Posted: July 16, 2010

City of Trinidad

NOTICE AND CALL OF A MEETING OF THE

TRINIDAD PLANNING COMMISSION

The Trinidad Planning Commission will hold a regularly scheduled monthly meeting on **WEDNESDAY JULY 21st, 2010, AT 7:00 P.M.**, in Town Hall at 409 Trinity Street.

The following items will be discussed:

I. **ROLL CALL**

II. **APPROVAL OF MINUTES** -- March 17, 2010
-- June 16, 2010

III. **APPROVAL OF AGENDA**

IV. **ITEMS FROM THE FLOOR**

V. **AGENDA ITEMS**

Discussion / Decision / Public Hearing / Action

1. Lake 2010-03: Design Review and Coastal Development Permit for a ~~964~~ 907 sq. ft. single-story addition to an existing 1,500 sq. ft., single-story, 2-bedroom, single-family residence. The project will also require approval of a Variance to allow an ADA ramp to extend into a required side-yard setback. Located at 740 Edwards Street; APN: 042-041-24. *Continued from the June meeting.*

2. Davis 2010-05: Design Review and Coastal Development Permit for: (1) 37 sq. ft. single story addition to an existing 605 sq. ft. 1-bedroom residence; (2) remodel the interior of the existing garage to convert approx. half of it (416 sq. ft.) into conditioned workspace with a half-bath; and (3) replace an existing storage shed. A Variance is being requested to accommodate a portion of the residential addition within the front yard setback. Located at 558 Hector Street; APN: 042-041-22

3. Morgan 2010-06: Modification of an existing Conditional Use Permit for the Trinidad Bay Bed and Breakfast to remove a previous condition placed on the original project

PLEASE DO NOT REMOVE OR COVER UP

approval in 1985 that all laundry must be done off-site. Located at 560 Edwards Street; APN: 042-101-07

4. General Plan Update: Discussion of the Draft Circulation Element, General Plan Update

VI. STAFF REPORT

VII. COUNCIL LIAISON

VIII. ADJOURNMENT

APPROVAL OF MINUTES FOR:

March 17, 2010 PC:
April (or June?) 17, 2010 PC:

Supporting Documentation follows with: 15 PAGES

City of Trinidad

MINUTES OF THE REGULARLY SCHEDULED MONTHLY MEETING OF THE TRINIDAD PLANNING COMMISSION
WEDNESDAY, MARCH 17, 2010

I. CALL TO ORDER/ROLL CALL

Commissioners Present: Fraser, Johnson, Lin, Pennisi
Commissioners Absent: none
Council Liaison Bhardwaj was present.
Staff Albright, Parker and Caldwell were present

II. APPROVAL OF MINUTES – February 17, 2010.

Corrections/Comments:

-Page 3: Amend "The City asked for information a year ago and there is little information available" to "The City issued a letter, but at the time there wasn't much information on the project."
-Page 5: Clarified that "Septic tank repairs have to be completed by May" is May 2010—in 1 ½ months.
-Page 1: Amend typo in Commissioner Lin's comments from "buy" to "is."

***Motion* (Pennisi/Lin) to approve. Passed unanimously.**

III. APPROVAL OF AGENDA

Albright noted that although there had been a request for the Homen subdivision to be on the agenda, it was not.

Lin noted that the City had received a letter that day from the Tsurai Ancestral Society (further referenced as the TAS) referring to Agenda Item 1 and asking for the item to not be heard. It was determined that this issue should be discussed during the agenda item.

***Motion* (Pennisi/Fraser) to approve. Passed unanimously.**

IV. ITEMS FROM THE FLOOR

None.

V. AGENDA ITEMS

1. Trinidad 2009-04: Design Review and Coastal Development Permit to install trail signs for primary and secondary public access trails to Old Home Beach.

   City Manager states that the City received a letter today from the TAS requesting a delay of the public hearing until they are consulted on the matter.

   Introduction: T. Parker, Staff

   The trails signs in review are for the Axel Lindgren, Old Wagon Road, Parker Creek, and Groth Lane Trails. The trail signs will include the name and ordinance restrictions specific to each trail. Installing trail signs will implement Coastal Act

Policies and comply with the various Court documents and settlement agreements between the City of Trinidad and resident John Frame. Some of the signs will be located within the Tsurai Study Area, and a special notice was sent to the various consultation groups in accordance with policy 69 of the Trinidad General Plan. Also, a letter was received today from the TAS to request additional time for review and consultation.

Commissioner Johnson opens the floor for public comment.

Public Comment

Jim Cuthbertson (resident)

Comments: Trail markers were approved via Coastal Development Permit 10 years ago. The posts are in the same locations that were approved 10 years ago. They weren't put in back then because of litigation. The City should step up as per court order and install the signs. 4x4s were installed without permits or letters at trails and now there are problems. Believes City should honor agreement from 2005 between Coastal Commission, J. Frame, City. And now anther delay is being asked for. Continue it, hear it, get it over with.

Tom Odom (resident)

Comments: Litigation held up the installment of signs and signs are instrumental to Trinidad trails. There isn't a sign at Wagner Street and there should be.

Adora King (resident)

Concerns: Needs clarification for the reason why the TAS is recommending a continuance and what would come out of asking for more time.

Letter presented from Christine Williams on behalf of the Tsurai Ancestral Society (read by T. Parker, City Planner)

Concerns in letter:

-Trail Signs Project violates the Tsurai Management Plan recommendation re: Collaboration and Policy 69

-Trail Signs Project as proposed violates the Tsurai Management Plan recommendations re: trail signage

-Trail Signs Project as proposed violates the Frame v. City of Trinidad settlement agreement from April 2005

The letter states that the TAS are not opposed to the project but wish to postpone actions until they and other parties have been properly consulted.

Public Comment (continued)

Tom Odom (resident)

Comments: Was on steering committee for General Plan and the goal is to keep the trails open. The TAS hasn't' protested the legality before. The Axel Lindgren Trail is under the protection of the Coastal Commission.

Jim Cuthbertson (resident)

Comment: The Coastal Conservancy also wants to keep the trail open.

Adora King (resident)

Comment: After hearing the letter's request, doesn't see the need for the continuance. A court settlement has been reached. Too much money has been spent—let a judge interpret the outcome.

Jim Cuthbertson (resident)
Comments: A post was put up on easement—didn't hear of protests from the Yurok, Tsurai, or attorneys then.

Glen Saunders (resident)
Comment: Agrees with previous two comments. The City needs to take a stand.

Bob McConnel (Heritage Preservation for Yurok Tribe)
Concerns: Please consider the points in the letter for needing consultation. This is important to them and there has been little success in keeping people from digging. The signs need citations of the law and a consult.

Stephen Ruth (part-time resident)
Comments: There should be an agreement for the management area. Do the consultation and get the signs correct.

Bill Barnum (John Frame's attorney)
Summarized a letter from John Frame.
This is the culmination from the 2005 settlement agreement and the 1997 court order the implement the 1994 settlement agreement. This has a long litigation history. Thought that the last settlement would bring peace and it is being revisited again with all new staff, Planning Commissioners and a City Council. The 2005 settlement settles the past, present and future decisions. He cited Section 7 of the 1997 court order, referenced in the 2005 settlement agreement, when the City "specifically intend to implement the 1994 judgment within 60 days" with an effective date shortly after Thanksgiving, 2005. He quoted other parts of the settlements to state that the current trail signs proposal is beyond the scope of the City and that changes may not be made unilaterally. Settlement B may only be amended by written consent by John Frame and the City. In 2005 the City agreed not to make unilateral changes without John Frame's approval. His client would like to cooperate.

Commissioner Pennisi
Is the current proposal not acceptable? (question to Bill Barnum)

Bill Barnum (John Frame's attorney)
Response: yes

Commissioner Johnson
Question: Was the process OK? (question to Barnum)

Bill Barnum (John Frame's attorney)
Response: Yes and no. This process is a breach of agreement; John Frame is opposed to unilateral changes. The content is not as agreed.

Commissioner Johnson

Question: What is the City's position/signs after the 60 days in the 2005 agreement? (question to Barnum)

Bill Barnum (John Frame's attorney)
Response: Unprepared to answer.

Commissioner Johnson
Question: Was there ever an agreed upon set of signs acceptable for everyone?

Bill Barnum (John Frame's attorney)
Response: There was never an agreed upon sign.

Tom Odom (resident)
Commented on the 4x4 post.

Bill Barnum (John Frame's attorney)
Response: Didn't know the answer, but his client is willing to cooperate.

