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STAFF REPORT

Item # 6

To: Planning Commission

From: Holly Smyth, Planning Director

Review Date: March 14, 2011

Subject: Request by Pharris Lemoore LLC to Extend Approval of Tract 845, also known as "Victory Village" subdivision map for 279 homes north and west of West Hills College

A. Project Location & Description:

On June 6, 2006, the City Council approved the subdivision of Tract 845 (aka Victory Village) containing approximately 71.31 acres into 279 single family lots in two phases (Phase I was going to have 118 lots and Phase II 161 lots). The subject tract is located on the north and south sides of the Bush Street alignment, west of the Production Avenue alignment, and generally west of the West Hills College Lemoore site and east of the 21st Avenue roadway alignment.

Through the passage of SB 1185 in July of 2008 and AB333 in July 2009, this subdivision received three years of automatic extensions from the State with a current expiration date of 6/6/2011. Tim Palmquist on behalf of Pharris Lemoore LLC has submitted a request for a two-year extension for Vesting Subdivision Map #2005-02/ Planned Unit Development #2005-01/ Site Plan Review #2005-01 / Conditional Use Permit #2005-01. The General Plan and Zoning Amendments that were tied to the original project are already complete and remain in tact and therefore do not require extension.

B. Staff Report:

The applicant's request is reviewed based on City criteria for granting extension approvals. The following findings are made:

a. How long of an extension is being requested?

Applicant submitted an application on January 24, 2011 to the Planning Department requesting a two (2) year extension prior to the expiration of their Vesting Tentative Subdivision Map. Section 8-7B-10 of the Lemoore Municipal Code generally grants only a one (1) year extension but allows for extensions greater than twelve (12) months if granted by the Planning Commission.

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What is the current status of the project?

Applicant has completed civil plans for 39 lots of the subdivision and had previously prepared a Final Map to record these lots. However, with the State providing automatic extensions, and the housing market being poor, there was no need to record the map which would have caused the developer to pull bonds at an additional cost to insure the infrastructure was built.

b. What efforts were made to complete or start the project within the approval period?

According to the application, they state they have cooperated with the City in all aspects, but currently the residential home market still needs to improve before construction can begin.

c. How will the project be completed if the extension is granted?

The extension may keep the subdivision valid until the housing market rebounds and allow for a phased building out of the homes.

d. Are there any new circumstances, which may need amending any previously imposed approval conditions or imposing new conditions?

This subdivision is currently bound to 38 conditions of approval identified in City Council Resolution # 2006-28 approved on June 6, 2006. Since this time, several major policy changes have occurred including 1) the Williamson Act contracts on the property have expired, 2) new Public Facilities Maintenance District were created to supersede the Lighting Landscape Maintenance District, 3) comprehensive updates to all impact fees were adopted and are annually increased by a cost index factor with the most current update adopted April 2010, 4) new Westside streets and thoroughfare impact fees were established in November 2010, 5) the 2030 General Plan was adopted in May 2008 (which included new noise / energy efficiency / green building policies, the downgrading of Production Place as an "arterial" street crossing the railroad to a local street, Brooke Street being changed to Marsh Drive, and the development boundary stopping at the 21st Avenue alignment), 6) FEMA has modified the 100 year floodplain that now includes the project and 7) the State and City adopted a Water Efficient Landscape of Choice Ordinance.

The attached draft City Council Resolution incorporates additions, modifications, and deletions to account for each of these policy changes. Of special note is the West Side traffic fees and noise policies. When the project was originally approved, all traffic improvements were identified in a special traffic impact study as part of the environmental review document. That study included a table of applicable costs, as a percentage of total project cost caused by the project (also know as "fair share"). The list of short term and long term improvements and fair share percentages were made a part of the conditions of approval. Because the City Council adopted a comprehensive impact fee program for West Side streets and thoroughfares improvements needed through buildout and split costs down to a per trip fee by land use type last November, the long list of traffic mitigations can be removed from the conditions of approval and replaced with meeting the fees in the new impact fee program. However as a special note, those improvements do not account for developer's requirement to build half a local street standard width adjacent to their development (which normally includes parkway, curb, gutter, local street width sidewalk, and landscape buffer area around the project perimeter).

