

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

**I. CALL TO ORDER/ROLL CALL (6:06pm)**

Commissioners Present: Braziel, Hedrick, Scott, Stockness  
Commissioners Absent: Johnson  
Staff: City Manager Berman, Planner Parker, Caldwell

**II. APPROVAL OF MINUTES –**

*January 31, 2017*

**Motion (Braziel, Hedrick) to approve the minutes. Commissioner Stockness abstains.  
Passed unanimously (3-0).**

*February 15, 2017*

**Motion (Braziel/Stockness) to approve the minutes. Commissioner Hedrick abstains.  
Passed unanimously (3-0).**

**III. APPROVAL OF AGENDA**

**Motion (Braziel/Stockness) to approve the agenda.  
Passed unanimously (4-0).**

**IV. ITEMS FROM THE FLOOR**

Do. Cox (436 Ocean) requested and was allowed up to 10 minutes to speak. She brought up her concerns relevant to 407 Ocean Avenue. She provides a summary of the history of the illegal accessory dwelling unit (ADU) on the property. In 2004, the owner was told he could not have an ADU, but he proceeded anyway. She wrote a letter in 2006 requesting information on the status of several second units, including 407 Ocean. She never received a response from the City. In response to other complaints, the City put a stop work order on the back unit in 2006, but there was no further follow-up after that. The work had already been done, and the garage has been used illegally as a second unit since that time. The owner recently showed the property for sale purposes and apparently there were many people living there, even though it is supposed to be limited to a max of six. Also the back unit is a separate living area with a kitchen again.

She continues, stating that this property has cost City Staff >\$9,000 just dealing with this issue. Everyone has been duped since 2006. The owner has blatantly disregarded the City's determinations. A next door neighbor had to tear out a caretaker unit and re-do her project because of the second unit rules, but no one has made this property owner comply. The owner said he would return the back unit to the original state, but it is not—perhaps he ripped out illegal amenities for an inspection and then put them back in. She can't believe the City worked with the owner and even offered him options, such as the "after-the-fact" permit. When the property was inspected in 2013 there was still a full bath and full kitchen. (Planner Parker interjects, noting that the kitchen was eventually removed as part of the permit process.) The property was described to a potential buyer as having a living unit in the back and vacation rental in the front. This setup should not be allowed, nor should the disturbances caused to neighbors by this property. Complaints have not been listened to. The house is going on the market. This time the Building Inspector did the inspection and was floored by the things in the back unit. She asks the Planning Commission to be fully aware of things like this in the future. Everyone has been duped.

S. Ruth (777 Edwards) will hold his comments about the Views and Vegetation Ordinance until the Agenda Item. He does note that Paul Hagan's name is spelled inconsistently in the 2/15/2017 minutes.

L. Farrar (433 Ewing) notes that the minutes are just an approximation of what is said and not always accurate.

## V. AGENDA ITEMS

1. **VRP 2015-02: 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. Located at 723 Van Wycke; APN: 042-091-03 & -09. Continued from the February 15, 2017 meeting. There is no new information to report, and this item will be continued.**

There is no associated staff report because Planner Parker is waiting for more information from the applicants.

### *Commissioner Comments*

The Commission discusses if the City Engineer should be at the meeting. Planner Parker clarifies that it is the Planning Commission that decides which trees are to be removed and the City Engineer's office reviews the proposal in terms of slope stability, utilities, etc., but would not provide a recommendation on which trees to remove. Planner Parker is not sure who will do the geology review; she thought GHD had local geologists but apparently they contract out for that work.

If only the five pines along Van Wyke will be removed, Planner Parker doesn't think a geologic report would be required, but she would still want a geologist to review the proposal. More information from the applicants is necessary in order to determine what exactly is required, but she could send a referral through the City Engineer's office now.

Commissioner Braziel is concerned about the Zwerdling law firm cease and desist order, but Planner Parker assures her they it is not really applicable. This project is outside the TSA, except possibly for the eastern alder group. And this is a private project has nothing to do with the TAS lawsuit or settlement agreement. Parker is requesting additional documentation as to the eastern alders and their relationship to property boundaries if the applicants are going to pursue their removal or alteration.

Commissioner Braziel suggests waiting on the tree removal until July as a courtesy, or asking the applicants to remove those two trees from the application, or working with the TAS as staff suggested.

Commissioner Scott wants an update on the survey. Planner Parker explains that a survey boundary line on a georectified photo splits the tree crown in half. Therefore the location of the trunks is impossible to determine, so a ground survey or discussion with the TAS/TMT is necessary.