Jim Cuthbertson (resident)
Comments: Wants clarification on what could be done in the 60 days—was approval needed after...what about John Frame's fence.

Bill Barnum (John Frame's attorney)
Response: Referenced the 2005 agreement.

Jim Cuthbertson (resident)
Comments: The trail should be kept open—not blocked with a 4x4 without a permit. Your client should have a coastal development permit.

Adora King (resident)
Comment: The lawsuit stated that the parties agreed there would be signs and they would be the equal.

Bill Barnum (John Frame's attorney)
Response: Referenced the 2005 agreement.

Adora King (resident)
Question: Did the lawsuit state that the parties agreed there would be signs and they would be equal?

Bill Barnum (John Frame's attorney)
Response: Based on the 2005 agreement, yes, within 60 days.

Adora King (resident)
Comment: The agreement was that there would be signage and that they would be equal. The court order talks about all the signs. The Wagner Street Trail sign was not put up—the trail signs project was never completed. It wasn't done in 60 days because the City was afraid. Signs have been changed; what else has been put up? Bill Barnum was referring to the previous signs. No signs have gone up except for on Wagner Street that said

no dogs, daylight hours, etc. where there never was a sign before. Signs should be on all trails. This has nothing to do with the TSA. A continuance is a delay tactic and smoke screen. The project needs to be completed.

Shirley Laos (Vice Chair of the Trinidad Rancheria Tribal Council)
Comment: Reiterated that there is a requirement for consultation and to complete the project correctly includes consultations. This is a benefit to all parties and protects resources.

Sungnome Madrone (lives outside City limits)
Question: What signs are being proposed and what was there installed at the end of 60 days?

Trever Parker (City Planner)
Response: Eight or nine signs now, but unsure as to what was put up after 60 days—this is a new point to be addressed.

Sungnome Madrone (lives outside City limits)
Comment: There has been a lot of legal action, time, and money put into this project at the expense of the City. This is an issue if John Frame's attorney is present and the Tsurai and Yurok haven't been consulted. All signs should be signed equally. We should follow a 60-day procedure, meet and agree. If John Frame doesn't agree on anything then the City has a stronger case. The City doesn't have the resources to continue fighting. Citizens should file complaints and let the State take on the lawsuit.

Jim Cuthbertson (resident)
Comments: They tried that and the State didn't do anything. If the 60 day rule applies, then all signs that have been put up since need to come down.

Adora King (resident)
Comment: This should all go to the attorney. If the City isn't abiding by the rules, there's no discussion.

Bill Harkin (resident)
Comment: Has used the public trails for years and it is a disgrace how John Frame has minimized and obstructed the trail.

Commissioner/Staff Comments

Stephen Albright (City Manager)
The 60 days argument is reasonable, but in response to Bill Barnum's statement that the City is "fanning the flames" of an old lawsuit, John Frame wanted an ordinance in 2007, thus stimulating the controversy/process. Also, he noted that he thought these signs were no big deal and so did not formalize tribal consultation and the City did not intend to offend the tribes. If the delay is because of a disagreement with John Frame, the City does not recommend a delay; but if it is because of the commitment to consult, the City will honor the commitment. Note that the consultations might not have an outcome if John Frame still disagrees.

Commissioner Lin

Based on the settlement with all parties, the City should have consulted with the recommended parties. He proposes not making a decision tonight. He is not opposed to putting up the signs; he just wants to follow the correct procedures.

Commissioner Fraser

Agrees with Commissioner Lin on the consultation position but what type of forum does this require?

Stephen Albright (City Manager)

Suggests setting a 60 day timeframe for the consultation process. The City will proceed as quickly as possible.

Commissioner Pennisi

Are these signs consistent with the settlements? The City says "yes," Bill Barnum says "no." If they are not, this may be a waste of time. How does the City stay out of court?

Commissioner Johnson

Discussions are needed with the attorney to clarify new issues. Recommends a formal process because of Policy 69 and lack of clarity. If the management plan requires a consultation; it has to be done. Whatever comes of this process will be a lesson learned for the future. A quick resolution is desired.

Commissioner Pennisi

The Planning Commission should decide on the content and location, but the City Council should make the final decision based on the Planning Commission's recommendation. They are the elected officials and responsible for any legal action.

Commissioner Lin

Agrees. The Planning Commission is responsible for design review and should not go any further.

Stephen Albright (City Manager)

The issue was brought to the Planning Commission tonight as a design review topic. If the Planning Commission sees that the signs are reasonable but John Frame disagrees, then it goes to the City Council.

Commission Pennisi

Just stated that this is bigger than the Planning Commission.

Adora King (resident)

Comments: There are issues that won't be resolved tonight. If pages 10-11 of the 2005 settlement agreement don't include the TAS as a signed party, then they're not an issue. The lawsuit is between the signed parties. Please set a short review time.

Tom Odom (resident)

Comments: Agrees. The City should make a decision and not be afraid of a lawsuit.

Commissioner Pennisi

It's not that the City is afraid of a lawsuit—there is not attorney present, the TAS letter wasn't seen until today, it appears that more people are getting drawn into the settlement. There are questions that need attorney review. Do we know if we violated our own legal process? The Planning Commission represents the people in the City and won't take action without all the information and legal consult. A good saying is "Don't be foolish with public money!"

Jim Cuthbertson (resident)

Concern: The City is also guilty for not conforming as much as John Frame. Let the courts decide again. Do it right, but fast.

Public gets out of order.

Commissioner Lin

Call for order. Keep on track.

Commissioner Johnson

Comments need to stick to the subject. The point of this process is to review the signs—keep comments to this topic.

Sungnome Madrone (lives outside City limits)

Comments: Each party needs to give something up. His is willing to work for free as an unbiased mediator or facilitator so the design review can work out by all three parties. Willing to work with John Frame, Yurok and Tsurai, and City.

Commissioner Johnson

This matter will be brought back to the Commission and continued at another time. The Planning Commission needs to hear from the City Attorney, gather information, and outline the processes needed.

Steve Albright (City Manager)

Suggests reconvening at a specific time—60 days—so as to not have to notice and the consultations could take that long.

Trever Parker (City Planner)

Not available the 19th of May.

***Motion* (Johnson) to continue Agenda Item 1 to May 19, 2010.**

Seconded (Pennisi) provided TAS and John Frame consultation.

Commissioner Johnson states that these are overlapping issues. The parties could come to an agreement and John Frame can disagree. The consultation will not include John Frame.

Passed 3-1 with Pennisi voting Nay.

2. Ruth 2010-01: Design Review and Coastal Development Permit for 777 Edwards Street; APN: 042-081-18.

Description of project (T. Parker, Staff)

Staff finds the project consistent with the City's Zoning Ordinance and General Plan and other policies and regulations. Should the project pass Design Review, approval of the project is recommended.

Commissioner Fraser is recused from the decision process as she owns property within the 300 or 500-foot standard assumed for financial conflict distance.

Commissioner Lin will still be part of the process even though he is acquainted with the applicant. His residence is more than 500 ft. from the property in question.

Commissioner Johnson
Concerned about the small area for a leachfield.

T. Parker (City Planner)
Has contacted the Health Department, and the. ~~Yes,~~ site is tight for septic requirements, but the leach lines have been replaced ~~in a timely manner~~fairly recently, ~~they can~~ and could be expanded to front yard if necessary. ~~and the project had similar issues but it worked.~~ The system is functioning properly and the Health Dept. had no objections to this project.

Commissioner Johnson
For the 2 units, what is the current permitted system?

T. Parker (City Planner)
The ~~P~~permit records are not clear, and several different permits were issued, but did not indicate a 2-unit residence. The most recent plot plan was approved for a 3-bedroom system, and the 2 units currently total 3 bedrooms. The residence was under different ownership and it is impossible to tell when the second unit was established. ~~differ: in1973 it was not consistent?; 1975 a new system was built for a 1-unit, 2-bedroom, and in 1991 the leach lines were abandoned and relocated, but the plot plan was approved for a 3-bedroom residence.~~

Commissioner Johnson
The Health Department knows it's a 3-bedroom residence?

T. Parker (City Planner)
The records are all different, but the Health Department doesn't have a problem with it, and the current site plan that was referred to them indicates 2 units and 3 bedrooms. ~~There's no record of when it became two units.~~

Commissioner Johnson
Materials and colors of new additions must be similar. The concrete block in the elevation drawings of the lower level shop look different from the exterior surface of the rest of the building.

Stephen Ruth (owner)
The upper part of the house has ~~passed to form~~some asbestos siding. There is a stable form in the sun room instead of asbestos-concrete siding that will be replaced~~to~~ replace. From the garage to lower level, there is concrete around with stone mosaic.

