

Filed: September 20, 2011  
Staff: Trever Parker  
Staff Report: October 6, 2011  
Commission Hearing Date: October 19, 2011  
Commission Action:

**STAFF REPORT: CITY OF TRINIDAD**

APPLICATION NO: 2011-06  
APPLICANT (S): City of Trinidad  
AGENT: N/A  
PROJECT LOCATION: Trinidad Head Trails  
PROJECT DESCRIPTION: Design Review, Coastal Development Permit and Conditional Use Permit to conduct regular vegetation maintenance activities on Trinidad Head roads and trails.  
ASSESSOR'S PARCEL NUMBER: 042-121-05  
ZONING: OS – Open Space  
GENERAL PLAN DESIGNATION: OS – Open Space  
ENVIRONMENTAL REVIEW: Categorically Exempt from CEQA per § 15301 of the CEQA Guidelines exempting maintenance of existing facilities, including pedestrian trails, and 15304 exempting minor alterations to land and vegetation.

**APPEAL STATUS:**

Planning Commission action on a coastal development permit, a variance or a conditional use permit, and Design Assistance Committee approval of a design review application will become final 10 working days after the date that the Coastal Commission receives a "Notice of Action Taken" from the City unless an appeal to the City Council is filed in the office of the City Clerk at that time. Furthermore, this project **X** **is** ~~is not~~ appealable to the Coastal Commission per the requirements of Section 30603 of the Coastal Act and the City's certified LCP.

## **SITE CHARACTERISTICS:**

Trinidad Head is a roughly 61-acre, 358-foot elevation headland that comprises the southwestern quarter of the City of Trinidad, and together with the recurving rocky coastline to the east, form Trinidad Bay. The City of Trinidad owns the majority of Trinidad Head. However, the southern portion of the Head is owned by the U.S. Coast Guard, and an area at the summit is also owned by the federal government and contains communication and scientific study equipment and NOAA weather monitoring facilities. The City also leases a small area as a telecommunication facility containing cellular equipment. The project site is situated within the coastal zone and lies within the incorporated boundaries of the City of Trinidad and within the City's certified permitting area. The entire Trinidad Head is designated in the City's Land Use Plan as "Open Space" (OS), implemented through an "Open Space" (OS) zoning designation.

A paved and gravel roadway provides access to both the Coast Guard property and the NOAA weather monitoring facility at the summit; this roadway also provides pedestrian access to the Trinidad Head trail system. A recreational loop trail traverses around Trinidad Head, and includes various spur trails. The trail system also includes benches, vista points, trail markers and railings to keep people away from steep cliffs. From various points along the trail, views are afforded of the Trinidad townsite, Trinidad Bay, Trinidad State Beach, Pewetole Island, Elk Head, the Trinidad pier and harbor moorages, as well as both nearshore and distant blue-water vistas. On clear days, the ocean and coastline vistas encompasses the area between Point Saint George to Cape Mendocino, nearly fifty miles to the north and south, respectively.

Plant cover on the Head is dominated by a thick shrub layer comprised of coyotebrush (*Bacharis pilularis*), cascara (*Rhamnus purshiana*), California blackberry (*Rubus ursinus*), evergreen huckleberry (*Vaccinium ovatum*), salal, (*Gautheria shalon*), swordfern (*Polystichum munitum*), bracken fern (*Pteridium aquilinum*), coast silk-tassel (*Garrya elliptica*), with scattered tree layer cover by salt and wind-stunted Douglas-fir (*Psuedotsuga menziesii*). Several immature incense cedar trees (*Calocedrus decurrens*) have also been planted, apparently for screening the telecommunications complex, along the southside of its fenced enclosure.

## **STAFF COMMENTS:**

The City has been managing and maintaining roads and trails on Trinidad Head since it was transferred to the City and incorporated into City limits in 1985. The City works in cooperation with the federal agencies that also own land on Trinidad Head, and these agencies retain certain rights and easements over areas of Trinidad Head that are owned by the City (roads and utilities). However, City staff is unclear as to the exact provisions of these easements. The roadways must be maintained for access to the facilities on Trinidad Head and for emergency vehicles. The trails also must be maintained to preserve pedestrian access from encroachment of vegetation. The City typically trims vegetation consistent with historic dimensions twice per year with minor trimming and mowing once per month.

In March of 2011, the City received a letter from Coastal Commission staff that there had been a complaint regarding recent maintenance activities that had been carried out on the Head by Trinidad Public Works staff. The complaint alleged the activities that occurred went beyond maintenance and that a coastal development permit should have been applied for. A series of correspondence followed (letters attached), and the City agreed to cease maintenance activities until receiving clarification from the Coastal Commission. City staff met with Coastal Commission staff to walk the Trinidad Head roads and trails and discuss maintenance activities on May 16, 2011. Maintenance activities that had occurred in the spring were viewed and discussed. Vegetation maintenance, consisting of trimming vegetation back, up and down, varies depending on the location and type of area (whether it is a road, trail, bench, spur, etc.). In addition to the vegetation maintenance that had occurred, some road and trail grading had also occurred to repair erosion damage and to rebuild water bars that direct stormwater off the road to prevent erosion.

