

**MINUTES OF THE 16 APRIL 2008
TRINIDAD PLANNING COMMISSION MEETING**

I. ROLL CALL

Chairman Mike Morgan called the meeting to order. Commissioners present were Richard Johnson, Bryce Kenny, and Carol Rowe. Council Liaison Kathy Bhardwaj and staff members Trever Parker and Kristen Martin were in attendance. Commissioner Judy Lake was absent at roll call but arrived in time for approval of the agenda.

II. APPROVAL OF MINUTES – February 20, 2008

Johnson inquired about the status of the BLM kiosk project that was heard at the previous Planning Commission meeting. Parker said this would be discussed during the Staff Report at tonight's meeting.

Motion: Kenny moved to approve the minutes as submitted. Johnson seconded. Motion carried 4-0.

III. APPROVAL OF AGENDA

Johnson moved to approve the agenda as written. Kenny seconded. Motion carried 5-0.

IV. ITEMS FROM THE FLOOR

Mike Reinman suggested that the minutes from February's meeting should reflect the fact that Commissioner Rowe, in addition to Commissioners Lake and Kenny, had also expressed the opinion that the proposed Marshall residence was too large.

V. AGENDA ITEMS

1. Marshall 2007-12a: Design Review and Coastal Development Permit to construct a new 2,454 sq. ft., 3-bdrm, 1-story, single-family residence on a vacant 12,820 sq. ft. property. *Continued from the February meeting.*

Parker stated that although the project design had not changed since the previous hearing, she has added some new notes to the staff report. One of the main concerns had been getting a geologic report for the project site; that report is now available and contains a number of recommendations for the project, which have been included as conditions of approval. The revised staff report also includes a summary of the floor areas of homes that were approved by the Planning Commission, many of which have Floor to Lot Area Ratios of more than 25 percent. Parker also pointed out that the Tsurai Ancestral Society continues to favor the preparation of an Environmental Impact Report for the project due to potential impacts on bluff stability. Staff has recommended that the project be categorically exempted from CEQA requirements.

Commissioners discussed the project and the geologic report. When asked whether any additional meetings/negotiation had taken place between the applicant and neighbors of the project, Parker said that she was unaware of any such meeting. In regard to the potential environmental impacts of development on the project site, Lake asked if anything was built on the site historically; a member of the public responded (with photographic evidence) that there had been a building at that location around the turn of the 20th century. Kenny and Johnson asked Parker to provide clarification on some technical aspects of the geologic report.

The floor was opened to public comment. Ang Lobue denied the applicant's assertion that a good-faith effort had been made to get in touch with the neighbors of the project, as Mr. Lobue had not heard from Mr. Marshall since the last Planning Commission meeting. Mr. Lobue also cautioned staff and the Commissioners not to rush into approval of this project. Mr. Reinman addressed the geologic report, saying that it is inadequate for assessing the hazard of slope failure and should meet the standards used by the California Coastal Commission (CCC) for slope stability analysis. He stated that the CCC will require the Marshalls to do such an analysis if the project is appealed. Parker replied that she had spoken with CCC staff and if this project were to be appealed to the CCC, the CCC geologist will determine what type of geologic report is needed based on the characteristics of the site and that the bluff stability analysis referred to was not a regulatory requirement. The geologic report submitted for this project meets the City's standards and the applicant cannot be required to do more at this point, although the City's regulations could be changed for future projects. Mr. Reinman also requested that future development projects not be heard by the Planning Commission unless they meet the 2,000 sq. ft. maximum floor area guideline, and unless the applicants have cooperated sufficiently with their neighbors. Kim Binnie agreed that the geologic report is inadequate, and specifically disagreed with the conclusion that development of the site will decrease the amount of water infiltrating into the bluff. She said that the site has come to be thought of as open space and would like to see it developed as minimally as possible.

