

MINUTES  
TRACY CITY PLANNING COMMISSION  
APRIL 27, 2011  
7:00 P.M.  
CITY HALL CONFERENCE ROOM 109  
333 CIVIC CENTER PLAZA

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

MINUTE APPROVAL

DIRECTOR'S REPORT REGARDING THIS AGENDA:

ITEMS FROM THE AUDIENCE

*In accordance with Procedures for Preparation, Posting and Distribution of Agendas and the Conduct of Public Meetings, adopted by Resolution 2008-140 any item not on the agenda brought up by the public at a meeting, shall be automatically referred to staff. If staff is not able to resolve the matter satisfactorily, the member of the public may request a Planning Commission Member to sponsor the item for discussion at a future meeting.*

1. OLD BUSINESS
2. NEW BUSINESS
  - A. DOWNTOWN SPECIFIC PLAN STUDY SESSION
3. ITEMS FROM THE AUDIENCE
4. DIRECTOR'S REPORT
5. ITEMS FROM THE COMMISSION
6. ADJOURNMENT

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The Planning Commission meeting was called to order by Chair Mitracos at 7:00 p.m.

The pledge of allegiance was led by Chair Mitracos.

ROLL CALL: Roll call found Commissioner Johnson, Commissioner Ransom, Vice Chair Alexander, and Chair Mitracos present; Commissioner Manne was absent. Also present were staff members Scott Claar, Associate Planner; Bill Dean, Assistant Director of Development and Engineering Services Department; Andrew Malik, Director of Development and Engineering Services; and Bill Sartor, Assistant City Attorney.

MINUTES – None

DIRECTOR'S REPORT REGARDING THIS AGENDA – None

ITEMS FROM THE AUDIENCE – None

1. OLD BUSINESS – None
2. NEW BUSINESS

A. DOWNTOWN SPECIFIC PLAN STUDY SESSION

Bill Dean, Assistant Director of Development and Engineering Services provided a brief summary of the purpose of the study session. Mr. Dean indicated that staff intended to break the Downtown Specific Plan (DSP) down into manageable pieces at the Commission's request, and this would be done over several months through a series of study sessions in a discussion format.

Chair Mitracos asked when staff foresaw the DSP coming before the Commission for a recommendation. Mr. Dean answered that would depend on when the CEQA document was completed. Mr. Dean added that he wanted to give the Commission a number of months to review and discuss the document. Mr. Dean stated that once the review had been completed and the CEQA process was done, the document could be put in place quickly.

Scott Claar provided a brief overview of the purpose of the meeting as well as the DSP process up to that point. Mr. Claar indicated that this particular session would focus on Land Use, and he provided a summary of the existing and proposed land uses.

A citizen comment was made that the public knew what the idea is; however the question was is it practical to zone for office space when business were needed that would bring people to the downtown. Chair Mitracos asked if the citizen agreed with the concept of the DSP. The citizen answered he agreed however it was not practical for the City's downtown area.

Chuck Profito, the owner of 30 East Tenth Street, stated that he had lost \$180 thousand in 18 months in two failed real estate deals when the prospective buyers pulled out after learning the details of the proposed DSP. Several handouts were provided by Mike Hakeem, who represented Mr. Profito. The handouts consisted of a satellite map of the downtown area, a drawn site map of Tenth Street between Central Avenue and North E Street, and the proposed Boundary of Downtown Core map, revised to include the vacant hardware store property at 30 East Tenth Street. Mr. Hakeem stated that the request was to simply redraw the boundary to include four parcels which would bring the property into the Core. Mr. Hakeem indicated that the prospective buyers were unable to get financing from the bank because the bank said the use would be non-conforming.

Mr. Dean indicated that the DSP was intended to be a point of departure, and the Commission should consider if the point when the document was drafted was the appropriate point of departure, or if it should be reflective of another point in time. Mr. Dean further indicated that it could be significantly expensive and perhaps prohibitive to change the use of the building in question at this time. Mr. Dean stated that he was looking at the request from the property owner as not an expansion of the Downtown Core but rather less of a reduction. Chair Mitracos

asked if there was another way to give the property owner what he was requesting without adjusting the line. Mr. Dean answered that there could be, by amending the list allowable uses for the outer core to allow the retail use; however that was a significant change because it would effectively water down the entire outer core. Chair Mitracos asked if it would be less impactful to move the line of the Core. Mr. Dean answered that was correct; it was less of an impact to move the boundary than to make changes to the whole of the Outer Core.

