

**MINUTES OF THE 13 NOVEMBER 2007
TRINIDAD PLANNING COMMISSION MEETING**

I. ROLL CALL

Chairman Mike Morgan called the meeting to order. Commissioners in attendance were Judy Lake, Mike Morgan, Carol Rowe, Bryce Kenny, and Richard Johnson. No Commissioners were absent. Council Liaison Kathy Bhardwaj was in attendance. Trever Parker and Kristen Martin represented staff in attendance.

II. APPROVAL OF MINUTES – October 17, 2007

Kenny moved to approve the minutes as submitted. Johnson seconded. Lake abstained, as she was absent from the October 17 meeting. Motion carried 4-0.

III. APPROVAL OF AGENDA

Kenny made a motion to approve the agenda. Rowe seconded. Motion carried 5-0. At the start of the hearing for agenda item #1, however, it was decided that agenda item #2, Mesinger 2007-09, should be heard first. Trinidad Rancheria 2007-07 thus became agenda item #2.

IV. ITEMS FROM THE FLOOR

Kelly Lindgren asked about the status of the Sebring ditch drainage project. Parker replied that she has not received complete application materials for the project.

V. AGENDA ITEMS

PLANNING COMMISSION DISCUSSION / ACTION / PUBLIC HEARING ITEMS

1. Mesinger 2007-09: Use Permit and Coastal Development Permit to remove three large (>12" DBH) Leyland cypress trees which pose a potential hazard to structures on the adjoining property. 353 Parker Creek Dr.; APN 042-063-32.

Parker introduced the project. The trees in question had begun to be removed before the applicant knew that a permit was necessary, but since they remain viable no violation of city ordinances has occurred. A Use Permit is required for total removal because the trees do not pose an "imminent" hazard. Staff typically recommends topping and trimming as alternatives to tree removal, but with this particular species there is some indication that thinning the trees would increase their instability.

Parker read a letter submitted by Robert and Maggie McCune, who share a property line with the applicant and who originally asked the applicant to remove the trees. The McCunes were unable to attend tonight's meeting. Their letter stated that a confrontation had taken place with neighbor Kim Binnie, who attempted to stop the tree removal. The letter also claimed that the trees pose a hazard to structures and people on the McCunes' property. Ms. Mesinger stated

that she has spoken to two professional arborists who recommended that the trees be removed.

Discussions took place among the Commissioners, the applicant and neighbors in attendance, including Tom Marquette and Mr. and Mrs. Binnie. Mr. Marquette stated that the trees were planted too close together and are located right on Ms. Mesinger's property line, and that the City should permit their removal because they are hazardous. He submitted his comments in writing. Mrs. Binnie responded to the McCunes' letter. She confirmed that she had confronted the arborists who had begun removing the trees, and had called City staff to halt the process until a permit could be obtained. She said that she and her husband oppose the removal because the trees provide screening from noise and lights. She has not seen any evidence that the trees pose a hazard, and during earlier conversations with the McCunes they had not mentioned any concern for their safety. Mr. Binnie said the applicant should have contacted her neighbors before deciding to remove the trees.

The Commissioners had questions about the trees' effect on visual screening and safety. Morgan asked if the City allows the planting of trees for screening. Parker said this is allowed, but height limits are applicable. The Views and Vegetation Ordinance is not applicable in this case because the property is not within the Views and Vegetation overlay zone. There was discussion about how the neighbors' views would be affected by tree removal or topping. The Commissioners did not get a consensus on the minimum height needed in order for the trees to provide adequate screening. Rowe wondered if Ms. Mesinger, in hindsight, may have chosen to plant a different variety of tree on her property. The applicant responded that at the time of planting she had received bad advice about Leyland cypress and would not have planted them if she had known of potential problems. In response to a question from Johnson, she said that she had not been concerned about the safety of the trees until the McCunes raised the issue. She wishes to alleviate their concerns even if the trees are not proven to be hazardous.

