MINUTES
TRACY CITY PLANNING COMMISSION
WEDNESDAY, JULY 23, 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 present. Also present were staff members Andrew Malik, Development Services Director; Bill Dean, Assistant Development Services Director; Scott Claar, Associate Planner; Kimberly Matlock, Assistant Planner; Cris Mina, Senior Engineer; Bill Sartor, Assistant City Attorney; Jeremy Watney, Police Captain; Lani Smith, Support Operations Division Manager, Police Department; Kuldeep Sharma, Utilities Director; and Janis Couturier, Recording Secretary.

MINUTES APPROVAL – Chair Sangha called for a review of the May 14, 2014, Minutes. Commissioner Orcutt moved to approve the minutes as written, Commissioner Ransom seconded; all in favor, none opposed.

DIRECTOR'S REPORT REGARDING THIS AGENDA – None.

ITEMS FROM THE AUDIENCE – None.

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

   A. **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**

Chair Sangha presented agenda item 2A and requested the staff report. Associate Planner Scott Claar presented the staff report. Mr. Claar advised that City staff had been working with the applicant for a number of years adding that the review process involved a variety of City departments and outside agencies. He reviewed the site of 150 acres as shown on the location map indicating that the proposal was to subdivide the site which was designated residential mixed. He then reviewed the design elements indicating the overall intent was to be a walkable, pedestrian friendly environment. He summarized that there would be 12 different lot types which exceeds the requirement of the Specific Plan requirement of four. He reviewed that there would be a three-acre neighborhood park. He reviewed the various parcels and aspects of the future phases of the development.

Mr. Claar indicated that the architecture had been reviewed and approved by Council in the Ellis Specific Plan and Pattern Book, but these homes would be subject to building permit review prior to building. He concluded by stating that staff was recommending Planning Commission approval of the item and mentioned that various departments of the City were present to answer any questions the Commissioners or community might have.

Commissioner Mitracos asked about the proposed communication tower, asking if it was part of the EIR or if it would have any impact. Mr. Dean advised that the tower was not specifically identified in the EIR. The Commissioner then asked if it would be addressed. Mr. Dean advised that the issue of the tower would be addressed in a separate CIP and that staff was working with the County toward constructing the tower.

Chair Sangha opened the public hearing at 7:10 p.m. and asked if the applicant was available.

Chris Long, Surland Companies, thanked the Commissioners for the opportunity to present and introduced the various other members of the Surland staff and consultants who were present to answer any questions. He began his presentation with the genesis of the Ellis Project discussing the history of Tracy and the Ellis site historical precedence as well as a review of the local architecture. He introduced a PowerPoint presentation.

Barry Long, Principle of Urban Design Associates, discussed design elements and how they were derived based on existing elements in the City of Tracy. He then discussed the origins of the Ellis Pattern Book adding that it would be a design manual that would assure that the Ellis Project would complement existing community homes and neighborhoods. He added that there would be a diversity of styles, housing and lot types adding that Ellis would be similar to the existing Redbridge neighborhood. It will feature a variety of lot types to integrate the design elements including parks, pedestrian friendly areas, along with a City Center.

Mr. Long then reviewed the tentative map. He advised that the focus was on the 296 residential lots. He reviewed the uses for the various parcels and indicated that there would be bike facilities along with various paths to encourage multiple uses. He reviewed the hierarchy of streets indicating that some streets would be community streets and others would be neighborhood streets and alleyways. He indicated that each street would have its own identity. Chris Long closed the presentation by indicating that Surland was hoping for approval of the Tentative Map and that they wished to begin building as soon as possible with the support of City staff.

Commissioner Orcutt asked if market demand would dictate the allocation of how the lot types would be laid out or assigned. Chris Long advised that it might; but deferred to Barry Long. Barry Long indicated the map was pre-scripted that the lot types would remain as indicated on the map adding that Surland had spent a lot of time setting it up.

Commissioner Orcutt then asked about a project timeline. Mr. Long indicated that it all would start with approval and then be subject to the market demand and growth ordinances.