Before the 2030 General Plan was adopted, the City Council pulled back development to the 21st Avenue alignment, but failed to re-evaluate the Arterial land use designation for Bush Street west of Marsh Drive and the far westerly street boundary south of Bush in line with the 21st Avenue alignment. Because future updated to the General Plan may downgrade these sections to a local street standard similar to Production Place, staff believes it is important to incorporate into conditions #13 and #18, to allow the flexibility of modifying the street cross sections based on the General Plan in place at the time of submitting Civil Plans for those phase segments of the subdivision.

Noise impacts are a more complex issue. Two years after the project was approved, the General Plan was adopted in 2008, which showed this project site to be in the 65-74 db CNEL (day-night average) noise contour. Noise at these levels according to Table 8.6 Land Use Compatibility is only conditionally acceptable with noise reduction requirements. As currently written in policy and depicted in Figure 8-4 of the 2030 General Plan, the project would be subject to noise mitigations spelled out in policies SN-I-35, SN-I-36, SN-I-37, SN-I-38, as well as SN-I-46, SN-I-47 and SN-I-48. The project applicant has submitted the attached letter of request regarding noise issues.

The project applicant has requested that these noise mitigation policies be put in place on the project with the ability to be subject to the policies in place at the time at which building permits are pulled as the policies are expected to change in the near future. Normally, this is not something the City requires or allows, as the Subdivision Map Act only subjects the developer to City policies in place when an application is deemed complete (in this case policies in place at the time the extension application is deemed complete) not future policies.

Referenced policy SN-I-47 above requires the City to "Coordinate with NAS Lemoore to incorporate their Air Installation Compatible Use Zone (AICUZ) study into future updates to the City Zoning Ordinance and General Plan to the extent consistent with the City's compatibility standards and noise level reduction requirements" which are listed in the afore-mentioned policies. The Navy just completed and adopted their AICUZ in December 2010 (which can be obtained at the following link http://www.cnic.navy.mil/navycni/groups/public/documents/document/aicuz.pdf) which shows noise contours of less severity than the City's current General Plan such that no residentially designated property falls into the 65 db CNEL or above levels. Within this document's Appendix A,Table 6-1 on page A-11, the land-use compatibility recommendations generally given for all AICUZ's only show mitigations when noise levels are above 65 DNL (which is a day-night average). However, Table 6-4 on page 6-21 of the AICUZ main document, shows single family detached units in areas between 60-64 CNEL are compatible with restrictions, but staff could not find specific recommended restricts. However, according to Section 6.4.1 of the AICUZ on page 6-32, the "on-base housing (typically incompatible with exceptions in Noise Zone 2) lies within an area that periodically experiences 60 to 64 CNEL (Noise Zone 1) and a small portion that experience 65 to 69 CNEL (Noise Zone 2). Single family residences on NASL have been designed with sound attenuation, including double-paned windows, to minimize increase in noise during flight operations." On March 24, 2011, the Navy will have a special community meeting on the AICUZ document from 5 to 7 pm at the Lemoore Civic Auditorium and is anticipated to have a noise demonstration.

It is anticipated that the Draft Joint Land Use Study (JLUS) will be released prior to the Planning Commission's meeting and would be available at www.lemoorejlus.com under either JLUS Meetings or JLUS Documents tabs.

Staff expects that a future amendment to the General Plan will incorporate the AICUZ and potential policy recommendations coming out of the Joint Land Use Study (JLUS) late in the year. Therefore, based on the applicant's request and the above AICUZ information, staff has proposed modifications to condition #20 which would make noise mitigations applicable only if the City General Plan map, at the time of pulling building permits, shows a CNEL at 65 or greater

On March 9, 2011,staff received the enclosed letter from the Navy, dated March 4, 2011 addressed to Planning Commission for your further consideration.

In light of the State of California's AB32 law on global climate change, the new 2030 General Plan adopted green design policies CD-I-58 through CD-I-62 which require additional heat and light, surface water runoff, and energy efficiency standards. Therefore, these policies have been added into the conditions of approval listed in the draft City Council Resolution.

