Timber Cove Trails Issue Summary/Documents

Timber Cove trails will be on the agenda at the next TCHOA board meeting, January 17, 2014, 9 a.m. at Fort Ross School. Please attend or send an email to timbercovehomes@gmail.com in support of the following items if you haven’t already done so:

- Request that the board rescind [reconsider] its action of April 5, 2014, approving a letter to Sonoma County PRMD sanctioning removal of a portion of the collectively owned Smith Court Loop Trail easement, based on a map presented to the board. (Exhibit D)

- Request for budget line item and fund for the identification, development, and maintenance of Timber Cove Trails.

Trail supporters will be happy to work with our neighbors to find a solution to any real issues surrounding TCHOA trails, but it is essential that the board rescind [reconsider] the April action described above.

An unsigned letter from the TCHOA board dated April 8, 2014, was sent to PRMD approving this action. (Exhibit C) On October 7, 2014, two homeowners (both board members at the time of this action) applied for the removal (vacation) of 509 feet of Timber Cove trail easements on their own properties. This is now being processed in the PRMD surveyor department (SUR14-0058). (Exhibits E and F)

The extraordinary nature of this board action leaves the homeowners association open to a lawsuit that would be costly. Before we proceed, we should remove that possibility for the good of all.

This motion should be rescinded [reconsidered] for the following reasons:

1. It is the board’s duty as elected officials to work for the best interests of the Timber Cove property owners. This action was clearly not in the best interests of the Timber Cove property owners, and benefitted only two board members.

2. No action should be taken regarding the collectively owned Timber Cove Trail Easements without the notification and vote of all lot owners. These easements appear in our CC and Rs and are referred to on our individual property deeds and titles. Changes to the CC and Rs requires a majority approval of all lot owners.

3. This motion was inaccurately described on the agenda as an “improvement” to the trail system and in the board minutes as a “relocation” of the trail. Therefore homeowners were misled about the real motion proposed and passed. The board action on April 5, 2014, actually approved the removal of 509 feet of TCHOA trail easement, which provide panoramic ocean views. (Exhibit A)

4. The official board minutes for April 5, 2014, do not record that any board members recused themselves from the vote. Therefore this could be a conflict of interest for two board members, the sole beneficiaries of the motion. The minutes do record that the item was proposed and presented by a board member who benefitted from the board action. Both circumstances would violate the Davis-Stirling Act, which governs the actions of HOAs. (Exhibit B)

5. There is no legal connection between a lot-line adjustment and a collectively owned trail easement. The original trail easement followed a property line. If a later lot line adjustment occurs, the easement legally remains. PRMD did not request this action. There is a precedent for Timber Cove trails that go through a property (AP #109-420-060).
6. The undated map segment that was submitted with the application for trail removal to PRMD on Oct. 7, 2014 is not the map that was viewed by John Howland architect, in July 2014, presented to him as the map viewed and approved by the board on April 5. The map submitted to PRMD on Oct. 7 is a different version, with a short, steep, new downhill trail addition that was not on the dated, stamped, surveyor’s map viewed by the architectural consultant in July. Therefore the board never viewed nor approved the map being processed now at PRMD. (SUR14-0058)

Once again, we should all be courteous and neither claim to know personal intent nor stress recrimination. Then we should move forward to finally make these trails identifiable and available, once and for all.

Trail supporters have consulted a good land-use attorney who concurs with our assessment that the board does not have the authority to remove the Timber Cove trail easements without the voted approval of a majority of the property owners. Further, this board action constitutes a conflict of interest for at least two board members who participated in the presentation and remained present when the vote was taken.

We hope that you will join us in supporting our trails and please forward this to anyone else you may think would be interested. Further discussion items are listed below:

**Timber Cove Trails: Background**

Timber Cove developers envisioned a community trail system and included these easements on the original 1965 Unit 2 subdivision maps. The easements are also referred to on each homeowner’s deed and title and in our CC and Rs. When they were drawn, our subdivision had been recently clear cut, and so most paths were probably very accessible. Investigations so far lead us to believe that the trail designers chose routes around interesting landmarks (remaining large trees, creeks, ravines, ocean views, etc.).

