

**MINUTES
TRACY CITY PLANNING COMMISSION
WEDNESDAY, MAY 14, 2014 – 7:00 P.M.
CITY OF TRACY COUNCIL CHAMBERS
333 CIVIC CENTER PLAZA**

CALL TO ORDER – Chair Sangha called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE – Chair Sangha led the pledge of allegiance.

ROLL CALL – Found Chair Sangha, Vice Chair Orcutt, Commissioner Mitracos, Commissioner Ransom and Commissioner Vargas. Also present were staff members Bill Dean, Assistant Development Services Director; Kimberly Matlock, Assistant Planner; Bill Sartor, Assistant City Attorney; and Janis Couturier, Recording Secretary.

MINUTES APPROVAL – Chair Sangha called for a review of April 9 and 23, 2014 Planning Commission Minutes. Commissioner Ransom moved to approve and accept both the April 9 and April 23, 2014 Planning Commission minutes as written. Commissioner Orcutt seconded; all in favor, none opposed.

DIRECTOR'S REPORT REGARDING THIS AGENDA – Mr. Dean advised that agenda item 2C would be re-noticed for a different date.

ITEMS FROM THE AUDIENCE – None

1. **OLD BUSINESS** – None
2. **NEW BUSINESS** –

**A. PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT
APPLICATION FOR AN EATING AND DRINKING ESTABLISHMENT WITH
ENTERTAINMENT AT 2706 PAVILION PARKWAY – APPLICANT IS DENNIS
MILLER AND PROPERTY OWNER IS LNBT ENTERPRISES, LLC.
APPLICATION NUMBER CUP14-0003.**

Chair Sangha presented agenda item 2A and called for the staff report. Kimberly Matlock, Assistant Planner, advised that in 2012, City Council amended the I-205 Corridor Specific Plan and various commercial areas throughout the City to conditionally permit eating and/or drinking establishments with entertainment. She added that this effort was initiated in response to growing interest for eating and drinking establishments with entertainment, where entertainment uses are defined as live music, dancing, karaoke, comedy shows, modeling, or live performances.

Ms. Matlock indicated that the project applicant proposed to establish and operate an eating and drinking establishment with entertainment at 2706 Pavilion Parkway, located within the I-205 Corridor Specific Plan area which would be open daily from 10:00 a.m. to 2:00 a.m. and would include sit-down seating, lounge seating, billiards, video games, and a bar. In addition she said the applicant proposed forms of entertainment to include live music, disc jockeys, dancing, and comedy shows; adding that minors would be dismissed from the premises after 11:00 p.m., and

alcohol sales would terminate by 1:30 a.m. She mentioned that as a part of the conditions of approval, registered security personnel would be onsite at all times and would be prohibited from consuming alcohol while on the premises.

Ms. Matlock said the site contained two multi-tenant buildings and that one was vacant and the other building housed a dentist's office and nail salon. She added that uses that could occupy these buildings in the future would include retail, consumer services, personal services, eating and drinking establishments with or without entertainment, and offices, similar to the existing uses in the vicinity. Because the restaurant is on a multi-tenant site and will neighbor other businesses, she said that staff proposed Conditions of Approval (COA's) to limit entertainment activities to indoors and prohibit exterior amplification of sound or projection of video. The site will have ample parking, and the proposed use does not create the need for additional parking.

Ms. Matlock concluded by saying that the proposed eating and drinking establishment with entertainment, as conditioned, would operate in a complementary manner to the surrounding uses and would not impose undesirable impacts on the nearby properties and that staff recommended approval of the project. She advised the applicant was also available.

Chair Sangha asked if the Commissioners had any questions or comments. Commissioner Ransom mentioned the similarity of this project to a previous project which had required Police Department (PD) approval. She asked staff if the same process was used to gain PD approval. Ms. Matlock indicated that PD was involved in the process and had provided feedback reflected in Conditions of Approval items C.1 through C.4 and B.1 through B.6. Commissioner Ransom then asked if PD's primary concern was in assuring that minors exited by 11:00 p.m. and the licensing requirements for security. Ms. Matlock advised that the conditions were modeled after those included in the nightclub ordinance.