In June 2009, FEMA adopted new flood insurance rate maps for Kings County which added much of the West Side of Lemoore into the 100 year flood plain generally west of the Semas Drive alignment. The City's Flood Damage Prevention Ordinance in Title 8, Chapter 8 of the Lemoore Municipal Code requires that "no structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations". Additionally, this chapter states that areas of special flood hazard are those identified by FEMA' February 14, 1986 flood insurance rate map and any subsequent amendments or revisions. Because FEMA has not provided any base flood elevations in the project area, the City Engineer proposed and the Council adopted Ordinance #2009-05 to state if a base elevation does not existing "the applicant's engineer shall utilize a default base flood elevation which will result in the lowest floor of any structure being at least two feet (2') above the highest adjacent grade". Therefore, a condition needs to be added requiring that the subdivision comply with all the provisions of Title 8, Chapter 8 – Flood Damage Prevention ordinance and that the lowest floor of any structure shall be at least 2' above the highest adjacent grade if no base flood elevation exists.

Due to the State's passage of AB 1881 – Model Water Efficiency Landscape Ordinance (effective in all jurisdictions statewide on January 1, 2010) for any new development or rehabilitation projects that contain more than 2,500 square feet of landscaping the developer must submit Landscape Documentation Package (hereafter called "the Package"). This Package must be prepared by a landscape and irrigation designer (as delineated in the Ordinance per Business and Professions Code, Title 16 of the California Codes and Regulations and Food and Agriculture Code) that includes a) Project Information, B) Water Efficient Landscape Worksheet, c) Soil Management Report, d) Landscape Design Plan, e) Irrigation Design Plan, and f) Grading Design Plan to be approved by the City of Lemoore. The Landscape Design Plan does not need to limit the types of plants to be used so long as the Maximum Applied Water Allowance is not exceeded for the entire project but does require hydrozones be established (which group high water use plants and turf in one area and lower water use plants in other areas to reduce overspray and runoff by limiting spray irrigation to areas greater than 8' wide and slopes less than 25% and it is encouraged to use irrigation controllers that utilize soil moisture conditions. Once the landscape is installed the developer must get a certification by the signer of the landscape design plan, singer of the irrigation plan, or a licensed landscape contractor certifying that the work was installed per the Plans and the owner must certify that they will maintain the project in accordance with the Landscape and Irrigation Maintenance Schedule. Therefore, these requirements need to be added to the conditions of approval.

C. Recommendation:

After listening to staff report and taking any public comments, the Commission should make a motion recommending that the City Council approve the attached draft Resolution approving only a one (1) year extension to June 16, 2012 for Vesting Subdivision Map #2005-02/ Planned Unit Development #2005-01/ Site Plan Review #2005-01 / Conditional Use Permit #2005-01 with the added / modified / deleted conditions stated therein through underlined or strikethrough text.

February 24, 2011

Holly Smyth, Chief Planner
City of Lemoore
210 Fox Street
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Re: Victory Village Tentative Tract No. 845
JLUS - Noise Study and Updates to General Plan - Noise Element

The Victory Village Tentative Tract Map No. 345 was initially approved on June 6, 2006, and is currently set to expire in June of this year. In accordance with Gov't Code §66463.5 of the California Subdivision Map Act, we applied for an extension of the map in January, 2011, and are expecting a Planning Commission hearing in the near future.

As you may recall, Victory Village did a through review of the Noise Element of the General Plan Update, and formally expressed a number of concerns in our letter of July 28, 2008. During the last few months, Victory Village has been participating in the on going Joint Land Use Study (JLUS). This study was referenced and anticipated at the time of the General Plan Update.

Based on the findings and presentation of the JLUS to date, it appears the noise contours and mitigations of the JLUS are less significant and less burdensome to our project than those outlined in the existing Noise element.

Victory Village respectfully request that our project be conditioned to conform to the current findings and conclusions of the JLUS as subsequently anticipated to be adopted by the City of Lemoore through a future General Plan Amendment (GPA). We would propose that the language of our condition could reference; "Noise policies in place at the time the Builder / Applicant applies for building permits for the project"

Victory Village looks for to work with the City of Lemoore on this. Thank you for your consideration.

Very truly yours,

Tim R. Palmquist

Tim Palmquist, Applicant 949-633-9540
Cc: Jeff Briltz, City Manager