

**MINUTES OF THE 19 DECEMBER 2007
TRINIDAD PLANNING COMMISSION MEETING**

I. ROLL CALL

Chairman Mike Morgan called the meeting to order. Commissioners in attendance were Mike Morgan, Carol Rowe, Bryce Kenny, Judy Lake and Richard Johnson. Council Liaison Kathy Bhardwaj was present. Trever Parker and Kristen Martin represented staff in attendance.

II. APPROVAL OF MINUTES – November 13, 2007

Kenny made a motion to approve the minutes as submitted. Lake seconded. Motion carried 5-0.

III. APPROVAL OF AGENDA

The agenda was approved without a formal vote.

IV. ITEMS FROM THE FLOOR

Marilyn Sterling was upset that her issues involving a secondary dwelling unit were not on tonight's agenda although she had requested to be put on the agenda several months ago. Parker replied that she has sent Ms. Sterling several letters in response to her requests stating that the City cannot grant them, because they would not be allowed under City ordinances and State law. Her project is being treated as an application for a secondary dwelling unit which has been ministerially denied by City staff, a decision that Ms. Sterling disagrees with due to certain provisions of State law. Parker also noted that if Ms. Sterling wants to pursue her request she needs to submit an official application.

Ms. Sterling then stated that she has had an adversarial relationship with the City Planner. The Commissioners expressed a wish to view all correspondence that has taken place between Ms. Sterling and Parker, and to hear from the applicant exactly which elements of the planner's decision she disagrees with. She was directed to Zoning Ordinance Section 17.72.100(A), which lays out a procedure for appealing the planner's decision.

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). *Continued from the November meeting.*

Parker said that new correspondence regarding the project had been received from several neighbors as well as from a retired professional arborist, Graham Cunliffe. Mr. Cunliffe planted the trees in question many years ago. He stated in a letter that since the trees have not been well maintained, trimming them would

compromise their health and they should be removed altogether. He also stated that Leyland cypress is not a desirable tree species to plant on a small residential lot.

There was some discussion about the permitting process for tree removal. Johnson asked for clarification on the difference between projects that require a Use Permit and situations where a tree can be removed due to imminent hazard. Parker replied that a Use Permit for tree removal can be granted for any reason, subject to the Use Permit findings required by the Zoning Ordinance, whereas the City Engineer may approve the cutting of trees that he determines to pose an imminent hazard. Kenny said that it would be difficult to deny a Use Permit for this project because it seems to conform to all the required findings. He suggested that the City needs a different kind of permit for tree removal with a more appropriate set of criteria.

The applicant was asked if the neighbors involved had come to some sort of agreement since last month, as recommended by the Commission. The McCunes, who filed the original complaint about Ms. Mesinger's trees and were absent from last month's meeting, said that they had not been informed of any such discussion. They did not wish to make any further comments at tonight's meeting, since their point of view was clearly outlined in letters submitted to the Commission. Ms. Mesinger had no further comment related to the project. The Binnies were not present.

Although Mr. Cunliffe's letter did not explicitly address the question of whether the trees pose an imminent hazard, the Commissioners recognized that this is not a criterion that needs to be met in order to grant a Use Permit. However, Kenny was concerned about the Commission "rubber-stamping" applications. Johnson agreed that due diligence is necessary as the Commission weighs community values against individual property owners' rights. He acknowledged that storm damage from trees is a legitimate risk in Trinidad. Rowe suggested adding a condition of approval to require that the removed trees be replaced with trees that would not grow to be as tall as Leyland cypress. The other Commissioners felt that this would put an unfair burden on the applicant.

Motion: Kenny 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 this staff report and approve the project as conditioned below.* Lake seconded. Motion carried 5-0.

2. Kelley-Day 2007-10: Use Permit and Coastal Development Permit to remove one large silver maple tree which poses a potential hazard to structures on, and adjoining the property. 439 East St. (APN: 042-102-53).

Parker introduced the project. The silver maple is located in the applicant's front yard and is about 40 feet tall, with branches that nearly touch the roof of the

house. Staff had requested that the applicant provide an arborist's report on the risk posed by the tree, although such a report is not required by City ordinances. No report had been received. Parker commented that the silver maple is a fast-growing species known as a "car-crusher" and recommended that more information be obtained so the level of hazard from this particular tree could be determined.

The Commissioners agreed that this project appeared to comply with the Use Permit findings and that it would cause an unfair burden to ask for more information from the applicant. Ms. Kelley-Day was not present at the meeting and no public comment was received.

Johnson suggested that citizens should be given some guidance on which tree species to plant in their yards. To that end, a committee on "tree cutting and planting guidelines" should be formed. Rowe volunteered to lead the committee and provide a report at next month's meeting.

Motion: Rowe 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 this staff report and approve the project as conditioned below.* Kenny seconded. Motion carried 5-0.