Stephen Ho asked staff why don't they draw the boundaries according to the businesses rather than have the government drive the businesses, and let the businesses figure it out. Chair Mitracos stated that the vision was to create this, and Livermore had done this. Mr. Dean stated that staff had learned through years of analysis that the City zoning in the downtown over many decades had stretched the retail development very widely and this was a very thoughtful attempt to confine the retail activity within the downtown setting and make a more viable downtown. Mr. Ho stated that his thinking was to be as generous as possible to encourage businesses to come into the area. Chair Mitracos stated that if there was a non-conforming business it was allowed to continue its non-conforming use and was even allowed to sell the business and continue as non-conforming, which is less restrictive than most zoning regulations. Mr. Malik added that it was less restrictive than Livermore or any other jurisdiction the consultant had looked at, and that was a reflection of staff wanting to be sensitive to business owners in this market and economy. Chair Mitracos stated that the idea was to help the businesses downtown by making the area better, not to harm them.

Tom Benigno stated that he was told that businesses did not want to expand to the downtown area because they feel that Tracy residents commute to the bay area and shop after that and did not want to travel to the downtown area. Several Commissioners stated that the residents will after the Planning and implementation of the DSP. Mr. Benigno further stated that the City needed to help the tenants of the downtown area.

Robert Tanner stated that he had commuted to Santa Clara for many years and he would not want to go the downtown area after getting home. Mr. Tanner asked if the non-conforming uses would be able to continue to operate as non-conforming businesses and if they were sold could they continue that use once the DSP was adopted. Mr. Claar answered that they could, however if the non-conforming business were to remain vacant for 6 months, it need to be re-tenanted with a conforming use. Mr. Dean added that had been in the municipal code for decades.

Mr. Hakeem stated that from the City's point of view, the business can be sold as non-conforming, however on the financial side, no banks would finance such a purchase because of a provision which stated if there was a loss of more then 50% the building could not be rebuilt. Mr. Dean stated that the DSP did not create a non-conforming land use provision; that had already existed in the Municipal Code for some time and it was not unique to Tracy. Mr. Dean stated that the purpose of the discussion is to ask the question: "Is this the level of non-conformity we are willing to create to go in this direction, land use wise." Mr. Dean indicated that there would be discussion about design standards and other topics at a later date, and this study session was to discuss the land use side.

Mr. Hakeem stated that Mr. Dean was exactly correct in the global view that the non-conforming land use provision was an essential tool in the macro-picture for what is trying to be accomplished, however their issue was that they had a 14,000 square foot building that they are

trying to get inside the fence where they can use retail instead of outside the fence where they could not use retail.

Chair Mitracos stated that in this case it was the sale of the property that was going to be an issue. Mr. Profito responded that he had spoken to six surrounding property owners and they could not believe that the City was going to take their property rights away. Mr. Hakeem added that they had not taken the time to read the DSP. Chair Mitracos stated that he had hoped the property owners would be available to have a discussion about the DSP. Chair Mitracos asked Dino Marguros what he knew about the DSP and how he felt about it as a downtown property owner. Mr. Marguros indicated that he felt that the City was trying to sharpen the focus of downtown. Mr. Marguros added that he did not see the moving of the core line over to include the vacant retail building as a big deal, and it was a non-issue. Mr. Marguros added that in the bigger picture he felt the DSP is right. Chair Mitracos asked how the other property owners felt about the DSP. Mr. Marguros answered that nobody liked change, although he didn't think the DSP really changed much except for some of the periphery and some of the industrial uses on Sixth Street. Mr. Marguros stated that he felt the overall plan was good in his opinion.

Chair Mitracos stated that zoning is a tool for communities to come to a consensus. Mr. Marguros stated that he felt the consultants knew what they were doing, and everyone wanted a downtown like Livermore, Pleasanton and Lodi, but there would probably be some pain getting there.

Commissioner Ransom asked if there would be other affects of moving the core boundary to include the four parcels. Commissioner Ransom stated that the Commission believed staff would do what is in the best interest of the downtown. Commissioner Ransom further stated that she understood Mr. Marguros comment that no one liked change, however that probably contributed to how the downtown area became the way it is. Commissioner Ransom stated that we needed to see if the vision of the DSP still worked two years after it was first written, and go from there.

Mr. Dean stated that he felt it was certainly a reasonable request. Mr. Dean further stated if the Commission was discussing allowing full retail uses in the entirety of the outer core, there would be a much more robust discussion however this seemed to be a reasonable request. Chair Mitracos stated that he wanted downtown to be a destination and anything that would serve that was good; and in particular with this use it made sense to move the line.

