

MINUTES
TRACY CITY PLANNING COMMISSION
DECEMBER 19, 2012
7:00 P.M.
TRACY COUNCIL CHAMBERS
333 CIVIC CENTER PLAZA

The Planning Commission meeting was called to order by Chair Ransom at 7:01 p.m.

The Pledge of Allegiance was led by Chair Ransom.

ROLL CALL: Roll call found Commissioners Johnson, Manne, Mitracos, Vice Chair Sangha and Chair Ransom present. Also present were staff members Andrew Malik Developmental Services Director, Bill Dean Assistant Developmental Services, Kuldeep Sharma, City Engineer, Dan Sodergren, City Attorney, Sandra Edwards Executive Assistant, Janis Couturier Recording Secretary.

MINUTES – It was moved by Commissioner Mitracos and seconded by Commissioner Johnson to approve the minutes of June 13, 2012, June 27, 2012, July 11, 2012 and October 10, 2012. Voice vote found all in favor; passed and so ordered. Commissioner Mitracos abstained from voting on the minutes of June 27, 2012, since he did not attend that meeting.

DIRECTOR'S REPORT REGARDING THIS AGENDA – Bill Dean Assistant Developmental Services Director advised that there were a number of sets minutes to approve in this meeting due to a back log, but added that staff would attempt to ensure that all future minutes would be available within four to six weeks of the meeting date.

ITEMS FROM THE AUDIENCE – Jim Howell, 340 Hunter Trail, addressed the comments made by Mr. Dean relative to minutes and asked for further clarification of the issue.

Mr. Dean responded that the City has gone through a great deal of changes in the last few years resulting in an immense work load and that we do not have the resources to get the job done as quickly as possible.

1. OLD BUSINESS – None
2. NEW BUSINESS

PUBLIC HEARING TO CONSIDER PLANNING COMMISSION RECOMMENDATIONS TO CERTIFY THE FINAL REVISED ENVIRONMENTAL IMPACT REPORT FOR THE SURLAND COMMUNITIES LLC ELLIS PROJECT APPLICATIONS, AND TO CONSIDER RECOMMENDATIONS REGARDING THE SURLAND COMMUNITIES LLC APPLICATIONS FOR AN AMENDED AND RESTATED DEVELOPMENT AGREEMENT, GENERAL PLAN AMENDMENT, MODIFIED ELLIS SPECIFIC PLAN, ANNEXATION OF THE ELLIS SITE TO THE CITY OF TRACY. THE ELLIS SPECIFIC PLAN SITE IS APPROXIMATELY 321-ACRES LOCATED AT THE NORTHWEST CORNER OF CORRAL HOLLOW ROAD AND LINNE ROAD. APPLICATIONS GPA11-0005, SPA11-0002, A/P11-0002, AND DA11-0002 - APPLICANT IS THE SURLAND COMMUNITIES LLC

Bill Dean, Assistant Director of Development Services summarized the resolutions before the Commission by stating that in February of 2012 there was a Planning Commission Scoping session to evaluate the new applications which had been submitted. Mr. Dean stated there was also a public hearing in August 2012, to review the Draft Environmental report which was found to be very helpful in the process.

Mr. Dean asked that the commission recommend certification of an Environmental Impact Report (EIR) consistent with the California Environmental Quality Act (CEQA). He indicated that the Planning Commission will be asked to make a recommendation to the City Council on the following items:

- Certification of the City of Tracy Modified Ellis Project Final Revised Environmental Impact Report (collectively referred to as "EIR Certification")
- A General Plan Amendment (application GPA11-0005)
- Adoption of the Modified Ellis Specific Plan (SPA11-0002)
- Annexation of the Project site to the City of Tracy (A/P11-0002)
- Approval of a Development Agreement (DA) with Surland Communities

Mr. Dean advised the Commission that this process had begun four years ago with the initial review and approval. He added that Laura Worthington Forbes with RBF would provide more detailed information on the revised program; and Rick Jarvis and Dan DePorto would comment about the status of the Ellis Project relative to the legal issues.

Laura Worthington Forbes with RBF consulting presented a brief history of the Ellis DA along with a review of the Environmental Impact Report. Ms. Forbes provided a review of the Draft EIR to address the issues the court found objectionable.

Ms. Forbes outlined the efforts on the part of the City of Tracy to assure that all areas of concern from both the Planning Commission and the input received during the public hearings were addressed in the Draft EIR and the General Plan. She spoke to five specific issues:

- Airport Compatibility
- The feasibility of Alternative Ten; 1993 ALUCP Runway Length Alternative
- Whether or not the applicant had control over the project site
- Alternative Site Locations
- Potential Pipeline Hazards

Ms. Forbes stated that the City compiled all the Airport compatibility concerns and assembled them into one master response which included meetings with SJCOG; to whom the City provided a summary of these concerns and the manner in which they would be addressed. SJCOG concluded that the project was consistent with the land use regulations and the 2009 ALUCP.

