

Reflections on Real Estate

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Fall 2006

Tracy Updates its General Plan

By John Palmer

On July 20, 2006, after three years and over twenty-two public workshops and meetings, Tracy's City Council adopted an update to the city's general plan. The general plan is the principal policy document for the city. Often referred to as a city's constitution, the general plan provides a policy framework to guide and direct growth through numerous goals, objectives, policies, and action statements. As required by state law, there are seven mandatory elements that every general plan must contain: Land Use, Circulation, Housing, Air Quality, Open Space, Noise and Safety. The City of Tracy's General Plan incorporates three additional elements: Community Character, Economic Development, and Public Facilities & Services.

The last update to the Tracy's General Plan occurred in 1993. Since that time much has changed in Tracy from the physical form to the political environment. The population since 1993 has grown from approximately 33,000 to 80,000, a boom of retail development

occurred including: the West Valley Mall, Tracy Outlet Center, Tracy Pavilion (Home Depot), and Tracy Marketplace (Walmart and Costco), and a slow growth initiative (Measure A) was passed in 2000. As a response to these changes and in order to keep up to date, the city began the process to



Downtown Tracy

update the 1993 General Plan in April 2003. The planning firm of Design Community and Environment was hired to help guide the city through the update process.

Much of the discussion regarding Tracy's General Plan Update centers on

the addition of the Community Character Element which lays a foundation for how Tracy will look, feel, and function in the future. According to city staff, the Community Character will add the third dimension to help guide the quality of development envisioned for the city. It introduces the overriding concept of General Plan 2006 which is "hometown feel".

Hometown feel is an expression credited to former Mayor Clyde Bland for the vision that Tracy wants to preserve and enhance in new development. It is a general term or expression of what is most desirable about Tracy, which includes the quiet residential neighborhoods where children can play in the street and where people know their neighbors, a transportation system (i.e. road network) that provides easy and quick access to goods, services, and jobs near and far, a downtown that is rich in history and tradition, and an abundance of parks and schools that

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Easements by Prescription - Part II

As a follow up to our article about prescriptive easements in the Spring 2006 edition of Reflection on Real Estate, the topic of prescriptive easements surfaced in a lawsuit involving two California property owners.

To protect against prescriptive easement claims, a "permission to pass" sign must be posted by a property owner (or authorized agent), and not by

someone else. That was the decision of a recent California appellate case called *Aaron v. Dunham*, 2006 WL 636790 (decided March 15, 2006 and publication ordered March 27, 2006).

This case involved the owners of Blackacre and their neighbors who owned Whiteacre. To access their property, the owners of Blackacre had a half-mile long, steep driveway that was

not only difficult to drive on, but also difficult to maintain. So they used their neighbor's paved private road instead. This private road was built by Texaco Inc. in 1982 when Texaco leased Whiteacre from its owners to prospect for oil and gas.

Beginning in 1989, the Blackacre

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General Plan continued

serve as focal points of community life.

Many of the key policies of the general plan convey the concept of hometown feel. The following are key policy directions of the general plan.

DIVERSITY OF HOUSING DENSITIES, TYPES, AND UNIT SIZES

The general plan through the Community Character, Land Use, Circulation, and Public Facilities Elements create a vision that residential development will occur in an orderly, managed pattern that is planned in close coordination with the availability of public facilities. Policies require future neighborhoods to include a mix of housing styles, types, and affordability ranges, to meet the needs and reflect the diversity of the community.

HIGH QUALITY URBAN DESIGN

The Community Character Element of the general plan reinforces the importance of urban design in Tracy. The components outlined in the general plan include urban design principles, design standards, street design guidelines, landscaping criteria for the preservation of unique or sensitive environmental features, and historic preservation.

CONNECTIVITY IN MASS TRANSIT, STREET PATTERNS, BICYCLE TRAILS, AND PEDESTRIAN

SIDEWALKS AND TRAILS

The general plan creates a vision of a walkable city with policies that provide for a high level of connectivity in mass transit, street patterns, bicycle trails, and pedestrian sidewalks and trails. An emphasis is placed on neighborhood planning that provides connectivity between residential areas and schools, parks, and neighborhood serving shopping areas. The general plan encourages neighborhood design on a grid or modified grid street system to ensure vehicular connectivity through multiple connections to arterial streets.

INCREASE IN THE PARKS STANDARD

The general plan provides a direction to undertake a study to increase the city's standard of park dedication and development from the current standard of four acres per 1,000 residents to five acres per 1,000 residents. Five acres per 1,000 is the maximum allowed by state law.