Commissioner Vargas stated that she loved the project, the diversity and the streetscape and pedestrian connectivity. She indicated that she had met with the applicant and City staff, and asked if Surland had read and was satisfied with all of the conditions of approval

as written. Chris Long indicated there was only one condition; Condition B6, which Surland did not feel they had an obligation to pay the required amount. He added that they would like to fund the entire amount prior to map approval. He provided a handout with alternative wording to the Commission as follows:

> "B.6. Emergency Radio Communication System. There is a need for a new radio communications tower and appurtenances ("Radio Tower") to provide adequate emergency services to the City including the Ellis Specific Plan Area. Subdivider has agreed to and shall, prior to final map approval, pay to the City the sum of $155,141.50 to be sued by the City toward the construction and implementation of the Radio Tower."

Chair Sangha asked staff if this was the first time the Planning Commission was hearing about the Radio Tower. Mr. Dean advised that it was the first time this was discussed with Planning Commission. The Chair then asked how funding this issue would be handled with other developers. Mr. Dean indicated that everybody would be treated the same.

Commissioner Ransom asked why this issue was tied to the Tentative Map and where an issue like this would normally be included in the approval process. She then reviewed the Fair Share Tower report adding that this appeared to be new.

Jeremy Watney, Police Captain, advised that the tower had been identified as a CIP project for 15 years adding that in April 2013, the final report of the City Master Plan indicated that this was brought forward, but that it had been waiting on development that would require it. The Commissioners clarified that this was not something that had been discussed with them.

Commissioner Mitracos suggested there appeared to be a sticking point with the applicant as to when this fee had been initiated. Mr. Dean indicated that the Public Safety Master Plan was adopted and the need for a tower was identified in it. As each project had gone forward, these items have been re-evaluated. The Ellis Project was originally approved in 2008. Subsequent to court proceedings, the new application had been submitted during which time the Master Plan was already underway. He indicated that during the fall of this last year there was greater development volume which changed the requirements. He advised that there was a disagreement with Surland about the legality of adding this requirement which was outlined in the memo from Lani Smith. He added that it is normal to add this type of condition.

Commissioner Mitracos stated that it appeared that the cost per resident would be $20.55 asking if this was the first time we had seen it in this manner. Mr. Dean responded that the fee resolution was approved by Council. There was some discussion about when the fees had been taken to Council. Mr. Malik advised staff would be coming back to Council relative to the fee structure in the near future.

Commissioner Vargas expressed confusion about the fact that this condition had not been a requirement for other developments that had been recently approved. She wondered why the City would require this of Ellis and not for the previous developers. There was general discussion among the Commissioners about the timing of the fee and its inclusion in the conditions for the Tentative Map approval for the Ellis Project.

Dan Doporto, special counsel for the City of Tracy, indicated that the language the Surland Companies preferred suggested that the payment of the fee was voluntary, but the City believed that the fee was not voluntary. He indicated that the City did have the authority to impose the fee. He stated that the City felt the City's position was right and the language included was important.

Commissioner Vargas asked if there was alternative language that would be suitable. A general discussion followed between staff and the Commissioners about whether the timing of this condition was fair to this project, that the amount was appropriate, and that it would be used properly. Commissioner Vargas asked if the large cost would be used by both Police and Fire Departments. Mr. Dean stated it was a City fee and would be used for public safety. Lani Smith, Support Operations Division Manager, stated the fees were public safety fees and would be used for police, fire and emergency medical services. Several of the Commissioners suggested that the Tower and the ensuing fees should have been brought to their attention prior to being added as a condition. They did, however, agree that the Tower was necessary.

Chris Long added that as the Commission considered the issue, he felt that the fairness of the timing issue was unfortunate. Commissioner Ransom asked what Surland's specific concern was.

Wilson Wendt, attorney for Surland, indicated Surland did not want any implication that this contribution could be imposed upon them as a fee by the City. He added they would pay, they feel it was a fair share obligation, but not a fee. He added they wanted that statement on the record. He added that Surland has suggested language they felt was simple and sufficient. He finished by saying they want the map approved at this meeting of the Commission.

Commissioner Ransom asked if this fee had been approved by Council. Mr. Dean indicated the fee exists, that this was an update, but the updated amount had not yet been approved. There was then a general discussion about the exact wording of the item.

