

Application (2) Submitted: January 23, 2017  
Staff: Trever Parker  
Staff Report (2): February 2, 2017  
Commission Hearing Date(2): February 15, 2017  
Commission Action:

## **STAFF REPORT: CITY OF TRINIDAD**

APPLICATION NO: 2015-02.2

APPLICANT (S): Richard and Naomi Heller, Stephen and Lynda Ruth, Erin Rowe, Bob and Judy Lake, Erik and Jennifer Fraser, Gloria Speigle

PROPERTY OWNER: Julie Fulkerson

PROJECT LOCATION: 723 Van Wycke

PROJECT DESCRIPTION: View Restoration Permit (step 2): Discussion and decision on proposed restorative action, including pruning, trimming, shaping and removal as recommended in an arborist report submitted by the applicants. A Use Permit and Coastal Development Permit will be required for removal of trees over 12" DBH.

ASSESSOR'S PARCEL NUMBER: 042-091-03 and -06

ZONING: UR – Urban Residential & OS – Open Space

GENERAL PLAN DESIGNATION: UR – Urban Residential & OS – Open Space

ENVIRONMENTAL REVIEW: Categorically exempt from CEQA per Section 15304(d) of the CEQA Guidelines exempting minor alterations to land and vegetation.

APPEAL STATUS:

Planning Commission action on a Coastal Development Permit, a Variance, a Conditional Use Permit or Design Review approval 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 or Coastal Commission by that time. Furthermore, approval of a Use Permit associated with this project is X / ~~is not~~ appealable to the Coastal Commission per the City's certified LCP, and may be appealable per Section 30603 of the Coastal Act. In addition, the View Restoration Permit is appealable to the City Council but not the Coastal Commission.

## **SITE CHARACTERISTICS:**

The site is located on the south (ocean) side of Van Wycke, just east of the unpaved, narrow trail portion of Van Wycke. The lot that the house is on, (-03) is zoned UR – Urban Residential, and the lot to the west (-06) is zoned OS – Open Space. The eastern, UR lot is developed with a single-family residence. The properties are located within the Views and Vegetation Overlay Zone. There are no houses immediately to the south, east or west, which is all zoned OS. But a number of homes, uphill and north / northwest of the property, have views that have been affected by vegetation.

## **STAFF COMMENTS:**

This is only the second application that the City has received under the Trinidad Views and Vegetation Ordinance (VVO), which was adopted in 2005 as the result of community outcry over view blocking vegetation. The ordinance sets forth a process by which property owners can apply to the City to have views restored that have been “unreasonably blocked” by vegetative growth. There are likely a couple of reasons for so few applications. One is that the ordinance requires the complaining neighbor(s) to show proof of trying to work out a solution with the vegetation owner prior to bringing an application to the City. And because the ordinance is in place, it provides an incentive for the vegetation owner to cooperate. This has likely resulted in some compromises and solutions that the City did not need to be a part of. Second, the process laid out in the ordinance can be daunting, because so many factors need to be considered.

The attachments to this staff report include an arborist report submitted by the applicants. The applicants also submitted one set of photos, similar to what was submitted in 2015, showing how the growth of the vegetation has blocked views over time. In addition, a parcel map was submitted showing red parcels and blue parcels. The red parcels are all owned by the vegetation owner, but the vegetation is located on the two easternmost parcels south of Van Wycke Street, with the house located on the parcel furthest to the east. There was no explanation of the view parcels, though I assume they represent parcels where views have been impacted, though not all of the owners were part of the original application. Lastly, I have included a portion of a more detailed report from the same arborist for a different tree that specifies more exactly the pruning to occur. I am requesting something like that report for these trees from the applicants.

### ***VVO Process Overview***

The Views and Vegetation hearing process includes two major decisions that must be made by the Planning Commission. The first is whether the vegetation has ‘unreasonably’ blocked coastal views. The applicants for this View Restoration Permit (VRP) include the owners of six (previously seven, but one house has since sold) neighboring, uphill, properties whose views are all affected by the vegetation growing on the subject properties. The unreasonable view blockage determination for this VRP was made at the April 15, 2015 Planning Commission meeting. The applicants adequately documented that they had complied with the Initial Reconciliation required by the VVO.

And they demonstrated significant view blockage that continues to increase each year. You can review the documents from that hearing on the 'downloadable documents' section of the City's website or in the file at Town Hall.

The second step in the view restoration process is an order for Restorative Action by the Planning Commission. The applicants have submitted a proposal for view restoration from a certified arborist, so the Planning Commission can now move on to the second step in the process. Staff is not proposing that you take final action on the restoration proposal at this meeting. In fact, you can not take final action. For one, the vegetation owner will not be able to attend this meeting; VVO §8.16.090.3.f requires one continuance if the vegetation owner does not attend the first hearing. The vegetation owner has been contacted and had no objection to this first meeting occurring if no action is taken. Second, the final action will have to be properly noticed for approval of a Use Permit if large trees will be removed as is proposed. The reason staff has put this project on the agenda at this time is to allow the discussion of this complex topic to get started. It was anticipated that the decision would not be made in one meeting anyway. In addition, staff is requesting additional information from the applicants, and the Planning Commission may have additional details they would like to request from the applicants as well, prior to taking final action.

The view restoration permit process and the Planning Commission's decision on view restoration will be something like an arbitration hearing with likely compromises on both sides. The main issue cited by the property owner is bluff stability, with other considerations being environmental impacts, privacy, appreciation of the vegetation, and the costs of trimming and removing so much vegetation. The neighbors are trying to restore their coastal views that have been lost over time and that provide enjoyment of, and value to their properties.

