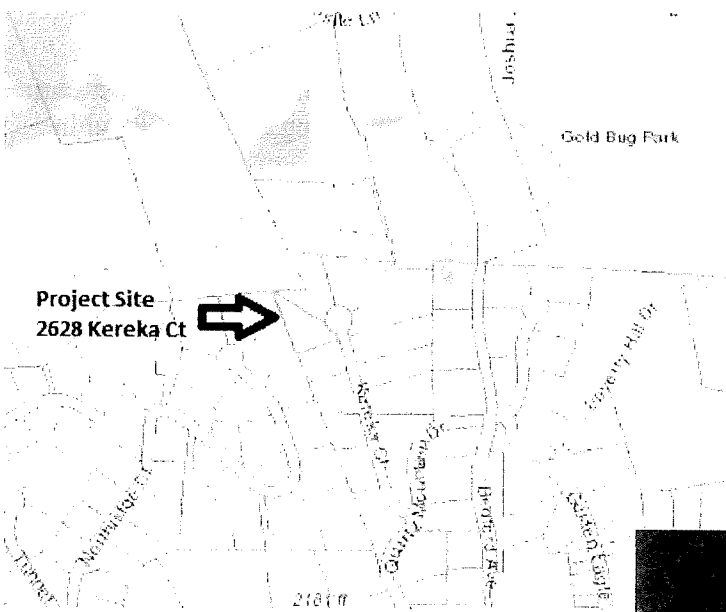
The Commission considered the applicants request and deliberated regarding the purpose and intent of the building envelope expansion, site topography, existing vegetation, and the removal

11.1

of five trees on Lot 9 by the applicant. The Commission recommended to City Council that they make environmental and required map findings to conditionally approve Map Amendment 18-01. Draft Planning Commission meeting minutes of October 16, 2018 are included in Exhibit C of the staff report.

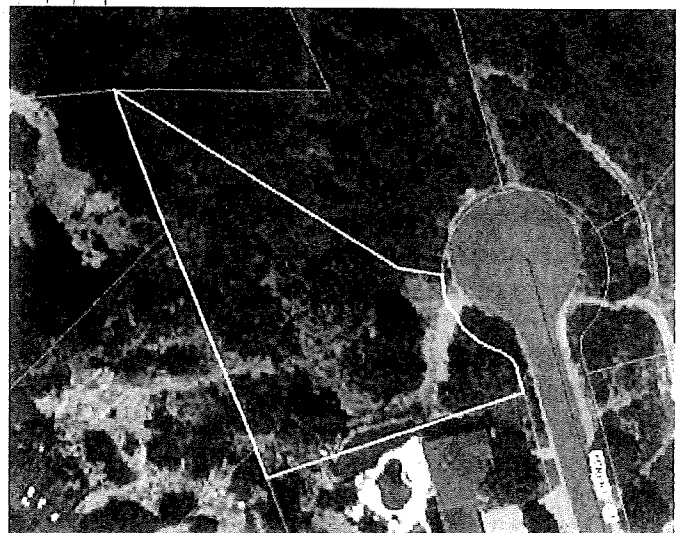
The Quartz Mountain Subdivision Phase I parcels are located within the R1-20,000 Zoning District. All parcels within the Quartz Mountain Subdivision Phase I have defined building envelopes as shown on the recorded subdivision map, to which all improvements are limited. The remainder of the lot is set aside as private open space and setbacks from adjoining property boundaries. The general intent of the building envelopes was to maintain physical features, such as native trees with high biological value. For these reasons, modification of the building envelope is restricted. However, Placerville City Code Section 10-8-22 permits amendments to a recorded map's (parcel and subdivision) building envelope with an approved amended subdivision map subject to the findings contained in this report.

The 0.56-acre, R1-20,000 zoned parcel is currently undeveloped. The parcel is located at the cul-du-sac end of Kereka Court. Kereka Court is the public road that serves this portion of the Quartz Mountain Subdivision. Curb and gutter were installed with construction of Kereka Court. Water, sewer and electric utilities all serve the site and are undergrounded.