The definition of development contained in the Coastal Act and the City's LCP includes 'major vegetation removal,' which itself is not well defined. Also, Trinidad Head, the bluffs and the coastal scrub vegetation would qualify as an 'environmentally sensitive habitat area' (ESHA), which further restricts allowable activities. It was determined that the grading activities that consisted of importation of gravel and the use of heavy equipment (bobcat) should have triggered a coastal development permit. However, the coastal development permit requirements for the vegetation maintenance were less clear. Generally, vegetation trimming and maintenance that has historically and regularly occurred could be exempt from permit requirements. However, because these dimensions can not be definitively established, the City is proposing to issue a coastal development permit for regular vegetation maintenance that occurs on Trinidad Head. The purpose of this project is to detail these maintenance activities and to issue the coastal development permit so that it can occur on a regular basis in the future similar to the past.

## **DETAILED PROJECT DESCRIPTION:**

The following list comprises a detailed description of the regular vegetation maintenance activities that occur on Trinidad Head (see Map for locations of each of these treatments):

- Mowing: mowing occurs several times per year along open areas of roadways and trails where woody vegetation does not occur. The intent is to keep grass and weeds down. It reduces the incidence of poison oak and blackberry and provides an area where pedestrians can move over to avoid each other or vehicles. Mowing also occurs in some traditionally grassy areas that have historically been cleared, such as vista points, at benches and vehicular turn-arounds. These areas are indicated on the Map as 'A'.
- Trimming vegetation along roads to widths that have historically been trimmed: The roads (paved and gravel portions) average 10 feet in width and vegetation is trimmed approximately 3 feet on either side twice per year. This equates to a total width of approximately 16 feet. At existing waterbars, vegetation is trimmed an additional 2 feet from the roadway toward the outslope of the waterbar (total of 5 feet on the outward side, total maximum width of 18 feet) to maintain erosion control. A 15 foot clearance height is also trimmed to these widths to accommodate emergency vehicles on the roadways in accordance with CalFire regulations.

- Trimming vegetation along trails to widths that have historically been trimmed: The trails themselves range from 3 to 6 feet in width depending on the location. Trimming occurs approximately 3 feet on either side of the trail for an average total width of 9 to 12 feet. An 8 foot clearance height is also trimmed to these widths for pedestrian safety. Most of the Trinidad Head trails are approximately 3 ft. in width, and only limited areas, such as at benches and vista points, reach the maximum 6 ft. widths as indicated on the Map as 'B'.
- Trimming down the height of vegetation: This has historically been done at various vista points and in front of benches to an average of approximately 3 feet high. These areas are indicated on the Map as 'C'.

Major trimming (up to the maximums described above) occurs approximately every 6 months (twice per year). Minor trimming, to less than the maximums described above, to maintain road and trail access through the growing season occurs approximately once a month. Vegetation trimming includes removing leafy material and some woody branches from forbs, shrubs and trees using hand tools or handheld power tools. None of these trimming activities includes removal of entire plants. Some invasive and noxious plants, such as Himalaya blackberry and poison oak, are removed from the trail edges.

#### **ZONING ORDINANCE/GENERAL PLAN CONSISTENCY:**

The purpose of the Open Space (OS) Zone is to *“maximize preservation of the natural and scenic character of these areas including protection of important wildlife habitat and cultural resources...”* Principally permitted uses within the OS zoning district are limited primarily to habitat related and low-intensity recreational activities, such as wildlife habitat, public and private open space, beachcombing, hiking, fishing, and picnicking, with limited provisions for conditionally authorizing physical developments. Conditionally permitted uses include new and expanded pedestrian trails, vista points, shoreline revetments to protect and maintain existing scenic and cultural resources, and temporary structures related to wildlife habitat management and scientific research. In addition, “structures accessory to uses and buildings existing within the open space zone at the time this ordinance is adopted” are also allowed with the issuance of a conditional use permit.

Removal of vegetation posing a hazard to structures or people is a principally permitted use. Other removal of vegetation requires a use permit. In this case, no vegetation is being removed, only trimmed. And no new trails or improvements are proposed, only maintenance of the existing roads, trails and vista points. The Trinidad Public Works Director has stated that the vegetation maintenance described above is consistent with the maintenance activities that have regularly occurred since he has worked for the City (more than 10 years). Therefore, staff has determined that the proposed maintenance activities are principally permitted and do not require a use permit. However, in the event that information is presented by the public that conflicts with staff’s determination, the Use Permit findings have been included if the Planning Commission finds them necessary. Because the project does not involve any structural changes or grading, design review does not apply. This staff report focuses on the consistency of the proposed maintenance activities with the Coastal Act and its regulations, because they tend to be more restrictive and better defined than the City’s LCP in this case.

The BLM transferred most of Trinidad Head to the City in 1983 as a *“recreational area for hiking and other low-intensity recreational uses.”* It was then incorporated into City limits, and the Coastal Commission approved the transfer and application of the City’s LCP to the Head in 1985. It should be noted that the original March 15, 2011 letter from the Coastal Commission explained that the complaint regarding the maintenance activities also included other aspects, one of which was the lack of required archeological surveys. Open areas of the Head were surveyed during the transfer process. In addition, one of the conditions of the BLM transfer was that: *“After the vegetation is removed and prior to any construction [primarily trails and vista points], those areas not previously surveyed for cultural values shall be surveyed by a qualified archeologist.”* The road areas were previous surveyed and the trails were surveyed as part of the original trail development. No new areas were / are disturbed or had / have vegetation removed as part of the regular maintenance activities proposed for this action. Therefore this requirement does not apply.