Once the Planning Commission determines the appropriate restorative action, the property owner will get at least two bids for the work, and then choose the arborist who carries it out. The ordinance suggests that the costs be evenly split between the vegetation owner and the applicant(s), based on the lowest bid, unless the Planning Commission determines some other division of costs is appropriate. Long-term vegetation maintenance requirements should also be made part of the approval, and a notice of such an agreement can be recorded on the deed as a disclosure to any future property owners and to help with any future enforcement if necessary.

### ***Unreasonable Obstruction Determination***

As stated above, the Planning Commission made a determination that the applicants' views have been *unreasonably blocked* by the property owner's vegetation. Ordinance §8.16.070 states that: *No person within the Views and Vegetation Overlay Zone shall plant, maintain, or permit to grow any vegetation that unreasonably obstructs a view from any occupied structure or from key public viewing points within the City.* The criteria for determining whether unreasonable obstruction occurred is outlined below:

*The following criteria are to be considered (but are not limited to) in determining whether unreasonable obstruction has occurred, or will occur:*

- (a) The extent of obstruction of a view compared to extent when property was purchased by the complaining party and/or when the General Plan was adopted (May 2, 1978), whichever is longer.*
- (b) To what extent the view being blocked contributes to the value, use and enjoyment of the property. Obstruction can be considered both that which is existing and that anticipated at vegetation maturity based on the vegetation owner's stated maintenance intentions.*
- (c) The quality and percentage of the coastal views being obstructed, including obstruction of landmarks, vistas, or other unique features and the quality of the living area or viewpoint from which the view is blocked.*
- (d) The extent to which the complaining party's view has been diminished over time by factors other than vegetation growth such as new residences or additions.*

The specific findings that were made by the Planning Commission based on the above criteria were:

- i. The applicant has complied with the early neighbor consultation process and has shown written proof of cooperation on his/her part to resolve conflicts.*
- ii. The offending vegetation results in the unreasonable obstruction of view(s) based on the criteria in section 8.16.080.*

### **Vegetation**

Based on the original application materials, the specific vegetation in question consists of the following groups of vegetation as identified on the various photos:

- A – 5 large Monterey pines along Van Wycke (nonnative)
- B – 2 large Monterey pines and several small acacias east of the house (nonnatives)
- C – 1 Monterey pine and 1 cypress intertwined together west of the house (nonnatives)
- D – Red alder group west of the house along the Van Wycke Trail (native)
- E – Red alder group further west along the Van Wycky Trail (native)

The recent arborist report does not include the acacias, but does include an additional alder southeast of the house as well as the fruit trees. The additional alder may not currently block views, but likely would if some of the other vegetation were removed. The fruit trees may not currently block views, but could eventually if allowed to grow unchecked. One of the requirements of the VVO (§8.16.070) is that vegetation not be allowed to grow to block views, so I think the additional trees can be included as part of the discussion and any future maintenance requirements.

At the invitation of Ms. Fulkerson, I visited the property for a closer look at both the vegetation and the bluff on 4/8/15. I also walked the streets and trails surrounding the applicants' properties to not only get an idea of the scale of private view blockage, but also the extent of blockage of public views on 3/26/15. While I have also received invitations to access a few of the applicants' properties, I have not done so, but I don't think that is necessary for this process. I would encourage Planning Commissioners to visit the area to get a better idea of the vegetation growing there and how it affects

views. At some point, the Planning Commission could adjourn the meeting to the site itself if they feel that is warranted.

### ***Ex Parte Communication***

I would like to provide you with a word of caution in responding to personal offers to visit any of the properties, including the vegetation owner or complaining parties. Though it seems perfectly natural to speak with an applicant about their project, and is not illegal, it should be approached with caution. This advice is based on the Brown Act, which requires that government meetings and decision-making must be open to the public. Any 'ex parte,' or individual communication about a project outside a public meeting must be disclosed at the hearing, whether it is with an individual member of the public, an applicant, or another government official. Therefore, if you do speak or meet with any of the parties, you must disclose the nature of the communication at the meeting. The idea is to ensure you do not bias yourself before the meeting by obtaining information that is not available to the general public or other Commissioners. You must not make up your mind or come to any decisions or conclusions before the hearing and before the public has a chance to have their say. In addition, you need to make sure that not more than two of you visit the site at the same time - more than that is a quorum and a meeting. Informed decision-making is important, so gathering unbiased information is a good thing as long as you understand the rules and context.

### ***Property Boundaries***

Property boundaries are an issue for all three of the alders identified in the arborist's report. The one to the southeast of the house is on the border of the Fulkerson property and the Tsurai Study Area (TSA). The TSA is owned by the City, but no vegetation removal can occur without the permission of several stakeholders, and it is outside the Views and Vegetation Overlay Zone. It looks like the tree is likely on the Fulkerson property, but the City will have to work with the Tsurai Management Team to gain concurrence on where the tree falls in relation to the property boundary as well as the proposed removal. The two alders to the west, along the Van Wycke Trail, are definitely within the Overlay Zone, but may be on City property. It may be easier for the applicants to just ask the City Council for permission to remove (or prune depending on the outcome of the Planning Commission decision) the trees just in case they are on City property, rather than try to survey or otherwise determine the actual boundary. However, not knowing the property owner could complicate the cost allocation (see more information below).

## **IEWS AND VEGETATION ORDINANCE**

The VVO was based on a General Plan design guideline from Appendix B, which states: *“Buildings, fences, paved areas, signs and landscaping, and similar developments, shall not be allowed to significantly block views of the shoreline from key public viewing points or from view points inside structures located uphill from the proposed development.”* Although this standard is included in the Zoning Ordinance as a View Protection finding required for development permits, there was no mechanism

included to protect views from vegetation growth that is not associated with a development project, until the adoption of the VVO.