Public comment continued. Kathy Bhardwaj said that as a member of the City Council she had considered removing the permitting requirement for tree removal, but the current project illustrates that the permitting process provides an important forum for neighbors to air their concerns. Mr. Marquette asked staff about the legalities of tree trimming when branches hang onto another person's property. Parker stated that he would have the right to remove branches that are encroaching on his property, but the City could not require the tree's owner to pay for such maintenance. The City will pay for vegetation trimming only if it encroaches on a public right-of-way. Parker also reiterated that property owners are permitted to top trees to any extent that doesn't kill them. Mr. Marquette asked who would be liable if the Commission denied the tree removal permit and the trees subsequently caused property damage. Parker said the City may be

liable in that case. However, more research would be needed in order to more thoroughly answer his legal questions.

Discussion turned back to the Commissioners. It was suggested that the neighbors who appreciate the trees' screening benefits could plant their own vegetation for screening if the trees are removed. Johnson said he was uncomfortable having this discussion without the McCunes, since they made the original complaint. He echoed Rowe's suggestion that the neighbors reach an agreement to remove only one or two of the trees, or replace the trees with another kind of screening. Kenny was concerned that there was no arborist present to testify that the trees are hazardous to people and property. The Commissioners agreed that it would be important to have the opinion of a certified arborist. Morgan said the Commission can recommend that Ms. Mesinger return next month with written or verbal testimony from an arborist, but they cannot require her to do so. Mr. Binnie suggested that the applicant obtain testimony from an arborist who does not stand to gain financially from the tree removal. Morgan said this may place an unfair burden on the applicant because she would have to find an arborist who will agree not to perform the work in question. Mr. Marquette objected to the request for an arborist because the Commission does not need to make a finding that a hazard exists in order to grant the Use Permit. However, the Commissioners agreed that safety concerns are the main argument presented for removal in this case.

Ms. Mesinger said she would rather see the project denied than continued to next month. In regard to continuing the project, Parker reiterated that the applicant could not be required to provide more information but a continuance would give her the opportunity to do so. The applicant may drop the project if she wishes to. In reference to Ms. Mesinger's concern about liability for damages, it was determined that the City Attorney would need to weigh in but it could take months to get his opinion.

Motion 1: Lake made a motion to approve the project as submitted and as conditioned in the staff report. Morgan seconded. Morgan and Lake voted in favor, Johnson and Kenny voted against, and Rowe abstained. Motion failed.

Motion 2: Kenny made a motion to continue the project to the next regularly scheduled meeting so that 1) the applicant may provide the Commission with a qualified arborist's opinion, written or verbal, of whether or not the trees are hazardous; and 2) all parties involved in the dispute can try to develop an alternate solution to their problems of safety and visual screening. Rowe seconded. Motion carried 5-0.

2. Trinidad Rancheria 2007-07: Design Review for reconstruction of 0.31-acre Trinidad Pier by replacing the wood decking and supporting wood piles with concrete decking and concrete piles; Use Permit and Coastal Development Permit to use the nearby parking lot as a staging area for construction activities;

adoption of Mitigated Negative Declaration. Trinidad Pier (end of Bay St.); APN 042-071-14, -01, -08, -09. *Continued from the October 17 meeting due to concerns about the polymer coating to be used on the new pier piles.*

David Schneider of Pacific Affiliates gave a brief presentation to provide the Commission and the public with an overview of the project. Yoash Tilles, an engineer with Pacific Affiliates, reminded everyone that no changes to the project have occurred since October except specification of the polymer coating. Mr. Schneider stated that they have analyzed six alternatives for the piles and found a polyurea coating to be the best option. Comments relating to the polyurea as well as other issues will be compiled in an addendum to the Mitigated Negative Declaration (MND) for the project.

After the presentation Mr. Schneider and Mr. Tilles responded to several questions from the Commissioners and the public. During reconstruction harbor-area businesses will continue to operate, and the pier will remain open to fishermen to the greatest extent possible. The new pier will be made of concrete with its deck patterned to resemble a rock surface. It will have black piles and aluminum handrails. The estimated nine-month construction schedule is dependent on a number of variables, but Mr. Schneider was 95 percent confident that the schedule can be adhered to. With regard to the polyurea coating, Mayor Chi-Wei Lin stated that he is satisfied with Pacific Affiliates' response to his concerns about water quality. He said the proposed coating will be a quarter-inch thick, will leave none of the underlying steel exposed to water, and will be inspected annually. It is expected to prevent metal corrosion.

