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STAFF REPORT

Date: August 9, 2018

To: TRPA Hearings Officer

From: TRPA Staff

Subject: Morales Demolition of a Historic Resource and Construction of a New Single Family Dwelling, 191 Foothill Drive, Douglas County, Nevada; Assessor's Parcel No: 1318-10-317-004; TRPA File No: ERSP2018-0565

Proposed Action: Hearings Officer action on the proposed project and related findings based on this Staff Summary and the attached Draft Permit (Attachment A).

TRPA Staff Recommendation: Staff recommends approval of the project based on this staff summary and evidence contained in the project record. The recommended conditions of approval are contained in the attached Draft Permit.

Project and Site Description: The applicant is proposing to demolish a one-story single-family dwelling and construct a new three-story single-family dwelling at the above-referenced parcel. The existing residence was built in 1929 and is within the Zephyr Cove Properties Historic District and deemed a historic resource. As mitigation for the removal of the historic resource, the applicant prepared a Resource Recovery Plan that includes written recordation of the property and its associated history completed by a qualified Architectural Historian, as well as professional photographic recordation of the property as it currently exists on archival paper. The plan was reviewed and approved by TRPA and submitted to the Nevada State Historic Preservation Office on July 25, 2018, for review and comment. The Resource Recovery Plan will ensure the historic integrity and significance of the resource is adequately documented. Copies of the approved plan will be donated to the Nevada State Historic Preservation Office, Douglas County Library, and the Nevada Architectural History Alliance.

Issues: The main residence was deemed a historic resource by TRPA. Comments from the Nevada State Historic Preservation Office are pending. Demolition of eligible and designated historic resources requires Hearings Officer review and approval in accordance with Section 2.2.2.C of the TRPA Code of Ordinances.

Staff Analysis:

- A. Environmental Documentation: TRPA staff has completed the "Project Review Conformance Checklist and Article V(g) Findings" in accordance with Subsection 4.4.2 of the TRPA Code of Ordinances. All responses contained on said checklist indicate compliance with the environmental threshold carrying capacities. A copy of the completed checklist will be made available at the Hearings Officer hearing and at TRPA.

- B. Plan Area Statement: The proposed project is located within Plan Area Statement (PAS) 067 – Marla Bay/ Zephyr Heights, Douglas County. The Land Use Classification is Residential, and the Management Strategy is Mitigation. Agency staff has reviewed the subject PAS and has determined that the project is consistent with applicable TRPA Code of Ordinances sections for demolition of a historic resource.
- C. Land Coverage: The project complies with land coverage requirements of the TRPA Code of Ordinances. TRPA verified 1,893 square feet of existing on-site land coverage in Land Capability Class 2 (TRPA File Number 20030761). The proposed single-family dwelling will relocate existing coverage within Land Capability Class 2.
- D. Density: This project complies with density requirements of the TRPA Code of Ordinances.
- E. Excavation Limits: The proposed project is approved to excavate to a depth no greater than 16 feet below ground surface (TRPA File No. LCAP2017-0442).
- F. Historic Resources: The existing residence has been determined eligible as a historic resource by TRPA. Historic resources shall not be demolished, disturbed, or removed unless TRPA finds that:
 - (a) The action will not be detrimental to the historic significance of the resource;
 - (b) The action is pursuant to a recovery plan approved by the applicable state historic preservation office; or
 - (c) It is the only feasible alternative to protect the health and public safety of the public.

As mitigation for the removal of the historic resource, the applicant prepared a Resource Recovery Plan (pursuant to option 2 above) that includes written recordation of the property and its associated history completed by a qualified Architectural Historian, as well as professional photographic recordation of the property as it currently exists on archival paper. The plan was reviewed and approved by TRPA. The Resource Recovery was transmitted to the Nevada State Historic Preservation Office on July 25, 2018 for review and comment.

Contact Information: This staff report was prepared jointly by Wells Barnett & Associates and TRPA Senior Planner, Julie Roll. If you have any questions, please contact Julie Roll at jroll@trpa.org or (775) 589-5247.

Required Actions:

Staff recommends that the Hearings Officer take the following actions:

- I. Approve the findings contained in this staff summary (Attachment A), and a mitigated finding of no significant environmental effect.

II. Approve the project, based on the staff summary, and record evidence, subject to the conditions contained in the attached Draft TRPA Permit (Attachment B).

Attachments:

- A. Required Findings
- B. Draft Permit
- C. Site Plan

Attachment A

Required Findings

Required Findings: The following is a list of the required findings as set forth in Chapters 4, 30, 37 and 67 of the TRPA Code of Ordinances. Following each finding, Agency staff has indicated if there is sufficient evidence contained in the record to make the applicable findings or has briefly summarized the evidence on which the findings can be made.

