

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
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ARCATA, CA 95521
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W11a

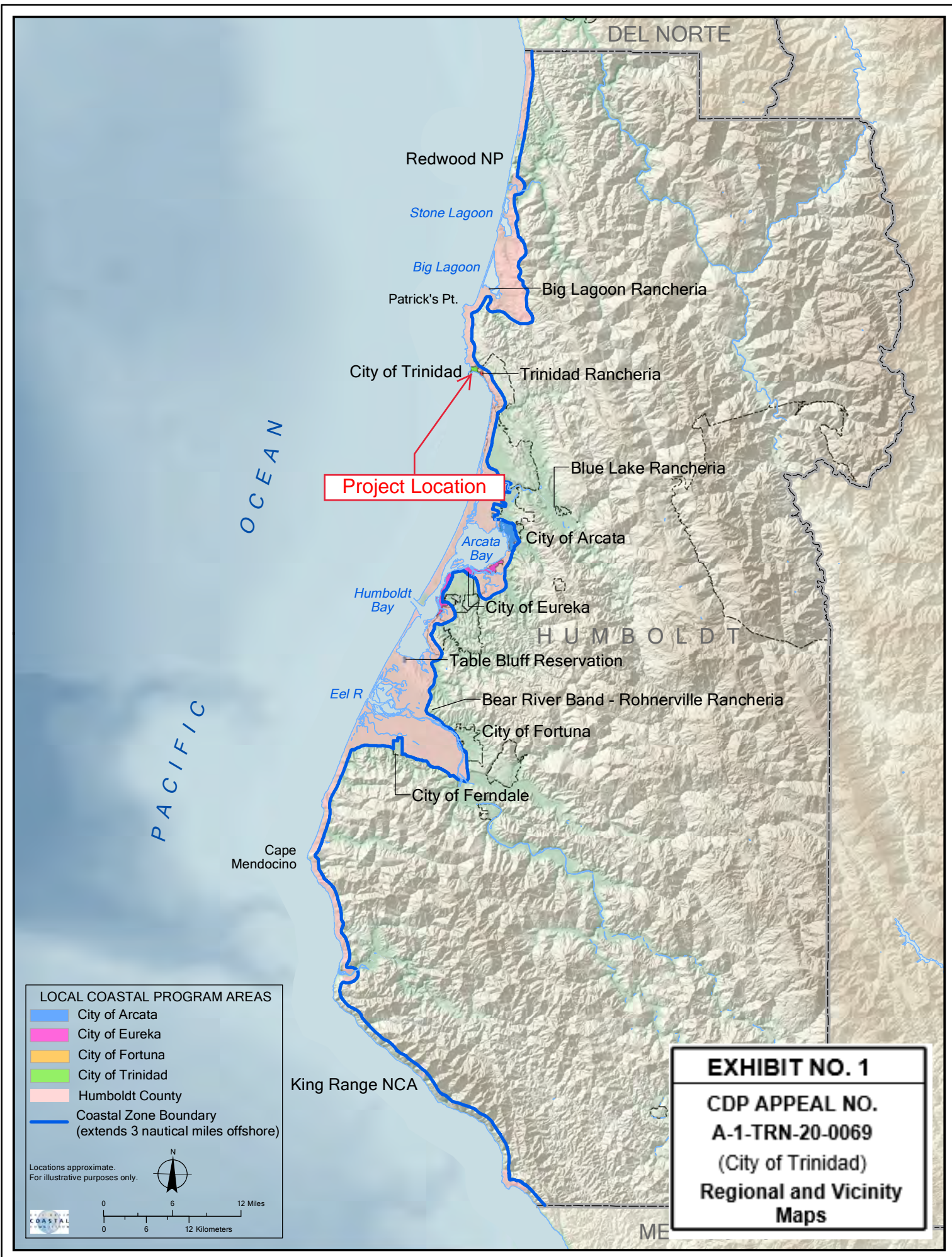
APPEAL A-1-TRN-20-0069 (CITY OF TRINIDAD)

SEPTEMBER 6, 2023

EXHIBITS

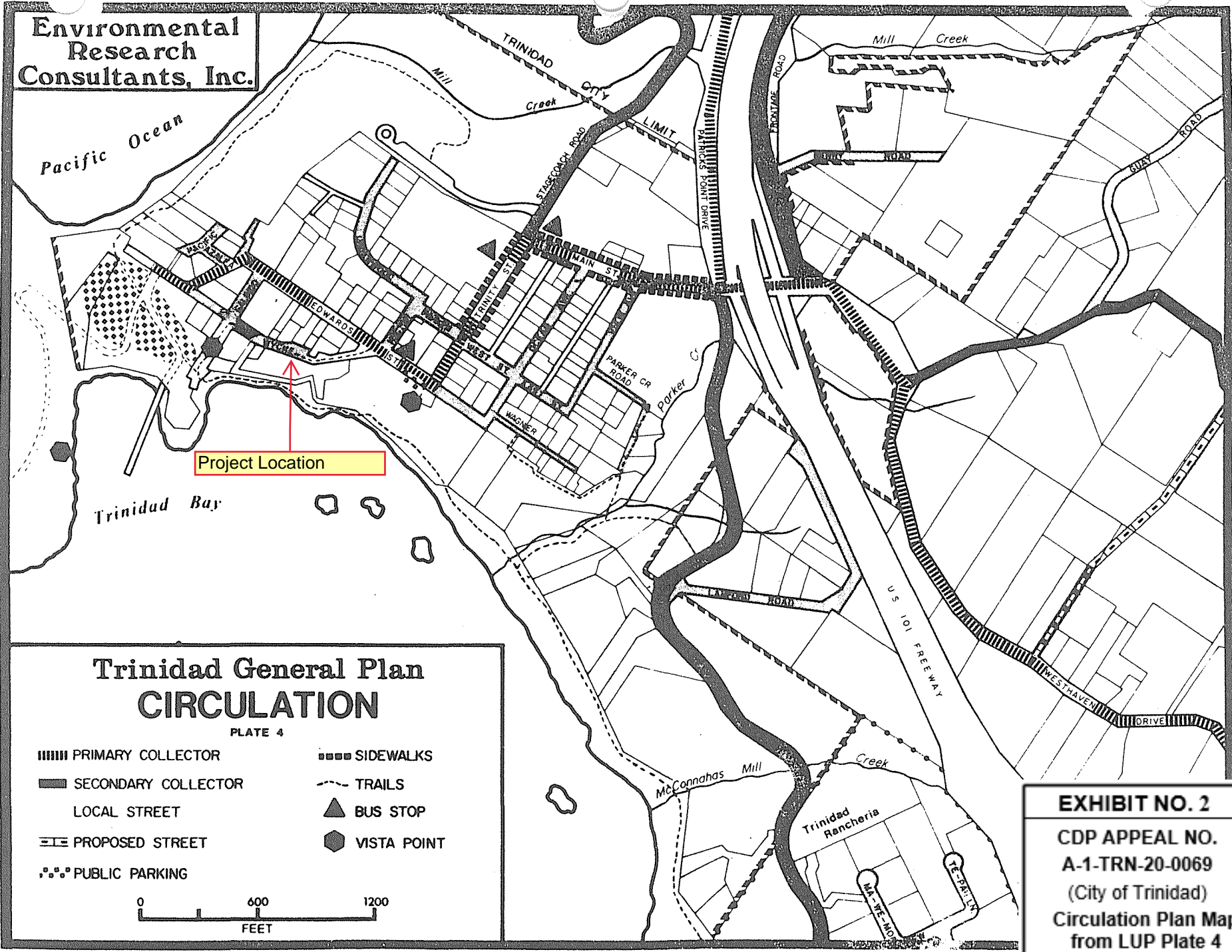
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**Environmental
Research
Consultants, Inc.**



Trinidad General Plan CIRCULATION

PLATE 4

- | | |
|---------------------------|----------------|
| PRIMARY COLLECTOR | ■■■■ SIDEWALKS |
| — SECONDARY COLLECTOR | - - - TRAILS |
| - - - LOCAL STREET | ▲ BUS STOP |
| - x - x - PROPOSED STREET | ● VISTA POINT |
| ... PUBLIC PARKING | |

0 600 1200
FEET

EXHIBIT NO. 2

CDP APPEAL NO.
A-1-TRN-20-0069

(City of Trinidad)
Circulation Plan Map
from LUP Plate 4



Photo 1. September 18, 2019. View looking northeast. Trail closure in September 2019 included fencing that has since been removed.



Photo 2. September 18, 2019. View looking southwest at trail condition at the time of closure.



Photo 3. March 23, 2023. View looking northeast at trail. Temporary fencing has been removed from the site.



Photo 4. March 23, 2023. Close-up of trail near the southwestern part of the trail closure.



Photo 5. August 11, 2023. Close-up of trail near the northeastern part of the trail closure.



Photo 6. August 11, 2023. Close-up of trail condition near the northeastern part of the trail closure.



Photo 7. August 11, 2023. View of Van Wyck Street, looking southwest. Photo taken near the western end of the trail closure. Note park bench in the background near parked vehicles.



Photo 8. August 11, 2023. Close-up of park bench and view near the southwestern part of the trail closure. A glimpse of the "trail closed" sign can be seen in the background, left.



Photo 9. August 11, 2023. View of upper Van Wycke Street (left) at intersection of Edwards Street (right). Note pedestrian shoulder in relation to passing vehicle.



Photo 10. August 11, 2023. View of roadway and narrowed shoulder along Edwards Street, upslope of the intersection with Van Wycke Street.



YUROK TRIBE

190 Klamath Boulevard • Post Office Box 1027 • Klamath, CA 95548

EXHIBIT NO. 4

CDP APPEAL NO.

A-1-TRN-20-0069

(City of Trinidad)

Resolution Adopted by
Yurok Tribe



RESOLUTION

of the

YUROK TRIBAL COUNCIL

RESOLUTION NO: 20-110

DATE APPROVED: October 8, 2020

SUBJECT: Yurok Tribe Support for the Closure of the Van Wyke Trail and Galindo Trail

WHEREAS: The Yurok Tribe is a sovereign nation;

WHEREAS: The Yurok Tribe is a federally recognized Tribe;

WHEREAS: The Yurok Tribal Council is the governing body of the Yurok Tribe under the authority of the Yurok Constitution of 1993;

WHEREAS: The Yurok Tribe is eligible for all rights and privileges afforded to federally recognized Tribes;

WHEREAS: As stated in the Yurok Tribe's Constitution Article I, Section I, the Yurok Tribe's Ancestral Lands of the Yurok Tribe extend unbroken along the Pacific Ocean coast (including usual and customary offshore fishing areas) from Damnation Creek, its northern boundary, to the southern boundary of the Little River drainage basin, and unbroken along the Klamath River, including both sides and its bed, from its mouth upstream to and including the Bluff Creek drainage basin;

WHEREAS: As stated in the Yurok Tribe's Constitution Article III, Section 2, the Orick District includes all Ancestral Lands located downriver on the Klamath River from the Pecwan District and south of the center line of the Klamath River. Included within the District are the ancestral villages of Turip, Wohkel, Otwego, Wetlkwau, Osegen, Espau, Sikwets, Orek, Tsahpekw, Hergwer, Tsotskwi, Pa'ar, Oslok, Keihkem, Ma'ats, Opyuweg, Tsurau (Tsurai), Sumeg and Metskwo;

WHEREAS: The Village of Tsurai is home to many members of the Yurok Tribe who are also specifically from the Tsurai Village and holds many Yurok cultural resources, sacred items, and burials;

WHEREAS: The City of Trinidad, the Van Wyke Trail, and the Galindo Trail are located within the Village of Tsurai's boundaries;

WHEREAS: The use, development, and repair of the Van Wyke Trail and Galindo Trail put Yurok cultural resources, sacred items, and burials at risk of being damaged or stolen; and

WHEREAS: The use, development, and repair of utilities and drainage systems in and near the Van Wyke Trail and Galindo Trail may put Yurok cultural resources, sacred items, and burials at risk of being damaged or stolen.

NOW THEREFORE BE IT RESOLVED: That the use, development, and repair of the Van Wyke Trail and Galindo Trail will harm Yurok cultural resources, sacred items, and burials and have a harmful impact to the Yurok Tribe, the Tsurai Village, and Yurok cultural lifeways.

BE IT FURTHER RESOLVED: That the Yurok Tribe supports the closure of the Van Wyke Trail and Galindo Trail to ensure the protection of Yurok cultural resources, sacred items, and burials.

BE IT FURTHER RESOLVED: That the use, development, and repair of utilities and drainage systems in and near the Van Wyke Trail and Galindo Trail may harm Yurok cultural resources, sacred items, and burials and have a harmful impact to the Yurok Tribe, the Tsurai Village, and Yurok cultural lifeways.

BE IT FURTHER RESOLVED: That the Yurok Tribe requests the City of Trinidad consult with the Yurok Tribe early and often before planning, conducting, and completing any ground disturbance, construction, or repair work in and near the Van Wyke Trail and Galindo Trail.

BE IT FURTHER RESOLVED: That nothing in this resolution shall be construed as a waiver of the Yurok Tribe's sovereign immunity.