BALANCE OF HOUSING, JOBS, AND RETAIL

Creating a strong jobs-to-housing balance has been a focal issue for the city. The general plan identifies that a critical component of job development is to provide a balance of land uses to attract employers to Tracy. This includes providing a viable land supply for economic growth

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Recent Land & Ranch Sales

Below are a sampling of land sales that have occurred since our last newsletter. Note that this information has been extracted from the Multiple Listing Service and public records and has not been verified for accuracy. If you have any questions regarding these sales, please contact our office.

| CONTRA COSTA COUNTY | | | TRACY AREA | | |
|------------------------------------|--------|-----------|-----------------------------|--------|-----------|
| ACRES | PRICE | | ACRES | PRICE | |
| Franklin Canyon Rd., Martinez | 9.33 | 215,000 | 21600 S. Corral Hollow Rd. | 2.34 | 520,000 |
| Sunset Rd., Brentwood | 9.51 | 773,500 | Lot 17, Banta Rd. | 9.11 | 565,000 |
| 1792 Chestnut St., Brentwood | 10.12 | 725,000 | 29700 S. Ahern Rd. | 9.49 | 1,400,000 |
| 510 Hoffman Ln., Brentwood | 24.86 | 1,415,000 | 19400 S. Corral Hollow Rd. | 13.14 | 249,950 |
| 3725 Kellogg Creek Rd., Byron | 25.04 | 700,000 | 13485 W. Grant Line Rd. | 17.20 | 1,989,000 |
| 5900 Old School Rd., Danville | 28.38 | 3,600,000 | Bird Rd. | 18.50 | 462,500 |
| Byron Hot Springs Rd., Byron | 90.82 | 450,000 | Bird Rd. | 38.87 | 777,400 |
| 4120 Camino Diablo, Byron | 128.79 | 2,000,000 | 25647 S. Bird Rd. | 40.00 | 800,000 |
| | | | Durham Ferry Rd. | 42.00 | 745,000 |
| | | | 11937 S. Wing Levee Rd. | 361.27 | 3,233,366 |
| ALAMEDA COUNTY | | | STANISLAUS COUNTY | | |
| ACRES | PRICE | | ACRES | PRICE | |
| 5777 Jensen Rd., Castro Valley | 5.21 | 1,000,000 | Del Puerto Canyon Rd. | 78.18 | 200,000 |
| 1075 Victorine Rd., Livermore | 6.00 | 1,325,000 | Del Puerto Canyon Rd. | 156.26 | 270,000 |
| 6833 Tassajara Rd., Pleasanton | 6.68 | 1,000,000 | 13200 Del Puerto Canyon Rd. | 160.00 | 525,000 |
| 6969 Collier Canyon Rd., Livermore | 100.97 | 1,880,000 | | | |
| Hartman Rd., Livermore | 155.70 | 600,000 | | | |

Home sales in the Bay Area slowed to their lowest level in ten years as prices increased at their slowest pace since spring 2003. A total of 7,941 new and resale houses and condos were sold in the nine-county region in July. That was down 19.1 percent from 9,892 for June, and down 30.8 percent from 11,470 for July last year.

DataQuick Information Systems

General Plan continued

including office, industrial, and retail development, and providing a mix of housing types including executive housing, low density, medium density, and high density (i.e. apartments, townhomes, and condominiums).

ESTABLISHMENT OF RESIDENTIAL GROWTH PRIORITY AREAS

The general plan identifies the location of the next wave of residential growth anticipated over the next twenty years. The properties included are collectively labeled as the "Secondary Residential Growth Areas" in the Land Use Element. Only those properties expected to develop within a twenty year time frame were included as Secondary Residential Growth Areas, and are generally located on the west side of the city.

DEVELOPMENT OF AN OPEN SPACE PROGRAM

The general plan provides the policy direction to develop and adopt an open space program. It is recognized that

creating an open space program is a potentially major and contentious undertaking that will include studies to identify important areas for non-urban uses, analyze alternate methods of preserving open space and agricultural lands, and identify methods of funding the program.

INTER-GOVERNMENTAL COORDINATION AND COOPERATION

The general plan recognizes the necessity for extensive inter-governmental cooperation between the City of Tracy, San Joaquin County, and the City of Lathrop in order to successfully develop and/or maintain an open space program, preserve habitat and significant agricultural lands, establish community separators, and plan regional transportation. The general plan also includes a policy that the City of Tracy will oppose urbanization in unincorporated areas within the Tracy Planning Area.

REVITALIZATION OF THE DOWNTOWN

The general plan identifies the downtown as the cultural and historic

heart of the city. There are a series of policies that serve to enhance the pedestrian environment, strengthen the urban design character, and preserve the historic character of the downtown. A combination of retail, restaurant, office, and entertainment uses is encouraged to foster the vision of a walk, shop, and eat atmosphere for downtown.