Jim Cuthbertson clarified that the house has a proposed Floor to Lot Area Ratio of 19 percent, which is below the City guideline of 25 percent. He said that the project approval process has put too great a burden on the applicant and has taken too long. Chairman Morgan replied that although this is the third hearing for the project, the first hearing was preliminary and the project has been continued for specific valid reasons. Patti Fleschner praised staff and the Commission's careful deliberation process and spoke in support of the project. She acknowledged that citizens have considered turning the vacant lot into a park, but that is not an option now that it's owned by the Marshalls. Janine Martin and Bob Hallmark also spoke in favor of the project and were dismayed by the controversy surrounding it, saying that the Marshalls are being treated unfairly.

The public comment period was closed at this point. Commissioners Kenny and Rowe were still concerned with the size of the proposed house. Kenny stated a number of reasons for disapproving the project: the site's location in an area of high tourist traffic, the potential for blocking neighbors' views, its close proximity to significant historic resources, and the fact that the lot has been open space for so long. He said that in this case, regardless of the large homes that were approved in the past, the minimum guaranteed height and floor area (15 ft. and 1,500 sq. ft. respectively) should not be significantly exceeded. Rowe agreed with this assessment. She said that she could approve something between 1,500 and 2,000 sq. ft. and was disappointed that no further compromises have been made among the neighbors.

Johnson acknowledged that people have valid concerns about bluff stability and view protection at the project site. He said that the risk of slope failure in this area will continue to exist even if the site is not developed. In regard to the Tsurai's comments about bluff saturation, he said that the issue should be addressed in the General Plan Update. He favored approving the Marshall project because it complies with the Floor to Lot Area Ratio guideline and would not be more obtrusive than the existing two-story homes in the vicinity. Morgan also favored approving the project for similar reasons, including the fact that Trinidad is characterized by a variety of houses.

Motion #1: Kenny made a motion to deny the project without prejudice. Rowe seconded. Motion failed 2-3, with Kenny and Rowe voting in favor and Morgan, Johnson and Lake opposing.

Motion #2: Johnson made the following motion: *Based on the information submitted in the application, and included in the staff report and public testimony, I move to adopt the information and findings in this staff report and approve the project as conditioned below, including the additional conditions recommended in the geologic report prepared by Pacific Watershed Associates dated April 10, 2008.* Lake seconded. Motion carried 3-2 with Lake, Johnson and Morgan voting in favor and Kenny and Rowe opposing.

2. Evans 2008-03: View Restoration Permit to remove, trim or otherwise alter vegetation that is alleged to have grown to unreasonably block neighbors' coastal views. The project may include the issuance of a Use Permit if removal of any of the trees over 12" DBH is proposed.

Parker introduced the project. This is the first application that has been submitted under the City's Views and Vegetation Ordinance. The applicants are alleging that vegetation growth on a neighboring property is unreasonably obstructing their ocean views and is in violation of hedge height limitations. The Planning Commission has the authority to determine the appropriate "restorative" action to be taken, considering the trees' benefit to the property owner as well as their detriment to the neighbors. Both the applicants and the City Planner have tried to

get in touch with the property owner, Silas Morrison, but have gotten no response. In accordance with the Views and Vegetation Ordinance, the project will have to be continued in order to give the applicant another opportunity to respond and attend the hearing.

Commissioners and staff briefly discussed the Views and Vegetation procedure, with the intent of delaying an in-depth look at the project until next month, when hopefully, the property owner or his representative will be in attendance. The Commission must make the determination of “unreasonable obstruction” by comparing the applicant’s current views (partially blocked by vegetation) with the views they had in 1978 or when the current residents purchased their property, whichever is earlier. Johnson pointed out that there will be different baselines for the applicants in this case, since one of the complaining parties has lived at that location since the 1950s. Parker said that whatever restorative action is required by the Commission can be enforced through the nuisance abatement process if the property owner does not comply.

Rowe and Lake disclosed that they are currently involved in mediation over a separate views/vegetation issue. It was determined that no recusal was needed, since neither Commissioner has an interest in the outcome of the Evans application.