### ***View Restoration Permit Findings***

As part of the view restoration process, the Planning Commission needs to make several findings in accordance with §8.16.090.3.g. As described above, the first two findings have already been made as part of this process in April 2015. Two additional findings will need to be made prior to ordering restorative action. And there are a number of criteria to consider when determining appropriate restorative actions. The required findings are as follows:

- iii. Removal or alteration of the vegetation will not cause an unreasonable infringement of the privacy, reasonable enjoyment or value of the property or the occupants of the property upon which the vegetation is located.* Response: This information will be needed to be provided by the vegetation owner. Also see responses to the criteria below.
- iv. Removal or alteration of the vegetation will not cause significant environmental impacts.* Response: Tree removal is categorically exempt from CEQA per Section 15304(d) of the CEQA Guidelines exempting minor alterations to land and vegetation. Also see responses to the criteria below.

The Views and Vegetation Ordinance also contains a list of factors that should be considered in making the findings for determining appropriate restorative action. I have provided some responses and information regarding each of these, but more information will likely be provided by the applicants and vegetation owner at the meeting.

- (i) The hazard posed by a tree or other vegetation to persons or structures including, but not limited to, fire danger and the danger of falling limbs or trees.* Response: The trees do not appear to pose much of a hazard. Monterey pines are known to have a high rate of branch failure, but that has not been a problem with these trees to my knowledge.
- (ii) The variety of vegetation, its projected rate of growth and maintenance requirements as well as its value or rarity.* Response: All of the trees in question are common, and the Monterey pines and cypress are nonnative. (Interestingly, cultivars of the Monterey pine are the most widely planted tree worldwide, but they are highly endangered in their very small native range.) Monterey pines are very fast growing with a maximum height of usually less than 100 ft. Monterey cypress also have a very small native range, but are widely cultivated as ornamentals; they are not particularly fast growing. Red alders are very common, fast-growing, relatively short-lived, and known to quickly colonize disturbed areas.
- (iii) Aesthetic quality of the vegetation, including but not limited to species characteristics, size, growth, form, vigor and viewshed.* Response: Monterey cypress are known for their aesthetic qualities. Judicious pruning and trimming can likely improve the aesthetics of the existing tree as well as views through and around the tree. Due to past pruning, the Monterey pines have grown into a thick wall of

vegetation rather than their natural tall, open growth form. While their twisted and gnarled trunks are interesting to look at, the thick greenery presents little aesthetic interest. However, the vegetation may improve views of town from Trinidad Bay by screening some existing development.

- (iv) *Location with respect to overall appearance, design, or use of the Vegetation Owner's property.* Response: The trees do provide privacy for the property owner and likely other benefits as well.
- (v) *Soil stability provided by the vegetation considering soil structure, degree of slope and extent of the vegetation's root system.* Response: Due to slope stability considerations, it is not proposed to remove the cypress or the pines that are near the bluffs. Red alders will often resprout from trunks; it could be beneficial to leave several inches of trunk to allow resprouting and preserve root strength. However, the VVO recommends against encouraging stump growth, so that idea would need to be reviewed by an arborist and/or geologist. Red alders readily establish by way of seed in bare areas anyway, so preserving the stump may not be necessary. It is not likely that the large pines along Van Wycke behind the house, which are proposed for removal, contribute to slope stability. However, a geologist will review the proposed restoration plan and provide recommendations for reducing erosion and impacts to stability (see more discussion below in the section on geology, soils and stability).
- (vi) *Privacy (visual and auditory) and wind screening provided by the vegetation(s) to the Vegetation Owner and to neighbors.* Response: The trees do provide privacy for the property owner, but smaller species of replacement plants could provide similar results, possibly even more privacy since the trunks of the existing pines do not provide a solid barrier. Because of existing topography it is not likely that this property is significantly exposed to the prevailing northwest winds. And due to the position of the trees in relation to the house, they likely do not provide much of a screen from southern winter storm winds either.
- (vii) *Energy conservation and or climate control provided by the vegetation.* The trees do provide some shade, but heat and sun are not a significant problem in Trinidad. The vegetation owner has brought up the issue of climate change and the importance of trees in sequestering carbon. And while this is certainly true, the impact of a few trees is miniscule. Individual trees store a few pounds of carbon per year depending on the species, age, environment, etc., whereas the average household has a carbon footprint in the range of 40 to 50 tones per year.
- (viii) *Wildlife habitat provided by the vegetation.* Response: The trees do not provide significant wildlife habitat. While a few species do forage in and on Monterey pines, the ones along Van Wycke are subject to significant human disturbance, since they are along a public trail. Of the three species, red alders provide the most habitat and forage value. However, red alders are very common in nearby areas and the region. One thing to consider is that nesting season officially starts in a couple of weeks and runs into September. It is probably also important to avoid the wet season, so it is not likely that nesting season can be avoided for trimming and removal activities. The proposed tree removal is not a regulated activity that is required to avoid certain seasons, but it is illegal to disturb an active nest. Therefore, measures to protect active nests have been included as a condition of approval.

(ix) *Whether trees are "Dedicated Trees", as defined herein.* Response: The trees are not "Dedicated Trees."

(x) *The number of people whose views are affected and the distance away from the vegetation that the complaining party is located.* Response: As demonstrated by the application materials, the trees affect a substantial number of property owners located various distances from the vegetation. The trees also affect public views from Edwards Street and the Van Wycke Trail.