Site slope is from the southeast to the northwest. Some portions of the site are covered with mature trees. The surrounding land uses are single-family residential parcels. Three parcels on Kereka Court have single-family homes. The rest, including the subject location, are vacant.

Amending Of Subdivision Maps: Section 10-8-22 and 10-8-23 of the Placerville City Code, and Section 66472.1 of the Subdivision Map Act, allow for amending of subdivision maps by either filing a Certificate of Correction or amending the map. In order to approve the map amendment, the City Council must find that the amended map complies with the Government Code and make specific findings pursuant to Government Code Section 66472.1. These findings and conditions have been presented as Exhibit D.



Environmental Review: The proposed map amendment has been found to be Categorical Exempt from the requirements of CEQA pursuant to Section 15305 of the CEQA Guidelines which states that minor alterations in land use limitations not resulting in the creation of any new parcel are exempt.

Public Notice and Comment: Notice of this public hearing was provided in writing to all property owners within 500 feet of the external boundaries of the subject property; with written notice also published in the Mountain Democrat on October 22, 2018. No public comment has been received.

Options:

1. Approve the requested map amendment as recommended by the Planning Commission.
2. Table discussion of the map amendment and provide direction to the applicant to revise said request for consideration by the City Council.
3. Conceptually deny the map amendment request and direct staff to return to the Council with findings for denial.

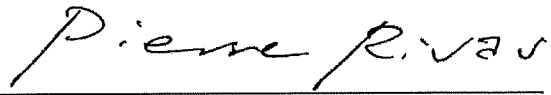
Cost: None.

Budget Impact: None.

Recommendation: Approve Map Amendment 18-01, modifying the building envelope on Lot 9 of the Quartz Mountain Subdivision Phase I Map, located at 2628 Kereka Court, and certify that the project is Categorical Exempt from the requirements of the California Environmental Quality Act pursuant to Section 15305; based on the Findings and subject to the Conditions of Approval contained in Exhibit D.



M. Cleve Morris, City Manager



Pierre Rivas, Development Services Director



Andrew Painter, City Planner
Executive Secretary to the Planning Commission

Exhibits:

- A: Proposed Building Envelopment Modification
- B: Applicant Submittal Package
- C: Draft Planning Commission October 16, 2018 Regular Meeting Minutes
- D: Map Amendment 18-01 Findings and Conditions of Approval

Exhibit D.

**Exhibit D
Map Amendment 18-01**

Map Amendment 18-01 Findings and Conditions of Approval

I. California Environmental Quality Act (CEQA) Findings

1. The map amendment project has been found to be Categorical Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15305(a) of the CEQA Guidelines which states that minor alterations in land use limitations not resulting in the creation of any new parcel are exempt.
2. The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Development Services Department, Planning Division, at 3101 Center Street, Placerville, CA.

II. Map Amendment Findings

- a. The native trees with high biological value, as identified on the subdivision map, were removed by the owner prior to development of the parcel. This change in circumstance makes the original building envelope restriction no longer appropriate to the subdivision map.
- b. The modification does not impose any additional burden on the fee owners of the real property, in that the building envelope modification has been requested by the fee owners of the real property in question, and the modification would be a benefit to them, rather than a burden.
- c. The modification does not alter any right, title, or interest in the real property reflected on the recorded map, in that the building envelope modification would facilitate development on the property, and no right, title or interest in the property would be affected.
- d. The modification is consistent with the General Plan and any applicable specific plan, in that the building envelope modification would not change the intent and purpose of the Low Density Residential land use designation, which is to provide for single-family residential development; the modification would assist the property owner to construct a single-family home; the amended Map remains suitable for the type and density of development, and the subdivision map remains consistent with the General Plan.