1. Chapter 4 – Required Findings:

- (a) The project is consistent with and will not adversely affect implementation of the Regional Plan, including all applicable Goals and Policies, Plan Area Statements and maps, the Code and other TRPA plans and programs.

Based on the findings provided on the Article V (g) Findings Checklist, there is sufficient evidence in the project file to make this finding.

- (b) The project will not cause the environmental threshold carrying capacities to be exceeded.

The project meets the provisions of the TRPA Code of Ordinances; any environmental impacts can be mitigated to less than significant levels and will not cause the environmental threshold carrying capacities to be exceeded.

- (c) Wherever federal, state, or local air and water quality standards applicable for the Region, whichever are strictest, must be attained and maintained pursuant to Article V(g) of the TPRA Compact, the project meets or exceeds such standards.

All potential soil disturbance effects are temporary and shall be mitigated through temporary and permanent BMPs. The applicant will meet or exceed all federal, state, or local water quality standards. Upon completion of construction, the project will have no impact upon water quality standards.

2. Chapter 30 – Coverage Relocation

- A. The relocation is to an equal or superior portion of the parcel or project area, as determined by reference to the following factors:

- (1) Whether the area of relocation already has been disturbed;
- (2) The slope of and natural vegetation on the area of relocation;
- (3) The fragility of the soil on the area of relocation;
- (4) Whether the area of relocation appropriately fits the scheme of use of the property;
- (5) The relocation does not further encroach into a stream environment zone, backshore, or the setbacks established in the Code for the protection of stream environment or backshore;

(6) The project otherwise complies with the land coverage mitigation program set forth in Section 30.6.

- B. The area from which the land coverage was removed for relocation is restored in accordance with subsection 30.5.3
- C. The relocation shall not be to Land Capability Districts 1a, 1b, 1c, 2, or 3 from any higher numbered land capability district.
- D. If the relocation is from one portion of a stream environment zone to another portion, there is a net environmental benefit to the stream environment zone.

All coverage relocation will be within land capability Class 2. There is no SEZ present on the property.

3. Chapter 37- Height

- (a) When viewed from major arterials, scenic turnouts, public recreation areas or the waters of Lake Tahoe, from a distance of 300 feet, the additional height will not cause a building to extend above the forest canopy, when present, or a ridgeline.

The slope across the building site is 16%, so with a predominate roof pitch of 12:12, the maximum allowed height is 40 feet. The proposed height is 37' 9 1/8", within the maximum allowed per TRPA Code Section 37.7. The structure will not extend beyond the forest canopy or ridgeline when viewed from a distance of 300 feet from any designated scenic viewpoint.

- (b) When outside a community plan, the additional height is consistent with the surrounding uses.

Although many of the older historic cabins in the neighborhood are single story, many other homes in the area have been rebuilt to the maximum height allowed by TRPA. The neighborhood now contains a mix of old historic cabins and new construction. Therefore, the proposed building height is consistent with the surrounding uses.

- (c) The maximum building height at any corner of two exterior walls of the building is not greater than 90 percent of the maximum building height. The maximum height at the corner of two exterior walls is the difference between the point of lowest natural ground elevation along an exterior wall of the building and point at which the corner of the same exterior wall meets the roof.

The maximum building height at any corner of two exterior walls is not greater than 90 percent of the maximum building height.

4. Chapter 67 – Historic Resource Protection Findings:

Historic resources shall not be demolished, disturbed, or removed unless TRPA finds that:

- D. The action will not be detrimental to the historic significance of the resource;
- E. The action is pursuant to a recovery plan approved by the applicable state historic preservation office; or
- F. It is the only feasible alternative to protect the health and safety of the public.

As mitigation for the removal of the historic resource, the applicant prepared a Resource Recovery Plan (pursuant to option E above) that includes written recordation of the property and its associated history completed by a qualified Architectural Historian, as well as professional photographic recordation of the property as it currently exists on archival paper. The plan was reviewed and approved by TRPA and submitted to the Nevada State Historic Preservation Office on July 25, 2018 for review and comment. Copies of the approved plan shall be donated to the Nevada State Historic Preservation Office, Douglas County Library, and the Nevada Architectural History Alliance.