### **Restorative Action**

The Views and Vegetation Ordinance §8.16.120 includes guidelines for determining the appropriate restorative action. An arborist report that was submitted by the applicants, and which is attached to this staff report, appears to have appropriately utilized those guidelines. The report recommends trimming and windowing where possible and generally only proposes removal where less drastic methods are not feasible. The pines along Van Wycke are the primary source of view obstruction and would be difficult to prune for a variety of reasons, including their size, age and current growth form. The proposed removal of the alders is less clear as to the necessity, other than the fact that they are fast growing, short lived, and easily replaced. The proposed pruning appears to be reasonable, and it considers the health of the trees. However, more detail regarding the proposed pruning is being requested by staff to ensure that the restoration order is clear to everyone.

The same section (subsection H) of the VVO provides some additional considerations for restorative action:

1. *Once vegetation has been found to be causing unreasonable obstruction, in determining appropriate restorative action, the Planning Commission should seek to balance the wishes of all parties and strive to find a mutually agreeable solution. If such a solution is impossible, the Planning Commission should order restorative action that solves the view issue, while being the least intrusive to the vegetation owner.* Response: That is one of the primary purposes of this hearing.
1. *Stump growth. Stump growth generally results in the hazard of weak limbs, and its protection is not desirable. When considering restorative action for stump growth, aggressive action is preferred. Restorative action which will result in future stump growth should be avoided.* Response: This is a potential issue with the alder trees if they are removed. It is common for red alders to sprout from a cut trunk if there is enough of it left. And since these trees are located on unstable slopes, there may be a benefit to soil stability by allowing the stumps to regrow, which will preserve the existing root structure. I would like to see some additional information from a geologist and the arborist about this.
2. *Severe pruning should be avoided due to the damage such practice causes to the tree's form and health.* Response: The restoration plan was prepared by a Certified Arborist. The arborist does address tree health in relation to pruning, stating that only about 30% of the vegetation should be removed from the pines in a single year, and recommending that pruning occur over several years to preserve the trees' health. Similar recommendations are made for the cypress.

3. *Maintenance. Ongoing vegetation maintenance requirements are strongly recommended as part of Restorative action in order to achieve lasting preservation of views and shall be recorded on the deed.* Response: The arborist report does not address maintenance in any detail. A height limit to be maintained by annual pruning is suggested in relation to the fruit trees and any vegetation that may be used to replace the pines along Van Wycke if they are removed. More detailed maintenance recommendations would be beneficial in staff's opinion.
4. *Permanence. Conditions of Restorative action requiring future maintenance should be recorded on the deed and run with the land to help guarantee permanent preservation of views and avoidance of future disputes.* Response: Maintenance requirements should be made conditions of approval, and a maintenance agreement recorded on the deed of the property on which the vegetation is located. I would suggest some photographic documentation of the trees, once the restorative action is completed over several years, be included with a caveat that growth not be allowed to exceed a certain size or percent beyond that to allow for annual growth while requiring regular maintenance.
5. *Dangerous Tree Growth. There are not protections for the vegetation; aggressive action should be taken to protect public health and safety.* Response: NA
6. *In cases where trimming, windowing, topping or other Restorative action may affect the health of a tree which is to be preserved, such actions should be carried out in accordance with standards established by the International Society of Arboriculture for use in the State of California and/or carried out under the supervision of a Certified arborist.* Response: This will be included as a condition of approval of any restorative action.

### **Allocation of Costs**

Section 8.16.130 requires that the complaining party (applicants) and the vegetation owner split the costs of the view restoration work evenly. The Planning Commission can allocate the costs differently depending on the circumstances. Further, the VVO states that *"when there is more than one complaining party, the cost of the initial corrective action will be split evenly between the vegetation owner and all the complaining parties."* While this language is somewhat ambiguous, it would only have been included if it meant something different than the initial 50/50 standard provided. Therefore, I interpret this to mean that each of the complaining parties would pay a share that is equal to the share paid by the vegetation owner. In this case, with six complaining parties, or applicants, each property owner, including the vegetation owner, will be required to pay 1/7 of the total cost of the lowest bid. The vegetation owner would pay the difference if she does not choose the lowest bidder to do the work.

### **Implementation of Decision**

Within 30 days of the effective date of the Planning Commission's restoration order, the vegetation owner will need to get at least two bids from certified arborists to do the work. The vegetation owner can choose whomever they want to do the work (as long as it is done by or under the supervision of a certified arborist), but the cost share will be based on the lowest bid, with any costs over that being born by the vegetation owner if

they choose someone other than the lowest bidder. Also once the Planning Commission takes action, City staff will work with the applicants and vegetation owner to ensure that a maintenance agreement gets recorded on the deed(s) of the vegetation owner as needed.

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

The removal of vegetation on the property will not affect any of the building standards. Design Review is not required for this project. A Use Permit is required if any trees over 12" DBH are approved for complete removal. A Use Permit is also required for vegetation removal in the OS zone if the western alders will be removed. Issuance of a Conditional Use Permit also constitutes issuance of a Coastal Development Permit (§17.72.070.A.1). The Trinidad General Plan has contained polices protecting public and private coastal views since it was originally adopted in 1978. Although the adopted Zoning Ordinance contained provisions for protecting these views from structural development, it did not adequately protect them from vegetation growth, resulting in the need for the Views and Vegetation Ordinance.