Mr. Serpa addressed the Commissioners and indicated a level of frustration adding that if the fee can be charged to the Ellis Project, he felt it should not be a condition of the map. If it cannot be charged to the project then he suggested that was why it was listed as a condition. He added that they had never experienced as many delays as they have had with this tentative map. He then provided a summary of the experience. He suggested that staff did not have the unilateral ability to charge a fee that yet needed to be approved by Council. He felt that staff's handling of the situation had been unfortunate.

Commissioner Mitracos asked what difference the timing made to Surland. Mr. Serpa indicated that they felt they were being asked to pay a huge fee upfront; adding that they felt that fees should not be charged to them that had not been approved by Council. The Commissioner then asked if the fee could be assessed at the time building permits would be issued; asking if that would solve the situation. Mr. Dean responded that the issue with Surland came down to whether the City had the right to charge this fee which was the reason why the condition was included. He indicated that as a result of this disagreement the City's attorney advised this was the way it needed to addressed. Commissioner Mitracos said it appeared the issue was primarily a legal issue and that he agreed we need the tower.

Commissioner Ransom asked if staff had tried to hold up the project in order to get the fee approved by Council. Mr. Dean said that there had been several conditions that needed review and that this had been one of them and in no way had staff tried to hold off approval

of the map. There was additional discussion between staff and the Commissioners about how the condition was derived and the exact wording of the condition.

Commissioner Vargas asked if the Planning Commission was the final approval body on the map. Mr. Dean stated the Planning Commission is the approval authority for this map, that this item would not require Council approval.

Commissioner Ransom suggested an alternate wording of the condition. Mr. Doporto did not feel the recommendation would be advisable which was then discussed between staff and the Commission. Various versions of the condition were discussed.

Commissioner Orcutt indicated that there was specific reference to the fee as a fee for the communications equipment; but that staff has referred to the fee as a building use fee. He requested clarification from staff. Mr. Dean stated that Surland has a public buildings fee of which a line item is communications equipment. He added that Surland was stating that the City cannot update the fee in support of the communications tower. As a result, staff indicated that this was a need for the community and as result it would be addressed as a condition of the subdivision map. Further discussion followed between staff and Commission.

Commissioner Mitracos asked to hear from the attorney for Surland. Mr. Serpa indicated they had wanted to call attention to the issue and that they would pay the fee adding that Surland did not wish to go through this exercise again.

There were further questions on the part of the Commission relative to the Public Impact Fee along with a discussion between staff and Commission on what the appropriate wording for the condition should be and when it should be charged.

Chair Sangha closed the public hearing at 8:45 p.m.

Commissioner Ransom asked for clarification on Criseldo Mina's memo. Mr. Mina provided clarification.

Commissioner Vargas asked about condition C.11 and asked if this covered condition B.6. Mr. Mina advised that item was not associated with fees. Further discussion with staff and Commission revolved around the issue of the wording of the condition and if it were not included would the developer be obligated to pay the fee. Mr. Sartor clarified that the fee had not been adopted by City Council.

Mr. Dean requested a five minute break. Chair Sangha called for the break at 9:00 p.m.

The meeting resumed at 9:08 p.m.

Mr. Doporto provided a revised version to which both staff and the developer agreed. Mr. Doporto read the following into the record:

> "<u>Emergency Radio Communications System</u>. There is a need for a new radio communications tower and appurtenances ("Radio Tower") to provide adequate emergency services to the City, including the Ellis Specific Plan Area. In lieu of imposing the $26,131.26 fee, Subdivider agrees to pay a fee of $155,141.50 at Final

Map approval. This accelerates the Subdivider's payment of the fee to the City. In adopting this condition of approval, neither the Subdivider nor the City waive any right or are prevented from or impaired from either seeking to impose or increase a fee or opposing the authority to impose or increase a fee."

Chris Long thanked the Commissioners for their time and effort in resolving the issue.

Commissioner Vargas moved that the Planning Commission approve the Tentative Subdivision Map for the first phase of the Modified Ellis Project, consisting of 296 residential lots and six 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, Application Number TSM11-0002, based on the findings and subject to the conditions of approval to include the modification of the alternative language as amended contained in the Planning Commission Resolution dated July 23, 2014.

Commissioner Ransom added: to include the amended language for C.2.4.3 as well as the conditions that were agreed upon by the City and the developer. Commissioner Orcutt seconded, all in favor, none opposed.

