

MINUTES
TRACY CITY PLANNING COMMISSION
DECEMBER 21, 2011
7:00 P.M.
TRACY COUNCIL CHAMBERS
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. PUBLIC HEARING TO CONSIDER AN ORDINANCE OF THE CITY OF TRACY: (1) ADDING A NEW SECTION 1.08.140 TO CHAPTER 1.08 OF THE TRACY MUNICIPAL CODE RELATING TO COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAW; AND (2) ADDING A NEW SECTION 10.08.3195 TO CHAPTER 10.08 OF THE TRACY MUNICIPAL CODE CLARIFYING THAT MEDICAL MARIJUANA DISPENSARIES AND CULTIVATION ARE NOT PERMITTED USES

B. CONDUCT A SCOPING MEETING TO OBTAIN COMMENTS FROM PUBLIC AGENCIES OR OTHER INTERESTED PARTIES REGARDING ISSUES TO BE ANALYZED IN THE CORDES RANCH SPECIFIC PLAN PROJECT ENVIRONMENTAL IMPACT REPORT – APPLICATION NUMBERS 1-03-A/P, 3-03-GPA, AND DA11-0001

3. ITEMS FROM THE AUDIENCE

4. DIRECTOR'S REPORT

A. UPDATE REGARDING DOWNTOWN SPECIFIC PLAN PLANNING COMMISSION STUDY SESSIONS

5. ITEMS FROM THE COMMISSION
6. ADJOURNMENT

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

The pledge of allegiance was led by Chair Manne.

ROLL CALL: Roll call found Commissioner Johnson, Commissioner Mitracos, Vice Chair Ransom, and Chair Manne present; Commissioner Alexander was absent. Also present were staff members Bill Dean, Assistant Director of Development Services; Bill Sartor, Assistant City Attorney; and Elizabeth Silva, Recording Secretary.

MINUTES

It was moved by Vice Chair Ransom and seconded by Commissioner Mitracos to approve the minutes of November 11, 2011 as written. Voice vote found all in favor, with Commissioner Alexander absent; passed 4-0-1-0.

DIRECTOR'S REPORT REGARDING THIS AGENDA – None

ITEMS FROM THE AUDIENCE – None

1. OLD BUSINESS – None
2. NEW BUSINESS

A. PUBLIC HEARING TO CONSIDER AN ORDINANCE OF THE CITY OF TRACY: (1) ADDING A NEW SECTION 1.08.140 TO CHAPTER 1.08 OF THE TRACY MUNICIPAL CODE RELATING TO COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAW; AND (2) ADDING A NEW SECTION 10.08.3195 TO CHAPTER 10.08 OF THE TRACY MUNICIPAL CODE CLARIFYING THAT MEDICAL MARIJUANA DISPENSARIES AND CULTIVATION ARE NOT PERMITTED USES

The staff report was provided by Bill Dean, Assistant Director of Development Services. Mr. Dean stated on November 15, 2011 Council had held a workshop to discuss the issue of regulation of medical marijuana. Mr. Dean further stated that basically under the current zoning code any use not authorized in a specific zone is prohibited and as such the unauthorized use is considered a nuisance. Mr. Deans indicated that what was discussed with Council was medical marijuana uses including cultivation were not allowed in any City zoning districts. Mr. Dean indicated Council had wanted to take the strongest possible approach on the issue and asked that an Ordinance be created relatively quickly. Mr. Dean stated that the section proposed to be added to Chapter 1.08 was not under the purview of the Planning Commission; however it was being tracked together with the Title 10 addition which was under the purview of the Planning Commission. Mr. Dean indicated the purpose of the ordinance was two-fold; to provide

clear notice to the public that medical marijuana uses were prohibited and to assist staff and the Courts in interpreting and implementing the Municipal Code related to the use of medical marijuana.

