

**MINUTES
TRACY CITY PLANNING COMMISSION
WEDNESDAY, JUNE 8, 2016
7:00 P.M.
CITY OF TRACY COUNCIL CHAMBERS
333 CIVIC CENTER PLAZA**

CALL TO ORDER

Chair Ransom called the meeting to order at 7:02 p.m.

PLEDGE OF ALLEGIANCE

Chair Ransom led the pledge of allegiance.

ROLL CALL

Roll Call found Chair Ransom, Vice Chair Tanner, Commissioners Orcutt, Hudson, and Sangha present. Also present were Andrew Malik, Development Services Director; Scott Claar, Associate Planner; Kat Wellman, Deputy City Attorney; Cris Mina, Senior Civil Engineer; Sandra Edwards, Recording Secretary; and Vanessa Valencia, Administrative Assistant II.

MINUTES APPROVAL – None.

DIRECTOR'S REPORT REGARDING THIS AGENDA – None.

ITEMS FROM THE AUDIENCE – None.

1. NEW BUSINESS

- A. PUBLIC HEARING TO CONSIDER APPLICATIONS FOR A CONDITIONAL USE PERMIT AND A PLANNED UNIT DEVELOPMENT PRELIMINARY AND FINAL DEVELOPMENT PLAN TO DEVELOP AN APPROXIMATELY 16,900 SQUARE FOOT AUTOMOTIVE REPAIR FACILITY WITH ASSOCIATED PARKING AND LANDSCAPING ON AN APPROXIMATELY 2.5-ACRE SITE (ASSESSOR'S PARCEL NUMBER 212-270-14) AND ON AN APPROXIMATELY 42-FOOT WIDE STRIP (APPROXIMATELY 0.27 ACRES) OF DETENTION BASIN 10 (ASSESSOR'S PARCEL NUMBER 212-040-11), LOCATED ON THE NORTH SIDE OF AUTO PLAZA DRIVE BETWEEN THE VOLKSWAGEN DEALERSHIP AND THE TRACY COLLISION AUTO BODY SHOP. THE REQUEST INCLUDES A PLANNING COMMISSION DETERMINATION REGARDING CONFORMANCE WITH THE CITY'S GENERAL PLAN FOR THE CITY TO POTENTIALLY SELL THE APPROXIMATELY 42-FOOT WIDE STRIP TO THE PROJECT DEVELOPER. THE APPLICANT IS JACK RITTENHOUSE III OF STANTEC ARCHITECTURE INC. FOR CALIBER COLLISION AND THE PROPERTY OWNER IS TRACY FCMS, LLC – APPLICATION NUMBERS CUP16-0004, D16-0002, & DET16-0001 – Scott Claar, Senior Planner, provided the staff report.

Commissioner Orcutt inquired if at future build out the detention basin will remain, or will it build out in the decades to come. Cris Mina, Senior Civil Engineer, stated it is a permanent storm drain detention basin.

William, with Cross Development, representing Caliber Collision, addressed the Commission, providing a business background of the company. William introduced the architect on the project, who responded to questions regarding architecture.

Chair Ransom opened the public hearing.

Armin and Lori Ghorbani of Tracy Collision addressed the Commission regarding their project and the conflict it may cause their business and others. Mrs. Ghorbani read a letter, and provided the Commission with a handout asked that the Planning Commission deny their application.

Chair Ransom closed the public hearing.

Upon motion from Vice Chair Tanner, second by Commissioner Orcutt, the Planning Commission called for a brief recess to review the new documents provided. Voice vote found all in favor.

A brief recess commenced at 7:18 p.m.

Commissioner Hudson asked if he should recuse consideration of the item since he has a painting bid with the Tracy Collision project owner, Mr. Ghorbani. Kat Wellman, Deputy City Attorney advised that Commissioner Hudson was not required to recuse himself, but had the option to do so, if he preferred to.

Chair Ransom called the meeting to order, and the meeting reconvened at 7:25 p.m.

Chair Ransom re-opened the public hearing.

Commissioner Orcutt asked if the applicant was interested in purchasing the 42-foot strip of land. William, with Cross Development, affirmed that yes, they were in the process of purchasing the land.