Commissioner Scott asks for updates on a biologist. Planner Parker doesn't think a biologist is

necessary. She has spoken to the Coastal Commission and they are not concerned with Monterey pines as habitat, since they are nonnative. There is not significant habitat in the area, but a biologist could be used during on-the-ground work to identify if there are active nests.

Commissioner Stockness is still interested in reclassifying the project under CEQA. Planner Parker states that removal of a few trees normally falls under the exemption for minor alteration to land or vegetation, unless unusual circumstances exist. This could change if other evidence is submitted, such as geologist's report. Right know it is not known exactly which or how many trees may be removed, so the final determination should wait. And there is no current evidence that significant impacts will occur or that special circumstances apply.

Commissioner Stockness thinks the trees are large, and qualify as major vegetation. Planner Parker states that is a Coastal Act issue, not a CEQA issue. The Coastal Act requires a Coastal Development Permit (CDP) for "major vegetation" removal, which is commonly defined as trees over 12" DBH (diameter at breast height) or >500 sq. ft. of area. So any trees that will be removed that are >12" DBH will require issuance of a Use Permit/CDP.

Commissioner Scott notes that the entire project area is mapped as being geologically unstable. Planner Parker agrees, but doesn't think a geologic report is required for removal of trees not on a bluff where soil is not disturbed, because the requirements for a geologic report are related to development. If trees are removed on slopes, such as the alders, she would like a geologist to review the proposal, even if the stumps will not be removed.

Commissioner Stockness wants to know why the old geologic report was not included in the last packet. Planner Parker responds that she has never received one. She clarifies that the applicant stated that the vegetation owner may have one. But this point, she is still waiting on additional information from the applicants. Commissioner Stockness is also concerned that the project is not moving forward.

Commissioner Scott asks about ex-parte meetings and notes that she met with the property owner on March 4 and physically looked at the trees. She also received correspondence from Steve Ruth.

#### *Public Comment*

J. Fulkerson (vegetation owner, 723 Van Wycke) submits a letter to the Planning Commission and discusses it. She states that she has sat on "both sides of the table" and understands the position of the Commission and reminds them that they will be deciding how she should manage her property. She gives background on the project. More recently, she was given only one week's notice of the applicants' arborist report before the 2/15/2017 meeting. She stresses that she was given insufficient time to prepare between the late noticing and late report availability. Additionally, she disagrees with many of the statements made by Steve Ruth, and also thinks some are confusing.

The Planning Commission discusses this.

J. Fulkerson continues, stating that the noticing was late and unclear, the applicant's communications are incomplete and incorrect and she doesn't understand why this project is being continued or is on the agenda when additional information is required from the applicants. She doesn't want to have to keep showing up to meetings if the project is continued again. This incomplete process has been ongoing for two years. She states that all trimming has been taken care of by her and that management of her coastal property is about more than

her. This is a complex issue and the decision-making process must be clear.

M. Pinske (895 Underwood) provides some perspective. The Views and Vegetation Ordinance was adopted in 2005. In 2008, he and five other property owners were involved in a views and vegetation dispute involving a large number of trees, so he understands the process. This case is a little more complicated, but when he went through the process, the Ordinance worked perfectly. He stresses that the Planning Commission should emphasize cooperation between the parties and take a reasoned approach once they get have all the information. They should consider what is good for the community as well.

Alan Grau (433 Ewing) thinks that if the trees are removed, then the ugly billboards on the bluff nearby should also be removed. The Katy's Smokehouse and Seascape billboards do nothing for the beauty of the community and are out of compliance with City code. The trees should be pruned, and not removed; trees are of benefit to the community, billboards are not.

S. Ruth (777 Edwards) represents himself and 11 property owners. He reads a letter into the record. The applicants need the Planning Commission's help and guidance. They do not feel a geologic report is necessary since they already know what it will contain. The arborist's proposal should suffice. The applicants are fine with leaving the stumps and not disturbing any soil, as long as sprout growth is maintained and pruned. He questions whether the alders to the west are the responsibility of the City or property owner or applicants. There won't be any ground disturbance so a cultural monitor isn't necessary. The applicants also strongly feel that public views are affected and that the City should get involved to protect those on behalf of the public.

Planner Parker responds to a request for the number of letters received regarding obstructed public views noting that she does not have the number off-hand.