Commissioner Mitracos stated he had seen part of the Council discussion on the issue and saw a number of people were there to complain about the nuisance, and he felt that was the driving force behind this item. Mr. Dean stated that was a driving force, but in addition staff did occasionally have requests from dispensaries and cooperatives. Commissioner Mitracos stated the penalty was only punishable by misdemeanor and most misdemeanors are not taken seriously. Bill Sartor, Assistant City Attorney stated it was not the only remedy available to the City; however the misdemeanor was the harshest punishment available to City staff. Mr. Sartor added the offense would be prosecuted by the City Attorney's Office, not the District Attorney's Office. Commissioner Mitracos asked if there was potential for a lawsuit given the State law. Mr. Sartor stated there was always potential for a lawsuit; however he did not see a successful lawsuit. Mr. Sartor added that it was important to note California did not legalize medical marijuana, but rather provided defense to prosecution.

Commissioner Mitracos stated this was a zoning item, and zoning was under the purview of the Commission, and asked why this would need to go on to Council for approval. Mr. Sartor stated this was an ordinance and only City Council could approve an ordinance.

Commissioner Johnson stated he had done some research online and it seemed that it could not be banned completely. Mr. Sartor stated the City could ban cultivation and dispensaries but could not have a law which stated smoking medical marijuana was illegal. Commissioner Johnson asked if Council felt this was the best way to approach the issue. Mr. Sartor stated this was actually just an aid to explain it to a Judge should the City need to enforce the ban.

Chair Manne asked if there were known cultivators, or open dispensaries in the City. Mr. Sartor answered not that he was aware of; however from anecdotal evidence there did appear to be some in town at the time.

Vice Chair Ransom asked if the County had an ordinance regarding medical marijuana. Mr. Dean stated he was not aware of an ordinance that prohibited dispensaries. Mr. Sartor added that the San Joaquin County District Attorney was of the opinion that all dispensaries in a retail sense were unlawful.

Chair Manne stated he felt the City Council had made it clear how it felt about the issue.

It was moved by Vice Chair Ransom and seconded by Commissioner Johnson that the Planning Commission recommend that the City Council adopt an ordinance of the City of Tracy: (1) adding a new Section 1.08.140 to Chapter 1.08 of the Tracy Municipal Code relating to compliance with federal, state and local law; and (2) adding a new Section 10.08.3195 to Chapter 10.08 of the Tracy Municipal Code clarifying that medical marijuana dispensaries and cultivation are not permitted uses. Voice vote found all in favor, with Commissioner Alexander absent; passed 4-0-1-0.

B. CONDUCT A SCOPING MEETING TO OBTAIN COMMENTS FROM PUBLIC AGENCIES OR OTHER INTERESTED PARTIES REGARDING ISSUES TO BE ANALYZED IN THE CORDES RANCH SPECIFIC PLAN PROJECT ENVIRONMENTAL IMPACT REPORT – APPLICATION NUMBERS 1-03-A/P, 3-03-GPA, AND DA11-0001

The staff report was provided by Mr. Dean. Mr. Dean stated staff was asking the Commission to open a hearing to allow interested parties to comment on what should be included in the Environmental Impact Report (EIR) for the Cordes Ranch project. Mr. Dean further stated staff was combining this with a presentation by the property owners and their representatives to present their project. Mr. Dean stated the project was located on the west side of Tracy, identified as Urban Reserve 6 in the General Plan. Mr. Dean stated this evening was an opportunity to interact with the project applicant and ask questions, and was not an action item. Mr. Dean added Steve Nowak of DC&E would present the EIR process, and then the item would be opened up to receive comments on what should be included in the EIR.

David Babcock of 3581 Mount Diablo Boulevard, Lafayette addressed the Commission. Mr. Babcock provided an electronic presentation with the location, context, and design of the project. Mr. Babcock stated the project location was in the Sphere of Influence, south of I-205, and I-580 was to the west. Mr. Babcock stated four property owners had come together and created the West Tracy Owner's Group. Mr. Babcock indicated first they had looked at the General Plan Element and this caused them to aim at creating connectivity with Gateway and the freeways, provide parks, open space, landscaping and an entryway to the City. Mr. Babcock stated their goals were to have a state of the art business park with a variety of land uses to attract companies and create jobs in the City. Mr. Babcock indicated they would be incorporating sustainability features into the project.