Public Comment

Richard Hellar (Ruth's neighbor)
No objections but concerned about sound from the workshop.

Stephen Ruth (owner)
There will be sounds from rock saws but enclosed in buildings and a skill saw for woodworking but kept between the hours of 9am-10pm. The noise will be less than that of a lawnmower or weed whacker and intermittent.
The studio addition is for the independence of the daughter. The 1250-gallon septic tank is regularly inspected. The last inspection included the addition of a filter and was in good, working order.

The only obstruction of view is 5°of Richard Hellar's upper deck, secondary view of Trinidad Head.

Keith Stern (residence designer)
The 8" concrete block and double-paned windows are for noise reduction.

The family comments on how the house will help their lifestyle.

Commissioner Johnson opens up the floor for comments.

Commissioner Lin
Trinidad has a limited number of long-term residents. The City can't fill their public service jobs. Likes to see permanent families.

Commissioner Pennisi
Thanks staff for complete report and neighbors for support. Likes to see communication lines open.

T. Parker (City Planner)
Should condition 6 be removed? The difference between this project and the ~~_____~~Jacolick project in which it was required that the kitchen be removed (in essence removing the second unit) is that this unit ~~it may~~could be nonconforming; the second unit could have been built before 1980.. ~~T~~The ~~other~~previous project was known to be an illegal second unit. ~~The second unit could have been built before 1980.~~

Motion (Pennisi/Lin) to remove Condition 6.

Commissioner Johnson
Has issues with the septic system but no objection if the Health Department recommends it. The OWTS Ordinance will be in place soon so there will be

better records and more structure. Clarification: is this for family use as opposed to a rental?

Stephen Ruth (owner)
May rent out until whole family can move but would still be a 1-family residence.

Commissioner Johnson
Keep Condition 6?

T. Parker (City Planner)
Could change the wording and require a reserve area. State that if a unit is rented, the septic system maintenance should be posted.

Commissioner Johnson
If approved, have specific instructions for renters.

Commissioner Pennisi
Agrees.
***Motion* (Pennisi/Johnson)** (Read the motion from the staff report) and amended so to remove Condition 6 requiring the kitchen to be removed, but adding another condition 6 that if either~~the~~ unit is rented separately, information regarding the use and care of the septic system must be given to the potential renter and / or posted in the unit ~~(VAGUE!)~~
Passed 3-0 (Commissioner Fraser abstained)

Stephen Ruth (owner)
Suggests septic tank care and procedures should be provided to residents.

Commissioner Johnson
When the OWTS Ordinance released there will be a significant amount of public information and awareness available, though there already is.

3. General Plan Update/Staff Report: Circulation Element.
Description of element (T. Parker, Staff)
Is going to do a final review (post Steve's edits) and will get it to Commission soon.

General Plan special meeting: March 31st.
Commissioner Pennisi may be absent.

City Council Liaison
Kathy Bhardwaj (City Council Liaison)
Enforcement: will include 3 registered letters, a standard way to approach, and will recommend it for the budget.

Moss Subdivision: wait for the documents-will comment then and get those to the Planning Commission.

Edwards Street: grant application already covered.

City Council appointment: position open until March 31 to see if more apply. Decision will be made at the April meeting.

- **Meeting adjourned at 9:30pm.**

Submitted by:

Approved by:

_____

Sarah Caldwell

_____

Richard Johnson
Planning Commission Chair

MINUTES OF THE REGULARLY SCHEDULED MONTHLY MEETING OF THE TRINIDAD PLANNING COMMISSION
WEDNESDAY, APRIL 17, 2010

I. CALL TO ORDER/ROLL CALL

Commissioners Present: Johnson, Fraser, Rothell, Hinderyckx
Commissioners Absent: Pennisi
Council Liaison Bhardwaj was absent.
Staff: Planner Parker

II. APPROVAL OF MINUTES

March 17, 2010

Parker noted that there were some blanks and highlights in the April 17th meeting that she had not realized were there. She noted that she had made the necessary corrections and additions except could not remember any specifics about the asbestos siding discussion in the Ruth project. It was also noted that there was not a quorum of Commissioners that had been at the March 17th meeting in order to approve them anyway. It was determined that approval of the March 17th minutes should be continued to the next meeting and that Parker would contact Ruth to clarify the asbestos question.

April 21, 2010

Both the new Commissioners noted that their names were spelled incorrectly. Correct spelling is Rothell and Hinderyckx. *Motion* (Fraser / Rothell) to approve the April 21st minutes as corrected. **Passed unanimously.**

III. APPROVAL OF AGENDA

Motion (Fraser / Rothell) to approve.
Passed unanimously.

IV. ITEMS FROM THE FLOOR

None.

V. AGENDA ITEMS

1. Lake 2010-03: Design Review and Coastal Development Permit for a 964 sq. ft. single-story addition to an existing 1,500 sq. ft., single-story, 2-bedroom, single-family residence. The project will also require approval of a Variance to allow an ADA ramp to extend into a required side-yard setback. Located at 740 Edwards Street; APN: 042-041-24. *Note that the applicant has requested the continuance of this item to the July 21, 2010 regularly scheduled meeting due to an unexpected absence. Public comment may be heard, but no action will be taken on this item other than to continue the public hearing to the July meeting.*

   Staff Report
   Summary: Parker

   Parker summarized the staff report, highlighting the site conditions, size of the proposed addition, the 3 setback issues, one of which requires a variance, the septic system and the required findings.

Commissioner Comments
Commissioner Johnson asked about the construction of the ADA ramp and a discussion ensued about how it fits under the definitions (porch, landing, deck, patio, etc.)

Applicant Agent Comments
Noted that the property owners had to leave town unexpectedly and so were not able to get the story poles up before the meeting. They had requested the continuance so they could be around before the meeting to answer people's questions.

Public Comments
T. Huff, a neighbor, wanted to make sure that he could comment at the next, continued hearing and that he would not be restricted to commenting tonight. Parker assured him that next month would be an open public hearing and that he would have another opportunity to comment.

Continuance:
As requested by the applicant, the item was continued to the next regularly scheduled meeting of July 21, 2010.

2. Trinidad 2010-04: Use Permit and Coastal Development Permit to remove a large (>12" DBH) Sitka spruce tree from within a City right-of-way at the request of a property owner in order to regain view and access to sunlight. Located in the public right-of-way near the northeast intersection of Frontage Road and Westhaven Drive.

Staff Report
Summary: Parker

Parker summarized the staff report, noting that the Council had already heard this issue and approved City staff and expenditures to remove the tree. There was money in the budget for tree trimming and maintenance that had not yet been used. Therefore, the Commission was reviewing the issues of the Coastal Development Permit in the form of a Use Permit because the tree is over 12" DBH and so constitutes 'major vegetation removal' under the definition of development. She also noted that the Commission had expressed concerns in the past that the Use Permit findings are not appropriate for tree removal approvals, and that would be something that would updated in the next revision of the Zoning Ordinance.

Public Comments
The citizens that had originally requested the tree removal presented some additional photographs and explained how their house had originally been built to take advantage of passive solar heating, but now this tree blocks all sunlight in the winter.

Commissioner Comments
Commissioner Johnson clarified that tree issues are very sensitive and must be considered on a case-by-case basis and that this approval would not set any kind of precedent or policy for future tree removal requests.

Commissioner Fraser asked what the cost would be: $950.

Motion:
(Hinderyckx / Fraser) to make the required findings and approve the use permit based on information in the staff report and public testimony. **Passed unanimously (4-0)**

3. CA Coastal Trail: Alignment informational discussion item.

Staff Report
Representing the CA Coastal Trail project, Bob Brown presented information on what the Coastal Trail is, the grant that he is working on. He explained the proposed alignment of the trail through Trinidad, for both bikes and pedestrians as well as other efforts in the County, particularly for crossing Little River. He also described the current efforts and priorities of this project. He noted that there had been several stakeholder meetings, and that City representatives (e.g. Mayor Binnie) had been participating. He stated that an administrative draft would soon come out and then a public hearing draft would follow that. Brown also explained that markers may be put up on trails sections and that dedication ceremonies could also be part of it. He stated that he wanted to let the Planning Commission know about this project and give them an opportunity to ask questions or offer comments.

Staff Report

Parker noted that Council Liaison Bhardwaj had recently had knee surgery, and so sent her apology for not being able to make it tonight. Parker also noted that she was focusing work right now on the Clean Beaches grant since time was an issue. She said that she would start working on the General Plan again in July (new fiscal year). She also stated that the Council would soon be taking up the ADU ordinance drafted by the Planning Commission in 2008.