The General Plan Policy 17 (p. 15) encourages minimizing development on Trinidad Head in order to protect rare plants and animals that exist there. Policy 66 (p. 39) states that: *“Trinidad Head will be kept in its natural state with hiking trails and vista points.”* This project is consistent with this policy as well as the purposes of the open space designation.

#### **COASTL ACT / REGULATIONS CONSISTANCY:**

It is the opinion of City staff that the activities described in this staff report fall under the Coastal Commission’s exemption for maintenance activities found in section 30610(d) as follows: *“Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities; provided, however, that if the commission determines that certain extraordinary methods of repair and maintenance involve a risk of substantial adverse environmental impact, it shall, by regulation, require that a permit be obtained pursuant to this chapter.”* This opinion is based on the fact that City staff has maintained vegetation along roads and trails on Trinidad Head since it was transferred to the City in 1985. However, the exact extent of historic vegetation maintenance can not be established. The additional road repair work that also occurred this spring is not part of the regular annual maintenance or this project and likely should have required a coastal development permit (there is a discrepancy between the current Coastal Act regulations and the City’s certified LCP). This work could have resulted in the appearance that the vegetation maintenance this spring was greater than normal, which caused the original complaint. Figure # includes a series of aerial photos of Trinidad Head taken over the years that shows that conditions along the roads and trails of Trinidad Head have remained fairly consistent. It can actually be seen that the photo from 2011 shows more vegetation over the roads and trails than is normal due to the lack of maintenance this summer resulting from the complaint.

Coastal Commission regulations §13252 outlines exceptions to the Coastal Development Permit exemptions of §30610 of the Coastal Act. The one exception that could apply to these activities is number 3, which applies to environmentally sensitive habitat areas (ESHA): *“Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that*

*include: (A) The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials or any other forms of solid materials; (B) The presence, whether temporary or permanent, of mechanized equipment or construction materials.*” The entire Trinidad Head could be considered an ESHA due to the coastal scrub habitat and the proximity to coastal bluffs. However, no new materials are placed on Trinidad Head through the proposed maintenance activities. In addition, only hand tools are used. Some of these may be power tools (mowers and trimmers), but would not be considered mechanized equipment. Further, §17.72.070(C)(3) of the certified Trinidad LCP contains exemptions for road and trail maintenance. However, the Trinidad LCP, due to its age, sometimes conflicts with current provisions of the Coastal Act and associated regulations. It is City staff’s policy to use the stricter of the provisions when they conflict, and in this case, that appears to be the Coastal Act.

Chapter 3 of the Coastal Act contains the ‘Coastal Resources Planning and Management Policies’ against which development projects (and LCPs) are judged. This Chapter is divided into 7 Articles.

Section 30210, the lead-in to Article 2, regulating public access, states: *“In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.”* Most of the policies of this article related to new development, but maintenance of Trinidad Head Trails is consistent with providing maximum public access (§30210) that is free to the public (§30213). Trail maintenance complies with the provisions of §30214 in protecting coastal resources, because it is consistent with historical maintenance activities, and through this CDP process, specific locations, timing, amount and methods will be defined so that future maintenance continues to be consistent with past activities.

Maintenance of Trinidad Head trails is consistent with Article 3 (Recreation) by protecting coastal (§30221), ocean front land for recreational purposes. The proposed maintenance activities are also consistent with Articles 4 (Marine Environment) and 5 (Land Resources) by providing for trimming of vegetation to consistent widths to allow for passive public access while preserving the integrity of the existing habitat. Wholesale removal of vegetation does not occur, simply trimming, which grows back and therefore must be repeated periodically. Vegetation must be trimmed to the widths proposed to minimize the amount of maintenance required between trimmings. Requiring more frequent maintenance would cause additional disturbance of both the natural environment and trail users. The project is consistent with Chapter 6 (Development), by providing public access and coastal viewing opportunities. There are established vista points and benches along the trails and roadways where vegetation must be trimmed to maintain existing coastal views of the harbor, beaches, coastal rocks and open water. Article 7 (Industrial Development) does not apply to this project.

## **SLOPE STABILITY:**

The property where the proposed project is located is outside of any areas designated as unstable or questionable stability based on Plate 3 of the Trinidad General Plan.

## **SEWAGE DISPOSAL:**

There is no sewage disposal associated with this project.

## **USE PERMIT FINDINGS:**

Section 17.72.040 requires written findings to be adopted in approval of a use permit. However, staff has determined that a Use Permit should not be required unless conflicting information is presented during the hearing. The following findings can be made based on the responses provided:

- A. The proposed use at the site and intensity contemplated and the proposed location will provide a development that is necessary or desirable for and compatible with the neighborhood or the community. *Response: Trinidad Head is undeveloped except for government facilities, a small communications site and public trails with associated improvements, and the historic cross. The proposed vegetation maintenance will enhance public safety and recreational opportunities and is consistent with the existing trail system.*
  
- B. Such use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity or injurious to property improvements or potential development in the vicinity with respect to aspects including but not limited to the following:
  - 1. The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures; *Response: The proposed vegetation maintenance will preserve the access to and usability of the Trinidad Head Trail system.*
  
  - 2. The accessibility of the traffic pattern for persons and vehicles, and the type and volume of such traffic, and the adequacy of proposed off-street parking and loading; *Response: The proposed vegetation maintenance will preserve the access to and usability of the Trinidad Head Trail system. Public safety will be maintained so that pedestrians can move to the sides of roads and trails to get out of the way of vehicles and other pedestrians.*
  