Ms. Forbes further stated that the project applicant has acquired property in response to the control issue and that alternatives were considered, but rejected. She advised that there was extensive analysis relative to Pipeline Hazards.

Ms. Forbes added that there were four other areas of concern included in the revised Draft EIR: Air Quality, Greenhouse Gas Emissions, Noise and Traffic Impacts. Further, she mentioned two additional impacts that had been included in the original proposal which were Aesthetics and Agricultural resources, stating that all of these comply with the City of Tracy's General Plan.

Rick Jarvis attorney representing the City of Tracy in the prior application summarized the issues involved in the first application versus the new draft before the Commission. Mr. Jarvis indicated that the court ordered the City of Tracy to set aside its prior approval and added that if the judgment were to be upheld, the City of Tracy would have to set aside the prior approval. He referred to the issue of legal fees, but did not address.

Les Serpa, 1024 Central Avenue, addressed the Commission on behalf of the Surland Corporation. Mr. Serpa provided a summary of the various successful projects that Surland has developed in Tracy.

Mr. Serpa suggested that Surland is working with the community to assure that growth would comply with the City's Growth Management Ordinance and added that the Ellis Specific Plan is in compliance with the City of Tracy's direction; the City of Tracy's General Plan and the Growth Management document.

Mr. Serpa mentioned that the Ellis Specific Ordinance is in compliance with Caltrans, and the FAA relative to the airport. He mentioned the pipeline concerns, again to ensure compliance with State, Federal and local standards.

Mr. Serpa introduced Barry Long, Land Planner of Urban Design Associates. Mr. Long presented the specific plan summary which is to create a village. Mr. Long reviewed the various architectural amenities that are integrated with various neighborhood planning principles and gave the location of the project. Mr. Long then provided various representations of the Ellis components, reviewed the Vision, Context and the Plan. Mr. Long summarized that the vision was to create a village with parks, residences, commercial and retail and the swim center.

Chair Ransom opened the public session at 7:50 p.m.

A resident commented about the family atmosphere of Tracy, indicating that Tracy has been his wife's family's home for over 50 years. He was specifically interested in the pool and was very invested in his children's future. He realized that everything takes a lot of planning and he understands that this is a huge project. The resident stated there is a lack of pools in Tracy and that the City needs to invest in their children's future. He urged the Commission to vote yes.

Mark Connolly, 121 E. Eleventh Street, on behalf of TRAQC, provided the Commission with a package of documents relative to the case that is up on appeal. Mr. Connolly indicated the basic issue was that this was a new run at the project to fix the issues addressed by the judge. He then advised that what happened was a two tiered approach that does not remedy the problem. He added that the City of Tracy will end up with two conflicting plans. You have a development agreement that has different parameters than the current agreement.

Mr. Connolly indicated he felt that the lawyers' advice was not good public policy. He advised that the Court of Appeals did not indicate that the City of Tracy had that right. He agreed that we need recreational policies. He expressed concern that there are two conflicting approaches. And that the City could not proceed with the plan. They cannot issue RGA's. They have been rescinded. Council has indicated they feel this amended version of the Ellis Plan is likely to be challenged. He suggested this was a bad use of money and time.

Mr. Connolly indicated that a 25 year DA which provides less money than the prior DA, more water, more sewage capacity, more money to the developer, does not guarantee that the project will take place, has various density issues; he suggested that on the merits, this is a terrible project. He called the Commission to reject this project. And require Surland to reject the prior project if Planning Commission decides to choose the new project. Mr. Connolly expressed concerns with policy, RGAs, terms of the proposed DA, and asked the Commission to reject the project.

Jim Howell, 340 Hunter Trail, addressed the Commission indicating that the City doesn't have the \$18 million shortfall that is suggested by the numbers. Mr. Howell expressed concerns regarding the amount of money the City has spent on the project, proximity of the project and the airport, alternative sites for a pool, and whether Surland owned the property. Mr. Howell summarized by saying it did not look like a good project.

Dave Anderson, Vice President of Tracy Airport Association, provided the Commission with a handout asking that the Commission vote against the Ellis EIR and Development Agreement. Mr. Anderson cited three primary issues: legal, planning and public safety. Mr. Anderson expressed concerns regarding the transfer deed for Tracy Airport, grant monies, grant assurances, and conflicting land uses. Mr. Anderson asked that the Planning Commission not approve the recommendation.