The properties on which the trees are located are zoned UR and OS. In the UR zone, removal of trees over 12" DBH is allowed with a Use Permit (§17.32.030). And in the OS zone, "removal of vegetation including timber" is allowed with a Use Permit (§17.06.030). Both the UR and SR zones include the following language regarding vegetation removal (§17.28.080 and §17.32.080):

*"Trees may be removed if they are deceased or pose an imminent danger to people or structures, subject to the approval of the city engineer. Vegetation shall not be removed from a proposed building site until the site is approved by the building inspector. The building inspector shall approve the proposed site only if it involves removal of the fewest number of trees over twelve inches DBH. The minimum number of trees and shrubs over eight feet in height may be removed for the purpose of improving private or public views, subject to the approval of the design assistance committee."*

The above section is poorly worded and seems to conflict with other sections of the zoning ordinance. For example, it seems to imply that trees over 12" DBH can be removed from a building site with just the approval of the Building Inspector. But the building site would already have been approved by the Planning Commission and a Use Permit issued for any needed removal of large trees prior to a building permit application, so that doesn't make much sense. In addition, the section that dictates what activities require Design Review (§17.60.030) exempts changes in landscaping with no other mention of vegetation. In addition, the PD, C and PR zones are all silent as to vegetation, with other zones having different standards. Therefore, staff has determined that it does not apply in this case.

Zoning Ordinance §17.56.110 limits the heights of fences and hedges along property boundaries. Within the front yard setback of 20 ft., hedges can not exceed 4 ft. Within

side and rear property setbacks, hedges are limited to 6 ft. This is a set standard that can be enforced through the nuisance abatement procedures regardless of the Views and Vegetation process. However, much of the offending vegetation consists of trees that do not meet the definition of a hedge. Hedges are defined in the Views and Vegetation Ordinance (§8.16.050) as: “Any plant material, including trees, stump growth, or shrubbery planted or growing in a dense, continuous line, so as to form a thicket barrier or living fence.” The pine trees growing along the property lines probably formed a hedge at one time, and therefore should have been maintained at 4 ft. But now the branches are high enough so that the trunks do not actually form a barrier below the 4 or 6 foot height limit, and therefore do not constitute a hedge in my opinion. In addition, bringing those large pines down to 4 ft. now would certainly kill them, since there is no growth/needles below that level and pines don’t resprout from bare trunks. For these reasons, the Views and Vegetation process is necessary to effectively deal with all the various vegetation on the property and the different views being blocked.

The Coastal Act definition of development includes “removal or harvesting of major vegetation.” However, the Act does not define what constitutes major vegetation removal. The most common standards are 12” DBH and 500 sq. ft. of area for smaller vegetation. The Coastal Act also protects public views, but often includes natural vegetation as part of the viewshed. Other than the removal of the large trees, or trees in the OS zone, the restorative action would not require a Coastal Development Permit.

#### **GEOLOGY & SOILS / SLOPE STABILITY:**

Staff is requesting additional information as to how the stumps of the removed trees will be/should be dealt with. This needs to either come from, or be reviewed by, a geologist. The property where the trees are located is all designated as either “unstable” or of “questionable stability” on Plate 3 of the general plan. Review of the proposed tree removal by a geologist is required per §17.20.130. The Planning Commission will have to find that “*the proposed development will not significantly increase erosion and slope instability and that any potential adverse impacts have been mitigated to the maximum extent feasible.*”

The arborist’s report suggests that the alders on the slope be removed but the stumps left in place to provide root structure and stability. Because this is a fast-colonizing, pioneer species, presumably young alders will quickly take root and become established prior to the existing stumps rotting out. It is further proposed to mulch the removed material into the hillside as erosion control. I assume that means that the trees will be chipped onsite. No other detail is provided. Since red alders will sprout from a stump, leaving a few inches of trunk and allowing that to occur would be another option for preserving root strength. And an excess of mulch on a slope can exacerbate instability by inhibiting plant growth. In addition, for the pine trees, complete removal is proposed, but I am unclear as to whether that includes the stumps. And while the pines are not on the bluff or bluff edge, they are still in an area mapped as being of “questionable stability.” For all of these reasons, it is important for the plan to be reviewed by a qualified geologists and to incorporate their recommendations.

There are two ways to approach this. One would be to have the applicants hire a geologist to make recommendations and findings. The other would be for the City to send the project description to the City Engineer's office for review and recommendation. Either way, the City Engineer's office will need to review the project, and the applicants will be responsible for paying for that time, but the first option would minimize GHD's expenses and give the applicants more control over the costs. (Though GHD already has familiarity with and geologic information about the site, and hiring another geologist could still be more costly.)

#### **SEWAGE DISPOSAL:**

The proposed project involves no sewage disposal facilities, and no waste will be generated. The property is served by an intermittent sand filter system that is located just to the east of the house and very near trees labeled by the applicants as A and B. If any heavy equipment will be used on the site to carry out the restorative action, the leachfield will need to be protected as required by our standard conditions of approval.

#### **LANDSCAPING AND FENCING:**

No new landscaping or fencing is proposed as part of this project, but the existing vegetation is the subject of this application as described above.

#### **DESIGN REVIEW / VIEW PRESERVATION:**

No Design Review is required for this proposal.

#### **USE PERMIT FINDINGS:**

Section 17.32.030 of the Zoning Ordinance allows removal of trees over 12" DBH (diameter at breast height) with a Use Permit. The five large pines proposed to be removed along Van Wycke clearly have DBHs of greater than 12 in. Removal of the western alder groups also require a Use Permit because they are in the OS zone (unless they are within the City right-of-way). I am unsure about size and exact location of the southeast alder. More information will be needed prior to taking final action. Section 17.72.040 requires written findings to be adopted in approval of a use permit. The following findings, as may be revised, are required in order to approve this project.

- 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: The proposed project includes the removal of several large trees from a residentially developed property. The pine trees are non-native and causing unreasonable view blockage from several neighboring properties.