The Commissioners' main concerns had to do with the Design Review portion of the project. Parker said that the applicant has already made several design concessions and the Commission should be primarily concerned with the durability and functionality of the proposed construction materials. She stated that the City must adopt the MND before the project can proceed and that the design phase will occur last, so not all the details are finalized at this point. Morgan was in favor of requiring the applicants to return for final Design Review approval at a later date. Mr. Schneider and Mr. Tilles said they can provide color and texture samples at that time, and that it would be possible to change design details (such as the color of the pier piles) at the last minute if necessary.

Johnson expressed concern about the City's ability to remain involved with such a complex project as the work proceeds. Parker said the arrangement has not been worked out yet, but monthly interagency meetings are a possibility. If the project is approved the applicant must follow certain conditions such as submitting regular monitoring reports to the City and other involved agencies, who will share responsibility for ensuring compliance. In short, the City's involvement will be on a periodic basis as required.

Jackie Hostler, project director for the Trinidad Rancheria, briefly addressed the Tsurai Ancestral Society's comments on the MND. Minor corrections to the MND will be made to include the Tsurai's comments and mention them as an agency that was consulted. Also regarding the MND, Parker said that minor changes have been made to the section on marine mammal monitoring. No other public comment was received.

Motion: Johnson made the following motion: Based on the information submitted in the application and included in the staff report and public testimony, I move to adopt the information and findings in the staff report, and following the recommendation of the City Planner, approve the Coastal Development Permit and Use Permit as submitted and as conditioned below and adopt the Mitigated Negative Declaration for the project, subject to the applicants returning to the Commission for final Design Review approval. Rowe seconded. Motion carried 5-0.

3. Citizens Lighting Committee update. Rowe reported that the committee had met on October 8 and subsequently disbanded. She summarized a written report of their findings. Committee members were not in favor of adopting a lighting ordinance and their only recommendation was to remove the leaning light pole located next to the flag at Trinity St. and Edwards St. Brad Twoomy is currently researching light issues for the Trinidad Gateway Committee and presented the Commissioners with some promotional material from a company that manufactures "night sky compliant" lighting (i.e. lighting that is directed downward). The City may contact this company and ask them to provide some samples for testing.

Motion: Rowe made a motion to request that the City Council remove the leaning light pole at Trinity and Edwards and consider replacing it with a "night-sky-friendly" alternative. Kenny seconded. Motion carried 5-0.

4. Discussion regarding General Plan update – visioning process, issues identification, policy review. This item was continued to the next regular meeting.
5. Discussion regarding Accessory Dwelling Units (ADUs) including a review of current City Zoning Ordinance requirements, State law and a sample ordinance. This item was continued to the next regular meeting.
6. Discussion / decision regarding December meeting date. A majority of the Commissioners said they would be available to meet on December 19 as scheduled. Rowe suggested permanently changing the Commission's meeting time from 7:30 to 7:00, as the Council has done. It was decided that the Commission will have a "specially scheduled" meeting at 7:00 on December 19, and a permanent change will be discussed at that time.

VI. **STAFF REPORT**

Parker asked the Commissioners to have their General Plan issue surveys completed in time for the next meeting so the survey can be refined for public distribution. The current priority for the General Plan update is to establish policy direction using staff guidance and public input obtained during the 1997 community visioning sessions. A public meeting is expected to be held in late winter.

Parker also advised the Commission that the Trinidad-Westhaven Coastal Watershed Project is proceeding and that a public meeting was to be held that Thursday, November 15.

VII. **COUNCIL LIAISON**

Bhardwaj briefly reported the following items:

- Many applications have been received for the positions of City Manager and Director of Public Works. Regarding this item, Council member Stan Binnie added that the hiring committee would be interviewing the final Public Works candidate next Monday, November 19.
- The Onsite Wastewater Treatment Systems (OWTS) ordinance will be discussed again at the next Council meeting and is expected to be adopted.
- She has recently visited the Tsurai Village Site and noted the bluff instability problem that is occurring there.

VIII. **ADJOURNMENT**

The meeting was adjourned at 10:45 PM.

Respectfully submitted by: Kristen Martin, Assistant City Planner
Secretary to the Planning Commission
City of Trinidad