III. Conditions of Approval:

**Exhibit D
Map Amendment 18-01**

1. The building envelope map amendment modification shall be in substantial compliance with Exhibit A – Lot 9 Quartz Mountain PH 1, SUB H-82 submitted September 24, 2018.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and Conditions of Approval herein. The property and any portions thereof shall be sold, leased, or financed in compliance with this project description and the approved hearing exhibits and Conditions of Approval hereto.

2. The property owners shall submit a “Certificate of Correction” or amending map amending Lot 9 of the Quartz Mountain Subdivision Phase I. The certificate shall be prepared by an appropriately licensed professional and submitted to the County Surveyor for review in compliance with the Subdivision Map Act. Upon approval by the County Surveyor, the “Certificate of Correction” or amended map shall be recorded in the County Recorder’s Office, a copy of which shall be provided to the City of Placerville Development Services Department. The property owners are responsible for all associated processing and recording fees.
3. This building envelope modification approval shall lapse and shall become void one year following the date on which it became effective, unless before the expiration of one year:
 - a. The approved certificate of correction or amended map has been recorded in the office of the County Recorder, or,
 - b. A time extension has been applied for and approved by the Development Services Department.
4. To mitigate for the property owner / applicant removal of five trees, the property owner / applicant shall submit to the Development Services Department a replanting plan for approval by staff. Replanting plan shall contain a tree planting palette that includes tree species endemic to the Quartz Mountain Subdivision Phase I site environment. Property owner / applicant shall plant and maintain the staff approved five trees, at a minimum of 15-gallon size, within the Lot 9 parcel prior to Certificate of Occupancy of the single-family residence. The property owner shall ensure the successful establishment of the replacement trees for a minimum of five years following issuance of the certificate of Occupancy of the residence. Unacceptable tree growth or condition, as well as actual tree death, shall be grounds for non-compliance of this condition and the recordation of a Notice of Non-Compliance.

ATTACHMENT 4



CALAVERAS COUNTY PLANNING DEPARTMENT
891 Mountain Ranch Road,
San Andreas, California 95249
(209) 754-6394

Planning Commission Staff Report

Hearing Date	May 25, 2023
Project Number/Name	2022-016 Modification to Existing Permit
Supervisorial District Number	D1, Gary Tofanelli
Assessor's Parcel Number(s)	048-051-035, -036 & -037
Planner	Madeleine Flandreau, Planner III

Date: May 5, 2023

PROJECT DESCRIPTION: The Calaveras County Planning Department is initiating a Modification to Existing Permit to amend the conditions of approval for Tentative Parcel Map 03-33, which was approved by the Planning Commission on July 17, 2003.