  - 3. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor; *Response: The proposed vegetation maintenance will not result in any offensive emissions, including noise, glare, dust and odor.*
  
  - 4. Treatment given, as appropriate, to such aspects as landscaping, screening, open space, parking and loading areas, service areas, lighting and signs;

*Response: The proposed vegetation maintenance does not require landscaping or include, open space, parking, loading, service areas, lighting or signs. The maintenance activities are consistent with historic vegetation maintenance and are compatible with the open space nature of the Head.*

- C. That such use or feature as proposed will comply with the applicable provisions of this title, will be consistent with the policies and programs of the general plan and will assist in carrying out and be in conformity with the Trinidad coastal program.  
*Response: As described above in "Zoning Ordinance/General Plan Consistency," the proposed project is consistent with both the Zoning Ordinance and General Plan and will carry out policies, consistent with the Trinidad Coastal Program by maintaining coastal recreational opportunities.*
- D. That the proposed use or feature will have no significant adverse environmental impact or there are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available which would substantially lessen any significant adverse impact that the actions allowed by the conditional use permit may have on the environment. *Response: The proposed vegetation maintenance occurs within the existing trail system and does not have the potential for adverse environmental impacts and are exempt from CEQA per CEQA Guidelines §15301 allowing maintenance of existing trails and 15304 allowing minor alterations to vegetation.*
- E. When the subject property is located between the sea and the first public road paralleling the sea or within three hundred feet of the inland extent of any beach or of the mean high tide line where there is no beach, whichever is the greater, that:
1. The development provides adequate physical access or public or private commercial use and does not interfere with such uses; *Response: The purpose of the proposed vegetation maintenance is to preserve existing public access from natural encroachment by growth of that vegetation.*
  2. The development adequately protects public views from any public road or from a recreational area to, and along, the coast; *Response: The purpose of the proposed vegetation maintenance is to preserve existing public views from natural encroachment by growth of that vegetation.*
  3. The development is compatible with the established physical scale of the area; *Response: Vegetation maintenance is consistent with and necessary to preserve the scale of the existing road and trail system.*
  4. The development does not significantly alter existing natural landform; *Response: Vegetation maintenance activities will not result in ground disturbance.*
  5. The development complies with shoreline erosion and geologic setback requirements. *Response: Trinidad Head is not an area mapped as being*

*unstable or questionably stable on Plate 3 of the General Plan. Vegetation maintenance is consistent with the existing road and trail system.*

**STAFF RECOMMENDATION:**

The project is consistent with the City's Zoning Ordinance and General Plan as well as the Coastal Act, and the necessary findings for granting approval of the project can be made. Should the Planning Commission find that the project is constant with all of the above provisions as described in this staff report, then staff recommends that the Planning Commission approve the project with a motion similar to the following:

Based on application material, information and findings included in this Staff Report, and based on public testimony, I find that the proposed project is consistent with the City's certified LCP and the provisions and regulations of the Coastal Act and I move to approve the project as submitted and described herein.

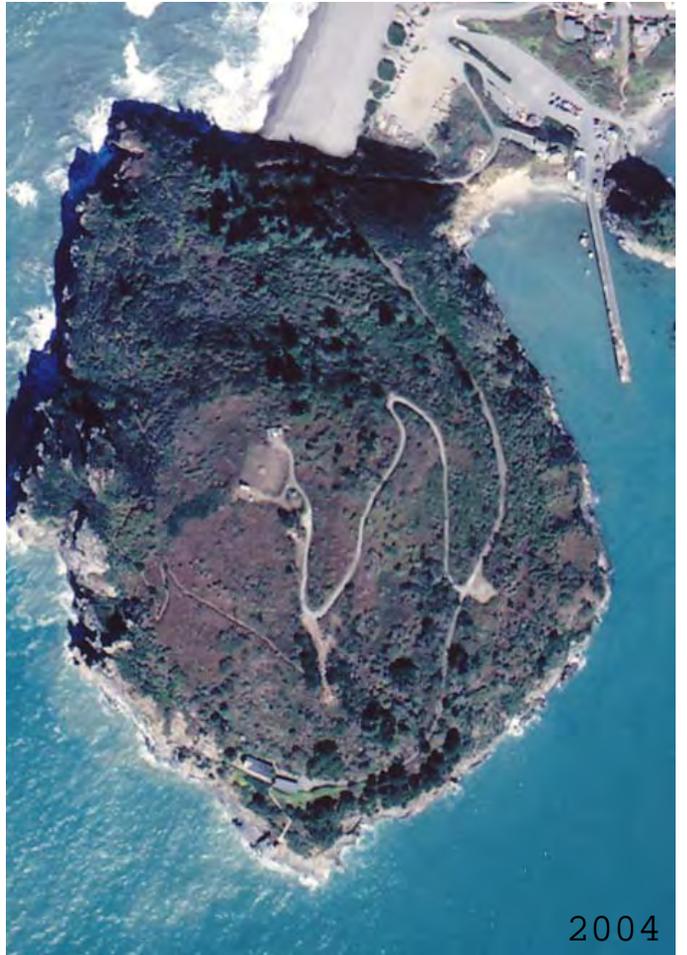
**PLANNING COMMISSION ALTERNATIVES:**

If the Planning Commission does not agree with staff's analysis, or if information is presented during the hearing that conflicts with the information contained in the staff report, the Planning Commission has several alternatives.