City Council Liaison

Council Liaison Bhardwaj was absent.

- **Meeting adjourned (Fraser) at 8:20pm.**

Submitted by:

Trever Parker
City Planner

Approved by:

Richard Johnson
Planning Commission Chair

STAFF MEMO

SUPPORTING DOCUMENTATION FOLLOWS WITH: 1 PAGES

CITY of TRINIDAD

MEMORANDUM

TO: Trinidad Planning Commission

FROM: Trever Parker, City Planner

DATE: July 15, 2010

RE: This month's agenda items

I just wanted to provide you with a few quick notes of the items included as part of this month's agenda packet.

1. Lake 2010-03: Since the last meeting, in which the item was continued at the request of the applicant with little discussion, the applicant has been working with a neighbor that is concerned about the loss of views from his residence located to the northwest of the project. The applicant has just submitted revised plans that reduces part of the extension of the addition to the south by 2 feet in order to minimize the view impacts. This reduces the square footage by 57 s.f. Because the change is minor in terms of the analysis, instead of trying to find and recalculate all the related numbers in the staff report and printing out new copies for the packet, I just updated the Table that lists all the square footages and included it below.

TABLE 1 - AREAS

	EXISTING	PROPOSED	AMENDED
LOT AREA	11,057 s.f.	11, 057 s.f.	11,057
FLOOR AREA			
Primary Residence	1,496 s.f.		1,496 s.f.
Addition		964 s.f.	877
Total Residence	**1,496 s.f.**	**2,460 s.f.**	**2,403 s.f.**
Garage / Utility	373 s.f.	373 s.f.	373 s.f.
Footprint (w/out garage / utility)	1,496 s.f.	2,460 s.f.	2,403 s.f.
Footprint (w/ garage / utility)	1,869 s.f.	2,833 s.f.	2,776 s.f.
FLOOR TO LOT AREA RATIO			
Total Residence	**13.5 %**	**22.2 %**	**21.7 %**
Total Footprint	16.9 %	25.6 %	25.1 %

4. General Plan: I have done some updating to the Circulation Element of the General Plan. This element focuses on transportation as well as public services. I still want to add some additional information from some of the background reports that have been prepared as well as incorporate the most recent data from the traffic counters. But even thought there are still updates, there is plenty to review at this point. I will provide additional figures prior to or at the meeting.

DISCUSSION AGENDA ITEM #1

SUPPORTING DOCUMENTATION FOLLOWS WITH: 15 (+ Plans) PAGES

1. Lake 2010-03: Design Review and Coastal Development Permit for a 964 907 sq. ft. single-story addition to an existing 1,500 sq. ft., single-story, 2-bedroom, singlefamily residence. The project will also require approval of a Variance to allow an ADA ramp to extend into a required side-yard setback. Located at 740 Edwards Street; APN: 042-041-24. *Continued from the June meeting.*

Filed:	May 10, 2010
Staff:	Trever Parker
Staff Report:	June 4, 2010
Hearing Date:	June 16, 2010
Commission Action:	

STAFF REPORT: CITY OF TRINIDAD

APPLICATION NO:	2010-03
APPLICANT (S):	Robert Lake
AGENT:	Mike Nelson, LACO Associates
PROJECT LOCATION:	740 Edwards Street
PROJECT DESCRIPTION:	Design Review, Variance and Coastal Development Permit for a 964 sq. ft. single-story addition to an existing 1,500 sq. ft., single-story, 2-bedroom, single-family residence.
ASSESSOR'S PARCEL NUMBER:	042-041-24
ZONING:	UR – Urban Residential
GENERAL PLAN DESIGNATION:	UR – Urban Residential
ENVIRONMENTAL REVIEW:	Categorically Exempt from CEQA per § 15301 of the CEQA Guidelines exempting alterations and additions to existing structures.

APPEAL STATUS:

Planning Commission action on a coastal development permit, a variance or a conditional use permit, and Design Assistance Committee approval of a design review 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 **_X_ is** ~~__ is not~~ appealable to the Coastal Commission per the requirements of Section 30603 of the Coastal Act.

SITE CHARACTERISTICS:

The property is located on the north side of Edwards Street, just west of the intersection with Van Wycke. Access to the site is from Edwards Street. The site is bordered by other residential development to the east and west, Edwards Street to the south and directly north is Katy's Smokehouse, also owned by the applicant. The lot size, according to the site plan, is 11,057 s.f., and is currently developed with a 1,496 s.f. two-bedroom, one-story residence with a one-car garage. The majority of the site is already covered with the existing residence and paving, which includes parking and a driveway to access the Katy's Smokehouse property in the rear as well as two adjacent residences. Proposed improvements include the addition of a den, exercise room, living room and a new ADA bath and entrance on the east side bringing the square footage to 2,464. The proposed project is not located in an area of unstable or questionable stability. Most of the lot has an approximately 4% slope to the southwest, which steepens on the southern portion of the lot towards Edwards Street.

STAFF COMMENTS:

The project will increase the building footprint by approximately 1,000 s.f., but will not increase the amount of impervious surfaces due to existing pavement. The project will not affect the slope or existing drainage, and minimal excavation will be required for the perimeter foundation for the addition. No tree removal or new landscaping is proposed. The applicant will place story poles indicating the extent of the proposed development prior to the meeting. Note however, that the applicant has just requested that the project be continued to the July meeting. The reason is due to an unexpected but required medical absence. This means that the story poles will likely not be put up prior to the June meeting, but prior to the July meeting instead. Note that the public notices have already gone out, and the applicant's agent will attend this June meeting. The Planning Commission should consider taking public comment at this point, particularly if someone can not make it to the July meeting. It would also be appropriate to ask questions for clarification or additional information of the agent, who can then prepare any additional information needed for the July meeting.

Referrals were sent to the Building Official, City Engineer and the County Division of Environmental Health (DEH). A building permit will be required for project construction if approved by the Planning Commission, but the Building Official had no concerns at this point. In a response to a referral, the DEH stated that it does not require further review of this project as there will be no impact to the sewage disposal system; no new bedrooms will be added and required setbacks will still be met. The City Engineer determined that there was not enough information in the plan for a complete review. Some of the comments will apply to the building permit process, but are not needed for planning review, and others can be found in additional file information. The Engineer's comments and Planner's responses are listed below:

1. All documents should be signed and stamped by Preparer, Architect or Engineer. *Response: This is not required by planning for site plan and design review, but may be required on the building plans.*
2. Show underground utilities (water, electrical, sewer, leachlines, etc). *Response: The electrical and water lines are shown on the plans, as is the septic tank. I have also provided the latest information from the DEH that also shows the leachline locations.*
3. Estimate earthwork cut and fill volumes. *Response: Only minimal excavation will be required for the perimeter foundation. The proposed perimeter is approximately 120 feet, and therefore should result in less than 10 cubic yards of soil disturbance, which is well under the 50 cubic yards before a permit is required.*
4. Show lot line dimensions and property corners/landmarks. *Response: The property has no known property corners, and a new survey was not done for this project. The site plan is based on previous site plans, the assessor parcel maps and was referenced using the centerline of Edwards Street as shown on the current site plan.*
5. Show required setback distances (for water lines, property lines, buildings, steep slopes, etc.) for existing septic tank and leachlines. *Response: The new setback to the existing septic tank is shown on the plans. The leachlines are located in the grassy landscaped area on the southern portion of the property and will not be impacted by this project. No change to the existing septic system is proposed. In addition, the DEH has reviewed this project and had no objections or additional requirements. I have also provided the site plan approved by the DEH for the new system / repair done in 1996 that does indicate those setbacks.*
6. Show location and dimensions of reserve leach field area. *Response: There is no reserve area on this property.*
7. Review of the existing sewage disposal system by the Humboldt County Department of Public Health, Division of Environmental Health. *Response: As previously noted, the DEH had no objections or additional requirements for this project in response to a referral.*
8. Review by the building official for conformance with applicable cods and standards. *Response: As previously noted, the Building Official had no comments this project at this time in response to a referral; Building Code requirements will be addressed during the subsequent building permit process.*

ZONING ORDINANCE/GENERAL PLAN CONSISTENCY

The property where the project is located is zoned UR – Urban Residential. The purpose of this zone is to allow relatively dense residential development; single-family residences are a principally permitted use. The minimum lot size allowed in the UR zone is 8,000 s.f. and the maximum density is one dwelling per 8,000 s.f. This project is proposed for an approximately 11,057 s.f. lot. This is more than the minimum lot size, and considered a legal buildable lot. Note that a calculation based on the lot dimensions shown on the Assessor's Parcel Map results in a lot area of approximately 11,200, so the above number is rather conservative.