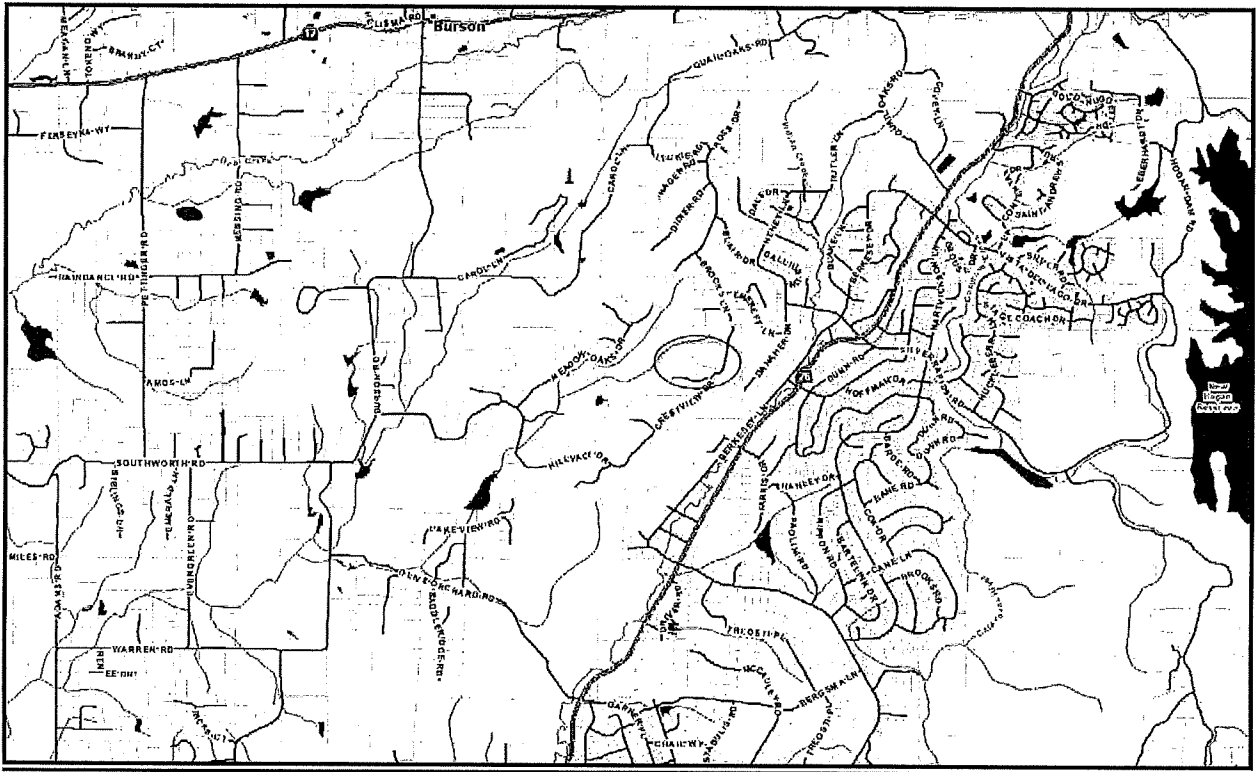
LANDOWNERS:

Dorothy Ann Skarles
2025 Jerry Lane
Lodi, CA 95242

Robert and Shirley Redding
1511 Purdue Court
Union City, CA 94587

Willard and Ora Chalmers
3150 Crestview Drive
Valley Springs, CA 95252

PROJECT LOCATION: APNs: 048-051-035, 048-051-036 & 048-051-037 are described as lots 1, 2 & 3, respectively, of Parcel Map Book 11 Page 180, a re-subdivision of Lot 16 of the Valley Hill Estates Subdivision. The three parcels are located off Crestview Drive, 2.5 miles east of the Burson Road and Hildale Drive intersection southeast of the community of Burson. The parcels are in Section 33, T04N, R10E, MDM.



BACKGROUND:

In 2003, the Planning Commission approved Tentative Parcel Map 03-33 (TPM 03-33), for the subdivision of a vacant, 26.7-acre parcel into three parcels. The size of each lot is as follows: Parcel 1 – 5.9 acres; Parcel 2 – 7.3 acres; and Parcel 3 – 13.5 acres. The parcels are zoned RA-5 (Residential Agriculture – 5-acre minimum parcel size).

TPM 03-33 was recorded in 2005 (see Attachment 4). As provided under §66411.1 of Government code, a note was placed on the face of the recorded map deferring road improvements at the time of the next permit or other grant of approval for each parcel developed. The note was placed for the sole purpose of deferring the road improvements to the first permit so that the applicant of TPM 03-33 wasn't responsible for making the improvements prior to the recordation of the map.

Since 2005, only Parcel 1 has been developed with a single-family home. At the time of the construction of the home, the required road improvements were not enforced by the county prior to issuance of a building permit and, subsequently, a certificate of occupancy for the home. The residential construction included an encroachment off Crestview Drive in an alternative location to the proposed access road on the recorded map, so none of the required road improvements were completed.