Mr. Babcock stated they had completed the analysis portion, and collected the data and were now looking at the data to determine the costs. Mr. Babcock stated they had divided the project into three main districts; the I-205 district, the Central District and the Schulte District.

Commissioner Mitracos asked for information on the project size. Mr. Babcock answered it was about 1774 acres gross, and would be net about 1400 after roadways and such. Commissioner Mitracos asked if Mr. Babcock had worked on a project of this magnitude before, or if there were other projects in the Bay area that Mr. Babcock may envision this to be like. Mr. Babcock stated not very many people have worked on a project of this size. Mr. Babcock indicated a lot of other large projects start as industrial parks and have grown into something like this.

Commissioner Mitracos states there was plenty of warehouse in Tracy, and he would like to see a higher use. Mr. Babcock stated the uses were in response to the current market, and the project had been created in blocks so that other uses could be dropped into a block in the future depending on the market.

Commissioner Mitracos asked for the reason the first phase would be scattered all over the map. Mr. Babcock stated there were four different owners and they all are

independent, and this would provide them all an opportunity to get started with their development.

Commissioner Mitracos asked what portion of the land would be developed in the first phase. Chuck McCallum of Kier and Wright addressed the Commission. Mr. McCallum stated most of the initial phase would be built around Hansen Road as it was an existing road and had an existing sewer line. Mr. McCallum further stated the first phase was about 600 acres, and would be about a third of the entire project. Mr. McCallum stated the first phase would still probably be a fifteen year build out.

Vice Chair Ransom asked for the timeline for Phase 1. Mr. McCallum stated there was really a Phase 1A and 1B, and Phase 1A would really be warehouses on the south side. Mr. McCallum further stated Phase 1B would be along Mountain House Parkway. Mr. McCallum stated he felt they could probably get some projects in 2014. Vice Chair Ransom asked for information on potential tenants. Mr. McCallum stated there was interest in this area, especially now that California was taxing internet companies, some of those companies wanted to come to the San Joaquin valley. Mr. McCallum stated they had really been thinking about the project and how to build it.

Commissioner Johnson stated he ran a surveying department for a civil engineering firm that was in direct competition with Kier and Wright, and when he saw this type of project on paper, he got really excited, and this was what he loved. Commissioner Johnson stated he liked the idea of the warehouse jobs and using the available infrastructure, because if you bring in new businesses, other businesses will follow.

Commissioner Johnson asked if the streets were going to be City streets, and built to City standards. Mr. Babcock answered they would be public streets and they were working on a proposal that there would be some private areas that the public would be allowed into which would be maintained by an association.

Commissioner Mitracos asked for information regarding the internet companies being taxed. Mr. McCallum stated it was mainly for the distribution warehouse, but it was also the office use. Mr. McCallum indicated the businesses have to make up the difference and if they relocate here it helps them become more competitive.

Chair Manne asked for information regarding the sustainability features. Mr. Babcock answered the features were important and it was the world we live in now, and they had to work within the City's Sustainability Action Plan. Mr. Babcock stated the solar panels were desired by users, because it saves them money. Chair Manne asked if they could envision wind power for this project, as there was a lot of wind in the area. Mr. McCallum stated they had just built a LEED Gold warehouse in Patterson with concrete and solar panels, and that was all user driven.

Chair Manne stated he used to work in Bishop Ranch, and one of the advantages was the great bus system. Chair Manne also stated the ball courts and fields were popular. Chair Manne indicated if this project was anything like that the walking and bike paths would be very well used.