3. Discussion regarding General Plan update – visioning process, issues identification, policy review.

Parker updated the Commissioners on the Wastewater Management Action Plan and Integrated Coastal Watershed Management Plan that are currently underway with State funding from Proposition 50. Funding for that project will run out in March 2008, and it is hoped that the results can be used to update water quality-related policies in the General Plan. However, staff has not proceeded with work on the General Plan since a couple of months ago.

Parker reviewed the materials that had been provided to the Commission a few months ago, including a draft community survey and a series of guidance documents that link existing policies to community concerns and identify areas for improvement. Rowe suggested that distributing a new survey is unnecessary because a lot of input has already been obtained through community brainstorming sessions. The most recent of these was a town hall meeting organized by Mayor Chi-Wei Lin. Rowe and Johnson said that the results of that meeting should be incorporated into the existing policy guidance documents.

The Commissioners agreed that work on the General Plan update needs to move forward and that it may be most efficient for staff to produce some draft policy language that Commissioners and the public can review. With the March Prop. 50 deadline in mind, Parker suggested that the City should focus on water quality-related elements first. Other elements may be taken on by Planning

Commission subcommittees. It was decided that staff will try to have some new policy language for the Land Use and Conservation elements ready in time for a public Prop. 50 meeting in February. Ideally, an entire Draft General Plan will be ready to begin public hearings by late spring.

Brad Twoomy asked if the current General Plan is available in electronic format. Parker replied that it is not, but there are plans for the new General Plan as well as the Municipal Code to be digitized and searchable. Johnson suggested that the existing General Plan should be digitized too, if possible, to provide for easy comparison of old and new policy language.

Motion: none.

4. Discussion regarding Accessory Dwelling Units (ADUs) including a review of current City Zoning Ordinance requirements, State law and a sample ordinance.

Discussion was centered on both the ADU ordinance and the OWTS (Onsite Wastewater Treatment Systems) Management Program, since the Commissioners had indicated in the past that an ADU ordinance should not be enacted until the status of the City's OWTS is fully understood. Parker said that the Council has reviewed the OWTS Management Program and draft OWTS ordinance, and both are being revised based on the Council's comments. State Assembly Bill 885, governing OWTS operation and maintenance, will be in effect starting in May 2008. The law will affect new systems as well as existing systems within a certain distance of impaired water bodies such as Mill Creek and Luffenholtz Creek.

As far as the ADU ordinance is concerned, Parker said the Commission can table the issue for now, review the draft ordinance, or draft an interim ordinance to be in effect until the OWTS program is finalized. It will be several months before the OWTS program is adopted by the Council. Johnson thought it was close enough that an interim ordinance is not needed.

Much of the subsequent discussion followed along the lines of discussions that had taken place at the past several months' meetings, including questions about whether new ADU approvals would be ministerial or discretionary, and environmental concerns about greater housing densities that may make it feasible for the City to require Use Permits for ADUs. Parker said that she could incorporate some of the new OWTS requirements into the ADU ordinance in order to highlight the relationship between OWTS and ADUs. She said that a suitable model ordinance is difficult to find because no other city is in the same situation as Trinidad. The Commissioners said they would review Trinidad's draft ordinance further and return with comments at a later date.

The floor was opened to public comment at this point. Brad Twoomy asked about the process for approving ADUs converted from nonconforming accessory

structures. Commissioners and staff responded that an amnesty process has not been worked out yet, but under the new ordinance ADUs will have to be dealt with on a case-by-case basis. Generally, nonconforming buildings will need to be brought into compliance unless certain circumstances exist.

Motion: none.

VI. **STAFF REPORT**

Parker reported that work is underway on the Chevron station remodeling project previously approved by the Commission. She has sent a letter to the station owner reminding him that all components of the project must be completed as approved. A building permit is apparently not required for the current work, but that determination rests with the City Building Official.

VII. **COUNCIL LIAISON**

Bhardwaj reported the following items:

- The City Attorney has stated that letters of comment from the public do not need to be read aloud during Planning Commission meetings, and that the Chairman has discretion in choosing which letters to read.
- The Chamber of Commerce is moving its headquarters into the new Police Station building.
- Misinformation has been circulating about the City's OWTS Management Program and the Trinidad-Westhaven Coastal Watershed Project, which may be causing some public hostility toward the projects.
- A new part-time City Clerk and water plant operator have been hired.
- A committee is looking at options for undergrounding utilities throughout the City.
- The Council has declared an emergency on the Sebring property so that work can begin right away on fixing the drainage problems at that site.
- A study of the City's water system has revealed that 40 percent of water is being lost due to leaky pipes.
- The recent sales tax increase has helped to replenish the City's General Fund.
- Verizon's lease on the cell tower has been transferred to an affiliate company, but the specifics have not changed.

Rowe reminded Bhardwaj that the Planning Commission has requested the Council to look into removing the "leaning light pole" at Trinity and Edwards St.

VIII. **ADJOURNMENT**

The meeting was adjourned without a formal vote at 9:45 PM.

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