Commissioner Ransom asked if, because there were not that many buildings of this square footage in the downtown, there was a way to enter language that would exempt a certain square footage of property to avoid this discussion again in the future. Mr. Dean stated that was a very creative idea, and what was on his mind was how to accomplish this should the Commission and ultimately City Council want to go in this direction. Mr. Dean stated that there were ways that staff could craft language to make it work.

Chair Mitracos stated that a large part of the property was parking and if staff were to be more lenient with parking in the area, much more of the property in question could be developed. Mr. Dean asked Mr. Claar to discuss the requirement for parking for retail uses in the Downtown Core. Mr. Claar stated that it was very lenient however he had not brought the information because he did not expect to discuss parking at this session. Mr. Claar indicated he believed it was 1 per 1000 square feet. Mr. Hakeem indicated that the business was precluded from side parking in the outer core. Mr. Claar stated that he the side parking issue would only apply to the

building in question if the building was demolished and a new one was built. Mr. Claar further stated at that point there would be requirements to bring the building to the front of the property with parking in the rear; however there was nothing in the DSP that would require the current parking to change. Mr. Hakeem indicated he did not disagree with Mr. Claar; however the people at the banks did not understand that, and would not lend money for the building with the provision that the building could not be rebuilt should there be a major loss. Mr. Claar stated that parking was a separate issue, and even if the line was moved to include the four parcels, should there be a major loss to the building, the building would need to be rebuilt closer to the street with parking to the rear.

Commissioner Johnson asked if the original request by City Council to allow office uses on the ground floor was to allow flexibility. Mr. Claar answered it was, and staff had heard from many business owners in existing office uses in the downtown area, who were concerned because if the office use was to remain vacant for a period of time, another office use could not be brought in. Commissioner Johnson stated he just wanted to bring it up as a relevant example of the flexibility of the City.

Commissioner Johnson stated that in his opinion the big picture view was to concentrate the downtown and bring the retail and people closer together, as well as the concentration of the people closer together. Commissioner Johnson stated that he felt moving the line to include the four parcels wasn't an issue and he felt the City was open to that.

Commissioner Ransom stated that the DSP had not even been adopted yet. Chair Mitracos stated that was correct but it was still a shadow on the property owner's transaction. Commissioner Ransom asked if the property was being sold now, wouldn't the current zoning be used? Mr. Claar answered that is correct however the problem the property owner had encountered was the prospective buyer had done their due diligence and learned of the proposed plan, and once the bank learned of it, it became a potential problem for the purchase. Commissioner Ransom stated she understood that, and she asked if once the property was sold wouldn't it be grandfathered into the current plan. Mr. Claar indicated that once the purchase occurred it would be. Commissioner Ransom stated that her background was nine years experience in real estate banking and she understood that banks were temperamental, and she was really looking at if a purchase was made before the adoption of the DSP the new owner would be grandfathered in for their use. Mr. Hakeem stated that they would be delayed until the adoption of the DSP; if an offer was made there would be a buyer-in-contract, and there would be a delay until the adoption of the Plan.

Vice Chair Alexander stated the plan was not etched in stone and there was flexibility with input from the public to make changes. Vice Chair Alexander indicated that the plan was drafted several years ago and this was the first that he had heard any input from the community regarding the DSP, and he would like to see more business owners at the next study session to hear their input and bring it into the DSP.

Commissioner Ransom indicated that she felt comfortable making a recommendation to staff regarding this particular issue to move forward, and she felt there was a consensus that there was "no harm, no foul" in taking a second look at this issue or in making some broad spectrum exemption language. Commissioner Ransom further stated that the revitalization should benefit the business owners, and she would like to hear from the Economic Development side of what was happening downtown, where the local citizens were spending their money, and what could be done to benefit the businesses in Downtown Tracy. Chair Mitracos stated there had been

some Economic Development input included in the plan. Mr. Malik indicated there was an economic analysis that was part of the plan, and the consultants had said in successful areas such as Livermore and Pleasanton there was residential uses in which people lived in the downtown and shopped there and Tracy did not currently have that; however that was why the City was interested in purchasing the bowtie area. Chair Mitracos stated that he remembered there was a certain number of units which was talked about and if there were that certain number of households in the downtown area it would create a market in its own. Chair Mitracos further stated that was why the bowtie area was such a good opportunity. Mr. Dean stated staff had maintained a dialog with the economist who had worked on the project and she had indicated the concept was still valid. Mr. Dean further stated that the purpose of this meeting was to discuss the land uses and in order to make a cogent recommendation to Council the Commission needed to be disciplined in looking at the details of the regulations.

Mr. Benigno asked if the DSP was talking about the bowtie area as part as the redevelopment area because if so it was really talking about apples and oranges. Mr. Benigno stated that the old part of downtown needed to be revitalized before bringing homes next to the tracks in the bowtie area.