At various points in the ensuing half century, certain parts of these trails have been identifiable and used and several valiant attempts have been made by residents to clear and mark trail sections. But without consistent support from the various TCHOA boards, the trails have been neglected and become overgrown, obscured, or obstructed, either by nature’s course or occasionally by design. Many residents have described trying to find the current trails shown on the official trail map, and would use a community trails system. Long-time residents have described publicly that they used Smith Court Loop Trail in particular for both walking and riding until it was blocked by a property owner in about 2006. A lovely carved wooden sign marks the trailhead at Smith Court, further evidence that it was at one time clearly defined and used.

Without support from recent boards of directors to maintain them, it is now difficult to find many of the original trails designated in 1965.

**Finding Solutions and Moving Forward**

After the measures outlined above are taken, we should move forward as a community to survey and permanently mark these trails, develop them, and maintain them for the benefit of current and future homeowners. Please lend your support to finally making our community trail system usable for ourselves and the future.

**Notes on Property Owners’ Complaints about Trail**

The application for removal of 509 feet of the Smith Court Loop trail now being processed at PRMD (SUR14-0058) claims in writing that this section of the trail endangers the privacy and security of the property owners. At the same time it claims that the trail has been unused for up to 16 years. These claims seem to contradict each other. Nevertheless, the real situation with the trails is the one described above, that the trails are used when they are discernible, but become obscured or purposely blocked. The owners
in question did not reside on the property full time and so cannot substantiate their statements. Several residents have testified to using the trail up until 2006.

Both property owners in question have stated that one major reason for trail elimination is large, uncovered, and unscreened bathroom windows in close proximity to the trail. Although unfortunate, this positioning of bathrooms was the preference of the builders, who knew the location of the community trail easement when they built the homes. It is not the fault of the trail, which dates to 1965. Recently trees, shrubs and other foliage that had previously screened these homes was removed by the owners.

We are willing to work with the owners to mitigate any problems the trails may cause, but we must proceed with the consent of the Timber Cove property owners in a legal and transparent manner, for the good of all.

Note: Relevant documents follow:

Exhibit A: TCHOA Agenda, April 5, 2014
Exhibit B: TCHOA Minutes, April 5, 2014
Exhibit C: Letter from TCHOA Board to PRMD, April 8, 2014
Exhibit D: Map of Proposed Area Removed (vacated) from Smith Court Loop Trail
Exhibit E: Application by Vernon/Drake to PRMD (SUR14-0058), Oct. 7, 2014

LINK TO TC UNIT 2 CONDITIONS, COVENANTS, AND RESTRICTIONS (CC and Rs)

LINK TO TIMBER COVE TRAILS (overall map)

LINK TO TCHOA BYLAWS
Board of Directors Meeting Agenda
Saturday, April 5, 2014    9 a.m.
Fort Ross School Multipurpose Room

1. Call to Order

2. Approval of Minutes of January 18, 2014

3. Approval of Consent Agenda if needed:

4. Public Comment

5. Acceptance of resignation and appointment of vacancy

6. Architectural
   a. Report
   b. Violation Policy
   c. Improvement of trails of AP#109-430-33 & 109-430-32

7. Security and Fire Abatement
   a. Reports
   b. Procedure for fallen trees

8. Administrative Assistant’s Report
   a. Report
b. Correspondence Received

c. Clarification of Committees

d. Annual Meeting

9. Treasurer’s Report

a. Payment of Bills

10. Roads:

a. Report on 2014/15 fiscal year plan

b. Sign Replacement

11. Timber Cove County Water District Report

12. Amending Bylaw regarding number of board members from 7 to 5

13. Consideration of Parliamentary Procedure to be used by the TCHA board of directors

14. Status of Lyons Court Common Area

15. Time and Place of next meeting

16. Adjournment

17. Closed Session

a. Collections

b. Architectural Violation

c. Employee Reviews

18. Adjournment
Board of Directors Meeting Minutes
Saturday, April 5, 2014
Fort Ross School Multipurpose Room

Board Present: Anne Vernon, Anne Roberts, Claudia Woods, Russell Smith, Fred Leif and Sue Drake
Staff Present: Tina Romeo
Guests Present: Olin Woods, Grace O’Malley, Stu Drake, Tom and Claudia Giacinto, Bill Seymour, Richard Welch, Ray Seto, Chris Almind and John Rea