Commissioner Mitracos asked for clarification relative to which runway Mr. Anderson referred. Mr. Anderson advised of the specifics.

Commissioner Manne asked Mr. Anderson about other pilots' concern for their own safety and that if Ellis were to be built with the pool would he continue flying. Mr. Anderson indicated he would continue flying, but that it would make it tougher to fly in and out and create more restrictions.

Commissioner Johnson asked if Mr. Anderson had the opportunity to provide input in the process. Mr. Anderson indicated that he had the same discussions previously on numerous dates and with numerous groups with whom they had conversations. Tracy airport cannot be closed it must be an airport in perpetuity.

Michel Bazinet stated that whether or not the proposal was good policy was up to the Council to decide. Mr. Bazinet indicated if the proposal complied with the General Plan, Land Use Plan, with pipeline set back requirements, and with CEQA, then the Planning Commission should approve it.

Marsha McCray, 560 W. Schulte Road, indicated that the Ellis project was well planned and recommended that the Planning Commission approve the project. Ms. McCray thanked the Commissioners for their support of the community.

Chair Ransom summarized several issues that had been raised in the public session and asked several questions of staff. The first question pertained to the location of the swim center and whether it had to be located in Ellis. Mr. Dean stated there was no requirement to locate it in Ellis.

Chair Ransom asked for clarification regarding property ownership. Mr. Dean indicated that Surland Communities LLC has an ownership interest in the property.

Chair Ransom also asked for further clarification on the issue of whether the City of Tracy had a legal right to move forward with the project. Commissioner Mitracos also asked why the appeal on the original proposal was being pursued by the City of Tracy.

Mr. Jarvis summarized by saying that should the City Council approve this revised project would the City of Tracy want to proceed with the appeal of the original project. He said should the City of Tracy be successful in its appeal and should a new lawsuit be brought forth on the new proposal; it would simplify the issues raised in the new lawsuit. He added that if the new approval is set aside by the court, then the original case would stand and Surland would pursue its original course.

Chair Ransom asked if, with the extended runway, staff would discuss the public safety aspect; that her intent was to allow the public to see the new airport configuration. Commissioner Mitracos referred to the EIR. Mr. Dean indicated that nothing had changed as a result of the information being discussed. Mr. Dean stated that some people are adamantly opposed to the project and that the Planning Commission should understand that staff has had exhaustive conversations relative to land use with the appropriate agencies and that the project does comply with all standards.

Chair Ransom suggested that there may be a need to continue to discuss the issues based on the public comments to date. Mr. Dean stated that the safety zone was expanded in the new plan and that the modified Ellis plan has a larger safety zone than the 2008 version.

Commissioner Manne suggested that the issues were not a function of whether or not the safety zone was too big or too small but that it was more of an issue of having homes in close proximity to the airport.

Chair Ransom wanted to be assured that all documentation has been made available to the public and Mr. Dean advised that it had been made public.

Commissioner Mitracos asked about staff time. Mr. Dean indicated any staff and consultant time used to work on the Ellis project have been reimbursed by Surland.

Chair Ransom re-opened the public session at 9:03 p.m.

Mr. Khosa, 529 Belmont Lane, suggested that the proposal did not make sense because of the size of the project and the present state of the economy, and also asked if the property was in the county. Chair Ransom indicated that part of the request was to annex the property into the City limits and that market condition was not a matter of consideration for the Planning Commission.

Bob Sarvey, 501 W. Grant Line Road, provided the Commission with a handout. Mr. Sarvey indicated he was never notified that he had the ability to comment on the EIR and believed there were others who were not notified. Mr. Sarvey discussed concerns regarding traffic on Corral Hollow Road, pipeline concerns, corrosion rates on the pipelines, and land use.

Chair Ransom called for a recess at 9:23, reconvening at 9:35.

Bill Dean assured the Commission that Mr. Sarvey was on the notice list.

Frederick Venter, RBF Consulting, reviewed the traffic analysis and indicated that the City had completed intervening surveys that showed a lowering of traffic in 2012 than in 2006, and a 2012 survey which indicated no demonstrable changes on Corral Hollow Road. Mr. Venter also stated that the City is working on the new Transportation Master Plan which will address pedestrian and bicycle pathways.

Commissioner Mitracos asked about the Byron and Grant Line Road intersection. Mr. Venter stated that the area was funded by the County and should be implemented prior to Ellis building.

