

Tivoli tensions: Subdivision has groups worried Schools, neighbors respond to draft of environmental report

By ADAM ASHTON - BEE STAFF WRITER
Modesto Bee, Sunday, December 17, 2006

Elementary schools, commuters and fairy shrimp each could suffer if Modesto's next major subdivision progresses as planned, according to comments the city received from 29 government agencies and resident groups.

Their input could modify Tivoli, a proposed 3,200-home development in northeast Modesto.

They submitted their takes on the project in response to Tivoli's draft environmental impact report, which describes its probable effects on air quality, roads and agriculture.

Among the requests from groups and agencies:

The California Department of Transportation, or Caltrans, wants details about how commuters would get to Highway 99 from the Tivoli area between Oakdale Road and Roselle Avenue. Caltrans said the project's plans are insufficient.

The Sylvan Union and Modesto City Schools districts contend that state-mandated developer fees won't cover costs of facilities for new students. They want the city to acknowledge their concerns in the environmental review's final draft.

State and federal wildlife agencies want more information about Tivoli-area plants, birds and vernal pools. Their reviews could lead to environmental mitigation proposals for threatened critters as small as the fairy shrimp, which live in seasonal ponds.

Dave Romano, a land-use engineer representing Tivoli developers, said the comments the city received reflected typical concerns for valley subdivisions.

"None of the comments we saw on this project were anything I would consider out of the ordinary," he said. "You just have to do a good job of looking at them and addressing their concerns in the final document."

Turnstone Consulting, a firm the city hired to do much of Tivoli's environmental work, is analyzing the comments. It is expected to submit a final environmental impact report in coming months, city Senior Planner Paul Liu said.

Afterward, the City Council and Planning Commission would have their say over the environmental review.

'Zoning for dollars'?

The project is Modesto's first major subdivision proposal since the city reformed its development standards after Village I, the northeast Modesto development characterized by delayed public services.

Not surprisingly, some of the most heartfelt Tivoli comments came from people who own homes in the 454-acre project area.

"We're the only homeowners who exist and who are going to stay and we are not even being considered," said Cheryl Brown, 50, who lives on McReynolds Avenue.

Her street dead-ends between Sylvan Avenue and Claribel Road. Under Tivoli, McReynolds would lead to an elementary school and ultimately connect Sylvan and Claribel. Brown and her neighbors want the developers to find another way to link the roads.

Romano said he is aware of the McReynolds Avenue concerns and has held meetings to address them. Mable Avenue homeowners, likewise, are negotiating to protect their interests.

Others want to know why the Tivoli plan evolved to include a 67-acre commercial center on Oakdale Road. They took issue with how the plan calls for about 900 more homes than were proposed when Modestans voted to set up the project's annexation in 2001.

Russ Harrison, a development consultant who lives near the Tivoli area, said Riverbank's year-old Crossroads shopping center on Oakdale Road meets the neighborhood's retail needs. Placing another regional shopping center on the same street makes little sense, he said.

"You look at this and you go, 'Is this in the right location or is it simply zoning for dollars?'" he asked, referring to the sales tax revenue cities generate from commercial outlets.

Riverbank officials apparently agree with Harrison.

That city sent Modesto a letter requesting studies of how Tivo-li's commercial center would affect Riverbank's economy, roads and parks. Riverbank planner Emily Pino didn't return calls for comment Friday.

Higher-density housing added

Romano and Modesto city officials have said they moved to include a commercial center to address the shopping needs of people who live east of McHenry Avenue.

They have said that they added higher-density housing in response to the changing tastes of home buyers. That plan shift requires the City Council to sign off on a change from the original Tivoli-area map, which would have allowed 2,315 homes.

The school districts, meanwhile, are preparing to seek funding beyond state-mandated developer fees to pay for new classrooms. They hired the same lawyer to make their case.

"In all likelihood, the district will not have sufficient funds to provide the additional high school capacity that will be necessitated by the project," lawyer Janet Mueller wrote on Nov. 22 to the city's Planning Division.