Mr. Claar indicated that the purpose was to get into the detail of the DSP, to ensure that staff, the Commission, and property owners understood the details of the plan and its regulations. Mr. Claar further indicated specifically on this evening he intended to focus on two of the key districts of the downtown area; the Inner Core and the Outer Core. Mr. Claar stated that he wanted to be sure that everyone had an understanding of the land uses, and if they were comfortable with them and if there were any potential issues with a particular site.

Chair Mitracos asked for information regarding non-conforming uses in the Core. Mr. Claar stated that currently the only site in the Inner Core is the Big O Tire site, and with the implementation of the DSP it would still be the only non-conforming use in the plan. Chair Mitracos asked for information regarding the single family homes in the Outer Core. Mr. Claar stated there were a great deal of single family homes in the Outer Core that were currently non-conforming in the CBD Zone. Chair Mitracos stated there were houses on Tenth Street between East Street and Central Avenue, and there was also an apartment building. Mr. Claar stated there were a slew of houses there, and also the apartment building however the apartments conformed with the current zoning designation of high density residential, and they would also conform to the Outer Core designation of the proposed DSP.

A citizen asked if there had been any thought to eliminating the parking requirement entirely? The citizen stated he was aware there was a fee that a business could pay in lieu of the parking requirement, and wondered if that fee went toward a future parking structure. Mr. Malik stated the City had already purchased lots on Ninth Street near the fire station. The citizen asked if someone could purchase a single home, demolish it and build an office use without having on-site parking if they chose to pay the fee, which would go to a future parking structure. Mr. Claar stated they could.

Chair Mitracos asked for information on the properties with green dots on the map provided of the proposed outer core boundary. Mr. Sartor answered those were properties that were currently non-conforming and would stay non-conforming after the implementation of the DSP. Chair Mitracos asked for information on the properties with black dots on them, labeled as new non-conforming properties, and asked Mr. Claar to start on the Eastern end. Mr. Claar stated starting from East Street there were seven houses that would become non-conforming because

the outer core designation would permit duplexes or greater density but not single family homes. Commissioner Ransom asked if anyone had commented on this fact, and stated that if a homeowner were to attempt to refinance, on the title report it would show as non-conforming and would cause a trigger. Commissioner Ransom further asked if there was a way to leave the properties as conforming. Mr. Dean answered not unless you change the rules of the plan. Mr. Dean stated that this represented an area on the east end of Tenth Street and they were evaluating whether the density of the area should go up over time. Mr. Dean added that no one would be leaving their home as a result of the plan being adopted, but over time the ability to assemble parcels to create a higher density is there. Commissioner Ransom asked if there was a way to create a mixed-use neighborhood to create the higher density. Chair Mitracos stated that they were trying to concentrate people. Commissioner Ransom stated that she understood that, and felt that the concentration could still occur with single family uses. Mr. Dean indicated that typically higher density single family homes were smaller homes and lots, and not this building type. Chair Mitracos stated if the plan goes forward, someone will want to change these properties to a higher and better use, and he did not have a problem with it. Commissioner Ransom stated that she also did not have a problem with it, but wanted to know if there were any alternatives. Chair Mitracos stated there probably were alternatives but he did not think they were desirable. Mr. Dean stated that another way to look at it was this would allow property owners to densify their lots and increase building capacity.

Commissioner Johnson indicated that if he owned one of the properties he would think it would give him the opportunity to add value to his property. Commissioner Johnson stated that is why he would like to hear more community input. Chair Mitracos stated he had hoped the room would be more crowded, and maybe overflowing into the foyer.

Mr. Benigno stated that he did not know what size the lots were, however he thought ten units could be built on a one acre lot in the downtown area. Mr. Claar stated the DSP was more formed based and for the Outer Core you could have 25-40 units per acre on these lots.

John Palmer asked how many total lots between the Core and the Outer Core were counted. Mr. Palmer stated that the only ones that were losing anything were the ones with black dots; the green ones were currently non-conforming and would still be non-conforming and the white dots were gaining conformity. Mr. Palmer further stated it was basically 18 lots, and potentially one could get crossed off so there would only be 17 properties which would be impacted, and he thought it was amazing and staff had put forward an amazing effort. Chair Mitracos indicated that he wouldn't characterize it as all of the properties with black dots were losing. Mr. Palmer stated that he agreed with Commissioner Johnson's comments that the property owners were receiving an added value to their properties and it would only be someone who had bought and renovated one of the old single family homes and was looking to sell it or refinance it who would have a loss.