Attachment B

Draft Permit

**APN 1318-10-317-004
FILE NO. ERSP2018-0565**

Excess Coverage Mitigation Fee (1) Amount \$ _____ Paid _____ Receipt No. _____

Security Posted (2): Amount \$3,300 Type _____ Paid _____ Receipt No. _____

Security Administrative Fee (3): Amount \$ _____ Paid _____ Receipt No. _____

Notes:

- (1) See Special Condition 3.C., below.
- (2) See Special Condition 3.D., below.
- (3) \$152 if a cash/check security is posted or \$135 if a non-cash security is posted.

Required plans determined to be in conformance with approval: Date: _____

TRPA ACKNOWLEDGEMENT: The Permittee has complied with all pre-construction conditions of approval as of this date and is eligible for a county building permit:

TRPA Executive Director/Designee

Date

SPECIAL CONDITIONS

1. This permit specifically authorizes the demolition of an existing single-family residence, located in the Zephyr Cove Properties Historic District, and the construction of a new three-story single-family dwelling with attached two-car garage. All coverage for the project will be relocated on-site. The proposed project will have a significant adverse impact to a contributing resource within the Zephyr Cove Historic District, and therefore mitigation is required as part of this permit.
2. The Standard Conditions of Approval listed in Attachment R shall apply to this permit.
3. Prior to permit acknowledgement, the following conditions of approval must be satisfied:
 - A. The site plan shall be revised as follows:
 - (1) Revise the proposed coverage table (Sheet C1.1) to include all the deck coverage after using the 3:1 to height reduction. In addition, the land coverage calculations shall be revised to delete references to permeable deck coverage exemptions. Permeable deck coverage exemptions are not permitted in low-capability lands such as Class 2. The revised figures shall not exceed 1,843 square feet of total proposed coverage.

- (2) Revise the proposed coverage table to include the total area of the second-floor deck and the amount of 3:1 height reduction to be deducted from the total area of the deck.
- (3) The “coverage shadow” for the 3:1 deck reduction shall be shown on the revised site plan (Sheet C1.1).
- (4) The final construction drawings shall have notes indicating conformance to the following design standards for color, roofs, and fences:
 - a. Color: The color of this structure, including any fences on the property, shall be compatible with the surroundings. Subdued colors in the earthtone and woodtone ranges shall be used for the primary color of the structure. Hues shall be within the range of natural colors that blend, rather than contrast, with the existing vegetation and earth hues. Earthtone colors are considered to be shades of reddish brown, brown, tan, ochre, and umber.
 - b. Roofs: Roofs shall be composed of non-glare earthtone or woodtone materials that minimize reflectivity.
 - c. Fences: Wooden fences shall be used whenever possible. If cyclone fence must be used, it shall be coated with brown or black vinyl, including fence poles.

B. The permittee shall submit a Demolition Plan to TRPA for review and approval that includes detailed information regarding:

- (1) Delivery, removal and staging of all equipment;
- (2) Access;
- (3) Deconstruction and disposal of material;
- (4) Equipment to be used;
- (5) Spill Prevention Plan for the use of any hazardous materials or equipment (i.e., fuel, epoxy glue, other volatile substances welding and torch equipment, etc.);
- (6) Location and type of temporary BMPs; and
- (7) Vegetation protection in accordance with TRPA requirements.

In addition, the Demolition Plan shall include dates for the following activities:

- (1) Installation of temporary BMPs;
- (2) Demolition commencement;
- (3) Removal of demolition debris; and
- (4) Demolition completion.

C. The affected property has 1,780 square feet of excess land coverage. The permittee shall mitigate a portion or all of the excess land coverage on this property by removing coverage within Hydrologic Transfer Area 3 – Cave Rock or by submitting an excess coverage mitigation fee.

To calculate the amount of excess coverage to be removed, use the following formula:

Estimated project construction cost multiplied by the fee percentage of 0.0075% (as identified in Table 30.6.1-2 of Subsection 30.6.1.C.3. of the TRPA Code of Ordinances) divided by the mitigation factor of 8. If you choose this option, please revise your final site plans and land coverage calculations to account for the permanent coverage removal.

An excess land coverage mitigation fee may be paid in lieu of permanently retiring land coverage. The excess coverage mitigation fee shall be calculated as follows:

Coverage reduction square footage (as determined by formula above) multiplied by the coverage mitigation cost fee of \$25.00 for projects within Hydrologic Transfer Area 3 – McKinney Bay. Please provide a construction cost estimate by your licensed contractor, architect or engineer. In no case shall the mitigation fee be less than \$200.00.