- A. Add conditions of approval to address any specific concerns on the part of the Commission or the public.
- B. Delay action / continue the hearing to obtain further information.
  - In this case, the Planning Commission should specify any additional information required from staff or the applicant and / or suggestions on how to modify the project and / or conditions of approval.
- C. Denial of the project.
  - The Planning Commission should provide a motion that identifies the Finding(s) that can not be made and giving the reasons for the inability to make said Finding(s).

# Vegetation Maintenance Map Placeholder

The City Public Works Director has been out of town this week due to family medical issues, and therefore the map was not able to be completed in time for the packets. The map will be provided ASAP before the meeting.





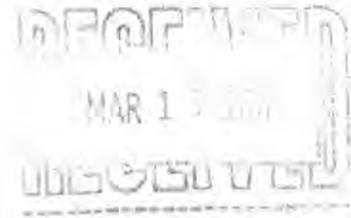
## CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE  
710 E STREET • SUITE 200  
EUREKA, CA 95501-1865  
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March 15, 2011

Steve Albright  
Trinidad City Manager  
City of Trinidad  
409 Trinity Street  
P.O. Box 390  
Trinidad, CA 95570



RE: Recent Vegetation Removal on Trinidad Head

Dear Mr. Albright:

I am writing this letter to summarize the results of a recent site visit conducted by California Coastal Commission (Commission) staff. We conducted the site visit to confirm an alleged Coastal Act violation report received by Commission staff, which alleged unpermitted vegetation removal occurring on Trinidad Head. In the received reports, there were several other concerns related to the ongoing management of Trinidad Head. These concerns included the proliferation of invasive species on and around the Head resulting from various permitted and alleged unpermitted development, standards and methods of road and trail maintenance, accumulation of debris and trash in visually sensitive areas on and around the Head, and the lack of archeological surveys as required by the stipulations of the Bureau of Land Management's (BLM) patent deed to the City of Trinidad for the transfer of Trinidad Head.

According to our records, the City of Trinidad did not apply for and receive a coastal development permit (CDP) for the vegetation removal along the roadsides and trails of Trinidad Head. From what I understand, this is because the City of Trinidad believes that these vegetation removal activities are exempt from the requirements of a CDP under Public Resources Code Section 30610(d). This section states, in relevant part:

*Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas:*

...

*(d) Repair and maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities; provided, however, that if the commission determines that certain extraordinary methods of repair and maintenance involve a risk of substantial adverse, environmental impact, it shall, by regulation, require that a permit be obtained pursuant to this chapter.*

Since the removal of vegetation involves a risk of substantial adverse environmental impact, due to the proximity of environmentally sensitive habitat areas (ESHA) and coastal bluffs, Commission staff believes a CDP is required for this activity. Section 13252 of the Commission's Administrative Regulations (Title 14 Division 5.5) contains language that specifically requires a CDP for certain repair and maintenance activities. More specifically, Section 13252(a)(3)(B) states, in relevant part:

*(a) For purposes of Public Resources Code section 30610(d), the following extraordinary methods of repair and maintenance shall require a coastal development permit because they involve a risk of substantial adverse environmental impact:*

...

*(3) Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that include:*

*(A) The placement or removal, whether temporary or permanent, of rip-rap rocks, sand or other beach materials or any other forms of solid materials;*

*(B) The presence, whether temporary or permanent, of mechanized equipment or construction materials. [Emphasis added.]*

In addition, Commission staff believes that the vegetation removal that has occurred (and may occur in the course of future repair and maintenance activities on and around Trinidad Head) qualifies as “major vegetation removal” within the definition of development under Section 30106 of the Coastal Act:

*Development means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant of the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in the connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and **the removal or harvesting of major vegetation** other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with the timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511). [Emphasis added]*

In light of our site visit and the information Commission staff has received regarding the vegetation removal which has occurred on Trinidad Head, Commission staff strongly recommends that the City of Trinidad process an after-the fact CDP for the vegetation removal that occurred without the benefit of a coastal development permit. To make the findings that the after-the-fact CDP is consistent with the certified Trinidad LCP, the City may deem it necessary to attach special conditions to the permit requiring restoration of areas where major vegetation removal exceeded the minimum amount necessary for repair and maintenance standards and encroached into environmentally sensitive habitat areas, invasive species removal in impacted areas, erosion control measures, archaeological mitigation, and/or other mitigating actions.

We appreciate your attention to this matter and thank you for your stewardship of the scenic and environmentally sensitive resources of the Trinidad Head area. We would be happy to meet with you to discuss the coastal development permit process, the requirements of the City's LCP, logistics for developing programmatic maintenance permitting, or other questions you may have. To arrange for discussion, please contact Jim Baskin of the North Coast district office at 445-7833.

Sincerely,



Andrew Minks  
North Coast Enforcement  
California Coastal Commission

Cc: Jim Baskin, Coastal Planner, North Coast District  
Robert Merrill, Manager, North Coast District  
Nancy Cave, Supervisor, Northern California Statewide Enforcement Program



April 10, 2011

Andrew Minks  
North Coast Enforcement  
CA Coastal Commission  
710 E. Street, Suite 100  
Eureka, CA 95501

Re: March 15, 2011 letter regarding recent vegetation removal on Trinidad Head

Dear Mr. Minks,

The City received your letter, and while I understand your concerns and appreciate your references to the Coastal Act and associated regulations, I must respectfully disagree with your conclusions. The maintenance activities consisted of the application of 20 cubic yards of base rock to the deteriorated road surface to re-establish grade, redistribute accumulated material to restore water bars and outsloping for drainage. In addition, straw was applied to approximately 700 square feet of outsloping areas where vegetation was affected. Hand tool work was utilized as much as possible, and in other instances a skid steer piece of equipment was used. All work occurred within previously disturbed areas. Vegetation removed substantially consisted of non-native species such as Himalaya blackberry that had overgrown the roadway. These activities are consistent with road and trail maintenance that has been occurring periodically over the last almost 30 years since the City acquired ownership of Trinidad Head.