- 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 trees are currently presenting unreasonable view blockage from several neighboring properties. The benefits they provide to the owner can be mostly replaced by smaller species that are more readily maintained.
  2. *The accessibility of the traffic patterns 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 tree removal will not affect traffic or parking.
  3. *The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;* Response: The proposed project will not involve any emissions.
  4. *Treatment given, as appropriate, to such aspects as landscaping, screening, open space, parking and loading areas, service areas, lighting and signs;* Response: Tree removal will not affect or require any of the listed items.
- 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 discussed above, under the “Zoning Ordinance / General Plan Consistency section, the proposed development can be found to be consistent with the City’s Zoning Ordinance, General Plan and VVO.
- 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: Removal of trees and vegetation is exempt from CEQA per § 15304 of the CEQA Guidelines exempting minor alterations to land, water and/or vegetation except in the case of officially designated scenic trees or trees within an officially designated state scenic highway; which these trees are not.
- 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:* Response: The project is located between the sea and the first public road.

1. *The development provides adequate physical access or public or private commercial use and does not interfere with such uses.* Response: Van Wycke Street is a public trail. Public access through the private property does not exist, and is not necessary due to the fact that this no structural development is proposed, and there is adequate nearby coastal access.
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 project is to restore private coastal views that have been unreasonably blocked by vegetation growth. Public views have also been impacted, and the project should improve public views of the coast.
3. *The development is compatible with the established physical scale of the area.* Response: The pine trees proposed for removal are much larger and denser than other vegetation growing in the area and could be considered out of scale with the existing neighborhood. The both the alders and the pines are significantly blocking coastal views and can be replaced with smaller vegetation that is more compatible with the neighborhood.
4. *The development does not significantly alter existing natural landform;* Response: No topographical changes will result from the project. No soil disturbance will occur if the tree stumps are not removed.
5. *The development complies with shoreline erosion and geologic setback requirements.* Response: No structural development is proposed. Tree removal and treatment methods have been (will be) reviewed by a qualified geologist and all of their recommendations have been (will be) incorporated into the project conditions.

#### **PLANNING COMMISSION ACTION:**

Staff is requesting additional information from the applicants in order to continue processing this application, and therefore no action will be taken at the February meeting other than to provide additional direction to the applicants as needed. This could also include suggestions for alternative restoration proposals (e.g. if the Planning Commission feels that too many trees are proposed to be removed). Staff recommends continuing the hearing to the regular March meeting, or until all of the required information is submitted by the applicants. At a minimum staff suggests that the applicants provide the following additional information:

1. More detailed restoration plan showing the extent of the proposed pruning, including, but not limited to, the extent of limbing up, cutting back, removal of major branches, and specific guidance for how much to prune each year.
2. More detail on what will happen with the stumps of the trees that are proposed to be removed, including the likelihood, benefits and/or allowing stump growth by the alders and whether the pine stumps are proposed to be left in place.

3. Review of the project, particularly stump treatment, by a licensed geologist, which may be through the City Engineer's office.
4. Additional information regarding the size and location of the alders proposed for removal.

### **CONDITIONS OF APPROVAL:**

Until the actual View Restoration Permit and specific restorative action is proposed, these are draft conditions and will not be effective until action is taken. Note that some of the wording needs more specifics depending on the outcome of the discussion.

1. The applicants are responsible for reimbursing the City for all costs associated with processing the application. *Responsibility: City Clerk to place receipt in conditions compliance folder prior to authorization of tree removal or encroachment permit being issued.*
2. All restorative action as approved by the Planning Commission shall be carried out by, or under the direct supervision of, a certified arborist.
3. A maintenance agreement consisting of guidelines for regular maintenance and a "not to exceed" a certain growth standard shall be signed by the vegetation owner and recorded on the property deed where the vegetation is located.
4. Tree removal activities are to occur in a manner that does not impact the integrity of the primary or reserve sewage disposal areas. The leachfield area shall be staked and flagged to keep equipment off the area. Alternatively, a written description of techniques/timing to be utilized to protect the system will be required from the contractor. If the existing system area is impacted by construction activities, an immediate Stop-Work Order will be placed on the project. The builder will be required to file a mitigation report for approval by the City and County Health Department prior to permitting additional work to occur. *Responsibility: Property owner to ensure prior to tree removal.*
5. Prior to and during tree removal and trimming activities, the vegetation to be removed will be inspected for active nests, which shall be avoided until the nests are no longer in use.
6. All recommendations of the geologist shall be incorporated into the project description and included as part of the bid process.

# Trinidad Tree Service



398 Old Wagon Rd • Trinidad, CA 95570 • 707-832-3086

[trinidadtreeservice@gmail.com](mailto:trinidadtreeservice@gmail.com)