S. Ruth (777 Edwards) has been an ecological monitor and states that the tree work can wait until after nesting season.

L. Farrar (433 Ewing) suggests that cypress trees are not good for stability due to their shallow root systems.

J. Fulkerson (723 Van Wycke) encourages people to visit the project site.

#### *Commissioner Comments*

Planner Parker at least partially agrees with J. Fulkerson's comment regarding the emails yesterday. She has not had communication with the applicants in the past few months, and they need to work with Staff, particularly her. Planner Parker will put the list of requested additional materials in writing for the applicants and copy all the applicants and the Planning Commission.

Commissioner Stockness wants to include the other email correspondence and wants more information. She anticipated the City Engineer and a geologist being at the meeting(s). She is concerned about public and private views. It is important to have the arborist and applicant reports. Rain is causing problems on the hillside and Van Wycke needs restoration.

The Commission and Planner Parker discuss the next steps, whether to continue or table the hearing, the amount of time this project has taken, and the applicants' responsibilities. Parker suggests tabling the project until all the materials are ready. Planner Parker will compile and write up a specific list of required materials for the applicants and can provide updates as part of the

Staff Report agenda item. She explains that if alders are not removed, and no soil disturbance occurs, a full geologic report is unnecessary. Planner Parker notes the requirements for a geologic report in Section 17.20.130 of the Zoning Ordinance, which applies to soil disturbance and structural development on slopes and in unstable areas. Commissioner Scott points out that if the stumps are removed, there will be soil disturbance. Planner Parker agrees.

In response to Commissioner Braziel's question about what the applicants need to proceed, Planner Parker directs her to the February 15<sup>th</sup> Staff Report and additional requests from the Planning Commission, but she will also provide a more detailed list.

Commissioner Stockness would like a meeting with the TAS, and Planner Parker thinks that that would be ideal but is not sure it will occur. She was hoping that they might discuss the property boundaries at a TMT meeting, but thinks it is unlikely at this time. The alternative is that a survey will be required.

(For further clarification, TAS = Tsurai Ancestral Society, TSA = Tsurai Study Area, TMT = Tsurai Management Team.)

Commissioner Scott directs Staff to provide a detailed list of materials needed from the applicants and send this list to the applicants and Planning Commission. She directs Staff to work with the applicants to get the necessary materials submitted.

***Motion (Braziel/Hedrick) that the Planning Commission agrees to the above steps and to table the item until the applicants submit the additional information requested.***

***Passed unanimously (4-0).***

### **3. General Plan Update: Discussion regarding the current draft of the Land Use Element (September 2009), and Conservation and Open Space Element (December 2009).**

Commissioner Braziel discloses that she spoke with an HSU lecturer about the General Plan update. Planner Parker notes that ex-parte communication disclosure requirements only apply to permit hearings.

#### *Public Comment*

None.

#### *Commissioner Comments*

Page 13:

- Suggest moving LU-5.9 to LU-5.1 since it is Trinidad-specific, where the others are generic;
- LU-5.8 and -5.9 reference fishing and mention recreational boating but not commercial;
- Correct Trinidad State Beach name.

Page 14:

- LU-6.2 needs an update regarding the transfer of the Coast Guard property to BLM.

Planner Parker will ensure Commissioner Hedrick gets a copy of the entire draft General Plan.

Page 15:

- Reference Figure 3 in regard to the Urban Limit Line;

- Figure 3 should possibly get an inset and column the legend;

Commissioner Stockness asks about VDU maps. Planner Parker notes that they are in the STR ordinance amendment file at the City, but properties can change year-to-year.

Page 16:

- The City Service Area description in parentheses should specify that it only includes water service.

Page 17:

- LU-8.3 Cal Fire is no longer CDF.

Planner Parker notes that Cal Fire has requested City water for the station a mile north of Trinidad. This will be a change to the both the City and County LCP, because that property is outside of the City service area. The City has been working with the Coastal Commission on the form of that amendment, and it should be coming to the Planning Commission in the next few months. LAFCo has already approved the extension, as has the City Council pending required permits and studies.

Commissioner Braziel is concerned about the long-term use of septic systems and that the existing General Plan intended to phase them out. Planner Parker notes that that General Plan is based on old technology, and that current thinking has changed; septic systems are now considered viable long-term solutions as long as they are installed correctly and maintained. A local sewer system is likely unfeasible for a number of reasons.