Mr. Claar stated moving west into the CBD Zone there were a couple of narrow lots which had black dots, one of them a nail salon and tattoo shop and the next one a hair salon. Chair Mitracos asked if staff had heard from anyone regarding these lots. Mr. Claar answered no. Mr. Claar indicated that the public notices had gone out in huge volumes multiple times during the community workshop phase, and a couple of the workshops had drawn over 100 attendees.

Chair Mitracos stated that those properties were a little out of context currently anyway.

Mr. Claar indicated that north and across the street on Tenth Street there were three properties; a quilt shop and two salons that would be non-conforming, and the PG&E office and a home converted to office use would be conforming.

Chair Mitracos asked for information on the property next to the hardware store property. Mr. Claar indicated the property was about 37 feet wide and had a dry cleaners and an office space. Mr. Claar indicated the office would be a permitted use, and the cleaners would not. Mr. Dean added that could ultimately be changed if the boundary line was moved in accordance to the property owner's request.

Mr. Claar indicated on C Street south of Ninth Street there was a property with a black dot which was an existing salon, and on Tenth Street there were three properties with black dots: a retail building on the south side, and two salons on the north side.

Commissioner Ransom asked if the property owners would have the ability to be approved for a non-conforming use. Mr. Dean stated there was a difference between a rezone and expanding a non-conformity. Commissioner Ransom stated that what she meant was after the plan was adopted could someone apply for a non-conforming use. Mr. Dean stated that would need a request to rezone the property. Commissioner Ransom asked about conditional uses. Mr. Dean stated that was a situation where it may be appropriate to do a specific use on a property. Mr. Dean further stated the plan could contain permitted uses and conditional permitted uses where in some instances a use may be appropriate for specific property taking into consideration all the constraints of that property. Commissioner Ransom stated she was just trying to show that there was some flexibility in the plan. Mr. Dean stated that the potential fix further down the road for a property owner trying to get a use for their property not allowable in the plan would be to either ask for an amendment to the plan to re-zone the property or change the rules of the zone they were in.

Chair Mitracos indicated he was under the impression that when there was a Specific Plan, there was less likely to be changes, and asked if that was a correct assumption. Mr. Dean stated that a Specific Plan was unique as it rested between the General Plan and the Zoning Ordinance, and typically was done for a large geographic area to represent policies and regulations and can be zoning for that area. Mr. Dean indicated it did not suggest more or less change; it just contained a lot more related to zoning because there was vision and infrastructure associated with it.

Chair Mitracos stated that this could be drafted and implemented in a fairly loose way and tightened as the downtown area and the economy change. Mr. Dean stated that is what he meant earlier when he said "What is the point of departure that this document represents in terms of rules and regulations?" Mr. Dean further stated that when the Commission got into the design standards they would be discussing "Are these the design standards that you want in place today, or are these five years out?" Mr. Dean indicated it was not that there was a flexible way of interpreting the plan; you use the flexibility now while thinking about what you want the plan to be. Mr. Dean stated that when the plan was adopted it needed to be clear and concise for the investors and property owners.

Mr. Hakeem stated he agreed with the comments, and he felt it was like a three legged stool; one leg was legal, the other two are political and practical. Mr. Hakeem indicated that you could legally change it any time you like, however the political and practical sides of Specific Plans are



tyed so tight that you needed to have a good reason, justification, and community support to make a change.

A citizen commented that he foresaw a potential problem with the PG&E building, and he wanted staff to make sure that someone reached out to the property owners to make sure they knew what was happening. Chair Mitracos stated that he would like to see each one of the property owners of the black dots to be contacted by either staff or the TCCA.

Mr. Ho asked if the City planned to enhance the Core area with a fountain or possibly paint the storefronts for the property owners. Chair Mitracos stated a plaza had been planned at Sixth Street and Central Avenue. Mr. Malik answered the City had submitted for and received a Smart Growth Grant through SJCoG to finish the design for the Downtown Plaza across from the Transit Station, which would have a water feature, and a round-a-bout for visual interest.

3. ITEMS FROM THE AUDIENCE – None

4. DIRECTOR'S REPORT – None

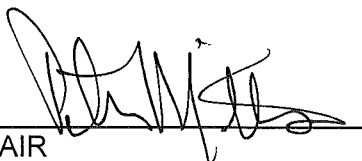
5. ITEMS FROM THE COMMISSION

Commissioner Ransom invited all the attendees to return for future study sessions.

6. ADJOURNMENT

It was moved by Commissioner Ransom and seconded by Commissioner Johnson to adjourn.

Time: 8:47 p.m.

  
CHAIR

  
STAFF LIAISON