The remodel construction includes adding on approximately 971 sq. ft. to south side (front) of the existing 1,496 sq. ft. residence with the addition of a den, exercise room, living room and an ADA bathroom and new entry on the east side of the building. The proposed living space would be an addition of 964 sq. ft. and the proposed additional building sq. ft. would come to 1,001 sq. ft. Table 1 summarizes the project square footages.

TABLE 1 - AREAS

	EXISTING	PROPOSED
LOT AREA	11,057 s.f.	11, 057 s.f.
FLOOR AREA		
Primary Residence	1,496 s.f.	
Addition		964 s.f.
Total Residence	**1,496 s.f.**	**2,460 s.f.**
Garage / Utility	373 s.f.	373 s.f.
Footprint (w/out garage / utility)	1,496 s.f.	2,460 s.f.
Footprint (w/ garage / utility)	1,869 s.f.	2,833 s.f.
FLOOR TO LOT AREA RATIO		
Total Residence	**13.5 %**	**22.2 %**
Total Footprint	16.9 %	25.6 %

According to the site plan and application materials, the floor area of the main residence, as defined by the Zoning Ordinance Sec. 17.08.310, after the remodel, will be 2,460 s.f. which is above the maximum guideline of 2,000 s.f. in the Design Review criteria, but that is only a guideline. The floor-to-area ratio of the total residence would be 22.2%; the Planning Commission has used a standard of a 25% maximum in the past even though it is not codified; this number is based on the fact that 2,000 s.f. is 25% of an 8,000 s.f. lot. Because of the larger than average lot size the proposed residence will be 22.2% coverage of the lot and that the garage is fairly small, being only 336 sq. ft.

The Urban Residential zone (§17.36.050) requires minimum yards of front 20', rear 15', and side 5' (§ 17.36.060). The parcel faces Edwards Street to the south, and the residential addition will meet all the required setbacks. The existing garage does not meet the required rear yard setback, but will not be altered by this project. However, there are some setback issues with other proposed improvements that should be addressed. Section 17.56.110 allows eaves and overhangs to extend 2.5 feet into side yards and four feet into front, street-side and rear yards. Decks and stairways, landings, balconies and uncovered porches are allowed to extend up to eight feet into front, rear or street-side yards and three feet into side yards.

The proposed utility closet, because it is attached to the main residence, should meet all the setbacks, even though a detached accessory structure such as a storage shed would not have to meet any rear or side yard setbacks. In this case, the utility shed is proposed to extend approximately 5 ft. into the rear yard setback. Based on previous projects on this

property, it is a very view sensitive area, and in this case, the proposed location of the utility closet is the one that would have the least amount of view impact. Not shown on this plan are two structures that abut the property line to the north on the Smokehouse property – a smokehouse and a storage shed. Although these are two separate properties, they are managed as one. In 2004, Design Review approval for the storage shed to be located within the required front-yard setback of the Smokehouse property was granted based on View Protection criteria 'C', which allows the Planning Commission to reduce or eliminate required yards without a Variance in order to protect views. Staff recommends a similar finding in this case. Note that although the existing garage does not meet the required setbacks, it is an existing non-conforming structure, and §17.64.010 does not allow any alterations to nonconforming structures to increase the degree of nonconformity, so any new additions must meet current setbacks.

Second, there is what appears to be a wooden platform structure labeled as a 'porch' to the north of the aforementioned utility closet that is proposed to be constructed all the way to the rear property line. As noted above, §17.56.110 allows 'uncovered porches', decks or landings to extend only eight feet into a rear yard setback. Porches are usually defined as being covered (Merriam-Webster), a deck is a "flat, floored roofless area adjoining a house, and a patio is "a recreation area that adjoins a dwelling, is often paved, and is adapted especially to outdoor dining." The proposed structure appears to best meet the definition of a 'deck' and would therefore be required to meet the rear yard setback and not be located closer than 7 ft. to the rear property line. This has been made a condition of approval. Alternatively, if the area were paved with concrete, asphalt, bricks, etc. then it would not have to meet any setback, as there is no required setback for things such as driveways or patios, and the applicant is free to make this change.

Finally, part of the proposed ADA ramp on the east side of the house extends more than the allowable 3 ft. into the side yard setback to meet up with an existing retaining wall. Although the retaining wall along the east side runs in a straight line to meet up with corner of the property to the north, the assessor map (and site plan) actually show that is at a slight angle towards the northeast. Note that the plan is not based on an accurate survey, should be very close to accurate based on existing information. Based on this site plan, it appears that the landing / side porch would meet the required setback (2 ft.) and the ADA ramp that heads to the north would as well. However, the ramp that heads to the south has a less that 2 ft. setback (as little as a foot). The Americans with Disabilities Act (28 C.F.R. § 35.130(b)(7)) requires public entities to modify standards, policies and practices so as not to discriminate against Americans with disabilities. However, such an exception has not been codified into City ordinances, and the ADA ramp is a request from a private citizen. The applicant has noted that this is the most appropriate location for the ramp so as to be accessible to parking and into the house and also so as not to encroach on the existing driveway leading up to Katy's Smokehouse and other residences, for which there is an easement. In addition, the western area has a steeper slope and the ramp would not be able to meet ADA requirements. To make sure all bases are covered, staff is recommending that the Planning Commission consider the findings for granting a Variance to allow part of the ADA ramp into the required side yard setback.

The maximum height allowed in the UR zone, by Zoning Ordinance § 17.36.06 (average ground level elevation covered by the structure to the highest point of the roof), is 25 feet, except that the Commission may require a lesser height in order to protect views. The maximum height, as shown on the plans, of the proposed structure is 17', which does not exceed the height of the existing structure, but will extend the roofline somewhat. This height has been determined as measured from the average native ground elevation. The Trinidad General Plan and Zoning Ordinance protect importance public coastal views from roads, trails and vista points and private views from inside residences located uphill from a proposed project from significant obstruction. Because of the location of the addition, the applicant will construct a mock outline of the proposed addition using story poles to indicate the height and extent of the development. This height is not expected to significantly affect views, but all the neighbors will be notified and given an opportunity to provide input.

The Zoning Ordinance (§ 17 56.180) requires 2 off-street parking spaces other than any garage spaces for single-family dwellings. There are two paved parking spaces shown on the plot plan, in addition to one garage space, for a total of three parking spaces.

The addition will be located on fairly level ground that is already paved, and only minimal grading will be required to accommodate the new foundation. This site is already connected to services and utilities and these will not change. Exterior materials and colors, as well as new architectural features are proposed to match existing materials and colors; samples and diagrams have been provided.

SLOPE STABILITY:

The majority of the site has a moderate 4% slope towards the southwest, and the slope significantly increases to the south approaching Edwards Street. The property in not in an area mapped as being either 'unstable' or 'questionably stable' on Plate 3 of the Trinidad General Plan. The applicant submitted additional information from the Humboldt County Web GIS system showing the construction site itself to be located in a 'low instability' zone with a portion of the front property in an area of moderate instability likely due to the steepness of slope or setback from the bluff.

SEWAGE DISPOSAL:

The property is served by a standard 3-bdrm septic system installed in 1996 as a repair. This means that some component of the old system had been in a state of failure. But a brand new system was installed in 1996. However, because it was a repair, no reserve area was required to be located or documented. The project will increase the footprint of the structure, but will not be adding any bedrooms or otherwise increasing the flow to the system. Therefore the DEH had no additional requirements for upgrading the system related to this project. The addition is not considered to be taking up potential reserve area because the area of expansion is already paved and adjacent to the existing septic tank and parking and therefore not appropriate for a future leachfield. However, even though the lot is large, there is limited space for a reserve area due to the extent of the paved

surfaces, much of which provides access to the Smokehouse and adjacent residences. But it is a fairly new and up-to-date system, and the City will be implementing its OWTS program in the very near future, which means that this system will be put on a regular inspection schedule to ensure it is maintained properly.

Because there is existing development on site, it is important to provide protection for the leachfield and reserve area during construction. Therefore, a standard condition of approval has been included that requires this. In addition, although the residence is currently only used as a 2-bdrm residence, several additional rooms are being added that in the future could be converted to bedrooms. Therefore, a standard condition of approval has been included requiring a statement to be recorded on that deed that the property shall not have more than 3 bedrooms without City and DEH approval of adequate septic capability.