- D. The security required under Standard Condition A.3 of Attachment R shall be \$3,300.00. Please see Attachment J, Security Procedures, for appropriate methods of posting the security and for calculation of the required security administration fee.
 - E. The permittee shall submit an exterior lighting plan with specifications and/or details for all proposed exterior lighting fixtures and a proposed location plan. All exterior lighting shall be consistent with TRPA Code of Ordinances Section 36.8 Exterior Lighting Standards. Specifically, all exterior lighting shall be fully shielded and directed downward so as not to produce obtrusive glare onto the public right-of-way or adjoining properties. Illumination for aesthetic or dramatic purposes of any building or surrounding landscape utilizing exterior light fixtures projected above the horizontal is prohibited.
 - F. Pursuant to TRPA Code of Ordinances Section 67.7.3.B, a Resource Recovery Plan was prepared by the permittee and reviewed and approved by TRPA. The Resource Recovery Plan was submitted to the Nevada State Historic Preservation Office for review and comment. The Resource Recovery Plan shall serve as mitigation for the removal of a historic resource and ensure the historic integrity and significance of the structure is adequately documented. Copies of the approved plan shall be donated to the Nevada State Historic Preservation Office, Douglas County Library, and the Nevada Architectural History Alliance. The permittee shall provide evidence, such as a certified mail receipt of receipt of delivery, of such donation.
 - G. The Permittee shall submit three sets of final construction drawings and site plans.
4. No demolition, removal, or excavation on-site shall be undertaken by the applicant until a pre-grade inspection has occurred and receipt of TRPA notification that the pre-grading conditions have been satisfied.

5. Temporary Best Management Practices (BMPs) are to be installed and maintained prior to excavation and during all phases of the proposed project.
6. All excavated materials shall be hauled away from the site to a legally acceptable location. No fills or recontouring, other than backfill for the cut-retaining structures, is allowed.
7. Maximum excavation depths shall comply with the approved Soils/Hydrologic report (TRPA file LCAP2015-0213). If groundwater is encountered during excavation, immediately stop work and contact TRPA.
8. Blasting of rocks should be kept to an absolute minimum to avoid damage to surrounding rocks and vegetation.
9. No trees shall be removed (other than those shown on the approved site plan) or trimmed for view enhancement purposes without prior TRPA written approval.
10. The permittee shall indicate on floor plans the type of TRPA approved woodstove, fireplace insert, or zero clearance fireplace to be installed.
11. Temporary and permanent Best Management Practices (BMPs) may be field fit by the Environmental Compliance Inspector where appropriate.
12. All Best Management Practices shall be maintained in perpetuity to ensure effectiveness which may require BMPs to be periodically reinstalled or replaced.
13. Prior to any security release, photos shall be taken during construction of any subsurface BMPs or of any trenching and backfilling with gravel and provided to TRPA.
14. To the maximum extent allowable by law, the Permittee agrees to indemnify, defend, and hold harmless TRPA, its Governing Board, its Planning Commission, its agents, and its employees (collectively, TRPA) from and against any and all suits, losses, damages, injuries, liabilities, and claims by any person (a) for any injury (including death) or damage to person or property or (b) to set aside, attack, void, modify, amend, or annul any actions of TRPA. The foregoing indemnity obligation applies, without limitation, to any and all suits, losses, damages, injuries, liabilities, and claims by any person from any cause whatsoever arising out of or in connection with either directly or indirectly, and in whole or in part (1) the processing, conditioning, issuance, or implementation of this permit; (2) any failure to comply with all applicable laws and regulations; or (3) the design, installation, or operation of any improvements, regardless of whether the actions or omissions are alleged to be caused by TRPA or the Permittee.

Included within the Permittee's indemnity obligation set forth herein, the Permittee agrees to pay all fees of TRPA's attorneys and all other costs and expenses of defenses as they are incurred, including reimbursement of TRPA as necessary for any and all costs and/or fees incurred by TRPA for actions arising directly or indirectly from issuance or implementation of this permit. TRPA will have the sole and exclusive control (including the right to be represented by attorneys of TRPA's choosing) over the defense of any claims against TRPA and over their settlement, compromise or other disposition.

Permittee shall also pay all costs, including attorneys' fees, incurred by TRPA to enforce this indemnification agreement. If any judgment is rendered against TRPA in any action subject to this indemnification, the Permittee shall, at its expense, satisfy and discharge the same.

15. This approval is based on the permittee's representation that all plans and information contained in the subject application are true and correct. Should any information or representation submitted in connection with the project application be incorrect or untrue, TRPA may rescind this approval, or take other appropriate action.
16. This site shall be winterized in accordance with the provisions of Attachment R by October 15th of each construction season.

END OF PERMIT

Attachment

Site Plans