Subsequently, Parcel 1 was purchased by a new owner, who came in with a building permit application to place an accessory structure on the parcel, which brought to light the fact that the road improvements had not been enforced by the County. As Parcel 1 was developed several years ago with an alternative encroachment, this created an issue whereby the next

building permit that is applied for would require the construction of the access road only for Parcels 2 and 3.

PROJECT DESCRIPTION:

Upon closer review, the Public Works Director determined that the site access issue was moot since other alternatives exist to provide access to the remaining two undeveloped parcels (Parcels 2 and 3). As depicted on the recorded map, access control rights along the frontage of the parcels – except for Parcel 3 – were granted to the County. The developed parcel improved an encroachment across the access-controlled area. The right-of-way depicted on the map (access road) will remain as the driveway serving Parcel 3. As the County has determined that access to the parcels can be provided without the road improvements, the Planning Department is therefore modifying the map to remove the following Public Works conditions:

#111-1, Improve the access road to Crestview Drive R.O.W. to proposed Parcel 3 along the existing road to a Local Road Template "F," 24' wide paved surface with 2" A.C. and 4" Class 2 A.B.

#111-2, Construct a turning circle in accordance with Section 12.02.230 at Parcel 1, with a roadbed diameter of 84 feet. A hammerhead, constructed to County Standard Detail, may be used as an alternate to a turning circle with concurrence of the responsible fire protection agency.

#111-3, Improve the existing encroachment for Crestview Drive to County Road Standards of a Local Approach.

#111-4, Provide road name sign for the access road.

#111-12, A declaration is to be signed by the applicant creating a road maintenance agreement for the access road to proposed Parcel 3.

#111-13, The proposed access for Parcel 3 shares access with Parcels 1 and 2 will require the construction of a Local Road from the easterly boundary of Parcel 3 to Crestview Drive. A local road approach will need to be constructed for the intersection of the access road with Crestview Drive.

The modification will not require a change, modification, or addition to the conditions of approval other than removal of conditions #111-1, #11-2, #111-3, #111-4, #111-12, and #111-13, and the addition of a "reminder" condition that is recommended to be added by Public Works merely as a reminder of the ongoing requirement for an encroachment permit should Parcel 2 be developed in the future.

MAP MODIFICATION:

Government Code §66472.1 allows amendments to a recorded final map if authorized by local ordinance, so long as the County finds: 1) that there are changes in circumstances that make any or all of the conditions of the map no longer appropriate or necessary, 2) that

the modifications do not alter any right, title, or interest in the real property reflected on the recorded map, and 3) that the map as modified conforms to Gov. Code §66474, which contains the usual findings for tentative map approval:

- The map and the design or improvement of the subdivision are consistent with the General Plan and any applicable specific plan.
- The site is physically suitable for the type and density of the proposed development.
- The design of the subdivision or improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- The design of the subdivision or improvements are not likely to cause serious public health problems.
- The design of the subdivision or improvements will not conflict with public access or use easements on it. (This finding may be made if substantially equivalent public access or use easements are substituted for the original easements).

County Code §16.13.010 is the local ordinance allowing for map amendments as described in Gov. Code §66472.1, and it echoes the findings described above.

The original tentative map was approved with conditions imposed, as authorized by Gov. code §66434.2. Gov. Code §66469, in turn, specifically authorizes map amendments to alter conditions imposed pursuant to §66434.2 so long as the correction does not impose any additional burden on the present fee owners of the real property and does not alter any right, title, or interest in the real property reflected on the recorded map. All current owners of the parcels created through this tentative map were notified of the proposed modification, and none had objections. A finding will therefore be added that the modification will not impose a burden on the present fee owners.

The public hearing on the map modification was noticed as required by Gov. Code §66451.3. Per Gov. Code §66472.1, the County “shall confine the hearing to consideration of, and action on, the proposed modification.”