Overall, the general plan establishes the vision for the City of Tracy for the community and developers to follow. The city is now moving forward with implementation of General Plan 2006 and which includes updates to the city's Master Infrastructure Plan, Zoning Ordinance, development of an Open Space Program, and creation of a Downtown Specific Plan. City staff is underway on some of these tasks, and have already held two public workshops on the Downtown Specific Plan. The tasks of updating the zoning ordinance and developing an open space program are anticipated to begin in early 2007 and will incorporate the opportunity for the public to provide input.

Easements continued

owners used this Texaco Road in an open, notorious, continuous, and adverse manner for an uninterrupted period of at least five years. These are

precisely the legal elements for establishing a prescriptive easement. However, in 1992, Texaco erected "permission to pass" signs on Whiteacre. The law allows owners to protect their properties against prescriptive easement claims by

posting signs at each entrance to the property or along the boundary at 200-foot intervals, stating "Right to pass by permission, and subject to control, of owner: Section 1008, Civil Code." Texaco's signs contained exactly this language along with the words "Texaco Exploration and Production Inc." at the top.

If Texaco's signs

were legally operative, they would have prevented the prescriptive easement claim in this case because, as of 1992, the owners of Blackacre had only been using the Texaco Road in an adverse manner for three years, not the statutory five-year period. However, the Court did not give legal effect to the "permission to pass" signs. Under a strict reading of the law, the signs were not posted by the owner of Whiteacre, but by Texaco as lessee. "Because the owner of the property is presumptively the sole person or entity with the legal authority to grant such permission," the Court stated, "it is reasonable to require that the sign have been posted by the owner" (or an authorized agent). The owners of Blackacre therefore won their prescriptive easement claim.

Article courtesy of California Association of Realtors® (C.A.R.) legal department.

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Interest Rates

By Rich Davidson

The Federal Reserve did not raise its short term federal funds target rate, the rate member banks are charged on overnight borrowings between banks, at its August 8th meeting. The Fed had raised the Federal Funds rate by 1/4% at each of its past 17 policy meetings from June 2004 when the rate was at a 46 year low of one percent.

Longer term rates have started to decrease. As I mentioned in the last newsletter, when the Fed signals a pause in its strategy of raising short term interest rates, ten year

treasury bonds are likely to rally, lowering interest rates. This appears to be exactly what has happened, with perhaps the abundance of money overseas starting to be invested in treasuries once the Fed pauses in increasing rates.

Existing home sales data on a national level has been very weak recently, reflected in inventory at levels

not seen for several years. Investors have driven down the price of housing stocks because many of them feel the economy is slowing faster than expected.

2. \$5,100,000 construction loan for apartment development in Bremerton, WA.
3. \$1,000,000 land loan in Solano County.
4. \$850,000 second trust deed on residential development in San Francisco

ACTIVE REAL ESTATE CONSULTING ASSIGNMENTS

1. \$7,100,000 debt and equity financing for to be built retail in South Bay.
2. \$5,500,000 refinance for apartments in Bremerton, WA
3. \$1,320,000 acquisition financing for mixed use project in East Bay
4. \$4,250,000 interim loan secured by partnership interest

If I can be of any assistance with your real estate financing needs, please do not hesitate to call me at (650) 579-3995. My email address is rdavidson@redcofinance.com.

| KEY INTEREST RATES & INDICES | | | |
|---|--------------|--------------------|-----------------------|
| August 23, 2006 | | | |
| INDEX | CURRENT RATE | CHANGE FROM 6/7/06 | NOTES |
| Bank Prime | 8.25% | +0.25% | Last change: 6/29/06 |
| 1 Yr. Treasury | 4.87% | -0.21% | |
| 5 Yr. Treasury | 4.77% | -0.20% | |
| 10 Yr. Treasury | 4.81% | -0.21% | |
| 30 Yr. Treasury | 4.95% | -0.14% | |
| LIBOR (1 Mo.) | 5.32% | +0.16% | |
| LIBOR (6 Mo.) | 5.46% | +0.08% | |
| LIBOR (1 Yr.) | 5.47% | unchanged | |
| 6-Month CD | 5.43% | +0.12% | |
| Freddie Mac 60 day | 6.28% | -0.21% | 30 year fixed rate |
| 12 Month Treasury Average | 4.563% | +0.281% | T average |
| 11 th District Cost of Funds | 4.09% | +0.331% | Fund Cost |
| Consumer Price Index | 203.5 (July) | | Up 4.1% from year ago |
| Federal Funds Rate | 5.25% | +0.25% | Last change: 6/29/06 |
| Dow Jones Industrial Avg. | 11,297.90 | | Up 5.42% YTD |
| Consumer Confidence Index | 106.5 (July) | | Up from 103.2 (May) |

RECENT LOAN CLOSINGS

1. \$9,500,000 refinancing San Francisco residential development.