Staff would also like to mention the utility sink on the adjacent smokehouse property, which is connected to the septic system on the subject property. Historically this sink had been used as a fish cleaning station for Katy's Smokehouse, located on the adjacent property to the north. Katy's Smokehouse no longer uses a fish cleaning station, because they now receive their fish already filleted. This connection could be an issue if the properties were ever sold separately. There has been discussion in the past of merging these two parcels, which would also reduce some of the setback conflicts that have come up, but is not a requirement for this project. The proposed project will not change the condition of the utility sink hook-up.

LANDSCAPING AND FENCING:

No tree removal is proposed as part of this project; no new fencing or landscaping is proposed at this time.

DESIGN REVIEW / VIEW PROTECTION FINDINGS:

Because the project is located within the Coastal Zone and includes an addition to a structure that alters the exterior profile and appearance, §17.60.030 of the Zoning Ordinance requires Design Review and View Protection Findings to be made as well as approval of a Coastal Development Permit. Application materials show the project location and include a plot plan and elevations that show proposed and existing improvements. Required Design Review / View Preservation Findings are written in a manner to allow approval, without endorsing the project. However, if public hearing information is submitted or public comment received indicating that views, for instance, may be significantly impacted, or the structure proposed is obtrusive, the findings should be reworded accordingly.

Design Review Criteria

A. *The alteration of natural landforms caused by cutting, filling, and grading shall be minimal. Structures should be designed to fit the site rather than altering the landform to*

accommodate the structure. Response: Little or no grading will be required for this project. Minimal excavation will be required for the perimeter foundation, but will be less than the amount that would require a separate permit.

B. *Structures in, or adjacent to, open space areas should be constructed of materials that reproduce natural colors and textures as closely as possible.* Response: The project is near to the open space areas of the bluff south of Edwards Street, but is generally surrounded by other residential development. The proposed materials and colors have been chosen to match the existing facade.

C. *Materials and colors used in construction shall be selected for the compatibility both with the structural system of the building and with the appearance of the building's natural and man-made surroundings. Preset architectural styles (e.g. standard fast food restaurant designs) shall be avoided.* Response: The proposed addition is consistent with existing and surrounding residential development. Exterior materials and colors have been designed to be consistent with the existing residence.

D. *Plant materials should be used to integrate the manmade and natural environments to screen or soften the visual impact of new development, and to provide diversity in developed areas. Attractive vegetation common to the area shall be used.* Response: No changes to existing landscaping are currently proposed. However, it can be found to be unnecessary because the project is consistent with existing and surrounding residential development, and the project will not result in a significant change in the appearance of the site.

E. *On-premise signs should be designed as an integral part of the structure and should complement or enhance the appearance of new development.* Response: No on-premise signs are associated with this project.

F. *New development should include underground utility service connections. When above ground facilities are the only alternative, they should follow the least visible route, be well designed, simple and unobtrusive in appearance, have a minimum of bulk and make use of compatible colors and materials.* Response: The project will not alter existing service and utility connections.

G. *Off-premise signs needed to direct visitors to commercial establishments, as allowed herein, should be well designed and be clustered at appropriate locations. Sign clusters should be a single design theme.* Response: No off-premise signs are associated with this project.

H. *When reviewing the design of commercial or residential buildings, the committee shall ensure that the scale, bulk, orientation, architectural character of the structure and related improvements are compatible with the rural, uncrowded, rustic, unsophisticated, small, casual open character of the community. In particular:*
   1. *Residences of more than two thousand square feet in floor area and multiple family dwellings or commercial buildings of more than four thousand square feet in floor*

area shall be considered out of scale with the community unless they are designed and situated in such a way that their bulk is not obtrusive.

2. *Residential and commercial developments involving multiple dwelling or business units should utilize clusters of smaller structures with sufficient open space between them instead of a consolidated structure.*

Response: The proposed addition will result in a residence of that is 2,497, which is above the 2,000 s.f. guideline. However, the additions are towards Edwards Street and so will not increase the bulk of the structure from that vantage point. In addition, the bay windows and triangular rooftops will enhance the look of the building and break up the bulk. Upgrades to the residence will include rooftop solar panels, complementing the "green" philosophy that Trinidad is striving for. Another guideline used by the Planning Commission is a maximum floor area of 25% of the lot area. The proposed residence floor-to-area ratio (FAR) will have a 22.5% FAR. The proposed residence is still consistent with the scale and typology of nearby residences. The design enhances the architecture of the building and exhibits a pleasing silhouette on one of Trinidad's busiest streets.

View Protection

A. *Structures visible from the beach or a public trail in an open space area should be made as visually unobtrusive as possible.* Response: The project would be visible from a portion of the Van Wycke Trail and Edwards Street, but will not change the overall character of the structure or the site.

B. *Structures, including fences over three feet high and signs, and landscaping of new development, shall not be allowed to significantly block views of the harbor, Little Trinidad Head, Trinidad Head or the ocean from public roads, trails, and vista points, except as provided in subdivision 3 of this subsection.* Response: Due to the project's location, it has minimal potential to block public views. The proposed project has been designed to present the least amount of view impact to the uphill neighbors, and the roofline will not be any higher than the existing.

C. *The committee shall recognize that owners of vacant lots in the SR and UR zones, which are otherwise suitable for construction of a residence, are entitled to construct a residence of at least fifteen feet in height and one thousand five hundred square feet in floor area; residences of greater height as permitted in the applicable zone, or greater floor area shall not be allowed if such residence would significantly block views identified in subdivision 2 of this subsection. Regardless of the height or floor area of the residence, the committee, in order to avoid significant obstruction of the important views, may require, where feasible, that the residence be limited to one story; be located anywhere on the lot even if this involves the reduction or elimination of required yards or the pumping of septic tank wastewater to an uphill leach field, or the use of some other type of wastewater treatment facility; and adjust the length-width-height relationship and orientation of the structure so that it prevents the least possible view obstruction.* Response: The proposed project has been designed to present the least amount of view impact to the uphill neighbors, and the roofline will not be any higher than the existing.

D. *If a residence is removed or destroyed by fire or other means on a lot that is otherwise usable, the owner shall be entitled to construct a residence in the same*

location with an exterior profile not exceeding that of the previous residence even if such a structure would again significantly obstruct public views of important scenes, provided any other nonconforming conditions are corrected. Response: There was no residence that was destroyed by fire associated with this project.

E. *The Tsurai Village site, the Trinidad Cemetery, the Holy Trinity Church and the Memorial Lighthouse are important historic resources. Any landform alterations or structural construction within one hundred feet of the Tsurai Study Area, as defined in the Trinidad general plan, or within one hundred feet of the lots on which identified historical resources are located shall be reviewed to ensure that public views are not obstructed and that development does not crowd them and thereby reduce their distinctiveness or subject them to abuse or hazards.* Response: The proposed project is not within 100 feet of the Trinidad Cemetery, Holy Trinity Church or the Memorial Lighthouse. The project is within 100 feet of the Tsurai Study Area, but will not change the character or use of the site that could have impacts on adjacent areas.

VARIANCE FINDINGS

Because a portion of the proposed ADA ramp will not meet the side yard setback required by Zoning Ordinance § 17.44.060, Variance findings need to be made in order to approve this project. Govt. Code Section 65906 defines certain limitations to granting a variance. One such provision limits consideration to natural, physical conditions of the property where application of the general regulations would be confiscatory or produce unique hardship to the property owner. City staff, State Law and the Courts have all taken a strict interpretation of Variance provisions, generally only recommending them for severely, physically limited properties. In order to avoid setting precedence, staff does not normally recommend approval of variances, regardless of their nature or impact, when the owner has alternative options, even though those options may be less desirable, and when there are viable use(s) available on the lot. However, in this case, the variance is so minor and is for an ADA ramp for which a City may be required to make special allowances for. The City's Zoning Ordinance does not have any provisions for exceptions to the standards other than the variance process. The Planning Commission should evaluate whether the required findings can be made to approve this project. The following is an explanation of variances from the *California Planning Guide* put out by the Governor's Office of Planning and Research:

> *"A variance is a limited waiver of development standards allowed by the zoning ordinance. It may be granted, after a public hearing, in special cases where: (1) strict application of the zoning regulations would deprive property of the uses enjoyed by nearby lands in the same zone; and (2) restrictions have been imposed to ensure that the variance will not be a grant of special privilege.*
>
> *"A variance does not permit a use that is not otherwise allowed in that zone (for example, a commercial use may not be approved in a residential zone by variance). Economic hardship alone is not sufficient justification for approval of a variance. Typically, variances are considered when the physical characteristics of the property make it difficult to use. For instance, in a situation where the rear half of a lot is a*

steep slope, a variance might be approved to allow a house to be built closer to the street than usually allowed."