Modesto City Schools projects 482 Tivoli-area high school students. Sylvan anticipates 702 elementary students and 449 for its middle schools.

The districts also want the city to build pedestrian bridges to provide safe routes for children to walk to school.

Options for extra school funding include special tax districts similar to the ones that pay for school facilities in Village I, and developer-built schools, Mueller wrote.

"We really just are looking for ways for development to mitigate the full costs of schools they generate, and that's the bottom line," Sylvan Union Superintendent John Halverson said.

Tracy turns out for McNerney

John Upton

Tracy Press, Saturday, 16 December 2006

Fewer than three out of every 10 adults living in Tracy voted in the Nov. 7 election, with 8,915 of them voting for Congressman-elect Jerry McNerney and 6,779 voting for hometown incumbent Richard Pombo, according to newly released county election figures.

"I knew that I would win in Tracy, but it was a bigger margin than I expected," said McNerney, who believes the city of 80,000 people, which has lost six soldiers in Iraq, is fed up with the war.

The Democrat still wants to bring troops home from Iraq within a year and said the Iraq Study Group's recent report backed up his long-held view that the U.S. needs to improve diplomacy with Iraq's neighbors.

Plans by Lawrence Livermore National Laboratory to detonate outdoor blasts - which are expected to contain depleted uranium and could be up to more than three times more powerful than any others since before 1992 - at Site 300 near Tracy, don't sit well with McNERNEY, either.

"If that research had the purpose of protecting the young men and women that are being killed in Iraq, I would be behind it," he said. "But it looks to me like the purpose of it is to improve our nuclear weapons capability, so I can't really say that I'm behind that."

Although McNERNEY will tour Site 300, he doesn't have any plans to try to block the research, but he said it's "definitely on my radar screen."

Meetings to consider appeals by Tracy Hills developers and local Tri-Valley Communities Against a Radioactive Environment director Bob Sarvey against the blasts were postponed by the San Joaquin Valley Air Pollution Control District until Feb. 7, according to a spokesperson.

While McNERNEY doesn't expect to be appointed to the House Energy and Commerce Committee despite his 27-year wind-energy career, he was named this week to the Transportation and Infrastructure Committee.

"There's an awareness (in the Democratic caucus) of the need in this district for transportation improvements," he said, as he traveled from a ceremony for Interstate 580 improvements in Dublin to a ribbon-cutting ceremony to open a Stockton transit center. "I think we need (high occupancy vehicle) lanes from (Interstate) 680 all the way out to Tracy. I'd love to see BART run out to meet the ACE train in Livermore - that's definitely something I'll be fighting to get."

McNERNEY said Democrats realize they risk losing their newfound power if they don't improve ethics in Congress. He said he likes three suggested rules that are gaining traction within the caucus: Disclosing all contact with lobbyists; accepting free travel only when it's educational and benefits constituents; and banning gifts other than those that are inexpensive and honorary.

The past six weeks have been busy for McNERNEY, who has never before held an elected position. He traveled to Washington, D.C., three times for training with the House Administration Committee and spent time after Thanksgiving at the JFK School in Boston discussing policy, terrorism and technology with some of his new colleagues. He served two days of jury duty earlier this week but was excused from the four-month trial so he can take his seat in Congress on Jan. 4.

That followed a grueling election campaign that aide A.J. Carrillo said included 278 volunteers from Tracy.

"We really believed in him (McNERNEY) and what he could get through," said Tracy volunteer Carol Asplin, who opened her home and kitchen to volunteers and often traveled with her husband when he walked precincts.

McNERNEY collected more than three quarters of the votes at two of Tracy's precincts Nov. 7. Those polling places were located in private homes slightly north of 11th Street between Corral Hollow and Lammers roads near the center of the city.

Pombo's best results were in rural parts of Tracy. He collected between 60 and 66 percent of the votes at Jefferson School in southeast Tracy, the fire station in Banta, Lammersville School in west Tracy and a private residence northwest of the West Valley Mall.