BE IT FURTHER RESOLVED: That the Chairperson is hereby authorized to sign this resolution and to negotiate all matters pertaining hereto and that the Council Secretary is authorized to attest.

C*E*R*T*I*F*I*C*A*T*I*O*N

This is to certify that this Resolution Number 20-110 was approved at a duly called meeting of the Yurok Tribal Council on October 8, 2020, at which a quorum was present and that this Resolution Number 20-110 was adopted by consensus in accordance with Tribal tradition and Article V, Section 6 of the Constitution of the Yurok Tribe. This Resolution Number 20-110 has not been rescinded or amended in any way.

DATED THIS 8th DAY OF OCTOBER, 2020



Joseph L. James, Chairman

Yurok Tribal Council

ATTEST:



Sherri K. Provolt, Secretary

Yurok Tribal Council

NOTICE OF ACTION TAKEN

TO: CALIFORNIA COASTAL COMMISSION
APPLICANT



FROM: CITY OF TRINIDAD, PO BOX 390, TRINIDAD, CA 95570

LOCAL PERMIT # Appeal of 2020-01

OWNER / APPLICANT: City of Trinidad
P.O. Box 390, Trinidad, CA 95570

AGENT: NA

AP # NA

PROJECT LOCATION: Unpaved section of the Van Wycke Trail between
Edwards Street and Galindo Street

RECEIVED

NOV 16 2020

CALIFORNIA
COASTAL COMMISSION
NORTH COAST DISTRICT

THE CITY COUNCIL TOOK FINAL ACTION FOR THE FOLLOWING PROJECT AT
THEIR REGULARLY SCHEDULED MONTHLY MEETING ON AUGUST 19, 2020:

Appeal of the Planning Commission approval of Trinidad 2020-01: Coastal
Development Permit for the past and continued temporary closure of a portion of the
Van Wycke Trail due to unsafe conditions. **The final findings, reports, maps and
conditions placed on the project approval are attached.**

THE CITY _____ APPROVED
_____X_____ CONDITIONALLY APPROVED
_____ DISAPPROVED

Planning Commission action on a Coastal Development Permit, Design Review,
Conditional Use Permit or a Variance will become final 10 working days after the date
that the Coastal Commission receives this "Notice of Action Taken" from the City,
unless an appeal to the City Council or Coastal Commission is filed within that time.

Furthermore, 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.

TREVER PARKER, CITY PLANNER, CITY OF TRINIDAD
DATE: August 21, 2020

EXHIBIT NO. 5

CDP APPEAL NO.

A-1-TRN-20-0069

(City of Trinidad)

**City's Final Local Action
Notice & Staff Report**

DISCUSSION AGENDA ITEM (FINAL)

November 10, 2020

Item: Appeal of Planning Commission Approval of Trinidad 2020-01

The project involves a proposal by City staff to issue a Coastal Development Permit (CDP) to temporarily close a portion of the Van Wycke Trail as requested by the City's insurance company due to safety concerns. Detailed project background and information can be found in the attached staff report. This project was considered by the Planning Commission at a duly noticed public hearing on July 15 and continued to August 19, 2020. At the August meeting, the Planning Commission approved the project by a 4-0 vote. Several people attended the meeting and/or wrote letters in opposition of the project. However, staff still recommended approval based on the PARSAC report and recommendations; if the trail is not closed, the City may not be covered should a claim be made. In addition, the closure is temporary, and allows time for the City to explore repair options.

There are a couple of potential conflicts of interest that should be considered. Councilmembers Grover and Clompus both live within 300 ft. of the project. Under the Political Reform Act, there is a presumed financial conflict of interest if an official owns interest in real property within 500 ft. of a project (300 ft. in small jurisdictions under certain conditions). Councilmember Grover is a renter and Councilmember Clompus is an owner. Councilmember Clompus' property is just over 200 ft. from the western end of the trail closure. Because the financial conflict is presumed, an official can rebut that presumption if they determine their financial interest will not be affected one way or the other by the project. Otherwise, they need to recuse themselves from the decision.

Commissioner Grover is a renter, and therefore may not have any financial interest in the project. However, the City's Code of Ethics states: *"Council members and Planning commissioners need to be above suspicion. When a public official participates in a decision that does not fall within the specific statutory guidelines for conflicts of interest but still does not 'look' or 'feel' right, that public official has probably encountered 'the appearance of impropriety'. For the public to have faith and confidence that government authority will be implemented in an even-handed and ethical manner, public officials may need to step aside, for the good of the community, even though no technical conflict exists."* One of the concerns that has repeatedly been brought up by members of the public is that the trail closure is being done at the request of adjacent property owners/residents. Staff can assure the Council that is not the case, as documented by the PARSAC risk assessment and correspondence, but the issue should be considered in light of the City's ethics code.

In addition to the concerns regarding the motives for the project, members of the public also expressed concern that this temporary closure may turn into a permanent closure, which was not addressed in the previous staff report. While the City may eventually determine that the only feasible option is to permanently close the trail, this approval for temporary closure will not make that decision any easier. For one, a permanent closure would require not just a CDP, but a Local Coastal Program (LCP) amendment first, because this trail is included in the existing LCP. An LCP amendment would need to be approved by the Planning Commission, City Council and Coastal

Commission. Initial discussions would Coastal Commission staff indicate that such a proposal would need to be accompanied by a robust alternatives analysis showing that keeping the trail open is not feasible, and that alternative access can be provided. Only then could the City process a CDP for permanent closure.

In terms of procedure and action, the City Council can uphold or deny the appeal, or modify the Planning Commission's decision through additional conditions of approval or other means. It is staff's opinion that the required findings can be made and further recommends that a longer closure period be granted, because a solution to the slide and repair will likely not be agreed upon within six months, let alone constructed. **Staff recommends approval of the project with a modified condition extending the closure to one year after approval.**

If the Council wishes to approve the project, it is suggested that the motion be worded to deny the appeal and uphold the Planning Commission decision. On the other hand, a denial of the project, upholding the appeal, should be based on not being able to make one or more of the required findings or an additional finding that the project is not consistent with one or more City LCP or Coastal Act policies. The Council may also elect to continue the item in order to request additional information.

The following documents related to this project are available and relevant to the appeal.

- July staff report (plus attachments)
- Public comment letters for the July Planning Commission meeting
- Minutes of the July Planning Commission meeting
- August revised staff report (plus attachments)
- Public comment letters for the August Planning Commission meeting
- Minutes of the August Planning Commission meeting
- Appeal letter

Recommended Action:

Consider the application materials, the appeal, and other documentation; open the public hearing; discuss and take action on the appeal.

Council Motion

Staff recommended that the City Council deny the appeal and uphold the Planning Commission action. The Council agreed with the staff recommendation, except for the suggested modification to approve the closure for another year rather than six months. They denied the appeal, upholding the Planning Commission action with the following motion:

Based on application materials information included in the Staff Report, this memo and other documentation, and based on public testimony, I find that the project is consistent with the City's certified LCP and other applicable regulations, and I move to uphold the Planning Commission action, deny the appeal and approve the project.

From: Stanley Binnie
To: Trinidad City Clerk
Subject: Appeal of CDP 2020-01 to Close Van Wycke Trail
Date: Tuesday, August 25, 2020 12:57:44 PM

Gabe, please forward the following appeal to the City Council. Trever Parker has informed me there is no fee to appeal this decision to the City Council.

Thank you, Kim

Dear Trinidad City Council,

Please accept my timely appeal of the Planning Commission's 8-19-20 decision to approve CDP 2020-01 regarding the temporary closure of the Van Wycke Trail (VWT). The VWT has already been closed for over a year without the benefit of a public hearing or Coastal Development Permit (CDP) and should remain open to the public (with the appropriate warning signs), while the community works together to find solutions to fix or move the trail.

Closing the VWT for 6-months and routing walkers onto Edwards Street is problematic for many reasons:

- (1) It would close off important, safe coastal public access,
- (2) Edwards has not been improved for safe pedestrian access to the harbor, pier, beaches, Trinidad Head, Seascape Restaurant, etc.
- (3) Pedestrians would have to contend with high volumes of traffic, residents driving in and out of driveways, and bicyclists riding uphill. This route would be especially dangerous for people with children or dogs,
- (4) There are no definitive plans for trail repair,
- (5) There is no definitive timeline to make repairs and reopen the trail,
- (6) There are no assurances the trail will be reopened after 6 months,
- (7) The VWT has already been closed for over a year without a public hearing or CDP,
- (8) Edwards will not provide the same hiking experience as the VWT, and
- (9) No traffic or parking studies have been done to determine the risks of routing pedestrians onto Edwards.

The public is questioning the need to close the VWT when PARSAC's report states that: *Overall, the City has a low experience for both liability and workers' compensation programs. [...] The City's injury rate is well below the PARSAC average.* The report also states: *Although the City may have trail immunity under California Government Code 831.4, which shields public entities from liability when injuries are suffered by those using public property for recreational purposes, the City should take reasonable care to prevent injuries and provide notice of potential hazards to visitors.* (See pages 38 and 40 of 8-19-20 Planning Commission packet.). The City can easily satisfy this recommendation by installing signs with the appropriate language to warn pedestrians of the condition and hazards of the VWT; thereby keeping it open until repairs are made or the trail is moved upslope.

It is ironic that safety / liability concerns are being used to justify closure of the VWT when Edwards Street is more dangerous for pedestrians and could pose greater liability risks for the City. Is PARSAC even aware of the City's rerouting plans? It also seems arbitrary for

PARSAC and the City to recommend closure of the VWT when the Axel Lindgren Memorial Trail (ALM Trail), Parker Creek Trail (PCT) and state park trails (within City limits) are just as hazardous, yet they are not slated for closure. (See Gail Kenny's 8-17-20 letter to the Trinidad City Council and Planning Commission with good photos of the condition of the trails mentioned above.)

Some of us suspect the real reason the City is trying to close the VWT for so long (up to 3 years, in addition to the year plus it has already been closed) is to appease the wishes of adjacent residents/property owners who want the trail closed for their own benefit, effectively privatizing this coastal bluff. A review of public records heightens this suspicion. A Council member (living next to the VWT) wrote to the City Manager on 3-26-20 and expressed an urgent need to close the trail and prohibit its use; even offering to do the work himself. The City Manager replied to him on the same day about his request. (See emails in attached *PRR Van Wycke Trail.pdf*.) Less than 4 months after this Council member's request, the City brought forward a CDP to close the VWT for up to 3 years without any plans to repair or move the trail or a timeline for reopening it. These email communications have created a public perception that the closure of the VWT is more about favoring the wishes of adjacent residents/property owners and less about liability and safety. If liability and safety concerns are the true reasons for closing the VWT, then the other hazardous trails (ALM Trail and PCT) should, theoretically, be closed, too. **I am not promoting closure of these trails. I am simply pointing out the inconsistencies, inequities and questionable decisions to close the VWT over other trails.**

Re: Policy 5 of the Trinidad General Plan: I disagree with staff's claim that "*The project is consistent with this policy.*" The VWT does not traverse a steep slope; it runs on top of a coastal bluff that has been used by locals and visitors for decades. In fact, many residents still walk the VWT and feel safe doing so. There used to be a road along this bluff before it failed, so bluff erosion here and all along the California coast is nothing new—it's an ongoing, natural process. The trail is not causing the bluff to fail; it is failing because of: (1) sea level rise, (2) waves eroding the toe of the bluff, undermining the bluff's stability, (3) high water tables from high-water use and septic systems on private property that exacerbate slippage and slumping, (4) clay materials that act as a lubricant, causing the bluff to move and slide, especially in the rainy season, and (5) recent tree removal on the bluff has made the ground more susceptible to erosion. Coastal bluffs are dynamic, evolving landforms, and these natural processes will continue whether the trail is closed or not.

If there was a suitable, alternative coastal path in this part of town for walkers to access the harbor, pier, beaches Trinidad Head, etc., then closing the VWT for 6 months would not be objectionable. But that is not the case. Pedestrians would be routed onto Edwards where they would have to deal with high volumes of large trucks and SUVs, including commercial delivery trucks, semi-trucks, RV/motorhomes, fishermen hauling crab pots, people hauling boats, etc. Also, traffic on Edwards has worsened in recent years, as more and more people are visiting Trinidad.

The staff report states that the "*closure is only temporary while the City investigates options to improve the trail or provide alternative access.*" The problem is, no trail repair options or definitive dates for reopening the trail have been proposed. And a glaring omission in the staff report is the failure to address the hazards of routing the trail/pedestrians onto Edwards

Street. To better understand the realities of walking on Edwards Street, the City needs to conduct traffic and parking studies to assess the average daily number of vehicles that use Edwards, the size/type of the vehicles, their speeds and their parking habits, along with photo documentation of the Edwards Street environment on various days and times. The City should also evaluate the potential conflict between pedestrians and bicyclists using the south side of Edwards and how co-locating the two uses will impact public safety and access.