Trinidad implements land use authority under its certified LCP. The City understands that the existing LCP is somewhat old and is sometimes different from the current Coastal Act and associated regulations. When staff becomes aware of any discrepancies, the stricter of the provisions is utilized. Trinidad's exemptions from CDP requirements tend to be more detailed than the current coastal regulations. Included in these exemptions are provisions for grading, which clearly exempt the maintenance activities that occurred. §7.12.B (17.72.070.C as codified) – *“The following categories of development shall not require a CDP:”*

3. *Any excavation or fill or combination thereof, less than both of the following criteria:*
  - a. *One thousand square feet of surface area including removal of ground cover. This does not include ground cover removed for agricultural or grading for road and trail maintenance purposes,*
  - b. *Fifty cubic yards of material. This shall not apply to any excavation or fill:*
    - i. *Within an open space or special environmental zone as provided in the Trinidad zoning title, or outside of the stable area as indicated in the general plan map.*

*This does not include ground cover removal for road or trail maintenance purposes,...*

In addition, subsection D outlines “*projects that are not development within the meaning of this section or Section 30106 of the California Public Resource Code. And do not require a coastal development permit*” and therefore would not even have to consider exemptions:

*3. Repairs which involve only the replacement of component parts of existing work with similar materials for the purpose of maintenance and which do not aggregate over two thousand dollars in valuation in any twelve-month period and do not affect any electrical or mechanical installations.*

A management plan was created for Trinidad Head as part of the land transfer of a large portion of the Head (47 acres) from the BLM to the City. The BLM approved this management plan in 1982 prior to transfer of the land in 1983. That management plan received public and environmental review per NEPA as well as a consistency determination by the Coastal Commission. The BLM provided an analysis for the Coastal Commission’s consistency determination on the transfer by letter dated March 16, 1983. In this letter, the BLM notes that: “*if any modifications to the plan as submitted and approved by the [BLM] as a result of future actions these must be, in accordance with federal law and regulations promulgated thereto, approved by [BLM].*” This statement was referring to any Coastal Commission modification of the management plan through the consistency determination or future coastal development permit. The Coastal Commission concurred with BLM’s analysis and approved the transfer on April 14, 1983.

The management plan included two stipulations that are binding on the City. The title to Trinidad Head could revert back to the BLM if one or more of four findings are made. One of these is if “*the patentee has failed to follow the approved development plan or management plan.*” The two binding stipulations of the management plan are:

- (1) Waterbars, outsloping and rock barriers should be used, where appropriate, to reduce erosion, runoff and trail maintenance.*
- (2) After the vegetation is removed and prior to any construction [primarily trails and vista points], those areas not previously surveyed for cultural values shall be surveyed by a qualified archeologist. If cultural resources are discovered...*

Though the City recognizes areas of special sensitivity such as Trinidad Head through the Open Space and Special Environment zoning designations, the City’s LCP does not contain any language, definitions or provisions relating to Environmentally Sensitive Habitat Areas. The consistency finding for the transfer under §30240 of the Coastal Act was that: “*No environmentally sensitive habitat will be affected or degraded. The [management] plan calls for trail and overlook development by foot access only (i.e. non-vehicular traffic). No threatened, rare, or sensitive species were found during the field examination and [environmental assessment] preparation.*” In addition, the management plan includes mitigations for archeological resources, and a qualified archeologist examined the site prior to the transfer.

In addition, the land patent transfer from the federal government excepted rights-of-way and utilities that had already been constructed, including the roadway and utility lines along with the

right to maintain, operate and repair these structures. These areas were reserved to the federal government, and the City cooperates with NOAA and the Coast Guard to maintain access to critical facilities on Trinidad Head. In fact, the work that was the subject of your letter was partially paid for by NOAA. In the past, both NOAA and USCG have independently contracted for work to be done on the road without City involvement. When the USCG was recently dismantling their housing and other facilities on the Head, they did some fairly substantial work, including widening the road; the City was not involved in that work. However, usually maintenance is coordinated between the City and these federal agencies. The City is unclear as to the extent of the rights of the Federal government over these areas.

It may be recognized that the City's management plan for Trinidad Head is nearly 30 years old and should be updated, as is also true for the City's entire LCP. However, the City has managed the road and trail system on Trinidad Head for these 30 years in accordance with our understanding of the approved management plan and LCP. An LCP amendment recognizing annexation and the proposed land uses on Trinidad Head was submitted and approved by the Coastal Commission in 1985 (1-85). In addition, a coastal development permit was processed for development of new trails, signage and benches on Trinidad Head (#1-84-43). The City respects the Coastal Act, associated regulations and its own LCP, and has been a responsible steward of Trinidad Head consistent with the approved land transfer. Regular maintenance, as was the subject of your March 15, 2011 letter, has occurred for years without complaint. If it were not for this maintenance, severe damage through erosion and neglect could have occurred to the roads and trails, limiting public access and access to the remaining federal facilities on the Head. Further, because the federal government retains rights to this access road and utilities it is assumed that they would assert those rights and take necessary actions were the road to become impassible through neglect.