Commissioner Mitracos expressed concern about a situation wherein the nightclub would be a nuisance asking if staff was comfortable that these conditions would cover any nuisance. Mr. Dean mentioned that this is a new situation that this is the first project to come through on this ordinance. He added that based on the location of this night club being situated in a commercial district with the new Aspire apartments a bit further away that this use was well suited to the area. He discussed the mitigation measures of the COA's. Commissioner Mitracos asked about the immediate neighbors but added that any such situation would be between a tenant and the landlord.

Commissioner Vargas suggested the project was appropriate for the area. She recommended that PD should be advised of any special events that might draw a large attendance. She asked about assuring the applicant would calculate the necessary security for any special events. Mr. Dean said this was clearly addressed in the COA's.

Commissioner Orcutt asked why the applicant was required to have security at all times. Mr. Dean indicated there had been discussion about that issue as they drafted the COA's and that the threshold was 11:00 p.m. Commissioner Ransom indicated that condition C.2.1 required security at all times and that she felt that was excessive. There was a general discussion about that condition and the correct time for security personnel to be present. Commissioner Ransom asked if staff wanted the condition to read "at all times." Mr. Dean suggested he would work on some language and provide a modified condition.

Commissioner Orcutt asked if the applicant would be required to come back to the Planning Commission for outdoor seating for eating or drinking. Ms. Matlock advised there would be no need to come back to the Commission to get approval for outside dining as it is permitted.

Chair Sangha opened the public hearing and invited the applicant to speak at 7:24 p.m.

The applicant, Dennis Miller of Tahoe Circle, addressed the Commission. He advised that he too was concerned about the need to have security at all times and would prefer only to require security for live entertainment. Commissioner Vargas asked how the applicant felt about the adjusting condition C.2.1. Mr. Miller advised he preferred the change that was being suggested. Commissioner Vargas then asked about how they planned to staff for weekend events. Mr. Miller provided specifics on how the business would operate adding he would have a full security staff whenever they would have entertainment.

Commissioner Orcutt stated that the applicant's project was a good fit for the area and an appropriate use. He then asked how the applicant proposed to deal with any vagrants or undesirable elements in the area. Mr. Miller indicated his security personnel would patrol the parking lot at all times adding that he currently worked at a nightclub.

Chair Sangha asked if there were any questions from the audience; seeing none, she closed the public hearing at 7:30 p.m.

Mr. Dean advised that they had some language for C.2.1 he suggested the change would be removing the phrase "at all time" and replacing it with "after 10:00 p.m. and/or whenever entertainment is occurring..." Commissioner Ransom advised she felt that was appropriate.

Commissioner Orcutt moved that that the Planning Commission approve the Conditional Use Permit application, as amended, for an eating and drinking establishment with entertainment at 2706 Pavilion Parkway, subject to the conditions as stated in the Planning Commission Resolution dated May 14, 2014. Commissioner Vargas seconded; all in favor – none opposed.

B. PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT TO ALLOW SPECIALIZED RECREATIONAL AND INSTRUCTIONAL USES IN DANCE, ATHLETICS, ARTS AND SELF DEFENSE AT 4100 COMMERCIAL DRIVE, APN 212-210-02; APPLICANTS ARE CHRIS MINTEN AND CARRIE GUERRA AND PROPERTY OWNER IS KAML INVESTMENT CO. APPLICATION NUMBER CUP14-0001.

Chair Sangha presented agenda item 2B and called for the staff report. Kimberly Matlock, Assistant Planner, said that a fitness and personal training gym was proposing to occupy approximately 20,000 square feet at 4100 Commercial Drive. The site is zoned Light Industrial and fitness and personal training gyms are classified within Use Group 33 and are a conditionally permitted use in the M-1 zone. She stated that the applicant and property owner were requesting personal fitness and training gym as well as specialized recreational and instructional uses throughout the building. This would accommodate the current request for personal fitness as well as allow future businesses under this land use category to occupy the building under this Conditional Use Permit.

Ms. Matlock stated that the proposed fitness and personal training gym would offer classes Monday through Friday beginning at 5:30 a.m. and ending at 9:00 pm. Weekend classes will be

offered in the morning only and training sessions would run from 30 minutes to one hour. The maximum class size would be comprised of 17 adult students and one instructor, and there would be up to two adult classes operating at the same time three times a day.