Re: Coastal Act Sections 30001.5, 30210, 30211 and 30214(a): I disagree with staff's claims that "*The project is consistent with these sections.*" The trail closure will absolutely interfere with public access, because it removes a safe pedestrian route to the harbor, pier, beaches, Trinidad Head, Seascope Restaurant, etc. The condition of the VWT poses no greater risk to public safety than directing walkers onto a busy road. In fact, public safety is jeopardized by this project, because no substantive improvements have been made to Edwards Street to make it a safer pedestrian access route. So, staff's claim that "*the Edwards Street route poses less risk than the failing Van Wycke Trail,*" is unfounded, especially when there have been no traffic and parking studies to assess the true risks of routing people onto Edwards Street (which is also used by bicyclists), and no photos were provided to document the traffic at various times of the day, especially Fridays and weekends. Although staff claims "*the City does not have a record of any car / pedestrian incidents,*" the staff report makes no mention of any injuries on the VWT, either.

People should not have to trade a scenic, calm trail (with unobstructed views of the harbor, ocean, coastline and marine life) for an unsafe, busy street where they have to contend with traffic, congestion, huge vehicles, noise and exhaust fumes. Even if there are coastal views on either side of the VWT, the hiking experience is just not the same. Edwards Street is not and never will be a safe, calm and pleasant path for pedestrians.

This brings me to the issue of prescriptive rights and the public's right to use trails that have historically been used for coastal access, even if on private property. With respect to the VWT, locals have been using private property along this trail for decades. Essentially, the adjoining stretch of private property has become a natural extension of the VWT, meaning prescriptive rights have likely been established, so the hiking public may have a legal right to use private property to bypass the slumping area of the VWT. Prescriptive rights need to be investigated, because property owners are putting up their own barricades (such as t-posts with fencing) to block public access. This important issue has been omitted in the staff report. To learn about prescriptive rights, go to: <https://documents.coastal.ca.gov/assets/access/pr-access-facts.pdf>).

The staff report, also, does not discuss any efforts by the City to talk to homeowners about purchasing a strip of land, or securing an easement and accepting liability, so the VWT can be moved upslope, away from the bluff's edge. Because the homes, here, are a good distance from the trail, there would be sufficient space to move the trail upslope without infringing on the homeowners' privacy and use and enjoyment of their properties.

Most trail users understand there are inherent risks in using coastal hiking trails, and that we need to be mindful of trail conditions. Most hikers do not expect perfectly flat, wide and smooth surfaces when we hike in these natural environments. We want to escape our highly urbanized, artificial environments and enjoy the natural beauty of California's coastline.

In light of the above, I am asking the Trinidad City Council to overturn the Planning Commission's approval of CDP 2020-01 and ask that trail signage be installed (with PARSAC's recommended language) to protect the City's trail immunity and to keep the VWT open until a CDP has been issued to allow reasonable and sensitive repairs to the trail. Hopefully, at some point in the future, the City will purchase an easement from adjacent property owners to allow the trail to be moved upslope, away from the fragile bluff edge.

Thank you, Kimberly Tays
Arcata, CA
Email: kimkat067@gmail.com

[PRR Van Wycke Trail.pdf](#)

[\(71K\)](#)



Application Filed: NA
Staff: Trever Parker
Staff Report: July 6, 2020
Commission Hearing Date: July 15, 2020
Continued Hearing: August 19, 2020
Commission Action: Conditionally Approved

STAFF REPORT: CITY OF TRINIDAD

APPLICATION NO: 2020-01

APPLICANT / OWNER(S): City of Trinidad

AGENT: NA

PROJECT LOCATION: Unpaved section of the Van Wycke Trail between Edwards Street and Galindo Street

PROJECT DESCRIPTION: Coastal Development Permit for the past and continued temporary closure of a portion of the Van Wycke Trail due to unsafe conditions

ASSESSOR'S PARCEL NUMBER: NA (Van Wycke Street right-of-way)

ZONING: NA

GENERAL PLAN DESIGNATION: NA

ENVIRONMENTAL REVIEW: Categorically Exempt per § 15304 of the CEQA Guidelines exempting minor alterations of land, including temporary use of land having negligible or no permanent effects on the environment.

APPEAL STATUS: Planning Commission action on a Coastal Development Permit, Variance, Conditional Use Permit, and/or Design Review approval application 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 at that time. Furthermore, 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.

SITE CHARACTERISTICS:

The project location is within the unpaved portion of the Van Wycke Street right-of-way where a wooden retaining wall that supports a portion of the Van Wycke Trail has failed due to an active landslide. The site is located on the top of the bluff, approximately half-way between Galindo and the intersection of Edwards Streets with upper Van Wycke Street, about 300' east of Galindo. There is a "slump earthflow" in this area that is slowly and continually moving downslope, that has compromised the integrity of the existing retaining wall and the trail beyond simple repairs and maintenance.

Bluff instability has led to the need to stabilize the Van Wycke Trail, which connects the upper and lower portions of Van Wycke Street. This trail connects the two sections of Van Wycke Street, and provides a safe path for non-motorized traffic to reach Trinidad Head and Trinidad State Beach while avoiding this section of Edwards Street, most of which lacks sidewalks and has steady vehicular traffic. The trail is perched along the upper edge of a steep slope and significant earth movement has occurred in places, resulting in the City having to close the trail. A wooden retaining wall built to stabilize the worst section has been gradually torn apart over the last 10 years by the hillside's movement. The worst stretch has sunk more than five feet in just the last few years. At the east end, the concrete encasing the City's stormdrain is serving as the trail surface.

Land uses adjacent to the project include residences upslope and open space downslope. Launcher Beach is located below the bluff.

STAFF COMMENTS:

The CDP is for temporary closure of the trail in order to allow the City to seek funding to either repair the trail or develop options for alternative access. Should the City decide to permanently close the trail, another CDP would be required in addition to an LCP Amendment.

The trail closure will be reviewed by the Trails Committee at their meeting on August 18, 2020, prior to the Planning Commission hearing. Staff provided a summary of the comments and recommendations made by the Trails Committee at the Planning Commission hearing.

Project

The City has previously put up signage warning the public that the trail is unsafe, and use is at their own risk. Upon the request of the City's insurance company, City staff put up signs closing the trail more than a year ago due to the unsafe conditions. Coastal Commission staff since informed the City that the temporary trail closure requires a

Coastal Development Permit (CDP). Trail closure, even temporary, falls under the definition of “development,” which includes “change in the ... intensity of use of land.” Therefore, the City is processing this CDP in order comply with requirements of the Coastal Act.

The closure includes small signs mounted on t-posts, less than 2 sq. ft. in size, warning people that the trail is closed. Ropes have been mounted on t-posts across the trail at each end in order to further discourage usage. Currently, there is orange snow-fencing across the trail as well. This fencing was placed more for the COVID trail restrictions than the safety issue, because people were still using it. However, that fencing was not intended to last more than a few months and has already been compromised by vandals. This CDP does not authorize the continued placement of the snow fencing, and it will be removed.

Purpose

On June 24, 2019, Kin Ong, the General Manager of PARSAC, the City’s insurance company, visited the City and met with the City Manager. After a discussion, he asked to see two areas of concern that needed attention based on a risk assessment prepared in December 2018. After visiting the Van Wycke Trail, he confirmed that it needed to be closed, with signage and a chain, rope or barricade. He also visited the Axel Lindgren Memorial Trail (ALMT) and identified that proper warning signs needed to be posted, but he did not determine that the trail needed to be closed. Kin later sent appropriate wording for the signage to Public Works, which has since been placed on the ALMT.

The bottom line is that if the City does not follow the directives from PARSAC, they will not cover the City if someone is hurt or otherwise makes a claim against the City for damages due to using the trail. Therefore, the City Manager decided to follow the recommendations. City Manager Naffah stated the following regarding the situation:

“Kin made the call re: the trails, I did not. The month before his visit I attended the PARSAC biannual board meeting where millions of dollars in lawsuits against various cities were addressed. The fact that Trinidad has a favorable rating with minimal claims over the years is trend that needs to be continued. We cannot expose the City to lawsuits that our insurance would not cover.”

The PARSAC Risk Management Assessment Report is attached. The verbiage from the attached report that relates to city trails in general and the Van Wycke Trail in particular follows:

From page 4, Executive Summary of report:

General liability claims also poses a significant risk exposure for the City. The City of Trinidad is small, both in terms of population and geography; however, it has many of the same general liability risk exposures of larger cities. This includes exposures related

to sidewalk liability, urban forest management, and contractual transfer of risk. Some exposures that are unique to Trinidad are its scenic coastline and its many natural trails that bring visitors to the area. Many of the trails observed during the visit were in poor condition. While signage was posted to warn walkers of potential hazards, the City will need to work with PARSAC to ensure that City is able to maintain “trail immunity” in the event a claim is presented against the City.

From page 6, Critical Findings and Recommendations of report:

Van Wycke Trail

The Van Wycke is a very short trail that has received grant funding to convert the trail into a pedestrian and bicycle connector trail. Several portions of the trail have experienced severe erosion and present a significant fall hazard, as the trail is at the edge of a bluff. Although the City has put up warning signs indicating that the bluff is unstable, based upon its current condition the trail should be closed until permanent repairs are made. A chain or other type of barricade with signage indicating that the trail is closed should be installed.

Trail Repair Background

Repair of the failing section of the Van Wycke Trail has been a priority for the City for many years. It shows up in various discussions and planning documents (e.g. the Humboldt County Association of Government’s Regional Transportation Plan) going back to approximately 2010, when the City Council first asked GHD to seek grant funding for repairs. Concurrently, the City also commissioned a couple of geologic and feasibility reports to help inform repair options.

After several unsuccessful funding applications, the City was awarded a grant from CalTrans for a multi-modal connectivity project, that included repair of the trail. At that time, construction of a retaining wall was the preferred repair option. On April 17, 2019, the City (Planning Commission) adopted a Mitigated Negative Declaration pursuant to the California Environmental Quality Act for the project, though the final design was not yet complete. Since then, there has been additional opposition to a retaining wall and the resultant soil disturbance, particularly from tribal interests.

Early in 2020, the City started a series of meetings with stakeholders to discuss alternatives. Those meetings were put on hold due to COVID-19 and have just recently resumed. At this point, the preferred project, at least in terms of the CalTrans grant, is to abandon repair of the trail in favor of constructing a sidewalk and other improvements on Edwards Street to increase pedestrian safety. Vista points will be added near the trail closures so visitors can still enjoy the views. And utilities that cross the failed section of trail still need to be secured or rerouted. The permanent fate of the trail is unknown at this time. The City did secure an extension from CalTrans for the grant in order to continue to work on alternatives. The City is hoping that the new alternative may be constructed next year, but that will not provide a final resolution for the trail itself. The

City will still have to work with the public and other stakeholders to determine the preferred course of action and pursue additional funding for any repairs. Therefore, a minimum 2-year closure is necessary.

Potential Conflicts of Interest

There are no known conflicts of interest.

ZONING ORDINANCE / GENERAL PLAN CONSISTENCY

The proposed project is located within a portion of the Van Wycke Street right-of-way, and therefore has no zoning associated with the property. The land immediately north of the project is zoned Urban Residential (UR) and the land immediately south is zoned Open Space (OS).

The City's zoning ordinance does not include required findings for projects that require a CDP but no other type of planning approval such as Design Review. Therefore, overall consistency with the City's LCP and Coastal Act have been considered.

The Van Wycke Street Trail is an important and heavily used part of the City's trail system laid out in the 1978 General Plan and is shown on the Circulation Map (Plate 4). Policy 64 of the Trinidad General Plan requires that the trail system be marked and maintained for use by the public. This project is consistent with that requirement, because the closure is only temporary while the City investigates options to improve the trail or provide alternative access.

Policy 5 of the Trinidad General Plan states that: *"Where access trails must traverse steep slopes, they should be located away from unstable areas and improvements should be provided to minimize erosion and slope failures. Existing trails which are creating these problems should either be improved or closed."* The project is consistent with this policy.

In terms of the Coastal Act, the primary standard of review for this project is whether it is consistent with the public access policies of the Coastal Act (Chapter 3).

One of the primary purposes of the Coastal Act is to *"Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principals and constitutionally protected rights of private property owners."* (§ 30001.5), which also carries out a similar principal found within the CA Constitution. Section 30210 states: *"In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse."* The project is consistent with these sections, because the trail

currently poses a risk to public safety and is subject to further erosion and instability. Only the section posing the hazard is being closed, and alternative access exists nearby on Edwards Street.

Consistent with § 30211, this temporary closure will not interfere with the public's right to access the sea, because alternative access around the closure will be maintained along Edwards Street between upper Van Wycke and Galindo Streets. From there, Galindo Street can be used to rejoin Van Wycke Street. Although Edwards Street does not have sidewalks, parking on the south side was removed and striping for a pedestrian walkway were added around 2003. People have commented that they feel less safe on this route, and that it does not provide the same coastal views as Van Wycke, but the City does not have a record of any car/pedestrian incidents that have occurred, and the Edwards Street route poses less risk than the failing Van Wycke Trail. Coastal access and viewsheds are still provided on Edwards Street. In addition, the minimum length of trail has been closed, so pedestrian access, and the coastal views, are still available on either side of the closure.