The City is currently in the process of updating its general plan, and will also be updating the zoning ordinance and the rest of the LCP in accordance with the general plan update. One of the recommendations in the draft general plan is to create a formal management plan for Trinidad Head. This is the proper avenue for addressing routine and necessary maintenance in the future, but this could be a lengthy process. The City believes that maintenance activities such as those that prompted your March 15 letter are not only necessary to protect the integrity of the access to Trinidad Head, but consistent with approved plans and regulations applying to the site. However, after receiving your letter, the City will cease road and trail maintenance activities until receiving clarification from Coastal Commission staff. We look forward to hearing from you.

Sincerely,

Trever Parker, City Planner

Cc: Jim Baskin, Coastal Planner, North Coast District  
Robert Merrill, Manager, North Coast District  
Nancy Cave, Supervisor, Northern CA Statewide Enforcement Program  
Karen Suiker, Trinidad City Manager



May 31, 2011

Robert Merrill  
North Coast District Manager  
CA Coastal Commission  
710 E. Street, Suite 100  
Eureka, CA 95501

Re: Maintenance Activities on Trinidad Head

Dear Mr. Merrill,

Thank you for meeting with city of Trinidad staff on Trinidad Head on May 16, 2011. The discussion centered around ongoing and periodic maintenance activities for the roads and trails on Trinidad Head. We discussed what types of activities would not be considered development per Coastal Act §30106, specifically the term "major vegetation removal." We also discussed other maintenance activities, such as periodic grading on the existing roadways, that are "development." It was noted that there is a discrepancy between the current Coastal Commission regulations and the City's certified Local Coastal Program (LCP) as to whether such activities would be exempt from Coastal Development Permit (CDP) requirements. The City is seeking concurrence from Coastal Commission staff as to the status and requirements for the various maintenance activities carried out on Trinidad Head by city staff.

The following list comprises staff's understanding of maintenance activities that are not "development" in accordance with Coastal Act §30106 and therefore do not require a CDP:

- Mowing.
- Trimming vegetation along roads to widths that have historically been trimmed. The roads average 10 feet in width and are trimmed approximately 3 feet on either side for a total width of approximately 16 feet. At the outslopes of existing waterbars, vegetation is trimmed an additional 2 feet out from the roadway (total of 5 feet) to maintain erosion control (total maximum width of 18 feet). A 15 foot clearance height is also trimmed to these widths to accommodate emergency vehicles on the roadways.
- Trimming vegetation along trails to widths that have historically been trimmed. The trails themselves average 3 to 6 feet in width depending on the location. Trimming occurs approximately 3 feet on either side of the trail for an average total width of 9 to 12 feet. An 8 foot clearance height is also trimmed to these widths for pedestrian safety.
- Trimming down the height of vegetation as has historically been done at various vista points and in front of benches to an average of approximately 3 feet high.

- Major trimming (to the maximums described above) occurs approximately every 6 months (twice per year).
- Minor trimming to maintain road and trail access through the growing season occurs approximately once a month.
- Vegetation trimming includes removing leafy material and some woody branches from forbs, shrubs and trees using hand tools or handheld power tools
- None of these trimming activities includes removal of entire plants

In addition, it appears that some repair and maintenance activities besides vegetation trimming would also be excluded from the definition of development and CDP requirements per the City's certified LCP (§7.12.C.3) and Coastal Act §30610(c):

- Replacement / repair of component parts of existing structures with similar materials that do not expand their size or use including trail markers, trail steps, gates, fencing and benches. This work utilizes only hand tools and handheld power tools.

The following is a list of maintenance activities that staff understands are 'development' in accordance with Coastal Act §30106 and therefore require a CDP. Further, under current Coastal Commission regulations, Trinidad Head would be considered an Environmentally Sensitive Habitat Area (ESHA) due to the coastal scrub habitat and the proximity to coastal bluffs. As such, CDP exemptions for repair and maintenance activities would not apply (regulations section 13252(3)). However, under Trinidad's certified LCP, these activities would be exempt from CDP requirements per §7.12.B.4 (§17.72.070.C.3 as codified).

- Periodic importation of gravel for roadway and trail maintenance (approximately once every 5 years); this work may include the use of mechanized equipment (e.g. bobcat).
- Grading activities, including smoothing, outsloping and re-creating waterbars to repair erosion damage (approximately once every 5 years); this work may include the use of mechanized equipment.
- Annual maintenance of waterbars and outslopes on the roadway and trails using hand tools or handheld power tools.

The City would appreciate a response as to whether Coastal Commission staff concurs with City staff's understanding of the requirements for each of the above maintenance activities. In particular the status of the activities that would not be considered development (vegetation trimming) is important to confirm at your earliest convenience due to heavy spring growth that is occurring. City staff will await the determination of the Coastal Commission's legal staff as to how to proceed with the third and last list of activities that may or may not be exempt from CDP requirements. Your assistance in this matter is appreciated.