Chair Ransom closed the public hearing.

Vice Chair Tanner asked if staff was aware of any of the information that was provided to the Planning Commission. Scott Claar replied that it brought to staff's attention today.

Further discussion about the additional documents presented, and the applicants' business practices, continued.

Commissioner Sangha stated, from a business point of view, she believes an approval would be going against small business owners. She said this is an

ethical thing to do; this doesn't concern zoning. Tracy is a small city, which wants to support small businesses.

Commissioner Hudson recused himself from discussion of the item.

Andrew Malik added that it is not that staff or the city doesn't want to look at these things, but legally the city is not allowed to make a decision based on opinion.

Chair Ransom felt compelled to share that it is the Commission's job to check into conformity with land use, and whether or not this is a compatible or good use of the land. While Chair Ransom appreciates the information, much of what is being discussed is not relevant to their job as commissioners.

Commissioner Orcutt shared that he is a fan of competition, and this project matches the automotive area, and the land use compatibility is on par.

ACTION

It was moved by Commissioner Orcutt and seconded by Chair Ransom that the Planning Commission:

1. Determined that the sale of the approximately 42-foot wide strip of property from the City to the developer is consistent with the General Plan, and
2. Approves the Conditional Use Permit for an automotive repair facility on the site, and
3. Recommends that City Council approve the Planned Unit Development Preliminary and Final Development Plan.

Chair Ransom and Commissioner Orcutt in favor; Vice Chair Tanner and Commissioner Sangha opposed; Commissioner Hudson recused. 2-2-1. Motion failed due to a majority of the commission.

Kat Wellman, Deputy City Attorney, indicated the Commission would have to elaborate on the findings to not approve, for staff to prepare a resolution denying the project.

Commissioner Sangha stated that she likes competition; however the Commission also needs to consider three businesses on one street, and perhaps consider maybe changing the location.

Scott Claar discussed Conditional Use Permits and necessary findings, identified by the Tracy Municipal Code, that need to be made to approve a project. Reason for denial would require the inability to make any one of those findings, as written in the resolution. The third finding states, "the proposed location of the use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to or inharmonious with properties or improvements in the vicinity."

Kat Wellman, withdrew her previous statement, and stated that this agenda item failed for a lack of a majority of the commission, thus no findings are necessary. She opined on the meaning of "injurious," stating that it is not

based on competition, unless there is an Ordinance in place restricting such.

Questions and discussion continued.

ACTION It was moved by Commissioner Orcutt and seconded by Chair Ransom that the Planning Commission:

1. Determines that the sale of the approximately 42-foot wide strip of property from the City to the developer is consistent with the General Plan, and
2. Approves the Conditional Use Permit for an automotive repair facility on the site, and
3. Recommends that City Council approve the Planned Unit Development Preliminary and Final Development Plan.

Roll call vote found Commissioner Orcutt, Chair Ransom, Vice Chair Tanner and Commissioner Sangha in favor, Commissioner Hudson recused. 4-0-1; passed and so ordered.

2. ITEMS FROM THE AUDIENCE – None.

3. DIRECTOR'S REPORT – None.

4. ITEMS FROM STAFF

A. DISCUSSION REGARDING THE BROWN ACT AND ITEMS FROM THE COMMISSION – Kat Wellman, Deputy City Attorney, informed the Commission that it is acceptable for only two people to discuss, but if any more joined in on the conversation, it becomes a Brown Act violation. Kat prefers to be more conservative than that, and does not want the Commission to talk about an item without placing the item on the posted agenda. Kat then outlined, as guided by the Brown Act, what the Commission can discuss or request that is not on the agenda.

5. ITEMS FROM THE COMMISSION – Chair Ransom congratulated Commissioner Sangha on the opening of her new business, Nirvaana Event Center. Commissioner Sangha stated the City was good to her.

6. ADJOURNMENT –

ACTION It was moved by Commissioner Orcutt and seconded by Vice Chair Tanner to adjourn. Voice vote found all in favor; passed and so ordered.

Time: 8:04 p.m.



STAFF LIAISON



CHAIR