Laura Worthington Forbes of RBF reviewed the CEQA issues relative to the pipelines. Ms. Forbes indicated they were regulated by the PUC and do not require CEQA approval, and that the draft EIR did contain substantial information on mitigation and review of pipeline. Ms. Forbes suggested that the EIR adequately responds to the issues. Ms. Worthington Forbes introduced Michael Rosenfeld. Commissioner Johnson asked if relative safety issues would be addressed and was assured they would be.

Chair Ransom asked Mr. Rosenfeld to address the questions raised relative to the pipelines.

Mr. Rosenfeld indicated that the pipelines in the Ellis Proposal were safe and did not pose an undue hazard and provided locations of pipelines that are in close proximity to dense developments throughout the United States. Mr. Rosenfeld suggested that coexisting pipelines were not risky because the pipelines would be assessed more stringently by PG&E and would no longer be in agricultural area. Mr. Rosenfeld further stated the pipelines would be re-inspected in 2013.

Chair Ransom asked for a review of the design of the Ellis Project and asked if there was a comparison between the pipeline in the Ellis area and San Bruno.

Mr. Rosenfeld indicated that the pipelines would fall under the integrity management plan and would therefore be subject to more intensive scrutiny. Mr. Rosenfeld added that the Ellis accounts for the location of the pipelines and that the San Bruno failure was because of an old and poorly documented pipeline. Mr. Rosenfeld further stated that the pipelines in the Ellis area were installed under different requirements and were well documented.

Commissioner Manne asked about the buffer zone.

Mr. Rosenfeld stated that pipelines are controlled by the PUC relative to the density of development and indicated that many of the design elements of the Ellis Project are in line with the PIPA guidelines; which are voluntary. Mr. Rosenfeld reviewed the potential impact radius which was another guideline applied by the designers.

Commissioner Manne asked if there were any regulations prohibiting development directly on top of a pipeline. Mr. Rosenfeld advised that it is not common practice to build anything over a pipeline.

Commissioner Mitracos asked if there was a requirement that PG&E change out the type of pipe based on the class location. Mr. Rosenfeld stated that if the class location changes, then the design element must be changed.

Commissioner Mitracos asked the age of two specific pipelines. Mr. Rosenfeld indicated line two is 1970 vintage and line three is 1996 and reviewed the specifications required.

Ms. Forbes responded regarding alternative sites issues and quoted the various response numbers. Ms. Forbes stated that CEQA guidelines require the ability of the applicant to reasonably control or access all other sites and that other sites were not in compliance.

Mr. Sharma reviewed the specific costs associated with the wastewater conveyance and wastewater treatment. He advised that the cost of improvements for conveyance of additional wastewater would be approximately \$1,000,000. He added that treatment plant capacity improvements would be approximately \$4,000,000.

Commissioner Mitracos asked for clarification regarding water supply costs, he expressed confusion on the issue of water meter costs. Mr. Sharma indicated that the City of Tracy has an obligation to supply water and that the developer has the obligation to pay for the distribution lines and system. The cost to the City would be about \$1,000,000 - \$1,200,000.

Celeste Garamendi, 139 W Twelfth Street, addressed the Commission expressing concerns regarding, land use and policy, the cost of the new DA versus the original, the addition of 300 units of wastewater, the issuance of RGAs, density range, the amount of park land and its inconsistency with the General Plan, noise impacts, traffic mitigation, and the location of the swim center vs. the 2009 ALUP.

Ms. Garamendi advised that in the proposed DA the RGAs can be issued as soon as the DA is approved; not when ready to build. She advised that this is a flaw in the DA; there is no link between the issuing of RGA and the development.

Commissioners Mitracos and Chair Ransom asked for clarification regarding the location of the swim center and the airport safety zone. Mr. Dean clarified the location on the overhead.

Chair Ransom asked staff to address the concerns raised by Ms. Garamendi's.

Mr. Dean indicated that the Ellis General Plan policy issues would have to be addressed by City Council. Mr. Dean further indicated that density issues in the community have

been addressed as recently as 2011 in a review of the General Plan and that there was a greater range the General Plan than in the Ellis Amendment.

Mr. Dean spoke regarding parks and the swim center and how the swim center relates to the park requirement. Commissioner Mitracos asked what would happen if the swim center were not to be located in proposed area. Mr. Dean advised that Surland would pay a fee in lieu of building the swim center

Mr. Sharma addressed the issue regarding traffic mitigation and the MUTCD requirements which will require traffic surveys and possible signals based on the results of those surveys. Mr. Sharma added that all the developers will pay for all street improvements in the area. He added any intervening safety issues would be handled as needed.