Ms. Matlock said the Tracy Municipal Code did not establish specific off-street parking requirements for specialized recreational and instructional; however, the Planning Commission had made the determination in previous years that the minimum requirement should be one space per instructor and one space per every student of driving age. Based on that ratio, the proposed fitness and personal training gym would require 36 parking spaces to accommodate the parking demand at peak times.

Ms. Matlock advised that the overall intent of this Conditional Use Permit was to allow land uses classified in Use Group 33 to occupy any or all portions of the site. She said the Planning Commission had granted Conditional Use Permits of similar breadth for various industrial properties throughout the City, and such uses have operated in a compatible manner with neighboring light industrial uses.

She concluded by saying that staff recommended approval of the project adding that the applicant was available for questions.

Chair Sangha asked if the Commissioners had any questions.

Commissioner Vargas asked for the suite number of the unit the applicant would occupy. She also asked about the main entry point as there were several indicated on the site plan. Ms. Matlock indicated the building was a metal building and that the suite was 102 adding that the main entry would be on the south side of the building and that there might not be a formal entrance planned. Commissioner Vargas asked about the Conditions of Approval Item B.2 which suggested that outside use would have to be approved each time it might be required as part of the exercise regimen. Ms. Matlock indicated she was not aware of any outdoor activities.

Commissioner Ransom asked about the size of parking stalls and mentioned a location in Tracy that had small parking stalls. Ms. Matlock indicated parking stalls are standard size and that the applicant would adhere to those requirements.

Chair Sangha asked about the main entrance, adding that there appeared to be quite a few access points.

Commissioner Mitracos asked how the space had been used. Ms. Matlock said she thought it was a warehouse for a furniture store.

Chair Sangha opened the public hearing at 7:40 p.m.

Chris Minton of 550 Gianelli, the co-owner of the business, addressed the Commission indicating that they have been in business about 5 years and he provided a background on the business. He then advised that they presently have to turn people away as they do not have enough space to be able to accommodate their customers which was the reason for the new building. He then turned the podium to his trainer Allison. She advised that the main entrance would be spaces 27 and 28 Commissioner Vargas asked if all the doors would be identified. The applicant advised yes.

Commissioner Ransom asked about the issue of the workout and outdoor activities. The applicant indicated that the majority of the workout would be inside, but that there would be a 400 meter run that would be outside.

Commissioner Vargas asked about the lights outside and in the parking lot and asked if the applicant would work with the City to assure the area was well lit. The applicant advised that they would and that they also would work with the landlord to make sure the lights in the parking lot would be in working order at all times. Commissioner Ransom asked about the hours of operation. The applicant indicated that the last class would end at 9:00 p.m.

Commissioner Vargas asked staff about the wording of Conditions of Approval item B.2. Mr. Dean advised that the wording be changed from "the use shall be conducted wholly within the building unless an outdoor activity is specifically approved through a Temporary Use Permit or an amendment to the Conditional Use Permit granted by the Planning Commission." He suggested an alternative wording as follows: "activities requiring equipment shall be conducted wholly within the building unless an outdoor activity requiring equipment is specifically approved through a Temporary Use Permit or an amendment to the Conditional Use Permit granted by the Planning Commission." He added that staff wanted to avoid the applicant turning the parking lot into a gym.

Commissioner Vargas asked if the applicant was ok with those changes. The applicant indicated approval. Commissioner Vargas then asked if the applicant planned to do any upgrades to the façade of the building. The applicant indicated they did not plan any changes other than signage. Commissioner Mitracos asked about signage, the applicant advised they would apply for the appropriate permits.

Chair Sangha asked if there were any further comments from the audience. Seeing none, she closed the public hearing at 7:50 p.m.

Commissioner Ransom moved that the Planning Commission approve the Conditional Use Permit to allow uses classified in Use Group 33 Specialized Recreational and Instructional Uses in Dance, Athletics, Arts and Self Defense at 4100 Commercial Drive, as amended, Application Number CUP14-0001, subject to conditions and based on findings contained in the Planning Commission Resolution dated May 14, 2014. Commissioner Orcutt seconded all in favor; none opposed.