ENVIRONMENTAL REVIEW:

Pursuant to California Environmental Quality Act (CEQA) guidelines, an Initial Study and Negative Declaration (IS/ND) was prepared in 2003 and circulated for 30 days for the previously approved TPM (see Attachment 3). No comments on the 2003 IS/ND were received. The Initial Study analyzed the environmental impacts and determined that the proposed project will not have a significant environmental impact. The prepared IS/ND was completed in accordance with the California Environmental Quality Act (CEQA) and reflects the independent judgment and analysis of the preparer. The IS/ND was adopted with the approval of TPM 03-33 on July 17th, 2003.

The proposed project is the same as the project analyzed in the 2003 IS/ND, because the road improvements recommended by Public Works as conditions were not included in the project description. The proposed removal of these now-obsolete Public Works conditions is therefore a minor technical change to the project that does not affect the environmental analysis or the conclusions of the 2003 IS/ND. Since adoption of the 2003 IS/ND, the

CEQA Guidelines have undergone several changes, including comprehensive updates, which created four new sections to the CEQA Checklist: Energy, Greenhouse Gas Emissions, Tribal Cultural Resources, and Wildfire.

The potential impacts of the project were evaluated in a previously adopted IS/ND, none of the factors triggering additional environmental review under CEQA Guideline 15162 are present, and the IS/ND provides a sufficient and adequate analysis of the environmental impacts. Thus, the County determined that an addendum pursuant to CEQA Guideline 15164 is the appropriate environmental document for the proposed project. An Addendum to the Negative Declaration was prepared and can be found in Attachment 2. While, as discussed in more detail in the addendum, the fact that the State updated Appendix G after the County approved the 2003 ND does not itself constitute a “change” or “new information” requiring a subsequent EIR, staff did utilize the updated Appendix G criteria when analyzing whether an addendum was the appropriate environmental document for this updated project.

CONCLUSION:

The project is a modification to the conditions of approved TPM 03-33, removing conditions #111-1, #111-2, #111-3, #111-4, #111-12, and #111-13. The required findings for a map modification per County Code 16.13.030 can be made. There were no objections to the approval of the MEP from any landowners of the subject parcels, nor from any landowners within 300 feet of the subject parcels. The potential impacts of the project were evaluated in a previously adopted IS/ND, and the IS/ND provides a sufficient and adequate analysis of the environmental impacts. Thus, the County determined that an addendum is the appropriate environmental document for the proposed project. The IS/ND and the Addendum reveal this project as modified will continue to have a less than significant impact on the environment.

RECOMMENDATION:

Staff recommends the Planning Commission approve Resolution 2023-005 approving Modification of Existing Permit 2022-016 to remove Public Works’ conditions of approval #111-1, #111-2, #111-3, #111-4, #111-12, and #111-13 for Tentative Parcel Map 03-33, based on the findings and conditions contained therein.

ATTACHMENTS:

- 1) Planning Commission Resolution No. 2023-005
- 2) 2023 Addendum to the 2003 Negative Declaration
- 3) 2003 Initial Study/Negative Declaration
- 4) Parcel Map 03-33
- 5) Planning Commission Resolution No. 03-68

From: [Miranda Aguilar](#)
Cc: [William Dean](#); [Scott Claar](#); [Planning Admin](#); [Gina Peace](#)
Subject: FW: Request for Tracy hills - Hillview community park facilities for kids
Date: Wednesday, January 24, 2024 12:58:22 PM
Attachments: [image.png](#)
[image.png](#)

Hello Commissioners,

Please see email below regarding tonight's 01/24/24 Planning Commission Meeting. A printed copy will be provided for you at the meeting.

Thank you,

Miranda Aguilar | City of Tracy
Administrative Assistant
Development Services – Planning Division
333 Civic Center Plaza | Tracy, CA 95376
Office: (209) 831.6421 | Miranda.Aguilar@cityoftracy.org



From: Siva Sivasubramoniam Jayaram [REDACTED]
Sent: Friday, January 19, 2024 2:48 PM
To: Scott Claar <Scott.Claar@cityoftracy.org>
Subject: Request for Tracy hills - Hillview community park facilities for kids

You don't often get email from [REDACTED]

Caution: This is an external email. Please take care when clicking links or opening attachments.