Section 30214(a) allows that: *"The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following: (1) Topographic and geologic site characteristics..."* This temporary closure is necessary due to the unsafe conditions caused by landslide activity that has compromised the integrity of the trail.

A condition has been included as part of the project that the approval is only for a two-year period. The Planning Commission may extend that time limit by one year if found necessary and if progress can be shown in advancing repair or access alternatives.

Although the temporary closure will affect public access during the closure, it is necessary to protect public safety. In addition, due to the unmaintained condition of the trail, foot traffic could exacerbate erosion and vegetation disturbance in that area. In addition, pedestrians are trespassing on private property above the trail to bypass the sunken area. Therefore, the closure is necessary to protect public safety, the environment and the rights of adjacent property owners, and the project can be found to be consistent with the City's certified LCP and other applicable regulations and the public access policies of the Coastal Act.

SLOPE STABILITY:

The project is located outside of the Alquist-Priolo Fault Zone. But the property where the proposed project is located is within an area designated as unstable and questionably stable based on Plate 3 of the Trinidad General Plan. In addition, the

closure is located on an active landslide. Several geologic investigations have been completed in order to inform appropriate repair and stabilization options. The City is actively working towards either repairing the trail or finding suitable access alternative(s). The closure will not further impact stability.

SEWAGE DISPOSAL:

The project will not generate wastewater.

LANDSCAPING AND FENCING:

This project does not involve any new landscaping or fencing.

DESIGN REVIEW / VIEW PROTECTION FINDINGS:

Public safety and directional signage, such as what has been placed on t-posts at the trail closure to inform users, are exempt from Design Review per §17.56.160.A.5, exempting public safety and directional signage less than 2 sq. ft. in area. Section 17.60.030 exempts accessory structures less than 500 sq. ft. in area and less than 15 ft. in height from Design Review. Therefore, the t-posts and rope barriers are exempt. No other structures are proposed. No design review findings are required.

PLANNING COMMISSION ACTION

Based on the above analysis, the project was found to be consistent with the City's Zoning Ordinance, General Plan, Coastal Act, and other applicable policies and regulations. Therefore, the necessary findings for granting approval of the project were made. The Planning Commission agreed with staff's analysis and approved the project with the following motion:

Based on application materials and information included in this Staff Report, and based on public testimony, I find that the project is consistent with the City's certified LCP and other applicable regulations, and I move to adopt the information in this staff report and approve the project as described in this staff report, and as conditioned herein.

CONDITIONS OF APPROVAL

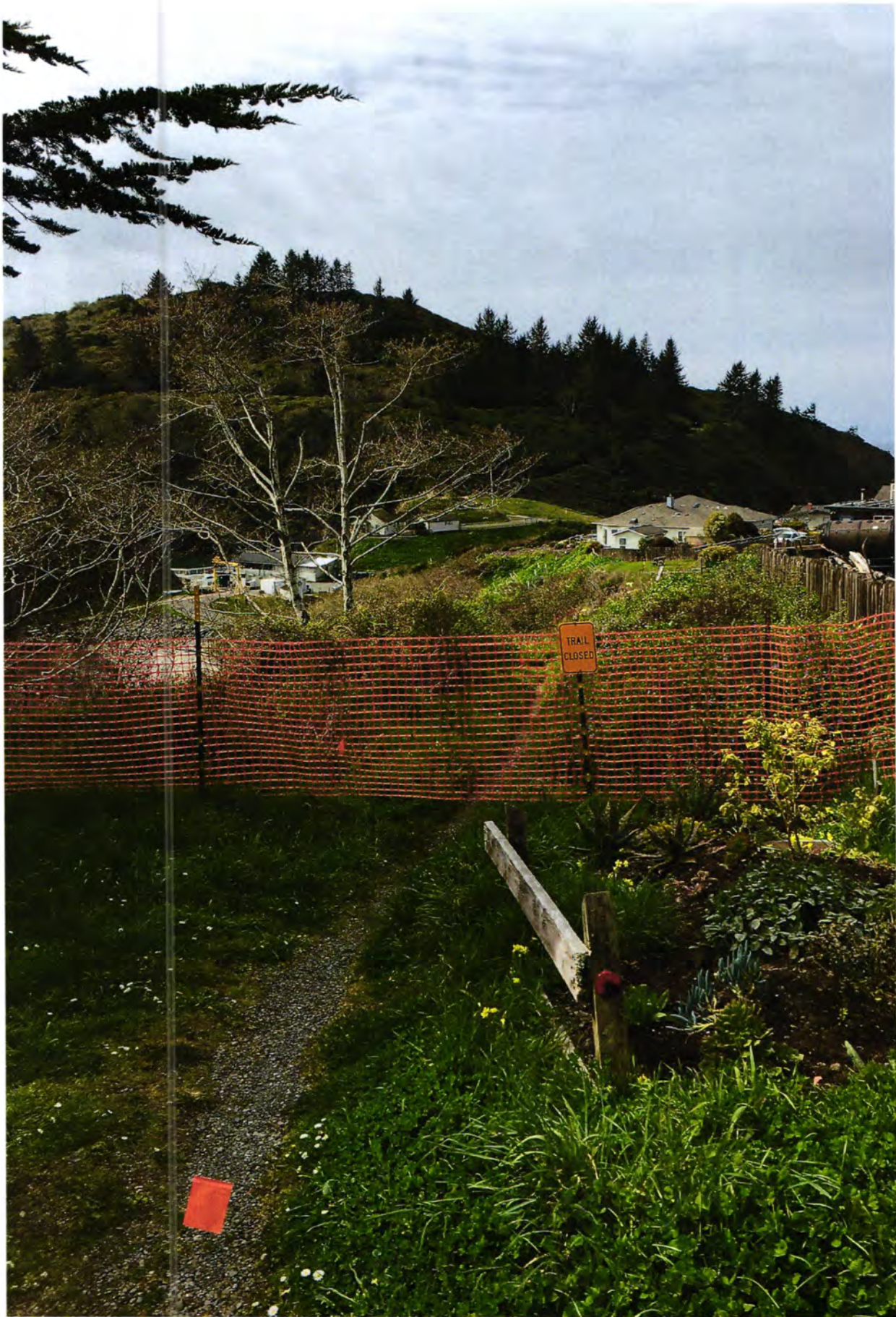
1. This approval is for continued closure of the trail for a maximum of six months.

ATTACHMENTS

- Map of closure area
- Photos of closure area
- Risk Management Assessment Report



Imagery ©2020 Maxar Technologies, USDA Farm Service Agency, Map data ©2020 100 ft





Privileged and Confidential Information

Risk Management Assessment Report

Presented to
City of Trinidad

December 10, 2018

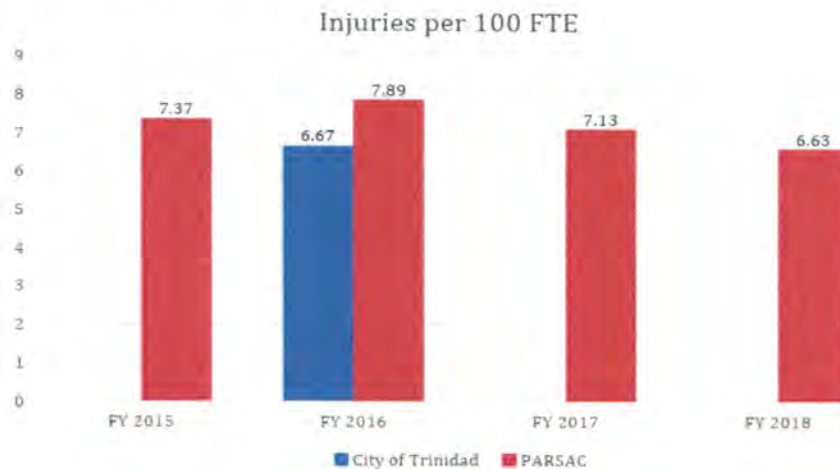
Disclaimer

We sampled selected operations and programs and the associated risks, so there is no guarantee that all existing or potential hazards have been identified and documented. This report is based on conditions at the time of the survey, information provided by your staff, and conditions apparent to the person(s) conducting the survey. The information in this report does not guarantee that operations, whether noted or not, are in compliance with federal, state, or local laws or regulations. Your implementation of these recommendations is not a guarantee that losses will be prevented or reduced, nor are the recommendations a substitute for your responsibility to administer your risk management, risk control, and safety programs.

Executive Summary

The PARSAC risk assessment is a comprehensive evaluation of a City's risk management programs, including compliance with Cal/OSHA and other governmental regulations. The risk assessment report should be used as an educational tool for the City to determine areas for improvement in its risk management and safety programs. In general, findings related to worker safety are regulatory requirements, whereas findings related to the general liability exposures are based on government code, case law, and standards of care. By focusing on improving risk management processes and systems, the City has a greater potential to impact its total cost of risk.

Overall, the City has a low claim experience for both its general liability and workers' compensation programs. As of 9/30/18, the City has only experienced one workers' compensation claim in the last four years with a total incurred cost of \$3,499. In order to compare the City's performance with the pool average, PARSAC uses the Bureau of Labor Statistics Injury Frequency rate calculation. As indicated below, the City's injury rate is well below the PARSAC Pool average.



In terms of the City's general liability program, the City has only received a total of five claims since FY11, and only two of those claims resulted in a paid loss. The total incurred for all GL claims during this period is \$6,129, valued as of 6/30/18.

Claim Type	Total Incurred	Total Paid	Count of Claims
2010-11	\$677	\$677	2
2013-14	\$0	\$0	1
2014-15	\$5,452	\$5,428	1
2016-17	\$0	\$0	1
Grand Total	\$6,129	\$6,105	5

The two paid claims that the City has experienced were related to a tree limb falling and a slip/trip and fall claim. The tree limb claim is the larger of the two claims with a total

incurred of \$5,452 and the slip/trip and fall claim valued at \$677.

Although the City has not experienced a large number of claims over the years, the potential for workplace injuries and general liability claims is significant based upon our review of the City's operations and facilities. In terms of workplace injuries, the work performed by employees in the Public Works Department is the primary exposure. A review of the City's safety program revealed that employees have only received training through informal safety tailgate meetings. The City does not currently provide regulatory required safety training for employees and lacks many required written safety programs. PARSAC can assist the City in developing the required safety programs and provide access to online safety training resources to help correct this deficiency.

General liability claims also poses a significant risk exposure for the City. The City of Trinidad is small, both in terms of population and geography; however, it has many of the same general liability risk exposures of larger cities. This includes exposures related to sidewalk liability, urban forest management, and contractual transfer of risk. Some exposures that are unique to Trinidad are its scenic coastline and its many natural trails that bring visitors to the area. Many of the trails observed during the visit were in poor condition. While signage was posted to warn walkers of potential hazards, the City will need to work with PARSAC to ensure that City is able to maintain "trail immunity" in the event a claim is presented against the City.

In reviewing the City's contracting process, it was learned that the City is allowing work to be performed on City property without written contracts or insurance requirements. It appears that many of these "handshake" agreements are with Humboldt County for street maintenance work and often involve having an existing work crew continue their work on City streets. On a prior risk assessment, it was noted that the City allows families to hire a contractor to dig a grave in the City's cemetery without requiring insurance of the contractor. This practice still exists. In order to protect the City's interests, a written contract with proper indemnification language should be put in place between the City and County. As a general practice, the City should require anyone working on public property to provide proper insurance coverage and have an agreement in place that protects the City in the event of damage or injury.

It should be noted that prior risk assessments were conducted by PARSAC in 2009 and 2014. While most of the findings related to correcting a physical hazard were corrected, findings and recommendations requiring policy development or process improvements have not been addressed. Those findings that are repeated are noted in the report. In most cases, the improvements and recommendations outlined in this report do not require the expenditure of money, but rather commitment of senior management to hold managers and supervisors accountability for risk management functions in their departments.

Critical Findings and Recommendations

Critical findings are those areas in which we feel that the City can have the greatest impact on its safety and risk control program.

Trail Access and Trail Immunity

The City has several trail systems that are used frequently by both local residents and tourists. The condition of many of the trails that were observed during the visit was poor and with limited signage to warn of potential hazards. Although the City may have trail immunity under [California Government Code 831.4](#), which shields public entities from liability when injuries are suffered by those using public property for recreational purposes, the City should take reasonable care to prevent injuries and provide notice of potential hazards to visitors.

Axel Lindgren Memorial Trail

The sign posted at the trailhead of the Axel Lindgren Memorial Trail is not adequate to warn users of potential hazards. The sign was printed on standard size paper, protected by a plastic cover sheet, and posted on a temporary traffic barricade. The wording on the sign states “WARNING UNSTABLE TRAIL USE AT YOUR OWN RISK”. Additionally, the warning sign is much smaller than the sign regarding “No Fires or Fireworks Permitted”, which diminishes the warning signs importance.