C. PUBLIC HEARING TO CONSIDER APPROVAL OF A TENTATIVE SUBDIVISION MAP FOR THE FIRST PHASE OF THE MODIFIED ELLIS PROJECT, CONSISTING OF 296 RESIDENTIAL LOTS AND 6 OTHER PARCELS ON APPROXIMATELY 150 ACRES, LOCATED WEST OF CORRAL HOLLOW ROAD IN THE VICINITY OF PEONY DRIVE AND LINNE ROAD, ASSESSOR'S PARCEL NUMBERS 240-140-30 AND 31. THE APPLICANT IS THE SURLAND COMPANIES. THE PROPERTY OWNER IS SURLAND COMMUNITIES, LLC. APPLICATION NUMBER TSM11-0002 **

**** Item 2C will be re-noticed and presented at the May 28, 2014
Planning Commission Meeting**

3. ITEMS FROM THE AUDIENCE – None

4. DIRECTOR'S REPORT – None
5. ITEMS FROM THE COMMISSION –

Commissioner Vargas brought a commissioners handbook she found at a website that the City Attorney's Office had suggested and wanted to see if it could be presented for review and adoption for new and existing Commissioners. Mr. Dean mentioned staff would be happy to look at it and agendize it for another meeting. He mentioned it could be brought back at another time; however it would likely require significant staff time. Commissioner Vargas asked if a study session could be used to review the item. Mr. Dean advised it best to review it first and then move to see how the other Commissioners react.

Commissioner Vargas then mentioned another item that she had provided to the Recording Secretary with the changes in architecture in the past 10 years and asked if it could be reviewed for new architectural ideas suggesting that perhaps it could be agendized at another time.

Commissioner Ransom mentioned that every City has its own character and that those items had been discussed at the last meeting adding that a study session might not be necessary. She suggested that the Commissioners may need to review the existing design goals for the City.

Mr. Sartor mentioned that a brief discussion would be fine, but to avoid much more detail at this time as it would be in violation of the Brown Act.

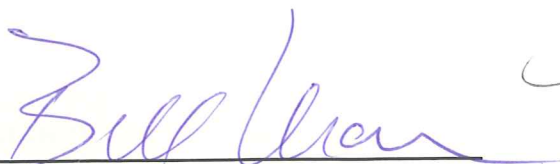
Commissioner Mitracos mentioned that a workshop about design goals and standards had been suggested in 2013, but had not occurred. Mr. Dean indicated that at that time there was specific request from a developer to fix a table and that he felt no further action was required.

Commissioner Mitracos repeated that he felt a review would be worth having.

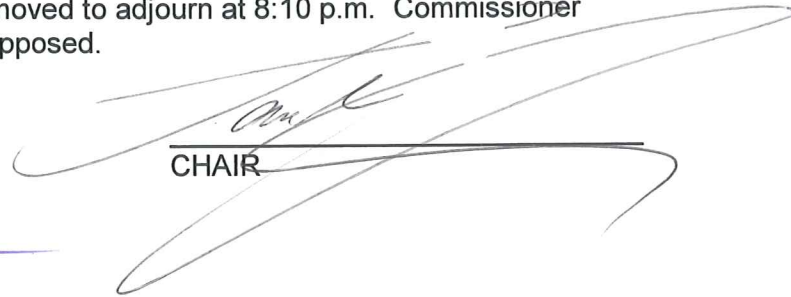
Mr. Dean mentioned a meeting could be used established.

Commissioner Orcutt suggested that a review might help assure that upgrades might improve upcoming projects. Mr. Dean indicated that the guidelines were to be used as a baseline. He added that architectural review is part of the Planning Commission's process. There was some general discussion about guidelines. Mr. Dean advised that with present workloads of staff they might not be able to address the issue for some time; adding that the design goals and standards apply to a small subset of developments.

6. ADJOURNMENT – Vice Chair Orcutt moved to adjourn at 8:10 p.m. Commissioner Ransom seconded, all in favor; none opposed.



STAFF LIAISON



CHAIR