

MINUTES OF THE MONTHLY MEETING OF THE
TRINIDAD PLANNING COMMISSION
WEDNESDAY, February 15, 2017

I. CALL TO ORDER/ROLL CALL (6:12pm)

Commissioners Present: Braziel (arrives during Agenda Item I), Johnson, Scott, Stockness

Commissioners Absent: Hedrick

Staff: City Manager Berman, Planner Parker, Caldwell

II. APPROVAL OF MINUTES

January 18, 2017

Motion (Stockness/Scott) to approve the minutes.

Passed unanimously (3-0).

III. APPROVAL OF AGENDA

Motion (Johnson/Stockness) to approve the minutes.

Passed unanimously (3-0).

IV. ITEMS FROM THE FLOOR

Do. Cox (436 Ocean) provides her regular report regarding the encroachments on Ocean Avenue. She met with D. Berman, City Manager, on Monday, and he met with the City Engineers to discuss options. She appreciates the effort and the communication. This should be a simple fix and resolved amicably and fairly.

L. Farrar (433 Ewing) suggests again that Commissioners should have Trinidad.gov emails to help the public and save the City Clerk time. These should be posted on the City's website.

V. AGENDA ITEMS

1. **VRP 2015-02:** Continuation of a View Restoration Permit process. On April 15, 2015, the Planning Commission determined that vegetation maintained or allowed to grow by the property owner has grown to unreasonably block neighbors' coastal views. This meeting will consider restorative action, including pruning, trimming, shaping and removal as recommended in an arborist report submitted by the applicants. A Use Permit will be required for any tree removal, but final action will not be taken at this meeting. This meeting will be for information gathering, discussion and to provide any recommendations and/or requests for additional information to the applicants. Located at 723 Van Wycke; APN: 042-091-03 & -09

Planner Parker provides background information about the project and reviews the Staff Report. Action will not be taken on this Item at this meeting, since staff is requesting more information from the applicants. She explained that she put it on the agenda, even though the application materials are incomplete, because it is a complex project that will likely take more than one meeting anyway. She wanted to give the Planning Commission a chance to discuss the project and see if they also had any additional requests for more information from the applicants or staff.

Commissioner Comments and Questions

Commissioner Johnson discloses that he has had conversations with people from both sides of the issue for full transparency. He has many comments:

- He agrees with Staff's request for additional information;
- is concerned about slope stability;
- needs more detail regarding the restoration plan/arborist report; in particular, he would like additional details regarding the possibility of more pruning and less removal to restore views;
- has questions about how the stumps will be treated;
- concurs with the requirement for a geology report;
- heard that possibly the vegetation owner engaged a geologist previously to look at the slope situation, and he would like to see those results;
- questions whether the alders are on the owner's property or the City's;
- would like to know why a cultural monitor isn't required and if one is, would like to suggest it be included as a condition of approval;
- thinks the allocation of costs proposed in the staff report, which splits the costs evenly amongst the property owner and complaining parties, is fair; and
- is concerned about the discrepancy between the staff report and arborist report on the number of trees recommended for removal.

It is clarified that the five pines along Van Wycke are proposed to be removed, along with four alders. Planner Parker did not realize that the eastern alder consisted of a group of two trees, not just one. There is also a smaller pine growing within the larger western cypress that is proposed to be removed. Parker clarifies that just because certain trees are proposed to be removed by the applicants, does not mean that City staff will recommend approval of the removal of all of them, or that the Planning Commission will approve it.

It is also discussed that the groups of vegetation labeled and discussed as part of the 2015 unreasonable obstruction hearing do not exactly correspond to those included and discussed in the restoration plan. Various trees and their relation to property lines are also discussed. Parker also explains that, at this point, it does not appear that soil disturbance is proposed, depending on what treatment is given to the stumps, and so cultural monitoring was not proposed in the staff report; that could change.

Commissioner Stockness thinks this plan should be categorized as a major vegetation removal under CEQA because of the number of trees being removed and the unstable slopes. Planner Parker explains that "major vegetation removal" is a Coastal Act consideration, which is normally defined by removal of trees over 12" DBH or removal of greater than 500 sq. ft. of vegetation area. Parker adds that normally the removal of a few individual trees falls under a CEQA exemption, but that there are exceptions. And at this point, the number of trees to be removed is unknown.

Commissioner Stockness thinks a geology report is necessary. She also thinks long-term maintenance requirements should be conditions for this project. She notes that the ordinance states that "vegetation shall not block views" (emphasis added). Vegetation maintenance should be included on the vegetation owner's deed(s). She is also concerned about the alders because they grow back quickly. The restoration plan seems decent and she feels Mr. Sabo is a good arborist. It is also not fair that so many property owners are affected by the overgrown vegetation. She is all for vegetation maintenance. She asks Planner Parker to explain how vegetation maintenance requirements can be put on deeds.