A warning sign must be clearly visible and large enough to be noticed immediately. Additionally, the sign should include specific hazards of using the trail. PARSAC recommends that a sign stating the following should be posted at the trail entrance:

WARNING
Watch for hazards
including steep grade, uneven surface, unstable soil, and tripping hazards.
USE AT OWN RISK

The sign and font size should follow industry standards for warning signs and be legible from a distance of 25 feet. Similar signs should be posted for other City owned trails indicating the specific hazards of those trails.

The trail itself also has several tripping hazards that are mainly due to the prior improvements to the trail falling in disrepair. This includes several areas where the wood has worn down with rebar poking out and other areas where a steel cable is exposed. The area above the trail, near the original landing for the lighthouse, also has loose planks and exposed rebar. As these improvements are not natural conditions of the trail, the trail should be closed until repairs are made.



Van Wycke Trail

The Van Wycke is a very short trail that has received grant funding to convert the trail into a pedestrian and bicycle connector trail. Several portions of the trail have experienced severe erosion and present a significant fall hazard, as the trail is at the edge of a bluff. Although the City has put up warning signs indicating that the bluff is unstable, based upon its current condition the trail should be closed until permanent repairs are made. A chain or other type of barricade with signage indicating that the trail is closed should be installed.



Use of Contractors and Informal Agreements (Repeat Finding)

The City's Public Works Department is entering handshake agreements with Humboldt County to perform work on City property. It appears that this work mainly involves road maintenance and is performed when a road crew has additional material when working near the City. While this handshake agreement may be beneficial to both parties, the City should have a formal written agreement with the County that includes hold harmless and indemnification language. The risk assessment also identified a similar situation with the operation of the City cemetery, in which a vendor is performing work on City property without a written contract or insurance requirements.

As a general practice, the City should require anyone working on public property to provide proper insurance coverage and have an agreement in place that protects the City in the event of damage or injury. This requirement is very similar to requiring individuals who rent the community center to obtain minimum insurance coverage.

Written Safety Programs (Repeat Finding)

Based upon the onsite interviews, it appears that the City has not developed many regulatory and best practice programs that address the City's exposures. While the City was able to produce documentation for a written safety program, it did not contain the elements of an Injury and Illness Prevention Program (IIPP), that is required under Cal/OSHA regulations (Title 8 Section 3203). The City should work with PARSAC to revise its IIPP to reflect current operations and develop written programs for the following:

- Auto and fleet safety management
- Confined space entry
- Contractual risk transfer
- Fire prevention
- Hazard communication
- Hazardous energy control
- Hearing conservation
- Respiratory protection
- Return to work
- Urban forest management

Employee Training

The City has not provided regulatory required safety training for employees and has not maintained training records of past training. The volunteer Fire Department does conduct regular training with the Cal Fire, but it does not appear that the Cityt maintains training records.

PARSAC can assist the City in developing a training matrix and provide access to online safety training resources to help correct this deficiency. Additionally, the City will be able to maintain volunteer fire department records, as well as offer additional online training opportunities.

Program-Specific Findings and Recommendations

The following findings and recommendations were generated as a result of the visit to the various City departments and are based on the information provided by the City's representatives.

Americans with Disabilities Act (ADA)

Although the City has completed an ADA self-evaluation and transition plan, the City has not included a line item in its budget to fund the transition plan. It is important that the City track the completion of these items. Just as it is important to have a documented plan in place, the City must also show progress in completing the transition plan to avoid potential litigation.

The City should include a line item in its budget for ADA Improvements of at least \$5,000 to show progress in implementing the ADA transition plan. Additionally, the City should create a spreadsheet version of the transition plan items from the consultant so that it can better track completion its plan.

Auto Fleet Liability (Repeat Finding)

The City does not have written fleet safety policy that includes driver selection and minimum insurance requirements. Additionally, it does not appear the DMV motor vehicle reports are being reviewed to ensure that City employees have appropriate driving records to drive City vehicles.

The City should develop a written fleet safety and driving policy that establishes, at a minimum, vehicle use, driver selection criteria, and what constitutes acceptable or unacceptable driving records. PARSAC has a model driver and fleet safety policy that should be used as a template. Additionally, the City should enroll in the DMV Employer Pull Notice Program and register all employees who drive on City business.

Bloodborne Pathogens (Repeat Finding)

The Public Works employees are involved in clean-up activities that may have an exposure to bloodborne pathogens. Additionally, the City's volunteer Fire Department provides often provides the initial emergency response and may have volunteers exposed to bloodborne pathogens.

The City should develop a written bloodborne pathogens exposure control plan consistent with the City's identified occupational exposures and CCR, Title 8, Section 5193 requirements. All employees, volunteers, or others whose jobs expose them to potentially infectious materials are required to be trained regarding the City's bloodborne pathogens exposure control plan upon hire, annually, and whenever changes to the plan are made. The City is also required to offer pre-exposure hepatitis B vaccination to all potentially exposed employees at no cost to the employee. The City, as a best management practice, should require employees who decline the offer of pre-exposure hepatitis B vaccination to sign a declination waiver. As a best practice, it is also recommended that employees sign a consent form as well.

Contractual Transfer of Risk

As part of the risk assessment, PARSAC requested to review the City's current active contracts, as well as bid-specs and other documents that may include contractual risk transfer language. All active contracts have not been reviewed as they were not available during the assessment. The City will need to provide all active agreements to complete this portion of the assessment.

Confined Space Entry

Based upon discussions with Public Works Department employees, the City's only known confined space is the tank located at the water treatment plant. A confined space is large enough and so configured that an employee can bodily enter and perform work; has limited or restricted means of entry and exit; and is not designed for continuous employee occupancy.

The City should, as required by Cal/OSHA, develop a written confined space entry program consistent with Cal/OSHA requirements and the City's needs. Such a plan should include procedures for pre-entry, entry, rescue, and employee training.

Employment Practices Liability

The City is currently updating its employee handbook and personnel policies using ERMA Grant Funds. As these policies are being updated by an EPL professional, the programs were not reviewed as part of the risk assessment.

Fire Department Operations

The City operates a volunteer fire department that coordinates its volunteer training activities with CalFire. Training is provided on a monthly basis, with each volunteer required to maintain their own training records. The City is not currently using the online training for firefighters that is offered through TargetSolutions.

The City is encouraged to provide additional online training to their volunteer firefighters through TargetSolutions. Additionally, the City should maintain all volunteer training records and ensure that volunteers are completing all training as required by policy.

Hazard Communication (Repeat Finding)

The City does not have a written hazard communication program as required by CCR, Title 8, Section 5194.

The City should develop a written hazard communication policy that specifies how the City will comply with the hazard communication standard. The policy should include a current list of the hazardous materials used throughout the City. The policy should also prohibit employees from bringing unauthorized hazardous materials onto City property.

Hearing Conservation Plan (Repeat Finding)

Public works employees operate equipment, such as jackhammers, mowers and leaf blowers that could cause hearing loss. The City has not conducted audiometric testing on all types of equipment to know if employees have an exposure to hearing loss. Damage to the ability to hear is known to result from exposure to high decibel levels for extended periods of time and can result in a permanent hearing disability.

An initial decibel exposure study should be conducted for all the City facilities, equipment, and/or activities which contain or generate potentially high decibel levels to reduce the risk of exposing employees to high decibel noise for durations of time that may result in a reduction in their ability to hear. The purpose of the study is to identify those areas, equipment, and/or activities that generate decibel levels equal to or greater than 85 decibels over an 8-hour time weighted average (TWA). Based upon the study results, the City may need to implement a Hearing Conservation Program.

Lockout/Tagout of Hazardous Energy

The Public Works Department should develop and implement a hazardous energy lockout/tagout (LOTO) program to protect employees from the unexpected energization or startup of machines or equipment, or the release of stored energy. A model hazardous energy lockout/tagout program can be found on the PARSAC website: www.parsac.org. Once the City has developed and implemented the LOTO program, it must provide hazardous energy LOTO safety training to all Public Works Department employees. In addition, each piece of equipment and machinery that creates a hazardous energy exposure should be labeled to identify the locations where lockout, tagout and/or blockout devices should be applied.

Respiratory Protection Program (Repeat Finding)

A respirator was observed in the Public Works office that was not properly stored. Employees in the department indicated that they don't need to use them, but may occasionally wear one. The City should conduct an assessment of its work environments and activities to determine if a respiratory protection program is required.

Return-to-Work Program (Repeat Finding)

The City should adopt the PARSAC model return-to-work (RTW) program which includes information specific to the City. Effective RTW programs can greatly benefit the City by allowing injured workers to return to the workplace in modified job duties while recovery from their injury. This can also help to reduce the overall cost of workers' compensation claims. It also allows managers to monitor the employee's recovery and treatment and it maintains the injured worker's relationship with the agency and co-workers. A model RTW program can be found on the PARSAC website: www.parsac.org.

Sidewalk Liability (Repeat Finding)

Best management practices indicate that City should adopt an ordinance that transfers the responsibility for sidewalk maintenance to the adjacent property owner. A sidewalk ordinance would transfer the liability for any damages caused by damaged pavement to the property owner. The public works department should also establish an effective sidewalk inspection program that identifies and repairs damaged sidewalks before a claim is filed.

Special Event Risk Management

The City does not sponsor any special events, but the business community does regularly host two events (fish feed and fun run) each year. The City does not have a formal special event approval process

The City is encouraged to review the special event permit process and review current insurance requirements and indemnity language. For more information regarding this recommendation, please call Kin Ong at PARSAC.

Urban Forest Management

The City does not have an Urban Forest Management policy that addresses the inspection and maintenance of trees on public property. The main area of concern is the City Cemetery, which has several very large trees on the property. During the site visit, several large limbs were observed on the cemetery grounds due to a recent wind event. It was also noted that several headstones have been placed at or near the base of the trees. As graves must be dug a minimum of six feet, there is concern that the graves could cause damage to the tree roots and cause the tree to become unstable. Public Works employees also expressed concern about the trees in the area, and specifically the tree that is above the maintenance shed. It was noted that it had been several years since the City had an arborist inspect the trees. The City has had only one significant loss related to trees.



The City should contract with a certified arborist to conduct an evaluation all trees that are on the City's property. Additionally, the City is encouraged to develop and implement a written program that details its urban forest management policies and procedures. PARSAC has a model Urban Forest Management Program that the City can adapt to its own operations.

Facility Inspection Findings and Recommendations

The following findings and recommendations were generated as a result of an inspection of the City's various facilities and operations.

Hector Street Raingarden

At the time of the site visit, the Hector Street Raingarden had just been completed. This project was intended to improve storm runoff; however, the design makes it appear as if this is a roundabout. In discussing the traffic flow with the City Clerk, he indicated that the City's traffic engineer did not view it as a roundabout and that traffic flow would go in both directions on each of the surrounding streets. As this was a new improvement to the area, it did not have traffic signage to indicate the flow of traffic and it was not intuitive as to what direction should flow.

The City should ensure that the traffic engineer has signed off on the traffic design and that appropriate signs are installed to protect the City's design immunity in the event of a dangerous condition claim.



Van Wycke Street and Edward Street Access

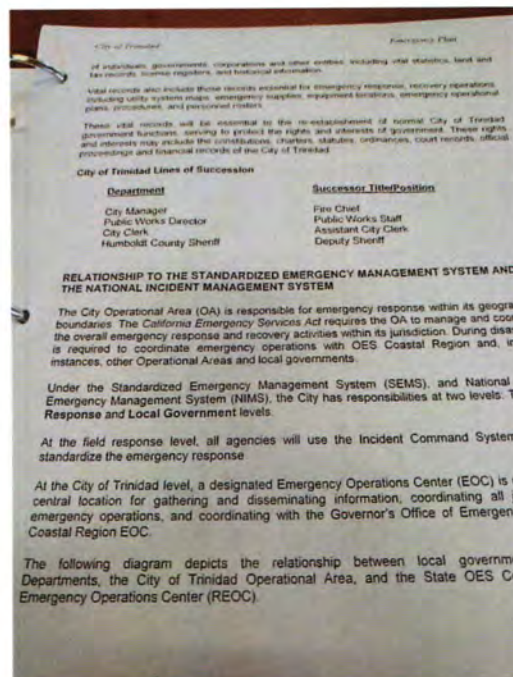
The transition between Edward Street and Van Wycke Street has a significant change in elevation between the asphalt transition of the streets. This poses a trip and fall hazard, as those riding a bike or walking onto the street may not notice the transition due to the color similarity.

The City should paint the transition in the asphalt white or yellow to help indicate the change in level between the pavements for those riding a bike or walking.



Emergency Operations Lines of Succession

In reviewing the City's Emergency Operations Plan that was drafted with the assistance of the County, the plan shows that the volunteer Fire Chief would succeed the City Manager if he/she became incapacitated during an emergency. As the volunteer Fire Chief is not an employee of the City, the Emergency Operations Plan should be reviewed and revised to ensure that succession planning and other operations are managed by city employees.



CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
1385 EIGHTH STREET, SUITE 130
ARCATA, CA 95521
(707) 826-8950
NORTHCOAST@COASTAL.CA.GOV

**EXHIBIT NO. 6**

CDP APPEAL NO.
A-1-TRN-20-0069
(City of Trinidad)
Filed Appeal

APPEAL FORM**Appeal of Local Government Coastal Development Permit****Filing Information (STAFF ONLY)**

District Office: North Coast

Appeal Number: A-1-TRN-20-0069Date Filed: Nov 30, 2020Appellant Name(s): Kimberly A. Tays**RECEIVED**

NOV 30 2020

CALIFORNIA
COASTAL COMMISSION
NORTH COAST DISTRICT

APPELLANTS

IMPORTANT. Before you complete and submit this appeal form to appeal a coastal development permit (CDP) decision of a local government with a certified local coastal program (LCP) to the California Coastal Commission, please review the appeal information sheet. The appeal information sheet describes who is eligible to appeal what types of local government CDP decisions, the proper grounds for appeal, and the procedures for submitting such appeals to the Commission. Appellants are responsible for submitting appeals that conform to the Commission law, including regulations. Appeals that do not conform may not be accepted. If you have any questions about any aspect of the appeal process, please contact staff in the Commission district office with jurisdiction over the area in question (see the Commission's contact page at <https://coastal.ca.gov/contact/#/>).

Note regarding emailed appeals. Please note that emailed appeals are accepted **ONLY** at the general email address for the Coastal Commission district office with jurisdiction over the local government in question. For the North Coast district office, the email address is NorthCoast@coastal.ca.gov. An appeal emailed to some other email address, including a different district's general email address or a staff email address, will be rejected. It is the appellant's responsibility to use the correct email address, and appellants are encouraged to contact Commission staff with any questions. For more information, see the Commission's contact page at <https://coastal.ca.gov/contact/#/>.

Appeal of local CDP decision

Page 2

1. Appellant information¹

Name: Kimberly A. Tays

Mailing address: P.O. Box 5047, Arcata, CA 95518

Phone number: 707-630-3170

Email address: kimkat067@gmail.com

How did you participate in the local CDP application and decision-making process?

☐ Did not participate ☒ Submitted comment ☒ Testified at hearing ☐ Other

Describe:

Submitted written comments for the Trinidad Planning Commission's (TPC) 8-19-20
meeting. Appealed (in writing) TPC approval of CDP 2020-01 on 8-25-20.
Testified at the Trinidad City Council (TCC) appeal hearing on 11-10-20.

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe:

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: I appealed the Trinidad Planning Commission's 8-19-20 approval of CDP 2020-01
to the Trinidad City Council on 8-25-20. My appeal was heard by the
City Council on 11-10-20. The Council voted to uphold the Planning
Commission's approval of CDP 2020-01. I exhausted my local remedies.

¹ If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

Appeal of local CDP decision

Page 3

2. Local CDP decision being appealed²

Local government name: Trinidad City Council

Local government approval body: Trinidad Planning Commission

Local government CDP application number: CDP 2020-01

Local government CDP decision: ☒ CDP approval ☐ CDP denial³

Date of local government CDP decision: 8-19-20

Please identify the location and description of the development that was approved or denied by the local government.

Describe: The Trinidad Planning Commission approved CDP 2020-01 on 8-19-20.

The project was for a temporary (up to 3 years) closure of the Van Wycke Trail for unsafe

trail conditions. I appealed the Planning Commission's approval of the CDP (with

a modified closure of 6 months) to the Trinidad City Council on 8-25-20.

My appeal was heard by the City Council on 11-10-20; the Council denied

my appeal and upheld the Planning Commission's decision.

² Attach additional sheets as necessary to fully describe the local government CDP decision, including a description of the development that was the subject of the CDP application and decision.

³ Very few local CDP denials are appealable, and those that are also require submittal of an appeal fee. Please see the appeal information sheet for more information.

Page 4

On a separate page, please provide the names and contact information (i.e., mailing and email addresses) of all persons whom you know to be interested in the local CDP decision and/or the approved or denied development (e.g., the applicant, other persons who participated in the local CDP application and decision making process, etc.), and check this box to acknowledge that you have done so.

For appeals of a CDP approval, grounds for appeal are limited to allegations that the approved development does not conform to the LCP or to Coastal Act public access provisions. For appeals of a CDP denial, grounds for appeal are limited to allegations that the development conforms to the LCP and to Coastal Act public access provisions. Please clearly identify the ways in which the development meets or doesn't meet, as applicable, the LCP and Coastal Act provisions, with citations to specific provisions as much as possible. Appellants are encouraged to be concise, and to arrange their appeals by topic area and by individual policies.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

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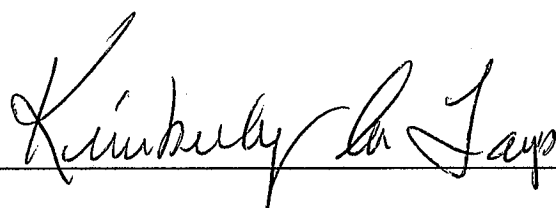
Appeal of local CDP decision

Page 5

5. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Kimberly A. Tays

Signature 

Date of Signature 11/26/20

5. Representative authorizations

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

☐ I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

⁵ If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

⁶ If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

**Attachment to CCC Appeal Re: Trinidad Planning Commission 8-19-20
Approval of CDP 2020-01 for Temporary Closure of Van Wycke Trail,
Submitted by Kimberly A. Tays**

3. Identification of Interested Parties:

City of Trinidad
c/o: City Clerk, Gabriel Adams
P.O. Box 390
409 Trinity Street
Trinidad, CA 95570

I assume the City Clerk will notify the Trinidad Planning Commissioners, City Council members, City Manager and City Planner of this appeal.

4. Grounds for this Appeal:

I am respectfully asking staff of the California Coastal Commission (CCC) to make the findings that this appeal raises "*Substantial Issue*" re: the Trinidad Planning Commission's (TPC) 8-19-20 approval of an after-the-fact CDP (2020-01) for the temporary (6-month) closure of the Van Wycke Trail (VWT). I appealed the TPC's decision on 8-25-20 to the Trinidad City Council (TCC). My appeal was heard and denied by the TCC on 11-10-20.

Indefinite Closure of VWT; Utilities Project Interference with VWT

I would not typically appeal the 6-month closure of a trail, as that is not an unreasonable amount of time. I am filing this appeal because the VWT has already been closed for nearly 1-1/2 years (without a permit or public hearing). With the TPC's approval of this after-the-fact permit, the VWT will be closed for 6 more months without any plans to repair or reopen the trail, and there were no discussions during the TPC meeting about what will happen at the end of 6 months. Due to my concerns about a lack of plans for the trail, I emailed the City Planner on 11-11-20 and received this reply: "*I don't think the City has a plan for what will happen in 6 months at this point. [...] [T]he City will have to consider another CDP for continued closure, because coming up with workable solutions will take time.*" It is clear from this response that the VWT closure will not be resolved in 6 months, and the trail will remain closed indefinitely.

Another project has come up that casts doubt about the fate of the VWT. On 11-16-20, contractors began work on an emergency utilities stabilization repair project (utilities project) without a permit. The City Planner told me in an email that "*The City did not process a CDP, thinking that the project would be exempt,*" even though it entails excavation work, disturbs the ground on a sensitive bluff, interferes with coastal access and creates visual blight. The installation of above-ground water main and storm water drain pipes (utility pipes) causes the bluff to look like a utility corridor that is off limits to the public. **(See Exhibit 1—Above-ground Utility Pipes on VWT Bluff.)** This utility project may seem unrelated to this appeal,

but I believe it is relevant and inter-related because the pipes interfere with public access and are an obstacle to rerouting the VWT further upslope.

VWT Closure Conflicts with Coastal Acts 30001.5, 30210 and 30214

The problem with closing the VWT is that there is no safe, scenic and quiet alternative route in this part of town to access the harbor, pier, beaches and Trinidad Head. Closing the VWT conflicts with Sections 30001.5 and 30210 of the Coastal Act, respectively, because it interferes with “*public access to and along the coast and [...] recreational opportunities in the coastal zone [...]*” and fails to allow the “*maximum access [...] for all people consistent with public safety needs and the need to protect public rights [...]*.” The VWT’s closure conflicts with Section 30214 of the Coastal Act, as well, because it changes “*the time, manner and place of public access*” by closing off the only non-motorized trail in this neighborhood that allows people to walk right next to the coast with intimate views of the expansive coastline, ocean, harbor, off-shore rocks and marine life. (See **Exhibit 2—Pedestrian Views from VWT.**) Instead, the City plans to route people onto a busy street (Edwards) surrounded by urban development and limited ocean views. (See **Exhibits 3—Pedestrian Views from Edwards.**) The proposed pedestrian path along Edwards—which is a narrow shoulder with a white line—is not wide enough to accommodate people walking uphill and downhill (possibly with children or dogs) and bicyclists riding up Edwards, especially if there are large vehicles on the road and they converge in the same place at the same time. (See **Exhibit 4—Pedestrian Path and White Fog Line.**) Another danger to people walking uphill on Edwards is that their backs are turned against traffic. As you can see, there is nothing safe, relaxing or pleasant about walking on Edwards, because people are vulnerable to the many huge, high-profile vehicles and distracted drivers on the road.

Constraints and Dangers of Edwards Street

Because Edwards is the only vehicular route to the harbor area, it is, not surprisingly, plagued with traffic and speeding vehicles. Many of the large trucks and SUVs on Edwards have Diesel engines, and people would have to contend with the unpleasant and unhealthful noises and smell of exhaust fumes. Due to the harbor, working dock and recreational draws of Trinidad, it is common to see RVs, motorhomes, commercial semi-trucks, utility trucks and trucks hauling trailers, boats and flatbeds of crab pots on Edwards. Oversized vehicles often cross the centerline to avoid hitting parked cars, so pedestrians have to pay careful attention to stay out of the travel lanes, as there are no sidewalks or physical barriers to separate pedestrians from vehicles. The bottom line is: Edwards is not a safe, alternative access route—it is an accident waiting to happen! (See **Exhibits 5—Oversized Vehicles Crossing Center Line.**) Staff’s claim that “*the Edwards Street route poses less risk than the failing Van Wycke Trail*” is unsubstantiated, because no traffic or parking studies were done to assess the true risks of routing people onto Edwards, nor were any photos provided to document the traffic patterns on Edwards. The City’s failure to provide even basic data to prove its claim that Edwards is safer than VWT is not only reckless, it conflicts with Coastal Act Section 30210, because public safety needs were not fully and fairly evaluated. Many public members believe, even in its current condition, that the VWT is safer (and certainly more pleasant) than walking on Edwards. While staff claims

*"the City does not have a record of any car / pedestrian incidents [on Edwards], " it is important to note there have been **no documented injuries on the VWT, either.** Admittedly, the VWT needs repairs; however, the City has not made any efforts to perform even low-impact, minor repairs (such as building wooden steps at each end of the slump) and post warning signs to satisfy PARSAC's concerns. The path of least resistance, in this case, was to close the trail without any plans whatsoever to repair or reopen the trail.*

Lack of VWT Maintenance/Repairs; Importance of VWT

Since the City abandoned the Van Wyck Bicycle and Pedestrian Connectivity Project (Connectivity Project) in January of 2020 (which involved construction of a large, expensive and intrusive retaining wall), no efforts have been made to maintain or repair the VWT for public access. It seems to have become an either/or choice. The VWT is obviously not a priority for the City, as it has been allowed to fall further into disrepair, which led to its un-permitted closure in July of 2019. Initially, the after-the-fact CDP called for a 2- to 3-year closure without any definitive plans to repair, reroute or reopen the trail. The TPC reduced the closure to 6 months during the 8-19-20 meeting; however, that time period is likely to drag on indefinitely. I (and others) are concerned that, unless the CCC reviews the closure of the VWT, the City will continue with serial trail closures that lead to a de facto permanent closure of the VWT without going through an LCP update or scrutiny by the CCC.

In reviewing cases of other coastal cities temporarily closing their trails, I came upon two closures that impressed me, due to the effort that was made by those cities to repair and reopen their trails. The first instance is where the City of San Diego had to close a bridge at the Coastal Walk Trail in La Jolla, as one of the footings was destabilized due to erosion. In that case, the La Jolla trail was closed in February of 2017 and reopened in late June 2018. In a matter of 4 months, the City of San Diego managed to repair and reopen a popular coastal path in La Jolla for public access and use. In the case of San Clemente, a popular coastal trail was temporarily closed when a portion of the bluff collapsed onto the bridge that was part of the trail. In that case, San Clemente managed to reopen the trail within 7 months. And so, in a matter of a few months, both cities managed to reopen coastal trails that faced serious repair challenges for public use. Such efforts are commendable and appreciated, as it shows a culture of preserving coastal access in their communities.