Section 17.72.030 of the Trinidad Zoning Ordinance allows that: *A variance may be granted only upon adoption of written findings showing that all of the following conditions are present:"* (emphasis added) The responses below have been provided by staff based on statements by and discussions with the applicant / agent.

A. *That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other properties or uses in the same class or district.* Response: The need for an ADA ramp is a situation that does not apply generally to other single-family residential properties. The slope of the lot makes the proposed configuration of the ADA ramp necessary. In addition, this parcel serves for ingress and egress to both the Smokehouse business to the rear, as well as two adjacent residential properties, which limits the use of the western portion of the lot.

B. *That owing to such exceptional or extraordinary circumstances the literal enforcement of specific provision of this title would result in the practical difficulty or unnecessary hardship not created by or attributable to the applicant or the owner of the property.* Response: The property has been in a similar configuration for many years, long before a zoning ordinance and land use regulations were adopted. Due to the slope of the lot and the accessway, constructing the ADA ramp on the east side of the house would result in practical difficulty by not meeting ADA slope requirements and encroaching on the driveway.

C. *That such variance will not constitute a grant of special privilege inconsistent with limitations imposed on similarly zoned properties.* Response: Only a very minor exception to the setback requirements are being requested in order to accommodate the ADA ramp. The Americans with Disabilities Act (28 C.F.R. § 35.130(b)(7)) requires public entities to modify standards, policies and practices so as not to discriminate against Americans with disabilities. However, such an exception has not been codified into City ordinances, and the ADA ramp is a request from a private citizen, so the variance request has been made. City ordinances do not provide for any other type of exception to the standards.

D. *That such variance is necessary for the preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class or district.* Response: The purpose of the ADA ramp is for continued enjoyment of the property and ease of access to the residence.

E. *That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvement in the vicinity.* Response: There will be no detrimental effect to adjacent properties. There is already a retaining wall and

fence along the eastern boundary of the property, and so the ramp will not impact the adjacent neighbor.

F. *That the granting of such variance will be consistent with the general purpose and intent of this title and will be in conformity with the policies and programs of the general plan and the Trinidad coastal program.* Response: Only a minor variance is being requested – up to a foot of encroachment into the required side yard setback. The zoning ordinance allows exceptions to setbacks to protect views; this is for ADA accessibility and will not change the use of the property.

G. *That the variance will not permit a use other than a use permitted in the applicable zoning district.* Response: The proposed ADA ramp provides greater accessibility for the existing, conforming residential use.

H. *That either the variance will have no significant adverse environmental impact or there are not feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available which would substantially lessen any significant adverse impact that the actions allowed by the variance may have on the environment.* Response: The project is Categorically Exempt from CEQA per § 15303 of the CEQA Guidelines exempting minor alterations of and additions to existing facilities. The fact that a Variance is required will not change the environmental impacts. No ground disturbance or drainage changes, etc. will occur.

I. *When the subject property is located between the sea and the first public road paralleling the sea...* Response: Not applicable.

STAFF RECOMMENDATION:

Based on the above analysis, the project is consistent with the City's Zoning Ordinance and General Plan and other policies and regulations, and the necessary findings for granting approval of the project can be made. Should the Planning Commission find that the Design Review/View Protection and Variance Findings can be made, then staff recommends that the Planning Commission approve the project with a motion similar to the following:

Based on application materials, information and findings included in this Staff Report, and based on public testimony, I move to adopt the information and required findings in this staff report and approve the project as submitted and as conditioned below.

PLANNING COMMISSION ALTERNATIVES

If the Planning Commission does not agree with staff's analysis, or if information is presented during the hearing that conflicts with the information contained in the staff report, the Planning Commission has several alternatives.

A. Alter the proposed conditions of approval to address any specific concerns on the part of the Commission or the public.
B. Delay action / continue the hearing to obtain further information.
    - In this case, the Planning Commission should specify any additional information required from staff or the applicant and / or suggestions on how to modify the project and / or conditions of approval.
C. Denial of the project.
    - The Planning Commission should provide a motion that identifies the Finding(s) that can not be made and giving the reasons for the inability to make said Finding(s).

CONDITIONS OF APPROVAL

1. The applicant is responsible for reimbursing the City for all costs associated with processing the application. *Responsibility: City Clerk to place receipt in conditions compliance folder prior to building permits being issued.*

2. Based on the findings that community values may change in a year's time, design review approval is for a one-year period starting at the effective date and expiring thereafter unless an extension is requested from the Planning Commission prior to that time. *Responsibility: City Clerk to verify prior to building permits being issued.*

3. Construction related activities are to occur in a manner that will not impact the integrity of the septic system. The leachfield area shall be staked and flagged to keep equipment off the area. Alternatively, a written description of techniques/timing to be utilized to protect the system will be required from the contractor. If the existing system area is impacted by construction activities, an immediate Stop-Work Order will be placed on the project. The contractor will be required to file a mitigation report for approval by the City and County Health Department prior to permitting additional work to occur. *Responsibility: Building Official to verify prior to building permits being issued and during construction.*

4. Recommended conditions of the City Building Official and City Engineer shall be required to be met as part of the building permit application submittal. Grading, drainage and street improvements will need to be specifically addressed at the time of building permit application. *Responsibility: Building Official prior to building permits being issued.*

5. Construction related activities are to occur in a manner that incorporates storm water runoff and erosion control measures in order to protect water quality considerations near the bluffs. Specific water quality goals include, but are not limited to:
    a. Limiting sediment loss resulting from construction
    b. Limiting the extent and duration of land disturbing activities
    c. Replacing vegetation as soon as possible
    d. Maintaining natural drainage conditions

Responsibility: Building Official to confirm at time building permits are issued.

6. The applicant is responsible for submitting proof that a statement on the deed, in a form approved by the City Attorney, has been recorded indicating that any increase in the number of bedrooms above a total of three bedrooms or use of the property in excess of a single unit will require City approval of adequate sewage disposal capabilities and other applicable standards. *Responsibility: Building Official to verify prior to building permits being issued.*

7. Applicant to provide method for City to verify height measurements (such as a reference stake) before and during the roof framing inspection and upon project completion. *Responsibility: Building Official to confirm at time building permits are issued and during construction inspections.*

8. Applicant shall direct roof drainage downspouts away from the septic system tank and leachfields and into the City's stormwater system. *Responsibility: Building Official to confirm at time building permits are issued.*

[illegible] and Judy Lake
740 Edwards Street
Trinidad, CA
APN 042-041-24

Approved [illegible]
[illegible]
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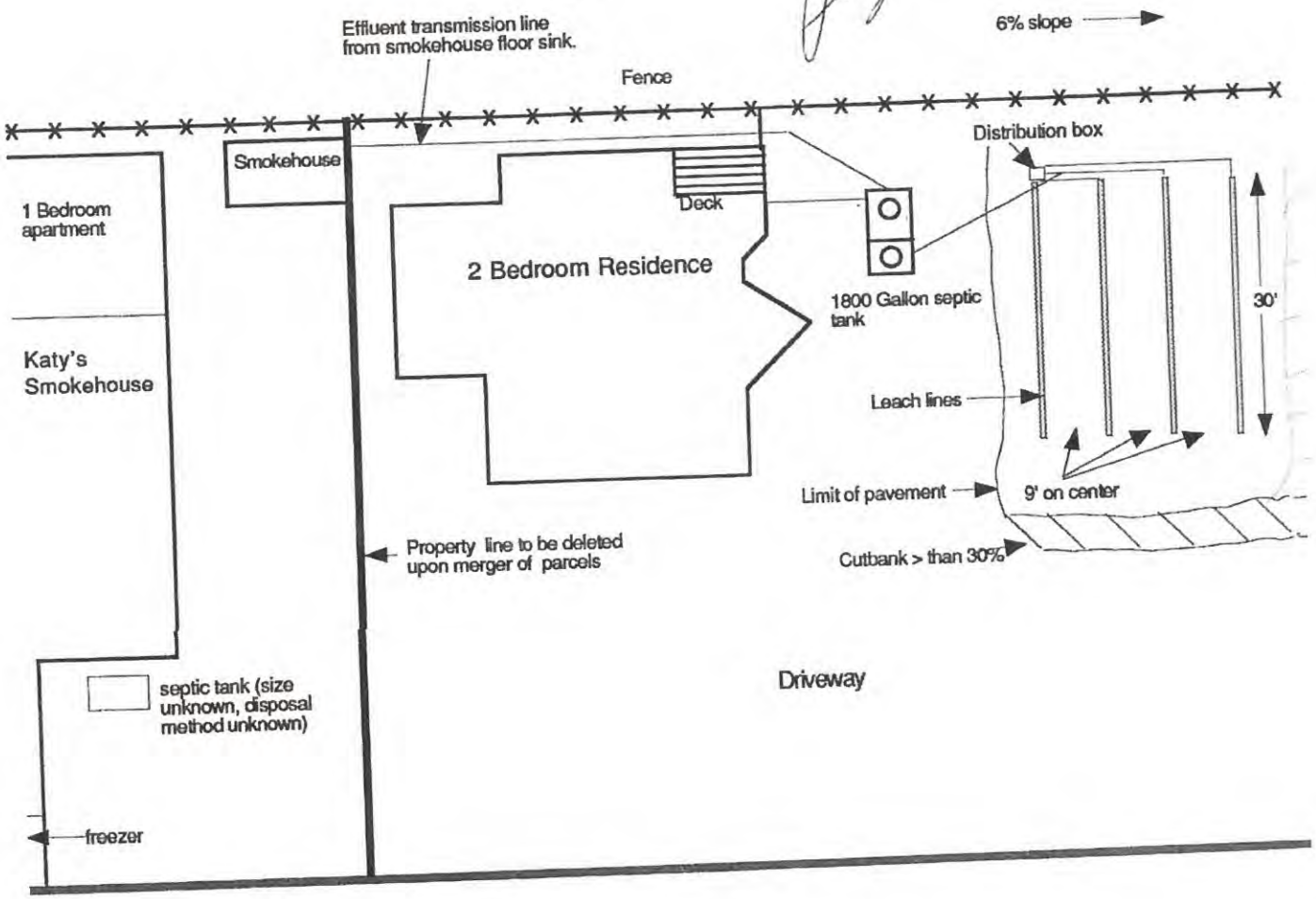