Planner Parker states that putting vegetation maintenance on a deed is a useful tool for ensuring that future property owners are notified of the requirements. It should also help clarify enforcement. A maintenance agreement will need to be written up, and that would be what gets recorded. Parker notes that this is only the second time the Views and Vegetation Ordinance has been used, and the first time, it worked smoothly and as it was intended, with parties cooperating and in agreement by the time of the hearing.

City Manager Berman adds that the idea of deed recordation and maintenance agreement is to ensure future maintenance. He suggests that once the initial restorative work is completed, representative photographs from specific points would help create a baseline record.

Commissioner Braziel arrives at 6:50 pm.

Commissioner Stockness asks if the Building Inspector, City Engineer and Geologists/other City staff are all involved. Planner Parker responds that staff will be sent referrals as applicable. GHD, which serves as the City Engineer, and which has a geologist on staff, will be asked to review the final plan and geologic report. There are likely no building permit issues. DEH will be consulted for any work that might occur near the septic system. And Public Works will be consulted for any work that may affect the right-of-way or utilities.

Commissioner Stockness thinks views are not adequately protected from growth, and this has resulted into the Views and Vegetation Ordinance. She also follows it up with a few comments:

- All stumps should be removed since they will grow back via sprouts and suckers;
- She asks if the City Engineer will be present for meetings (Planner Parker says generally no unless there is a specific reason or request);
- The Van Wkye trail condition is an issue (this is a different topic);
- She appreciates Planner Parker's thorough Staff Report.

Commissioner Scott voices her concerns:

- There is a lack of specificity in many areas, such as the use of "reasonably", she thinks the restorative action and maintenance needs to be quantified to the extent possible; (Planner Parker agrees, because quantifiable requirements are more easily enforced);
- She requests a definition for "dedicated tree" (Planner Parker finds it in the Ordinance and explains the process);
- The property lines and ownership needs to be determined;
- Environmental impacts, including bird nesting habitat, needs to be fully considered.

Planner Parker explains that the property line determinations are difficult. Oscar Larson did a survey of the TSA which is mapped on a georectified aerial photo, but the location of the trunk is unclear from the photo. She would like to meet with the Tsurai Management Team to discuss the issue; trimming may be preferable to complete removal. As for the City property, there was also a survey done of Van Wycke, but it is difficult to determine the lines on the ground due to the steep slope and soil movement. One suggestion would be to assume it is on City property for the applicants to request the City Council's permission to remove or trim the alders at the applicants' expense.

City Manager Berman notes that the City got a letter today from the TAS and he reads it. It states that the City should cease all work and activity in and around the TSA.

Commissioner Scott asks about wildlife impacts during the nesting season and Planner Parker responds that the nesting season will have already started. This project is not subject to

regulations requiring biologic surveys or monitoring, but it is still unlawful to disturb a nest. Planner Parker points out in the Staff Report where it is addressed, albeit briefly.

Commissioner Braziel looked at the site today and reviewed the 2015 packet. She is concerned about the cypress tree hanging off the edge of a slope. Planner Parker notes that tree is proposed to be trimmed rather than removed. Commissioner Braziel agrees with requiring input from a geologist and would also like to get an ecologist or biologist's opinion.

Commissioner Johnson adds that the arborist has proposed that pruning occur over a period of years, and he would like a more detailed timeline and guidance as to what exactly gets pruned when. Planner Parker agrees and notes that it was mentioned in the Staff Report.

Public Comment

Commissioner Scott opens the public comment and submits letters from the public for the public record.

Commissioner Scott reads a letter from Kim Tays (Arcata) into the record as requested. K. Tays disagrees that the project is exempt from CEQA. She questions the property boundaries and wonders whether the TAS has been notified. She asserts that the removal of up to 12 trees could have significant impacts, including on aesthetics, water quality, geology, biology, etc. She submits five questions along with a number of issue that she thinks staff and the Planning Commission need to address. These focus on property boundary and TSA issues, CEQA, aesthetics, bluff stability and habitat.

J. Cuthbertson (840 Van Wyke) thinks this situation should have been fixed long ago, and it has gone on too long. The Planning Commission has already found that significant view blockage has occurred. Two alders have fallen on Parker Creek--there is no root system, and they threaten bluff stability. He owns a house on the bluff, so he's concerned about that. If the trees are on City property, they are still subject to the Views and Vegetation Ordinance. He notes that the Coastal Act protects public views, which are also being blocked. The Commission needs to tell the applicants and vegetation owner what to do to continue the process.