Trinidad's coastal trails are important to residents and visitors, alike. It is one of the unique things about Trinidad—people are able to explore and experience the area on foot and immerse themselves in the wild and rugged beauty of the North Coast. Walking on Edwards in no way provides that same feeling or experience. People should not have to trade a quiet and scenic trail, with views of the harbor, ocean/coastline and marine life, for a busy street where they have to contend with hazardous traffic, noise and exhaust fumes. Even if vista points with benches are provided on either side of the VWT (which is what the City is considering), that does not make up for the loss of access to the entire trail. People use the VWT, not just for the ocean views, but as a way to access the harbor, pier, beaches, restaurant and Trinidad Head without having to drive

and to get exercise. Most trail users understand there are inherent risks when hiking in these natural environments, and that we need to be mindful of trail conditions. We accept the risk of walking on rough, uneven ground so we can escape our urbanized, artificial environments and enjoy the natural beauty of California's coastline.

Prescriptive Rights On/Along VWT

Locals have been using the VWT and private property next to the trail for decades, so prescriptive rights have certainly been established along this bluff. According to the survey map prepared for the Connectivity Project in 2010, it appears (in gray shading) that approximately 50% of the VWT traverses upslope private property. The red comment on the survey map that says: *"portions of the existing trail [...] are outside City right-of-way"* proves that a portion of the VWT has traversed private property for years—meaning people have been using that same private property to access the VWT for years. (See **Exhibit 6—Survey Map.**) In the 16 years I have been hiking the VWT, I do not recall seeing *"No Trespassing"* or *"Private Property"* signs posted along the trail, nor was I ever told that I was trespassing and could not use private property to access the trail or bluff. In order to protect the public's coastal access rights, I am asking the CCC to investigate whether prescriptive rights have been established on and adjacent to the VWT.

Questionable Closure of VWT; Cumulative Impacts to Trinidad Trails

The public is questioning the need to close the VWT when PARSAC (the City's insurer) stated in its 12-10-18 report: *"The City's injury rate is well below the PARSAC average."* The report also stated: *"The City has several trail systems that are used frequently by both residents and tourists. The condition of many of the trails that were observed during the visit was poor and with limited signage to warn of potential hazards."* It is arbitrary for PARSAC to recommend closure of the VWT when the Axel Lindgren Memorial Trail (ALMT) and other trails in Trinidad are just as dangerous and pose equivalent liability risks. (See **Exhibit 7—Washed-Out Steps at Bottom of ALMT.**) For example, in reading the warning sign posted at the top of the ALMT (recommended by PARSAC), it is obvious the ALMT is a big liability risk, due to the intense number of hazards listed on the sign. (See **Exhibit 8—ALMT Warning Sign.**) If the ALMT can remain open with so many hazards, surely the same warning signs could be posted on the VWT so it can remain open, as well.

Many community members suspect the real reason the VWT is being closed is more about catering to the wishes of adjacent property owners/residents, who do not want to share their ocean views and coastal bluff with the public, and less about liability and safety. A review of public records heightens this suspicion. A Council member that lives adjacent to the VWT wrote to Trinidad's City Manager on 3-26-20, expressing an urgent need to close the trail, saying: *"I can easily prescribe a fix which will ultimately prohibit use"* Almost 5 months later (on 8-19-20), the after-the-fact CDP was issued to allow for a 2- to 3-year closure of the VWT (on top of the near 9 months the trail had already been closed) without any plans to repair, reroute or reopen the trail. Another adjacent property owner to the VWT expressed to me in a couple of

emails (dated 4-15-19 and 5-3-19) that he was not a fan of moving the trail upslope, because he did not want to see *"passersby at their full height in my backyard."* The same property owner's partner submitted a letter to the City on 8-5-20, expressing the same sentiments that her partner *"will not support a trail up on our property at grade."* This sort of attempt by property owners/residents to close coastal public trails is nothing new in California, but it threatens public trails in Trinidad now.

This brings me to another threat to Trinidad's public trails—the cumulative impacts from interference with trails/coastal access, poor trail maintenance and proposed trail closures. The following is a list of those impacts: (1) The Wagner Street Trail (WST) is plagued with interference by a homeowner who has put up *"No Trespassing"* signs on Wagner Street and at the entrance to his driveway. The signs threaten trespassers with a citation and are designed to intimidate and discourage people from using the WST, which is accessed from his driveway. (Note: Coastal Commission staff are well aware of this ongoing problem.) (2) The City's above-ground installation of utility pipes interfere with access to the VWT and plans to repair or reroute the trail. (3) The ALMT is steep and not well maintained; the steps at the bottom of the trail continually wash out from wave erosion, making access to Old Home Beach (OHB) difficult. (4) The Parker Creek Trail (PCT) has erosion problems and a rocky, uneven entrance to OHB; oftentimes, the upper section of the PCT is blocked by vehicles that belong to occupants of short-term rentals. (5) The Tsurai Ancestral Society is pressuring the City to close the Galindo Street Trail (GST); that proposal is being considered by the City. (6) The VWT has been closed since July 2019 and is now slated for an additional 6-month closure without any plans to repair, reroute or open the trail. (7) Property owners/residents that live next to the VWT have been putting up barricades and dumping vegetative debris on the trail to obscure the pathway and block access. These cumulative impacts must be taken into account when considering the proposed closure of the VWT, as they are taking a toll on public coastal access and trails in Trinidad.

What Does Temporary Mean? Lack of Traffic and Parking Studies

The staff report claims *"the closure is only temporary while the City investigates options to improve the trail or provide alternative access."* However, as stated above, no one really knows what *"temporary"* means, as there are no definitive timelines to reopen or repair the trail. The City has had years to investigate options to improve the VWT; however, next to nothing has been done to maintain the trail. The idea that Edwards can be substituted for the VWT is unacceptable to those of us who have enjoyed hiking along the VWT for years.

Again, to assess the true risks of adopting Edwards as an alternative public access route, the City must conduct the proper traffic and parking studies. Evaluations should include the number of vehicles on Edwards, the type of vehicles and their speeds and photo documentation of the various traffic patterns, especially during the summer tourist season, weekends and holidays. The City should also evaluate how the convergence of people, children, dogs and bicyclists might lead to overcrowding of the designated path and impact public safety, including the added obstacles of oversized vehicles on the road and residents driving in and out of their driveways.

Conclusion

To protect public coastal access in Trinidad, I urge CCC staff to find that “*substantial issue*” exists with closing the VWT, due to the numerous concerns pointed out above and the conflicts such a closure has with Coastal Act sections 30001.5, 30210 and 30214. I am further requesting that CCC staff request the City to reopen the VWT, install the appropriate warning signs, and put together some thoughtful and timely plans to repair or reroute the trail upslope. I am hopeful, too, the CCC will investigate the prescriptive rights that have been established on and adjacent to the VWT to protect future public access along this coastal bluff and trail.



EXHIBIT 1

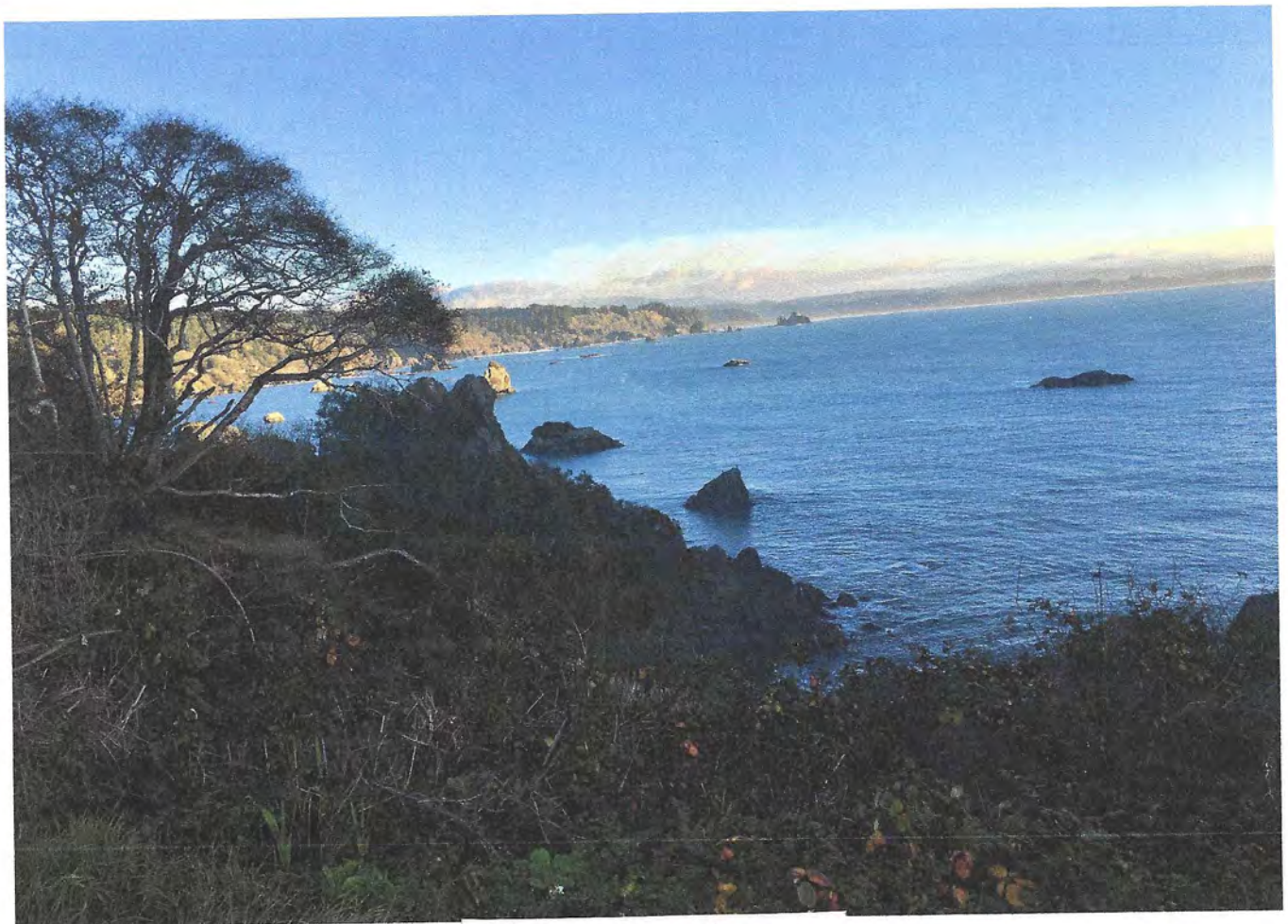
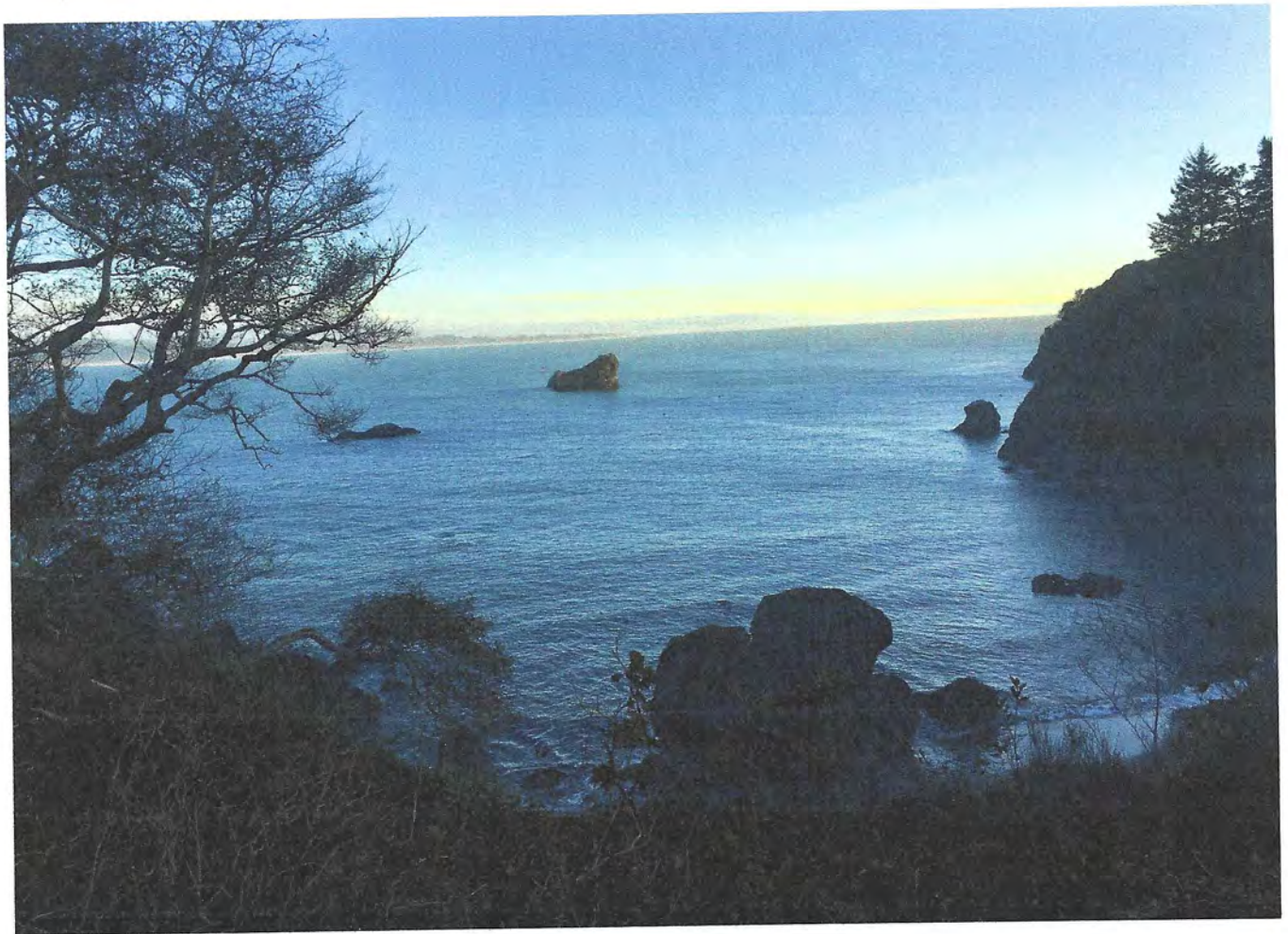