Commissioner Braziel is also concerned about septic systems outside of town. Planner Parker notes that the City has adopted a watershed based plan, and has secured grant funding for improving septic systems in the Westhaven area. Commissioner Braziel wonders if annexing would address water considerations. Planner Parker assures her that additional State requirements and County oversight of septic systems is coming in the next few years, and that annexation of large areas is not feasible. Planner Parker notes that the City has discussed the possibility of forming a septic maintenance district that covers more than City limits. The Planning Commission discuss septic systems outside of town and the City's septic program.

Page 17 Cont:

- CA State Parks;
- Visitor accommodations are discussed in the last paragraph but not in Community Design.

Page 18:

- Strike "The reader is also" in the 2nd paragraph;
- Clarify that the Trinidad Area Plan is part of the County LCP for Trinidad area;
- Maybe more complete references are needed at the end of paragraph 2; there is an abrupt change in tone—suggest a footnote or reference list;
- Remove the neighborhood information and add a general summary. Planner Parker will keep this information for a future background document or annexation or service areas.

Page 20

- Appendix numbers will be updated;
- Program LU-9.2.2 "consider" is too vague; include standards to base on.

Page 21

- Program LU-9.3.1 correct CDF to Cal Fire;
- Program LU-9.4.2 double period in numbering & add “so the City can provide comments and guidance for the County. (County referrals would go to the Planning Commission.)

Page 22

- Program LU-9.6.1 change Trinidad to Moonstone to Trinidad to Westhaven and within the City’s Planning Area
- Change the Goals to policies for the Planning Area

The Planning Commission suggests changes and updates to the maps.

## **VI. CITY COUNCIL REPORT**

Planner Parker hasn’t heard much about the latest meeting’s outcomes yet. But it sounds like the complaint about the petition turned out to be a non-issue. Also, CalTrans approved the City’s request to amend the Van Wycke Trail repair grant to be pedestrian only (no bicycles), so that the trail can be much narrower. Bikes will be routed down Edwards Street.

## **VII. STAFF REPORT**

The Coastal Commission granted a year-long extension for certification of the STR ordinance at the March 9 meeting, but staff intends to get it on the June meeting, which will be held in Eureka. Coastal Commission staff will have suggested modifications to the ordinance, which would have to be adopted prior to certification. That creates some timing issues, because the new regulations would not be certified prior to the expiration of the moratorium. City staff is working with Coastal Commission staff to try to get the suggested modifications early enough so the City could adopt them prior to the June Coastal Commission meeting to avoid that scenario.

Planner Parker and Becky Price-Hall hosted a septic funding grant fair for the Clean Beaches project, but unfortunately there was not a lot of participation.

Parker is still working on arranging a date for harbor stakeholder planning meetings. The meeting has been delayed in lieu of other things going on. S. Laos notes that Dan Berman spoke with Jackie at the Trinidad Rancheria and they will most likely work together to notice the meeting.

Commissioner Scott may be late on the 04/19 meeting; Planner Parker requests she be notified the Friday before the meeting if possible.

Based on differing and difficult schedules, the next special meeting will be decided via email if possible.

The Planning Commission discusses putting the 407 Ocean Ave. violation that was brought up as an Item From the Floor on the April agenda. Planner Parker indicates that it is an enforcement issue, not a Planning Commission issue. There may be something the Planning Commission could recommend, but enforcement is the purview of staff and the City Council. The City Council has to approve activities that may cost substantial time and money. Commissioner Stockness requests a report from the Building Inspector. Planner Parker states that the information will be available at City Hall in the mean time. Commissioner Scott wants to review the permit. Planner Parker will research the process and options. Commissioner Stockness is concerned about people in the future doing the same thing.

The Commission discusses the issue further. Planner Parker states that it is premature to revoke the permit at this time. Commissioner Braziel wants to show that this is a priority and wants factual data and background information to review. Commissioner Scott wants a list of the significant violations tied to the property. Commissioner Stockness states that when the plans were approved, there was no STR Ordinance and it was only supposed to be a back bedroom. Planner Parker needs to consult with the City Manager and City Attorney on proper procedures. Also, if this item is on the April agenda, the Planning Commission should have a special meeting to work on the General Plan update, because there probably won't be much time left for it at the regular meeting. Commissioner Braziel wants to address this item and will make an attempt to attend the special meeting. Commissioner Scott wants to review the permit and regulations. Planner Parker will include something about this issue on the agenda, but it may just be an update.

### **VIII. ADJOURNMENT**

Meeting adjourned at 9:25 p.m.

**Submitted by:**

**Sarah Caldwell**

Secretary to Planning Commission

**Approved by:**

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**Laura Scott**

Planning Commission Chair