Chair Manne asked about the triangle portion of the project in the Delta Mendota Canal. Mr. McCallum stated it was 120 acres and designated as wetlands. Mr. McCallum further

stated the State would rather the project not cross the canal or build more bridges to that site. Mr. McCallum indicated they would take the drainage away and let it run into the open channel, and let it be more of a natural land. Chair Manne stated that softball and soccer were extremely popular in Tracy, and if there was open space, that would be a great way to utilize it. Mr. McCallum stated they had looked into the option, and there was enough space for those uses, but they had left it as a soft-scape informal space.

Steve Nowak of Design Community & Environment (DC&E) addressed the Commission, and provided an electronic presentation. Mr. Nowak stated the EIR was required under CEQA, and it was basically a disclosure document. Mr. Nowak stated they would prepare an EIR for the Cordes Ranch project, looking at the entire project, knowing that it would be a very long project. Mr. Nowak stated this was the very beginning of the process, in which they were inviting input on issues that should be addressed in the EIR. Mr. Nowak stated once the scoping process was completed they would start the environmental review process which would lead to the preparation of the Draft EIR, and a review period and opportunity for the public to comment on the process. Mr. Nowak indicated once the 45 day public review period closes they would be preparing the Final EIR responding to comments and making any clarification that may be needed. Mr. Nowak stated they were going through a very comprehensive list of issues for the EIR. Mr. Nowak indicated the purpose of the meeting was to receive public comments on technical issues and an appropriate range of alternatives in the Draft EIR. Mr. Nowak stated comments should be focused on potential environmental issues that should be addressed in the EIR, or comments on a range of alternatives. Mr. Nowak provided an expected timeline for the EIR process.

Commissioner Mitracos asked if mineral resources included gravel. Mr. Nowak answered it did and the State had a comprehensive map of mineral resource locations, and this location was not included in that.

Chair Manne opened the Public Hearing.

Tim Lipman, of Carpenter's Local 152 addressed the commission and asked what the developers of the project planned to do as far as the sustainability of local construction jobs up front. Mr. Lipman further stated there were a lot of workers that commute over the hill and it would be nice to see some local workforce on this project.

Vice Chair Ransom stated she wanted to address Mr. Lipman's comment, and she felt if there was a way, from the City's perspective, that it could be worked it out, the City would work it out. Vice Chair Ransom stated that the more people that live in Tracy work in Tracy, the more beneficial it was.

Mr. Dean stated this would not be the only time this project would be before the Commission.

Chair Manne thanked the stake holders for their time.

3. ITEMS FROM THE AUDIENCE – None

4. DIRECTOR'S REPORT

A. UPDATE REGARDING DOWNTOWN SPECIFIC PLAN PLANNING COMMISSION STUDY SESSIONS

Mr. Dean stated the Planning Commission study sessions on the Downtown Plan would continue and the next one was planned for the first meeting in January, which would also include the CHP item.

Vice Chair Ransom stated the last Planning Session on the Downtown Plan was much more open and productive than the previous one.

Vice Chair Ransom stated she would like to know how to address the accountability and responsibility of the Downtown property owners regarding the maintenance of their property. Mr. Dean stated Council had recently had a discussion on this subject, and there was a reluctance to go forward with a property-maintenance association approach. Mr. Dean further stated the Tracy City Center Association could handle this situation through their group. Mr. Dean stated in the end you are talking about a private property owner and their rights. Vice Chair Ransom asked if the structural issues could be addressed, and how they could be addressed so the properties could be tenanted. Mr. Dean stated that was a Code Enforcement issue and this particular issue would most likely require some sort of Municipal Code language.

Commissioner Mitracos stated it was a coincidence that there were two buildings with serious structural issues at the same time, and the buildings were old and the issues were going to come up. Mr. Commissioner Mitracos added that it seemed to him both building owners were trying to correct the issues.

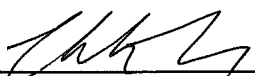
5. ITEMS FROM THE COMMISSION

Commissioner Mitracos wished everyone a Merry Christmas and Happy Holidays. The other Commissioners shared his wishes.

6. ADJOURNMENT

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

Time: 8:43 p.m.



CHAIR



STAFF LIAISON