1. Call to Order: Anne Roberts called the meeting to order at 9:01 a.m.
2. Approval of Minutes of January 18, 2014: Motion and seconded to approve the minutes of the January 18, 2014 meeting as presented. Vote: Ayes: 5, Abstain: 1, Motion passed.
3. Approval of Consent Agenda if needed: None
4. Public Comment: Motion and seconded to remove 17b off the agenda. Vote: all in favor, motion passed.
5. Acceptance of resignation and appointment of vacancy: Motion and seconded to accept the resignation of Donna Riley and appoint Sal Culcasi to serve the remainder of her term. Vote: All in favor, motion passed
6. Architectural
   a. Report: Claudia reported to the board of architectural submissions. A member presented a letter of complaint to the board and asked for it to be included in the minutes. It was duly noted. The purpose of the minutes of the board are to reflect action items. No action was taken.
   b. Violation Policy: Tabled
   c. Improvement of trails of AP#109-430-33 & 109-430-32: Anne Vernon presented a map to the board for review regarding relocating the trails to follow the new property lines. Motioned and seconded to write a letter to the County of Sonoma granting permission for the county to proceed with lot line movement of trail. Vote: All in favor, motion passed.
7. Security and Fire Abatement
   a. Reports: Nick provided his report to the board via email. Discussion regarding escrow process involving lots with unapproved structures and/or CCR violations. Board has a relationship with the current property owner, so they will send the escrow letter to the current owner and if possible their listing agent.
   b. Procedure for fallen trees: Nick questioned the procedure that he is currently using for fallen trees across the roads during storms. Trees and brush are removed from the road and returned to the lot where the fallen tree originated. If the HOA has to hire personnel to remove the hazard then the property owner will be billed.
8. Administrative Assistant’s Report
   a. Report: Tina reported to the board. 4 escrows have closed since the last meeting. One new owner purchased multiple lots on Lee Drive.
b. **Correspondence Received:** Email from a member regarding free fire wood. Tina will include in the next TCHA email. Several welcome packets were sent. Call from a potential buyer regarding a lot that is in collections.

c. **Clarification of Committees:** Road committee consists of: Anne Vernon, chair, Sal Culcasi, Brian Todd and Joe Pearson. Architectural committee consists of: Claudia Woods, Anne Vernon and Sue Drake.

d. **Annual Meeting:** Due to scheduling conflicts with board and Timber Cove Inn. This year’s annual meeting is being planned at Fort Ross School on Saturday, September 6, 2014. Details to follow.

9. **Treasurer’s Report**
   a. **Payment of Bills:** Fred presented the end of February 2014 budget report and a draft version of the end of March 2014. Fred presented the bills to be paid. Motion and seconded to approve the payment of bills as presented. Vote: all in favor, motion passed.

10. **Roads:**
    a. **Report on 2014/15 fiscal year plan:** Anne Vernon reported to the board regarding the committee’s recommendations for this upcoming fiscal year. Motion and seconded to accept the committee’s recommendation for 2014/15 road and fire work. Vote: all in favor. Motion passed.
    b. **Sign Replacement:** Anne Roberts has begun initial research regarding replacing our aging redwood street signs. Night reflective, fire safe and uniform height complete with emergency vehicles being able to see signs will be researched and presented at the next board meeting.

11. **Timber Cove County Water District Report:** Fred reported to the board the status of the reservoir. Currently it is at capacity, however additional storage is being researched. Reminder to all: We are still in a drought, please conserve. Discussion to have Architectural committee consider water conservation as part of design process.

12. **Amending Bylaw regarding number of board members from 7 to 5:** Discussion about reducing the board from 7 to 5 due to the community being small, hard to get a quorum. Will discuss further at next board meeting.

13. **Consideration of Parliamentary Procedure to be used by the TCHA board of directors:** Motion and seconded to accept Rosenburg’s Rules of Order as procedure. Vote: all in favor, motion passed.

14. **Status of Lyons Court Common Area:** Lyons court common area needs to be maintained. The lot line adjustment has been completed at the County. Motion and seconded to authorize Tina to seek up to three estimates to perform a septic perc test of the Lyons Court property and enter into a contract not to exceed $5,000. Vote: all in favor. Motion and seconded if the Lyons court lot does meet the required perc testing with one or more bedrooms, then proceed with listing the property for sale. Obtain three proposals with realtors from outside the association. Vote: all in favor, motion passed.