During the 2006 election, there were 29,840 people registered to vote in Tracy, according to data recently released by the county. Out of that number, 15,746 voted in the congressional election, including 52 who voted for a candidate not named on the ballot.

About 53,500 people who live in Tracy are 18 and older, according to a 2005 Census Bureau estimate.

That means 29.4 percent of adults living in Tracy voted Nov. 7, compared with 30.4 percent of adults in San Joaquin County according to a Tracy Press analysis of data from the U.S. Census Bureau and the San Joaquin County Registrar of Voters.

McNerney will address a National Association for the Advancement of Colored People breakfast meeting at Lathrop City Hall at 10 a.m. today.

Brent Ives won the Tracy mayoral race with 8,472 votes compared with 6,881 votes for lone challenger Celeste Garamendi, according to the newly released figures.

Around the Region

Modesto Bee, Saturday, December 16, 2006

2007 CLEAN AIR CALENDARS AVAILABLE: The 2007 Clean Air Kids calendar is available to the public free of charge. The annual calendar, produced by the San Joaquin Valley Air Pollution Control District, features original artwork from children throughout the eight-county air basin. The young artists provide their perspectives and illustrate their ideas on cleaner air for all valley residents. The clean-air message for each month is presented in both English and Spanish. More than 800 entries were received and the artwork of 14 youngsters, representing communities throughout the valley, was selected. Taylor Corgiat, who goes to Our Lady of Miracles School in Gustine, has artwork that appears on the calendar cover. And the artwork of Liliana Zermenio of Gustine Middle School, also appears, as does the artwork of Brenden Booth of Donn B. Chenoweth Elementary School, Merced. The educational wall calendar is distributed free to schools, community groups, health care facilities, churches, civic organizations, nonpolitical groups and individuals on a first-come, first-served basis. The calendars can be picked up at 4800 Enterprise Way. The air district covers San Joaquin, Stanislaus, Merced, Madera, Fresno, Kings and Tulare counties, and the valley portion of Kern county. For more information, call 557-6400.

More wine! Delicato builds new storage

Planning Commission approves use permit

By Paul Burgarino, STAFF WRITER

Tri-Valley Herald, Friday, December 15, 2006

MANTECA - One of the largest family-owned wineries in the world is about to get even larger.

Delicato Vineyards is planning on building a 60,000-square-foot wine storage warehouse to complement its current 50,000-square-foot facility. A use permit was approved this week by the San Joaquin County Planning Commission.

"It's a symptom of our growth," said John Yarborough, vice president of winery operations.

"Our winery has grown a lot since the 1970s and this will allow our warehouse to matchup to the increase in tanks we have."

The 17.7 acre vineyard has a tasting room in Manteca, but most of their wines are grown and stored off-site. Yarborough said that the increased warehouse capacity would allow the company to keep cases of wines at sites in Stockton and Modesto that would not be "double-handled," or loaded for shipment more than once.

"It takes away that added risk of the wine being damaged, plus it allows the site to be more self-sustaining," he said. "From a business perspective, it's the right thing to do."

The new warehouse would connect to the existing warehouse through a pair of large doors, Yarborough said, adding that both rooms would be climate controlled for wine storage.

"We will be able to separate the varieties and sizes more, as well as keep more of our higher end and popular brands here," he said.

"Also from a financial commitment standpoint, it makes sense for us."

Air quality concerns in the heavily polluted San Joaquin Valley also factored into the decision. "Our trucks don't have to spend so much time traveling down the interstate and polluting the air when they don't have to," Yarborough said.

The establishment that started with a modest amount of winemaking by family patriarch Gaspare Indelicato has grown to include vineyards throughout California, including San Bernabe Vineyard in Monterey, the Napa Valley and east of Lodi.

It was named as the fastest growing winery in California in 2004 by wine industry consultants Gomberg, Fredrikson & Associates.

The warehouse would hold wines of the Delicato label as well as other names such as Clay Station, Night Owl and Gnarly Head.