EXHIBIT 2



EXHIBIT 3 (pg 1 of 2)



EXHIBIT 3 (Pg 2 of 2)



EXHIBIT 4



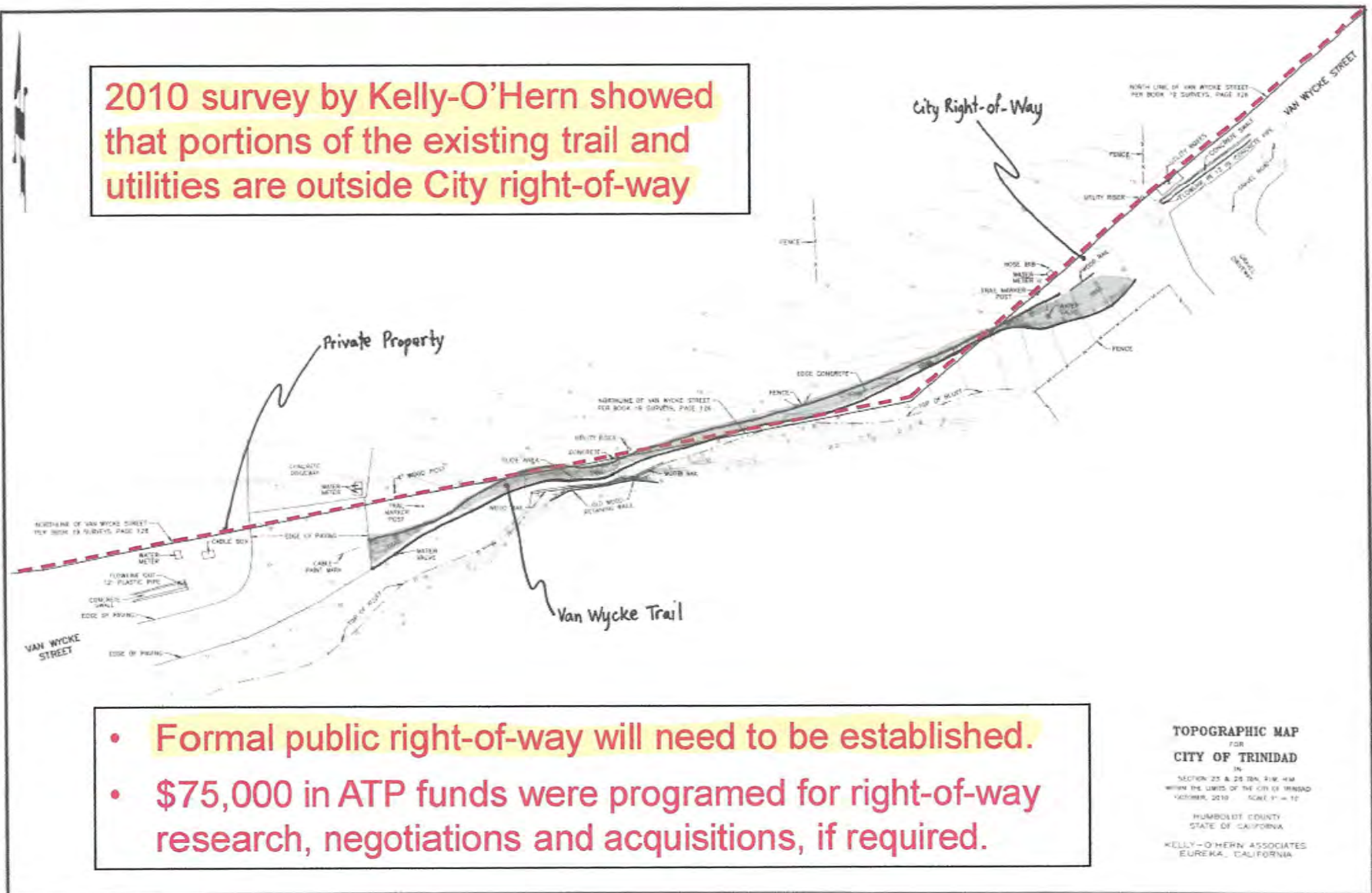
EXHIBIT 5 (pg 1 of 2)



EXHIBIT 5 (Pg 2 of 2)

Background - Right-of-Way

2010 survey by Kelly-O'Hern showed that portions of the existing trail and utilities are outside City right-of-way



- Formal public right-of-way will need to be established.
- \$75,000 in ATP funds were programed for right-of-way research, negotiations and acquisitions, if required.

EXHIBIT 6

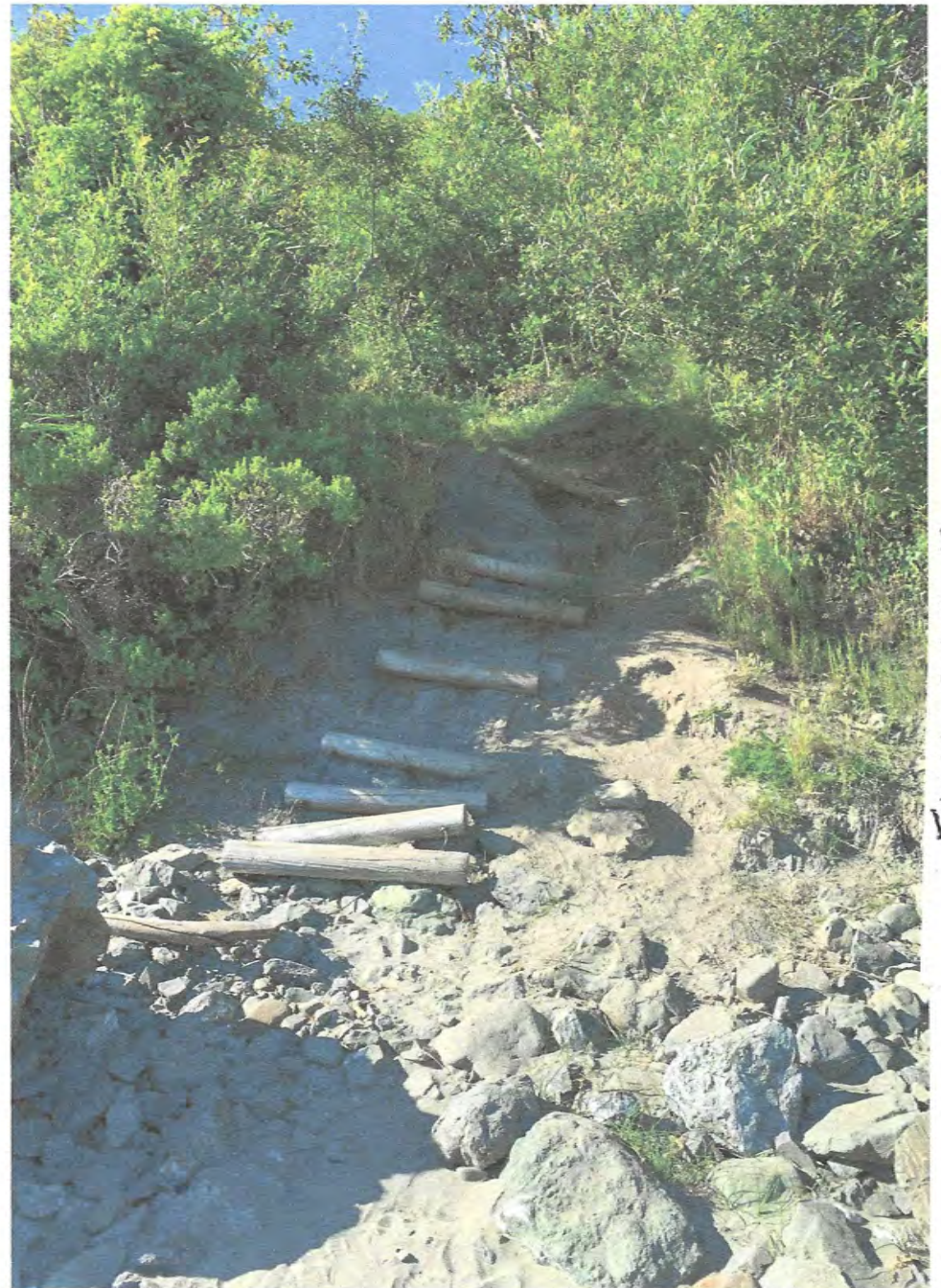
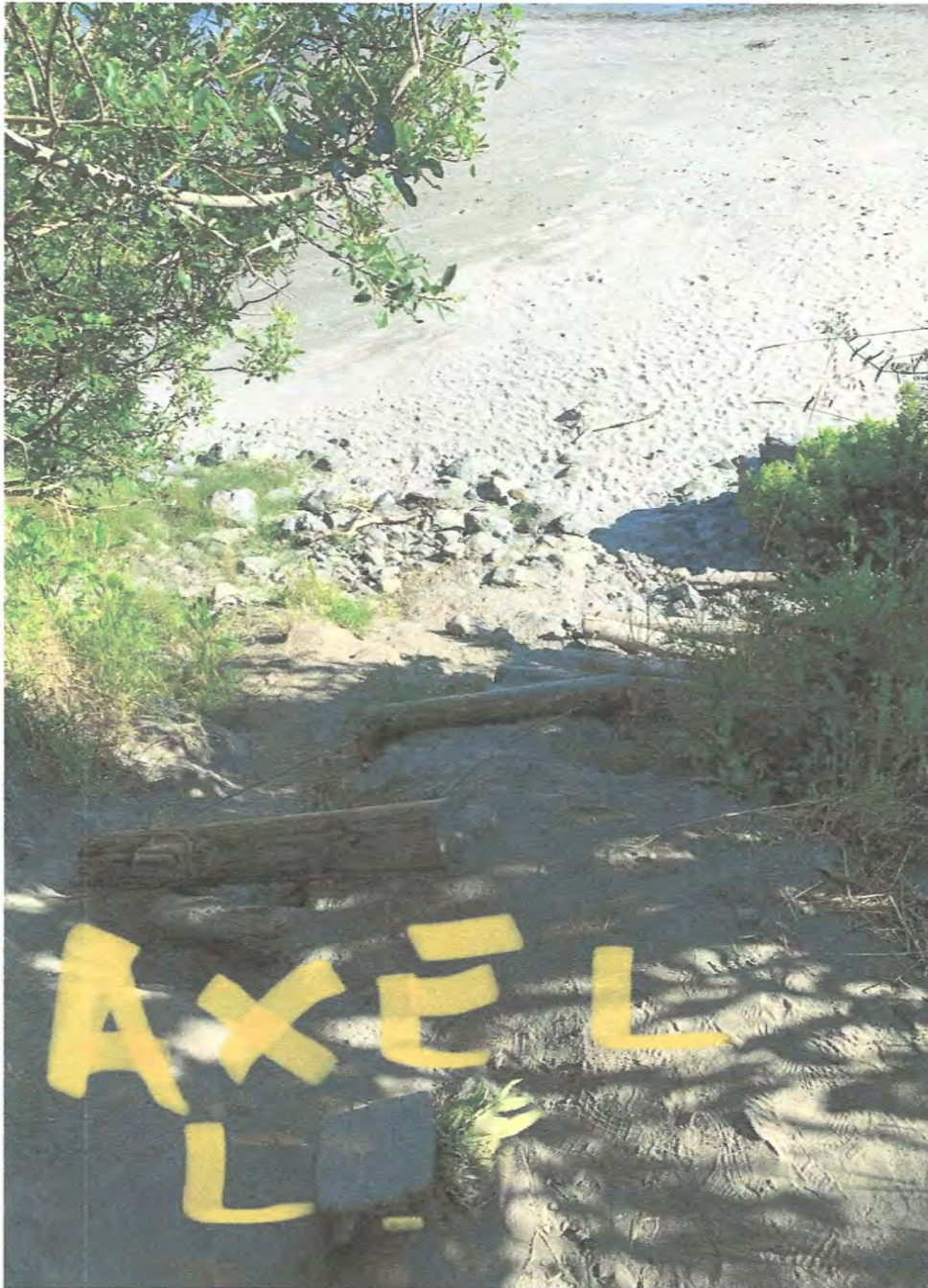


EXHIBIT 7



EXHIBIT 8