Ed Evans, one of the applicants, presented a PowerPoint slideshow demonstrating the impact of Mr. Morrison’s vegetation on the neighbors’ ocean views. He showed that the vegetation has been poorly maintained over the years and that some of the hedges have grown to 30 or 40 ft. in height. There are branches hanging over the property lines and over the adjacent Trinidad State Beach trail. The trees are blocking neighbors’ views of the bay, Trinidad Head, and offshore rocks. Mr. Evans offered a list of specific recommendations for restorative actions as follows:

- Trim southern property hedgerow down to code height of 6 feet.
- Trim northern property hedgerow down to code height of 6 feet.
- Removal of two or more of the four large trees surrounding compound.
- Top, shape and thin remaining two large trees surrounding compound.
- Bring all hedges and shrubs surrounding house compound down to eight feet.
- Due to such gross long term negligence of vegetation, cost to be borne entirely by Morrison. 20 years of differed maintenance is no excuse for passing the cost onto others.
- Maintenance agreement recorded on Morrison deed to run with the land in order to avoid future nuisance abatement and ensure view preservation

The floor was opened to public comment. Kim Binnie urged the Commissioners to consider the aesthetic and habitat values of the trees. She stated that she enjoyed walking under them on the trail. Mike Pinske, one of the applicants,

stated that the overhanging branches are hazardous to users of the Trinidad State Beach trail. Allison Mastri, another applicant, said that Mr. Morrison had not kept to his original promise to her when she moved in to keep his trees trimmed to roof level.

Parker said there may be some question as to whether some of the trees are on private or on the public easement. She said that the Commissioners could make a finding of “unreasonable obstruction” tonight but cannot approve the View Restoration Permit until next month. Rowe was concerned that Mr. Morrison had not received adequate notice as per the Views and Vegetation process. He had been sent a certified letter by the applicants in January, and a notice of public hearing by the City on April 9. Parker said that she will send the next notice by certified mail and include a note expressing the importance of Mr. Morrison’s attendance.

Motion: Kenny made a motion to continue the project until the next regular meeting, with the request that the City sent a certified letter to Mr. Morrison conveying the importance of his attendance. Lake seconded. Motion carried 4-0, with Rowe abstaining.

Johnson asked if the Commission might obtain an expert opinion on the best way for dealing with the Morrison vegetation. Parker replied that this is not a City requirement but it may end up being necessary for the Commission to make its decision. It was recommended to the applicants that they look into this suggestion. It was also suggested that the City might be able to maintain the trees that are growing along and over into the Trinidad State Beach trail, since the trail is a public right-of-way.

VI. STAFF REPORT

Parker reported the following items:

- The interpretive kiosk project approved by the Planning Commission in February has been appealed. In response, the Bureau of Land Management has withdrawn its application in order to redesign the project.
- She still has the new solar permit application form as drafted by Commissioner Rowe, and will pass it on to the Building Official so he can suggest changes before the form is given to the City Council for approval.

Johnson requested that staff keep the Commissioners informed of project updates such as the appeal of the BLM kiosk. Parker replied that she will notify them of such happenings from now on.

VII. COUNCIL LIAISON

Council Liaison Bhardwaj reported the following items:

- The new City Manager has been in office for a few months and is undertaking a wide variety of activities including employee evaluations.
- The issue of a possible Brown Act violation has been investigated, and the City Attorney concluded that no violation took place because there was no intentional leak of information by a Councilmember.
- City staff and decision-makers are being offered an ethics course.
- The City is in talks with the Tsurai Ancestral Society and Yurok Tribe with regard to a transfer of land ownership in the Tsurai Study Area.
- The Council will soon be holding a series of workshops to address next year's budget.
- There has been no response from the City Attorney to a request for a legal opinion on the tall Chevron sign. Parker informed the Commissioners that this was no longer needed, as the Chevron station owner plans to remove the sign and submit a new Design Review application for his other signs.

VIII. ADJOURNMENT

The meeting was adjourned at 10:15 PM.

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