Yarborough said that the winery is waiting on final sign-offs for building permits.

He hopes to start removing vineyards that occupy the proposed warehouse site by the end of the month.

"We will break ground on the warehouse shortly thereafter," he said. "As far as when it will be done, we're not sure yet, but we'll move forward as quickly as possible."

Automakers want federal judge to toss global warming lawsuit

California attorney general says firms that produce high-emission vehicles should pay damages for polluting

By Laura Kurtzman, Associated Press

In the Fresno Bee, S.F. Chronicle and other papers, Sunday, December 17, 2006

SACRAMENTO - The six largest automakers are asking a federal judge to toss out a lawsuit by California that accuses them of harming human health and the environment by producing vehicles that contribute to global warming.

The American and Japanese auto companies filed a motion in U.S. District Court in Oakland on Friday to dismiss the complaint filed in September by Attorney General Bill Lockyer.

An attorney for the automakers said Saturday that state officials who want to reduce auto emissions should do it through regulation not litigation.

"It's the classic kind of case that the Supreme Court has said doesn't belong in federal court," said Theodore Boutrous, who represents Chrysler Motors Corp., General Motors Corp., Ford Motor Co., Toyota Motor North America Inc., American Honda Motor Co. and Nissan North America Inc.

Lockyer claims the automakers are violating public nuisance laws by producing high-emission vehicles and should pay damages for polluting. He says automakers could produce cleaner vehicles but have chosen to fight instead.

"The thrust of what we're saying is the technology to produce vehicles that emit far less greenhouse gases exists," said Teresa Schilling, a spokeswoman for Lockyer. "They fight any attempt to get them to cut back on their pollution."

The lawsuit contends the state is already dealing with the deleterious effects of global warming caused by rising emissions of carbon dioxide and other heat-trapping gases. Vehicles are the state's largest single source of greenhouse gas emissions.

The complaint cites reports from state agencies that say rising temperatures will melt Sierra Nevada snowpack earlier each year, which will flood the Central Valley and threaten the state's water supply.

The current suit comes as automakers are wrangling with California over a 2002 law requiring them to cut emissions. That law has since been copied by 10 other states.

Under the law, the California Air Resources Board has adopted standards designed to cut carbon dioxide emissions from cars and light trucks by 25 percent and from sport utility vehicles by 18 percent starting in 2009.

The auto industry is challenging those regulations, arguing that such reductions can only come from stricter fuel-economy standards, which are the province of the federal government. The state argues that emission reductions can be achieved in other ways.

That case is expected to go to trial on Jan. 30.

[Modesto Bee Editorial, Monday, December 18, 2006](#)

Cleaner lawn mowers, leaf blowers on the way

Some of the worst polluters in our valley are lawn mowers and leaf blowers.

California has been trying to control these smog-belching engines for four years. But the federal Environmental Protection Agency has basically stood in the way.

The EPA was acting under orders from a Republican Congress that hated to irritate contributors in industry by allowing new environmental rules on small-engine emissions to come into effect. State regulators wanted manufacturers to do what carmakers have done for two generations: install catalytic converters.

Last week, EPA finally relented and it's about time. It granted California the waivers needed to impose its unique, toughest-in-the-nation standards on companies that build mostly garden equipment powered by engines under 50 horsepower. Such engines account for 7 percent of the emissions coming from all mobile sources in the state - the equivalent of about 3 million cars.

California's new rules will go into effect next year. Unfortunately, other states will not be able to benefit from them. Congress passed a law barring other states from adopting California's rule and ordered EPA to set the federal standard. The agency has not yet issued that standard, but it is widely anticipated that it will be far more permissive than California's.

Still, the California rule could lead companies to begin building cleaner garden equipment. A number of foreign manufacturers already are in compliance with higher standards - after all, they already are required in many other parts of the world.

For years, California regulators have wanted makers of lawn mowers and leaf blowers to sell equipment here that is at least as clean as the equipment they sell in Europe and Japan. It's taken much too long, but the federal EPA has finally gotten out of our way.