Hi Scott,

I am a resident of the Tracy Hills - Hillview community part of the Lennar construction. My wife and 1-year-old son live with me.

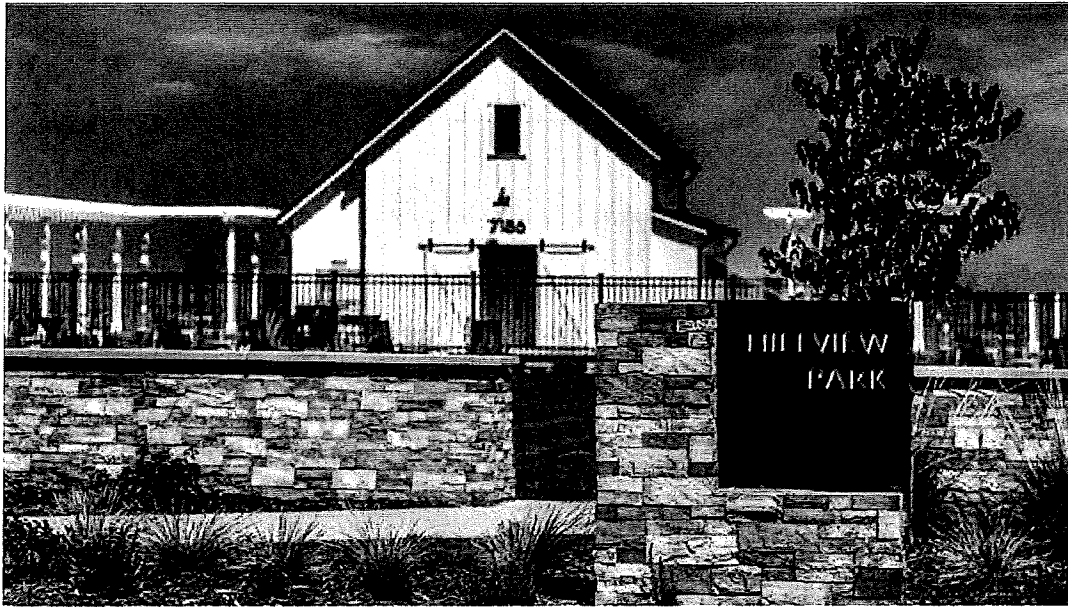
I received a notice from the city of Tracy regarding a public hearing about APL23-0003.

Having lived here for the past 6+ months, I have found that our kids do not have a park with some play structures in this Hillview community. We do have an HOA-maintained park that has a grass lawn and a few benches to relax along with a swimming pool.

I request the city of Tracy to support this ask to install play structures that will benefit our community kids to play outdoors and will motivate them to socialize and strengthen their personal and physical skills.

I appreciate your help in this matter.

Please find attached the pictures of the current HOA-maintained park.



Best,
Siva

Mike Souza

From: Karin Schnaider <Karin.Schnaider@cityoftracy.org>
Sent: Thursday, June 29, 2023 3:21 PM
To: Mike Souza
Cc: Brian MacDonald
Subject: July 5 agenda

Hi Mike

Thank you for taking the time to talk with Brian and me yesterday. We discussed the City's need to move the SIAs for Parks in TH1B and Hillview to the August 15th agenda meeting. I understand this delays your construction timeline and creates some impacts to your project management of these amenities. I also understand these agreements were part of the developments' conditions of approvals (COAs), which you expressed may impact your ability to meet other COAs. I clearly hear your concerns about meeting your COAs timely. Brian and I would like to work with you to make process improvements to lessen these impacts on these and future projects.

Thank You,

Karin Schnaider | Assistant City Manager
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Office (209) 831.6108
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www.ci.tracy.ca.us