15. **Time and Place of next meeting:** Saturday, July 12, 2014 at Fort Ross School at 9 a.m.

16. **Adjournment:** Meeting was adjourned at 11:26 a.m.

17. **Closed Session:** Called to order at 11:46 a.m.
    a. **Collections:** Accepted payment plan proposed by new owner who is acquiring the debt of AP# 109-420-09.
    b. **Architectural Violation:** Removed from agenda under public comment item 4.
    c. **Employee Reviews:** Anne and Fred will meet with staff to do employee evaluations.

18. **Adjournment:** Closed session adjourned at 12:13 p.m.
4.8.2014

Sonoma of County
Permit and Resources Management Department
2550 Ventura Ave.
Santa Rosa, CA 95450

Re: 109-430-33 (Rea) and 109-430-32 (Drake) trail relocation

Dear Sirs,

At the board meeting, Saturday, April 5, 2014, the Timber Cove Homes Association board of directors met and approved a resolution granting permission for the county to proceed with the proposed movement of trails to the edge of the property due to the lot line adjustment involving these two parcels.

Please feel free to contact our office if you have any questions,

Sincerely,

TCHA Board of Directors
PETITION FOR VACATION OF PUBLIC EASEMENT/PUBLIC RIGHT-OF-WAY

EXHIBIT E

COUNTY OF SONOMA
PERMIT AND RESOURCE MANAGEMENT DEPARTMENT
2550 Ventura Avenue, Santa Rosa, CA 95403
(707) 565-1900 FAX (707) 565-1103

LOCATION OF PROJECT/ADDRESS:
21985 & 21981 Timber Creek Rd
NAME OF PROPOSED PROJECT (If Applicable):
2094.30042
2094.30033
ASSURANCE PARCEL NUMBER(S):
ZONING:
GENERAL PLAN DESIGNATION:

APPLICANT NAME:
Anne Vernon

APPLICANT ADDRESS:
19328 Lore Ha Ct.
CITY:
Sonoma
STATE:
CA
ZIP:
95476

APPLICANT REPRESENTATIVE (If Applicable):
Sue Ruskiewicz

APPLICANT REPRESENTATIVE ADDRESS:
P.O. Box 211
CITY:
Dobson
STATE:
CA
ZIP:
95476

PROPERTY OWNER NAME (SIGNATURE REQUIRED BELOW):
Anne Vernon

PROPERTY OWNER ADDRESS:
19328 Lore Ha Ct.
CITY:
Sonoma
STATE:
CA
ZIP:
95476

APPLICATION FOR REQUESTING VACATION:
To relocate the existing trail that now passes thru the middle of the properties that were recently lot line adjusted
21981 Timber Creek Rd. Building envelope & septic field straddles old trail. 21985 has relocated the trail to interim.
In the 12 years I have owned the property no one has walked this non-existing trail. The same with the Drakes (21985) for 16 years.

SUBMITTAL INFORMATION:
□ Name, address & phone number of local water company.
□ List of names & addresses of recorded property owners requesting the proposed vacation (If available).
□ Vicinity map with North arrow. Anne Vernon: 19328 Lore Ha Ct., Sonoma 21985.
□ Map of all property adjoining the boundaries of the proposed vacation showing:
- Easement or right-of-way to be vacated;
- Location of all known public utilities;
- Existing use of property adjoining proposed vacation;
- Assessor’s parcel number of each parcel shown;
- Existing use of the right-of-way by abutting properties.

PROPERTY OWNER’S CONSENT - I declare under penalty of perjury that I am the owner of said property or have written authority from property owner to file this application. I certify that all of the submitted information is true and correct to the best of my knowledge and belief. I understand that any misrepresentation of submitted data may invalidate any approval of this application.

X Anne Vernon

FOR DEPARTMENT USE ONLY
DATE APPLICATION RECEIVED:
10/7/2014
APPLICATION RECEIVED BY:
Gary O’Connor & Laura Purcell

5/12/10
upper trail to lower trail. (Map provided)

The non-existing trails (after the lot line adjustment, present liability, security, & privacy issues, now going thru the middle of the properties. There is NO active trail.

Stu & Sue Drake 
1917 Poppy Drive 
Rocklin, CA 95765

21985 Timberline Dr. 
Fennel, CA 95450