Chair Ransom asked if the Ellis project had been handled differently than any other project in the City. Mr. Sharma stated there was no difference.

Andrew Malik discussed that the original DA was done in 2006 and the changing economic conditions, which have dropped 30-40% or more, have been taken into account.

Ms. Forbes addressed railroad noise mitigation concerns advising the Commission that the applicant did not have detailed lot placement and that a study could not be done at this time, but plans for this will proceed at the appropriate time.

George Riddle, 1950 Harvest Landing Lane, discussed various flight patterns for the airport and suggested the proposed swim center appeared to be in direct violation of the protected areas.

Mr. Howell re-addressed the Commission regarding housing numbers, traffic flow, traffic patterns, and PG&E's lack of accurate records.

Barbara Litchman, an airport attorney for Surland, introduced herself to the Planning Commission and clarified that the Ellis project was in compliance with FAA land use requirements and was also in compliance with the 2009 Airport Land Use Plan and complies with Federal Safety standards, as determined by those agencies with determinative capabilities.

Mr. Tanner advised the Commission that a week prior PG&E terminated 2,200 contractors for falsifying inspection records. Commissioner Mitracos commented that there will be an inspection in 2013. Chair Ransom asked if staff had an answer to the question. None was offered.

Mr. Riddle provided the Commission with ALUP flight paths out of the Tracy airport and provided a brief explanation.

As there was no one further wishing to address the Commission, the public hearing was closed.

Commissioner Mitracos asked if the Ellis project had any remaining RGA's that might have been awarded between 2009 – 2011. Mr. Dean stated that this agreement would supersede RGAs previously awarded.

Commissioner Mitracos asked what happens if the swim center is never built. Mr. Malik stated that the funds would be dedicated for a swim center.

Commissioner Johnson indicated that he had no further questions stating that the job of the Planning Commission was not to make policy; that his requirement was to assure that the project was consistent with the City of Tracy General Plan, and he believed that it was in compliance. Commissioner Johnston further stated that experts have advised the Commission that the proposal was in compliance. Commissioner Johnson added that the community deserves the amenity.

Commissioner Manne suggested that the Planning Commission should trust the highly skilled professionals who have all indicated the project was safe and complied with all requirements Commissioner Manne stated he approved of the historical context, the mixed use of housing and, the multi-purpose use of land. Commissioner Manne indicated he originally had some concerns but that the experts have allayed those concerns. Commissioner Manne stated that the swim center was a popular request by the community and that he could justify approval.

Commissioner Mitracos also suggested it was an excellent design and through his experience he felt this was the best project he had yet seen and one that had gone through so much vetting. Commissioner Mitracos reiterated his comfort with the expert's opinions in this proposal.

Commissioner Sangha mentioned her primary concern had been public safety stating she believed it had been addressed.

Chair Ransom thanked everyone for their involvement in the hearings and that she believed that this was a project that she would feel safe to live in and that the project stands without the swim center. She added that she felt a great deal of staff time had been spent addressing any concerns that had been brought to the attention of the Commission and the City of Tracy.

It was moved by Commissioner Manne and seconded by Vice Chair Sangha that the Planning Commission

1. Recommend that the City Council certify the Final Revised EIR; adopt findings of fact, a statement of overriding considerations and a mitigation monitoring and reporting program for the Surland Communities LLC applications.

Voice vote found all in favor; passed and so ordered.

It was moved by Commissioner Manne and seconded by Vice Chair Sangha that the Planning Commission:

1. Recommend that City Council approve the General Plan Amendment, (Application GPA11-0005);

2. Recommend that City Council approve the Modified Ellis Specific Plan (Application SPA11-0002);
3. Recommend that City Council approve annexation of the Ellis site to the City of Tracy, by means of annexation petition application to LAFCo (Application -A/P11-0002).

Voice vote found all in favor; passed and so ordered.

It was moved by Commissioner Manne and seconded by Vice Chair Sangha that the Planning Commission:

1. Recommend that City Council approve a Development Agreement with Surland Communities LLC (Application DA11-0002).

Voice vote found all in favor; passed and so ordered.

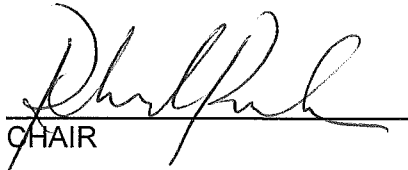
Items from the Audience - None

Directors Report – None

Items from the Commission – Commissioner Mitracos congratulated the staff on the time and effort put into the project.

It was moved by Commissioner Mitracos and seconded by Chair Ransom to adjourn.

Time: 11:31 p.m.


CHAIR


STAFF LIAISON