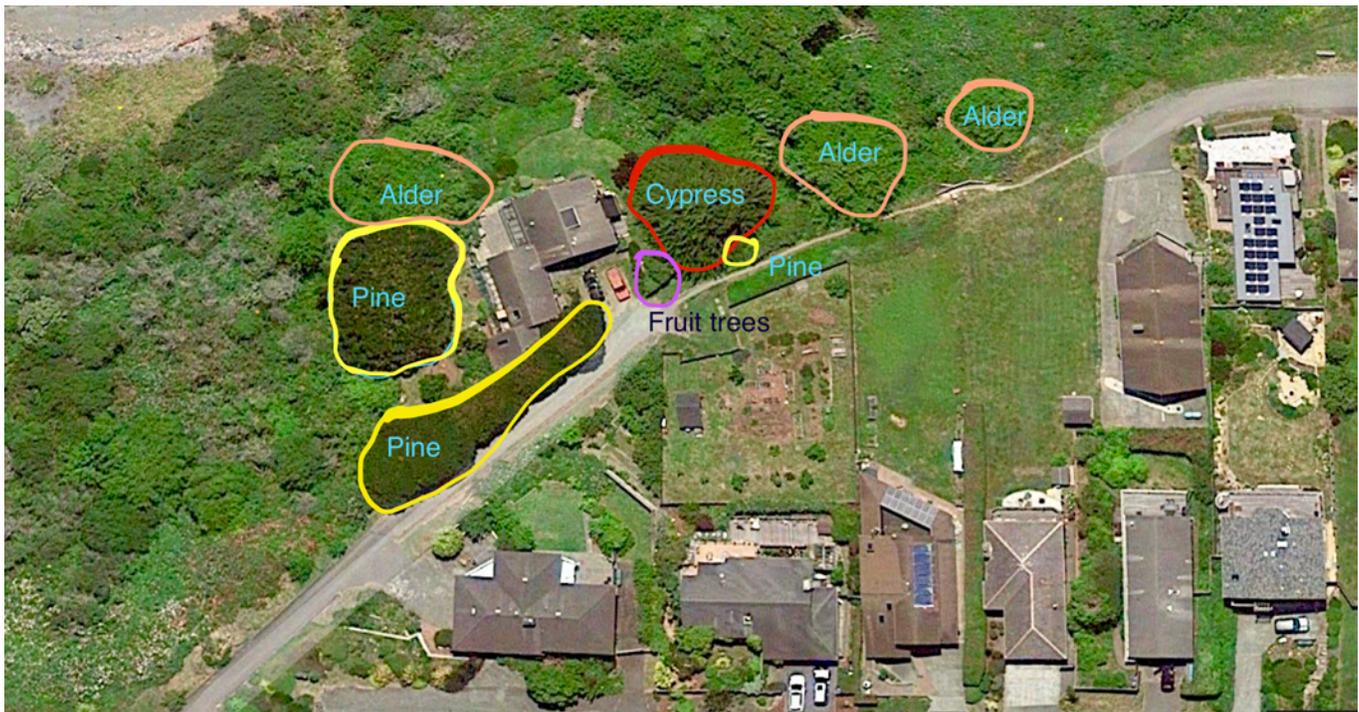
January 16th, 2017

Re: Van Wycke St. view easement

To whom it may concern:

My name is Merlin Sabo, I am a local International Society of Arboriculture (ISA) Certified Arborist and the owner of Trinidad Tree Service based out of Trinidad CA. I have been practicing Arboriculture in the North Coast since 2005. I was contacted by Dr. Stephen B. Ruth, a local Trinidad resident to provide a detailed View Restoration Plan that would meet criteria regarding trees located at 723 Van Wycke St. that the Trinidad Planning Commissions determined were unreasonably obstructing his views and those of the 11 neighboring property owners that he represents.

The trees in question are seven grouped Monterey pines, (*Pinus radiata*) one Monterey cypress, (*Cupressus macrocarpa*), four red alders (*Alnus rubra*) and two small fruit trees.



Some of the following trees are important to slope stability and will remain on site with pruning, windowing and crown reduction. Others trees that are further inland, offering little for slope stability will be proposed to be removed completely.

## Proposed plan

### - Monterey Pines

The pines as seen on the map run parallel to Van Wycke and along the outer bluff on the properties south-east side, another younger, smaller pine is currently growing under the cypress as well. The pines located on the outer bluff are important for slope stability as the soil beneath is a sandy loam that can be prone to slides during heavy precipitation. Monterey pines are known for having very shallow root systems, causing them to be susceptible to root and structure failure during and after high wind events. By reducing the overall size of the trees you will



benefit bluff stability by lessening the total weight sitting on the slope and lowering the winds leverage pulling on the root mass. As these trees will be left on site, they will be pruned to lift the canopy sides and thin out redundant smaller trunks and select larger limbs within the center structure to provide more open look and a view window to the ocean beyond. Lowering the canopy of these particular trees can be achieved if you keep your crown reduction within the outer green belt. Any reductions beyond would be ill advised as there is no live interior needle growth. Cutting past the vegetative line will ultimately kill the effected trunk as Monterey pines do not sprout from bare trunks. All live vegetative growth is occurring on the outermost 4-5 ft of the tree due to years of interior pruning. Up to 30% vegetation removal can be tolerated each year with out much negative effect. During this project, pruning would be need to be applied incrementally over a few years time to reduce stress on the tree due to the loss of canopy.

-Example of Monterey pines

Along Van Wycke, a row of five Monterey pines grow in a large hedge formation along with another small single tree growing under the cypress. Being further up slope growing on stable ground these trees are not contributing to bluff stability and are proposed to be removed completely as they do not have the proper branch structure to withstand the proposed lowering for height. These pines are to be replaced with smaller ornamentals to provide a privacy barrier that the current pines provide. These ornamentals will be kept at maximum height of 9ft. Suggestions for replacements could include varieties of Japanese maples, (*Acer palmatum*) Flowering dogwood, (*Cornus Florida*) Japanese flowering cherry (*Prunus serrulata*) and Eastern redbud (*Cercis canadensis*). Annual pruning will be recommended to keep the trees in good shape and within the height requirements.

## **- Monterey Cypress**

Located on the houses west side, this cypress tree plays an important role in maintaining slope stability and will remain on site. Currently this tree has a full branch structure from the ground up, and would be a good candidate for extensive pruning. Starting by removing lower limbs, select upper limbs, cleaning out dead wood clutter and shaping the branch structure upward into the upper canopy. Long outlying upper canopy limbs can be shortened or removed to reduce wind leverage. Some potential guide lines for this trimming will include limbing the lower branch canopy up to 15 feet and reducing the overall height to around 25 feet. This clean up and restructuring can result in a classic bonsai appearance along with reducing the overall weight sitting on the bluff edge. Typically Monterey cypress can stay in good health with having between 50-65% canopy removed. This would also be recommended to be slowly applied over a 3 year period. This will allow for a healthy tree with good visibility beyond.