We hope the EPA requires the rest of the nation to follow.

[Hanford Sentinel, Editorial, Friday, Dec. 15, 2006:](#)

Commitment to recycling is a must

This week the Kings Waste and Recycling Authority board turned down a request for Modular Rubber Drains, Inc. to move onto its property.

Visalia businessman John Koster wants to turn scrap tires and farm plastic waste into rubber sidewalks and drains.

The company says it will use a technology that fuses tire crumbs by centrifugal force without melting or emissions.

The Kings Waste board was in favor of the project but wants the company to consider its property only as a last resort.

What a shame.

We have said it many times before and we will say it again now: Kings County residents cannot sit back and allow our growers, farmers and dairymen to bear the brunt of cleaning up California's environment. We all must do our part.

Each year more than 200 million tires are discarded from old cars. That's a lot of rubber.

Some companies have found innovative ways to recycle the tires into something useful, such as constructing rubber mats that replace gravel or asphalt on children's playgrounds.

It should be noted that the proposed operation has already received approval from the San Joaquin Valley Air Pollution Control District. That's the bureaucracy charged with monitoring and cleaning Valley air pollution.

The proposal even has the financial backing of the state Integrated Waste Management Board.

So why all the fuss? Perhaps there is more to the story, we have yet to hear it.

But so far, it seems to us that the operation should be allowed to move forward.

Here is the mission statement of the Kings Waste & Recycling Authority:

"(It) is dedicated to environmental protection and conservation of natural resources through its commitment to recycling and safe disposal of municipal solid waste of the communities we serve."

Turning rubber tires and agricultural plastic waste into something useful certainly sounds like a "commitment to recycling" to us.

Assuming we have heard the facts correctly, we believe the tire recycling plant should be allowed to move forward.

[Modesto Bee Editorial, Friday, December 15, 2006](#)

Yellow flag should be out for Merced racetrack

Which makes more noise: a B-52 accelerating for takeoff, or 40 cars at full throttle chasing each other around a racetrack? Well, they didn't call the movie about NASCAR racing "Days of Thunder" for nothing.

Worse than the noise from internal combustion is the residue -- faintly sweet-smelling blue smoke that pollutes the air.

For all its noise and commotion -- maybe because of it -- racing is the most popular spectator sport in the world. Its fans are devoted, dedicated and legion. That's as true in the Northern San Joaquin Valley as anywhere. That's why we applaud the decision early Wednesday morning by Merced County supervisors to move forward with plans for Riverside Motorsports Park.

The track will give thousands of fans and racers an outlet. Without it, a sport that has long thrived in this area will suffer, and so will the businesses that have grown up around it.

The vote to accept the developers' environmental impact report was but the first step of many more to come. If Foster Farms and the Federal Bureau of Prisons take their objections to court, the track might never open. It would be better to resolve differences through negotiation.

We hope those who object will realize that some of the best racers in the world come from around here. World champions Kenny Roberts (Sr. and Jr.) started here, as did NASCAR's Ernie Irvan and local legends Dan Reed of Riverbank, Kenny Boyd of Ceres and Modesto's Belletto family. Their fans need a place to watch their favorites.

Still, many schemes for new tracks have come and gone. A few years ago, some local folks wanted to build a track near downtown Modesto -- where the Gateway Parcel of the Tuolumne

River Regional Park is being created today. Others have fantasized about building a track at Crows Landing.

Our support is tempered with the knowledge that racers are famous for many things -- including cutting corners. Many are fond of saying, "If you ain't cheatin', you ain't tryin'." That's why it is vital that Merced County hold track developers to every promise they've made -- and then some. Plans for traffic mitigation aren't nearly good enough. A mass-transit plan should be required. Neighbors must be shielded from the worst impacts of noise.

Motorsports fans are devoted and appreciative. We also want them to be respectful of what they have been granted -- a fantastic place to play.

Merced supervisors made a difficult but good choice. As we applaud their decision, we also offer a warning: Proceed with caution.