Sincerely,



Trever Parker, City Planner

Cc: Jim Baskin, Coastal Planner, North Coast District  
Karen Suiker, Trinidad City Manager  
Bryan Buckman, Trinidad Public Works



# City of Trinidad

June 20, 2011

Robert Merrill  
North Coast District Manager  
CA Coastal Commission  
710 E. Street, Suite 200  
Eureka, CA 95501

Re: Maintenance Activities on Trinidad Head

Dear Mr. Merrill,

This is a follow-up letter to the one sent on May 31, 2011 of the same subject. Vegetation on Trinidad Head trails and roadways is becoming significantly overgrown. At our meeting on Trinidad Head on May 16, 2011, you requested that the City cease maintenance activities on Trinidad Head to the extent possible until receiving a determination from Coastal Commission staff as to what maintenance activities are not development, which are exempt, and which require a Coastal Development Permit as outlined in the May 31, 2011 letter. Though you did not say that the City should do no vegetation maintenance, the City would like to get an opinion from Coastal Commission staff prior to proceeding in order to avoid any further confusion and complaints. The City understands that you are very busy, and there were several issues brought up in the May 31, 2011 letter that may take a while to resolve. The City requests that you provide the City guidance at this time to the extent possible so that City staff can perform some minor vegetation maintenance on Trinidad Head before it becomes impassible and more difficult to maintain. Thank you for your prompt attention to this matter.

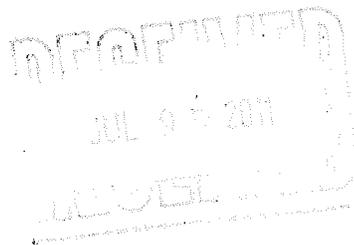
Sincerely,

Trever Parker, City Planner

Cc: Jim Baskin, Coastal Planner, North Coast District  
Karen Suiker, Trinidad City Manager  
Bryan Buckman, Trinidad Public Works

## CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE  
710 E STREET • SUITE 200  
EUREKA, CA 95501-6813  
VOICE (707) 445-7833  
FACSIMILE (707) 445-7877



July 1, 2011

Trever Parker, City Planner  
City of Trinidad  
P.O. Box 390  
Trinidad, CA 95570

SUBJECT: Maintenance Activities on Trinidad Head

Dear Ms. Parker:

Thank you for your letter we received on June 6<sup>th</sup> regarding ongoing and periodic maintenance and other activities involving the roads and trails on Trinidad Head. We appreciate the efforts and time you, Karen Suicher, and the Public Works staff have taken to coordinate with us on the issue of which of the ongoing and periodic activities the City performs on Trinidad Head require coastal development permits and which do not. As we had discussed ahead of time, your letter describes the various activities and offers the City's opinion about which activities as described would require a coastal development permit and seeks the Commission staff's concurrence. The letter describes a number of different activities, many of which raise a number of issues and concerns that we have not yet been able to fully address. We will respond in detail to the entire list at a later date, but we understand that because of the rapid growth of vegetation, there is a pressing need to perform mowing and trimming activities to keep the trails and road on Trinidad clear and available for public access use. Therefore, we are responding now to the portion of your letter addressing such mowing and trimming within and around the trails and road so that the City can choose to move forward on those trimming and mowing activities for which we are in agreement do not require a coastal development permit.

Section 30600 of the Coastal Act requires that a coastal development permit be obtained for any development proposed in the coastal zone unless such development is specifically exempted from the need for a permit. As you note in your letter, Section 30106 defines development, and the definition includes "removal of major vegetation." The term "major vegetation" is not further defined in the Coastal Act or the Commission's regulations. A case by case review of what constitutes "major vegetation" removal. In general, however, the Commission has considered the removal of major vegetation to include removal of such vegetation as environmentally sensitive vegetation, visually significant vegetation, and removal of large trees. In the case of Trinidad Head, much of the vegetation covering the head would be considered to be major vegetation from at least the standpoint of its visual significance. The vegetation is a significant element of the character of the head contributing to its highly scenic nature. Thus, the Commission staff believes that for the most part, removal of the vegetation on the head would constitute "removal of major vegetation" and therefore be a form of development requiring a permit.

Trever Parker, City Planner

July 1, 2011

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An exception to the above would be the trimming and mowing over the existing trails and roads on the head and along the sides in the minimum amount necessary to maintain access for hikers on the trail and vehicles on the roads. The roads and trails have been maintained for use by trimming and mowing over time, and new growth occurring within the roads and trails is not a significant element of the character of the head and its removal is thus not major vegetation removal. Your letter suggested that trimming and mowing up to approximately 3 feet out on either side of each road and trail should not be considered removal of major vegetation. [We understand that the areas along the roads and trail have not always been mowed and trimmed to that extent and that part of the desire to trim to such widths is to clear the vegetation back further to reduce the frequency that mowing and trimming needs to occur.] We are concerned that mowing and trimming the areas along the roads and trails to such widths would affect the visual character of the head and would constitute the removal of major vegetation. **We believe that mowing and trimming over the existing roads to the minimum height required to meet the Cal Fire Code, and mowing and trimming to no more than one foot on either side of the existing roads would avoid major vegetation removal and therefore not require a coastal development permit.**

With regard to mowing and trimming over and along the trails, we believe that mowing as much as three feet on either side of the trails creating a 9-10-foot wide swath of cleared area as proposed would create a visual scar on the landscape of the head and constitute major vegetation removal. **We can agree, however, that maintaining the trails to a total width of 4 feet (including the trail itself and adjoining areas) and a height of 8 feet would not constitute major vegetation removal and therefore would not require a coastal development permit.**

As I noted above, we will be responding in a more complete fashion to your letter we received on June 6<sup>th</sup> in the near future. If you have any questions or concerns, please call me at (707)445-7833.

Sincerely,



ROBERT S. MERRILL  
North Coast District Manager