P. Hagan (applicant lawyer/representative) distributes a letter and reads/elaborates on it. He talks mostly about procedure and the Commission's/City's failures and absence of authority to proceed. His primary points are that: 1) there is an absence of factual findings in the record on which to base a decision; 2) proper procedures, including application requirements and noticing have not been followed; 3) the fact that City staff performs the noticing is a gift of public funds; and 4) the arborist report is insufficient.

There is a discussion about the amount of time P. Hagen has to speak. After confirming that he represents the property owner, the Commission agrees to give him 15 minutes after he stated that was adequate. P. Hagen suggests the Commission seek advice from the City Attorney. He then reiterates that the process and content have fatal flaws such that the Commission cannot legally make a viable decision, therefore this public hearing is not valid and he puts them on notice. Also, no one knows the property boundaries and now the TAS is involved. He closes by reading the end of the letter. The Commission asks questions about the letter and P. Hagan provides clarification.

Commissioner Johnson states that obviously they will consult with the City Attorney on this matter and proceed based on his advice. P. Hagan continues, stating that J. Fulkerson (vegetation property owner) is fully willing to comply with the law and has pruned the vegetation before. She is

worried about proper procedure being followed though. P. Hagen agrees that at this point, it would be prudent for the Commission to continue to take public comment.

City Manager Berman states that he will give the letter to the City Attorney and get feedback. Whatever the outcome of the issues that need resolving, there is no action being taken tonight so he doesn't see the risk of continuing the discussion tonight and providing direction to the applicants on what more is needed.

S. Ruth (777 Edwards) states that he is representing himself and 10 neighboring property owners, a.k.a., the Trinidad View Lovers (TVL). Because he is representing so many people, the Commission agrees to give him 30 minutes. S. Ruth notes that he submitted two documents that were supposed to be included in the Commission packet but were not. He submits three documents to the Commission. He states that he will not spend time on the first, because it is a background document on the history. He continues, stating that the view from Trinidad encompasses the CA National Monument, and that he feels that the View and Vegetation Ordinance needs to be revised to be less onerous. He then reads a letter he is submitting into the record that gives background on the issue, states that views were unreasonably obstructed, suggests a maximum height limit on the vegetation and brings up other issues that should be solved, such as the shapes of trees and what the vegetation property owner is responsible for.

S. Ruth then gives a photo presentation supporting restoration to mitigate for the unreasonable view obstruction. The slideshow includes visuals of the vegetation owner's property and encroachment on views from neighboring properties. He goes over what should be trimmed, how some should be trimmed, which should be eliminated and which stumps left, maintaining alder sprouts at 9', the bonsai trimming method and mentions that the TVL are willing to pay more if Mr. Sabo is retained. He also thinks the City should protect the affected public, as well, rather than just mediating between the two groups. Commissioner Scott cuts him off after 30 minutes, noting that the photos were becoming repetitive, and the Commissioners had all been to the site..

D. Bruce (780 Underwood) can see that this is an emotional issue for both parties. He thinks the City should adhere to the Views and Vegetation Ordinance. He notes that he is a regular user of the Van Wycke Trail, and that public views have been significantly blocked and need to be protected. This issue should be resolved as quickly as possible.

L. Farrar (433 Ewing) says her comments are not personal but she is thinking of the City as a whole. Vegetation owners are entitled to privacy, especially along a public trail. Views can still be seen from the trail and roadways as you change your position. She is opposed to complete removal of trees and is an advocate of windowing and "bonsai-ing." Trinidad has been denuded of too much vegetation in favor of views. Public views include habitat, which is more than just nesting birds. She notes that the trees recommended by the arborist to replace those that are removed are deciduous, which offer little privacy, and it is questionable whether Japanese maples would survive in that harsh location.

P. Hagen exercises his right to comment as a public citizen and on behalf of the vegetation owner. He thinks the Planning Commission has failed to set and follow its own rules; he argues about the time restriction for public comment, noting that he was given half the time to speak on his client's behalf as was given to the applicants/neighbors.

Commissioner Scott responds, stating that the Commission is composed of volunteers with no formal training and they are doing their best to review this emotional topic. She tells him that if he would like to continue, he has another 15 minutes.

P. Hagan uses this time to emphasize that he was on the Arcata Planning Commission for 9 years. He asserts that as a Commissioner, you are a government official, and he berates the Commissioners for not knowing their jobs and not following procedure. He states that if a Commissioner cannot meet their requirements and responsibilities, they should resign.