B. **PUBLIC HEARING TO CONSIDER CONDITIONAL USE PERMIT AMENDMENT AND DEVELOPMENT REVIEW APPLICATIONS FOR A BUILDING Addition AT AN EXISTING FOOD PROCESSING PLANT AT 2401 NORTH MACARTHUR DRIVE, APN 213-070-50; APPLICANT IS E.A. BONELLI & ASSOCIATES AND PROPERTY OWNER IS LEPRINO FOODS - APPLICATION NUMBERS CUP14-0006 & D14-0012.**

Jass Sangha presented agenda item 2B and called for the staff report. Kimberly Matlock, Assistant Planner, presented the item. She advised that Leprino Foods had been in business for 40 years adding that the existing vat room no longer met the operational needs of the plant. She indicated that the existing office area would be deconstructed and converted into a new vat room with expansion to provide both vat room and offices. She added that the existing vat room would be taken out of use, but there were no plans at present to modify it.

Ms. Matlock added that a building expansion would require Commission approval of the Conditional Use Permit amendment, but the building addition would normally be granted through Development Review by the Development Services Director. However, for efficiency, the Development Services Director referred the issue to the Planning Commission. She provided detail on the addition/expansion and stated that the proposal met the City's design standards. Because the project would not include increased production or the addition of staff, off-site parking expansion would not be required. She indicated that staff recommended approval of the application.

Chair Sangha asked for the applicant. A representative of E. A. Bonelli and Associates addressed the Commission. He agreed with staff's presentation. Commissioner Mitracos asked about noise issues that had been raised over the years by some of the neighbors. The Plant Manager of Leprino advised that he has been actively working with the neighbors and that the low noise vibration has been addressed and abated. That at present there were other issues which were being worked on.

Commissioner Vargas said she was pleased to see the end product. She suggested an embellishment to the streetscape on the MacArthur Drive side to make it more appealing. She asked if they would be willing to address this. The manager advised they would look into the issue.

Commissioner Ransom raised the noise issue again asking if the expansion might create additional noise. The manager advised that the vats would go in the center of the complex and that there should be no nuisance to the neighbors. Mr. Malik spoke to the issue that Leprino had been working actively with the neighbors. He indicated there had been extensive efforts on the part of Leprino to address noise issues.

Ms. Matlock indicated the Van Lehns came in and reviewed the project with staff previously and that they were not concerned about noise, they had questions about the cheese processing. They made contact with the new plant manager of Leprino who has opened up communication. Further it was added that the wastewater pump was what was causing the vibrations. She added that their absence at this meeting would speak to the fact that they were satisfied with the efforts to date.

Commissioner Ransom asked about the space and if there were plans to relocate the old vats. At present Leprino has no plans for that space.

Chair Sangha opened the public hearing and closed it at 9:30 p.m. There was no public comment.

Commissioner Orcutt moved that the Planning Commission approve the Conditional Use Permit amendment and Development Review applications CUP14-0006 and D14-0012 subject to conditions and based on findings contained in the Planning Commission Resolution dated July 23, 2014 as amended with additional shrubbery to be installed along the entire frontage of MacArthur Drive. Commissioner Vargas seconded; all in favor; none opposed.

3. ITEMS FROM THE AUDIENCE – None

4. DIRECTOR'S REPORT – Mr. Dean advised that Jan Couturier was being transferred to the Utilities Division and that Sandra Edwards would become the recording secretary for future meetings.

5. ITEMS FROM THE COMMISSION – Commissioner Mitracos asked if there was going to be a CIP review. Mr. Dean indicated with the new City Engineer they were a bit behind. Commissioner Mitracos added that he appreciated the Residential Pipeline report and wondered if there was a new report.

   Chair Sangha thanked Mr. Sartor for his help and advice. Commissioner Vargas thanked staff for their help as she continues to learn her role on the Commission.

   A. ELECTION OF OFFICERS – Commissioner Mitracos moved to elect Commissioner Orcutt as Chair and Commissioner Vargas as Vice Chair adding that he liked to see a rotation of duties on the Commission. Commissioner Orcutt seconded, all in favor, none opposed.

6. ADJOURNMENT – Commissioner Orcutt moved to adjourn the meeting at 9:50 p.m.

CHAIR

STAFF LIAISON