-Example of a pruned Monterey cypress growing nearby in Trinidad.

## **-Red Alders**

Currently two groups of alders are growing on the western and south side of the proposed view easement. The first group of two grow directly south of the property, below the large outer pines. West of the house, the other two trees grow on the sides of the bluff. The larger of these two trees is located within a small slide that is occurring presently along the Van Wycke Trail. During high wind events with heavy rain, these coastal bluff alders can sometimes fail resulting in large amounts of soil being pulled up with the root system as the tree topples down slope. Alders are traditionally a pioneer species with light seed that blows in early and establishes well on disturbed soil. This slope being prone to small slides and disturbances will provide ready habitat for numerous red alders. In the case of both groups of alders on either side of the house, a full removal down to the stump is proposed. This would provide remaining root structure for soil stability while opening up views of the boat launch in the harbor as well as coastal rock formations within the Coastal Monument. The materials from the trees will be mulched into the hillside to provide rainwater interception to help prevent further erosion.



**-Fruit Trees**

These two trees would be kept to maximum height of 9ft with annual pruning.

Thank you for your time and consideration, and feel free to contact me for further questions.

Sincerely,

Merlin Sabo  
ISA CERTIFIED ARBORIST  
WE-9279A

749 Edwards October 2016



View Comparison from same photo-point showing view blockage by Monterey Pines: Upper Pano shot on 30 May 2001; Lower Pano shot on 13 October 2004





# Trinidad Tree Service



398 Old Wagon Rd. • Trinidad, CA 95570 • 707-832-3086  
trinidadtreeservice@gmail.com

February 5th 2017

Re: 570 Ewing St.

To whom it may concern:

My name is Merlin Sabo, I am a local ISA Certified Arborist and the owner of Trinidad Tree Service based out of Trinidad, CA. I have been practicing Arboriculture in the North Coast since 2005. Dan Berman, Trinidad's City Manager asked me to provide a professional opinion of a Monterey cypress (*Cupressus macrocarpa*) growing at 570 Ewing St. in front of the HSU Marine Lab.

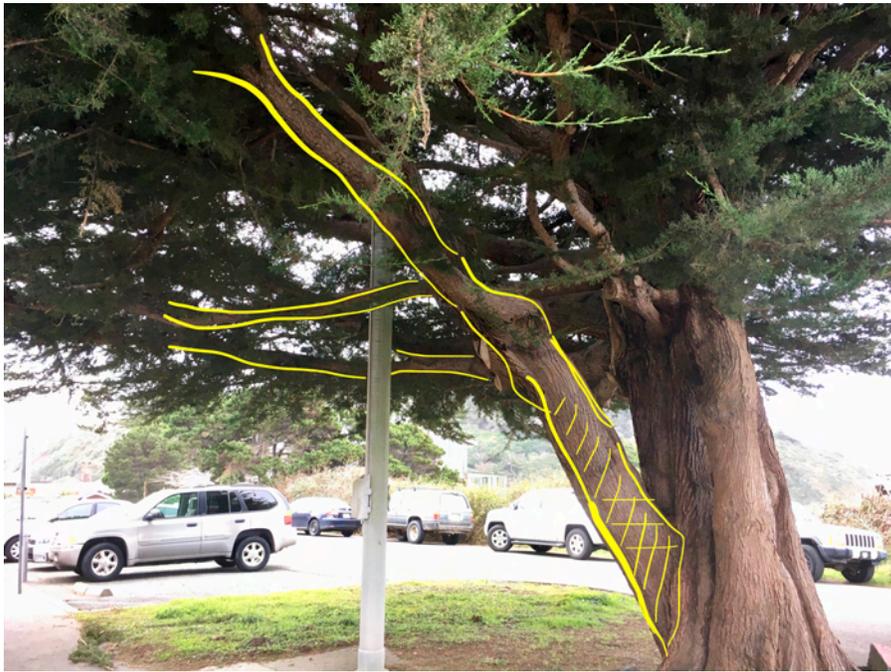
I was asked to look at the tree and recommend future possibilities and potential hazards the tree might represent. According to the marine lab, the tree has started to lean towards their facility, there was talk of wanting the tree fully removed to reduce any future impact.

Looking at the tree, I can confirm the tree is now weighted more heavily on the south side, toward the marine lab. This looks to be caused by the steady north wind blowing off the ocean, creating a small flagging effect in which the vegetation is better able to grow on the leeward side of the tree. Ultimately causing a tree with unbalanced canopy weight. This can be easily



remedied by a good pruning and branch removal throughout the tree to re-balance the structure. Overall the tree looked extremely healthy with no visible rot pockets or dead/failing canopy. I believe by restructuring the trees shape and reducing the overall size, we can achieve a tree that is safe for the building as well as reducing its overall footprint within its given growing space.

*-Heavy branches that could be removed on the south side of the tree-*



*-Large co dominate trunk that potentially could be removed to help alleviate weight-*





## MEMORANDUM

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**To:** Trinidad Planning Commission  
**FROM:** Trever Parker, City Planner  
**DATE:** February 9, 2017  
**RE:** Land Use Element Discussion

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Please bring your copies of the draft Land Use Element (September 2009) to discuss. Copies are also available on the 'Documents Library' section of the City's website under 'Planning Documents: GP Update – Draft Elements.' Copies are also available at the Trinidad Library and at City Hall.