Commissioner Scott called for order as P. Hagen was being argumentative.

Commissioner Braziel brings it back to public comment regarding Agenda Item V.1, and Commissioner Stockness notes that the Commission understands this is an emotional project for everyone involved.

E. Frasier (774 Edwards) has only been to one other Planning Commission meeting and appealed to common sense then as well. He thinks it is counterproductive of the property owner to nit pick the procedure and waste time like this. It is obvious that views are obstructed. Everyone needs to work together to solve this for the benefit of all.

Commissioner Comments and Discussion

The Commission closes the public hearing and reaffirms that they are not taking action tonight.

Planner Parker reads the list of additional items being requested from the applicants by staff on pages 14-15 of the staff report.

As a response to some Commission questions, Planner Parker tells the Commission the City will provide them a response to P. Hagan's letter.

Commissioner Stockness would like the City Engineer to come to the next meeting on this issue.

Commissioner Braziel notes that the arborist report needs more detail and quantification of the proposal. She is also concerned about environmental impacts and CEQA compliance. Planner Parker will address CEQA in more detail in the staff report. She elaborates, stating that a 12" DBH is a CDP standard, not CEQA. Certain Coastal Commission actions have been deemed "functionally equivalent" and are therefore not subject to CEQA. There are exceptions to the CEQA exemptions, such as unusual circumstances. She will address this further in the next staff report.

City Manager Berman states that they are soliciting more information from the applicants so staff can make a determination on things like the environmental impacts and a proper CEQA determination. Planner Parker adds that the Views and Vegetation Ordinance is not certified in the LCP and notes that the Coastal Commission doesn't protect private views. Therefore the View Restoration Permit itself is not appealable to the Coastal Commission, but would be appealable to the City Council. However, if large trees are to be removed, the project needs a CUP/CDP, and that portion would be appealable to the Coastal Commission.

Commissioners Johnson and Scott would like to receive and review any previous geologic reports that have been done for the site.

Commissioner Braziel asks about the City Attorney's response and Planner Parker states that it will be in the next Staff Report. Planner Parker states that if the City Attorney feels there is a procedural issue, they will deal with that as necessary.

Thinking the discussion was over, J. Cuthbertson notes that he couldn't hear, and that speakers need to be set up for the next meeting. He has a right to be able to hear.

P. Hagan interrupts and states that if J. Cuthbertson is allowed to speak off-topic, than the Commission shouldn't have previously denied his request to speak about procedure after the public hearing was closed. Chair Scott grants his request this time, and he suggests not calendaring or continuing this project and instead sending it for review to the City Attorney.

Commissioner Braziel would like to hear J. Fulkerson speak.

Commissioner Johnson asks if they continue the project but details are not ready when it is calendared if Planner Parker could just report on the status and the Commission again continue the project to another date. Planner Parker responds affirmatively, but notes that if it is on the agenda it would probably need to be opened for public comment again.

Commissioner Braziel is fine with this as long as public comment is not repetitive.

Motion (Scott/Braziel) to continue the project (even if it may just be an update) to the regular monthly meeting of March 15, 2017.

Passed unanimously (4-0).

3. General Plan Update: Discussion regarding the current draft of the Land Use Element.

The Commission proposes scheduling a special meeting on February 28th to discuss the Land Use Element.

VI. CITY COUNCIL REPORT

City Manager Berman states that the City Council approved the audited financial statements.

The City Council started working on a noise ordinance and a committee is working on it further. There will likely be a first reading at the next Council meeting.

The Council is creating a standing Trails Committee to advise the City on trail issue and priorities.

Future items include the renewal of the lease for the cellular facility on Trinidad Head, and the City's request to Caltrans to modify the grant to allow Van Wyke trail to be for wheelchair and pedestrians only (no bikes), so that the repair can be narrower.

VII. STAFF REPORT

Planner Parker announces that the City is planning a stakeholder meeting for the Harbor area to discuss the LCP update. The Harbor is mostly addressed in the Land Use Element. Part of the LCP update grant tasks are to review those policies. Stakeholders of the Harbor include those that own, use or manage the property. She will post that notice on the City email list among other means such as postings and mailing, people can also specifically request a notice. The Planning

Commission members may attend if they listen to the discussion and are engaged as community members. Her advice is to just listen, particularly if there are three or more present.

City Manager Berman will let the Planning Commission know what their involvement can be at such a meeting based on advice from the City Attorney.

VIII. ADJOURNMENT

Meeting adjourned at 8:50 p.m.

Submitted by:

Sarah Caldwell

Secretary to Planning Commission

Approved by:

Laura Scott

Planning Commission Chair