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DISCUSSION AGENDA ITEM #2

SUPPORTING DOCUMENTATION FOLLOWS WITH: 12 (+ Plans) PAGES

2. **Davis 2010-05**: Design Review and Coastal Development Permit for: (1) 37 sq. ft. single story addition to an existing 605 sq. ft. 1-bedroom residence; (2) remodel the interior of the existing garage to convert approx. half of it (416 sq. ft.) into conditioned workspace with a half-bath; and (3) replace an existing storage shed. A Variance is being requested to accommodate a portion of the residential addition within the front yard setback. Located at 558 Hector Street; APN: 042-041-22

Filed: June 18, 2010
Staff: Trever Parker
Staff Report: July 9, 2010
Hearing Date: July 21, 2010
Commission Action:

STAFF REPORT: CITY OF TRINIDAD

APPLICATION NO:	2010-05
APPLICANT (S):	John and Anne Davis
AGENT:	John Pope, Cottage Construction
PROJECT LOCATION:	558 Hector Street
PROJECT DESCRIPTION:	Design Review for: (1) 37 sq. ft. single story addition to an existing 605 sq. ft. 1-bedroom residence; (2) remodel the interior of the existing garage to convert approx. half of it (416 sq. ft.) into conditioned workspace with a half-bath; and (3) replace an existing storage shed. A Variance is being requested to accommodate a portion of the residential addition within the front yard setback.
ASSESSOR'S PARCEL NUMBER:	042-041-022
ZONING:	UR – Urban Residential
GENERAL PLAN DESIGNATION:	UR – Urban Residential
ENVIRONMENTAL REVIEW:	Categorically Exempt from CEQA per § 15301 of the CEQA Guidelines exempting alterations and additions to existing structures.

APPEAL STATUS:

Planning Commission action on a coastal development permit, a variance or a conditional use permit, and Design Assistance Committee approval of a design review 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, but may be appealable per the requirements of Section 30603 of the Coastal Act.

SITE CHARACTERISTICS:

The property is located on the west side of Hector Street half-way between Edwards and Underwood. Access to the site is from Hector Street. The site is bordered by other residential development and property on all sides; the Holy Trinity Catholic Church, a historic landmark is located across Hector Street to the northeast. The property is approximately 7,200 s.f. in size, and is currently developed with a 605 s.f., one-bedroom, single-story residence. Other existing improvements include a 760 sq. ft. garage and 200 sq. ft. storage shed. The lot slopes gently toward the southwest.

STAFF COMMENTS:

Referrals were sent to the Building Official, City Engineer and the County Health Department. The project will not significantly increase the building footprint, will not affect drainage and will not require street improvements. A building permit will be required for project construction if approved by the Planning Commission. Current policies of the Health Department do not require further review of this project since the project will not encroach on the existing system, nor is it adding a bedroom; the Health Dept. had no objections to the project in response to a referral. A standard condition of approval has also been included that any conditions of the City Engineer and Building Official must be met prior to building permit issuance and that any grading, drainage and street improvement requirements will be addressed during the building permit process. The Building Official noted building permits are required for all the construction, including the rebuild of the small shed. He also noted that the shed would have to meet current setback, which is 0 according to the existing zoning ordinance (see further discussion below). The Building Official also noted that the septic system and all setbacks should be noted on the site plan. The City Engineer also noted these same three issues in response to the project referral – setbacks, septic and building permits.

Conflict of Interest

Commissioner Fraser owns property well within the 300 or 500 ft. standard assumed financial conflict distance. As noted in the past, this is just an assumed conflict, and it is up to Commissioner Fraser to determine if the proximity of her residence results in a financial conflict of interest that would require her to recuse herself. The guidance memo from the City Attorney dated November 2008 mainly addresses the issue of location of nearby real property, as opposed to other types of potential conflicts. The Conflict of Interest Code and Political Reform Act (located at §81000 and §87000 et. seq. of the Government Code) also address financial conflicts as opposed to personal conflicts. It is up to each individual Commission to make the determination as to whether they have a conflict of interest and should recuse themselves from voting on a project.

ZONING ORDINANCE / GENERAL PLAN CONSISTENCY

The property where the project is located is zoned UR – Urban Residential. The purpose of this zone is to allow relatively dense residential development; single-family residences are a principally permitted use. The minimum lot size allowed in the UR zone is 8,000 s.f. and the maximum density is one dwelling per 8,000 s.f. This project is proposed for an approximately 7,200 s.f. lot. This is less than the minimum lot size, but is considered a legal buildable lot.

The remodel consists of two small additions to the residence totaling 37 s.f. – a 10 s.f. addition to the front of the house to enlarge the breakfast nook, and a 27 s.f. addition to the bathroom. In addition, it is proposed to convert 416 s.f. of the existing garage into conditioned living space for use as a shop and / or game room. This would result in a residence of 1,058 s.f., including the converted garage space. The existing and proposed square footages are included in the table below. The shed is simply proposed to be replaced with a new shed within the same footprint. Accessory structures less than 500 s.f. are considered exempt from design review. However, in this case, there are multiple structures, and some items require design review, so I asked for the entire project to be shown on the plans.

TABLE 1 - AREAS

	EXISTING	PROPOSED
LOT AREA	7,200 s.f.	**7,200 s.f.**
FLOOR AREA		
Primary Residence	605 s.f.	642 s.f.
Garage Conversion	0 s.f.	416 s.f.
Total Residence	605 s.f.	**1,058 s.f.**
1-car Garage	760 s.f.	344 s.f.
FOOTPRINT (w/garage)	1,365 s.f.	1,402 s.f.
FLOOR TO LOT AREA RATIO		
Total Residence	8.4%	**14.7%**
Total Footprint	19%	19.5%

The Urban Residential zone (§17.36.050) requires minimum yards of front 20', rear 15', and side 5' (§ 17.36.060). The parcel faces Hector Street to the east. Section 17.56.110 allows eaves and overhangs to extend 2.5' into side yards and 4' into front, street-side and rear yards. Decks and stairways, landings, balconies and uncovered porches are allowed to extend up to eight feet into front, rear or street-side yards and three feet into side yards. The proposed back bathroom addition and front porch and overhang will meet the setback requirements of the zoning ordinance.

There are two issues with setbacks for this project however. The first is that the proposed addition to the breakfast nook on the east side of the house appears to be within the front yard setback. The property owners will have the site surveyed prior to the meeting, but not in time for this staff report; the submitted site plan is based on existing fences. The owners are requesting a Variance if it turns out that the 10 s.f. addition will be within the 20' front yard setback. The applicant's agent has provided justification for the Variance findings, which are included below.

The other setback issue is in creating living space within the existing garage that does not meet the 5' side yard setback. If garages are considered accessory structures (defined by §17.08.690 as "a detached building or structure, other than a sign, the use of which is accessory to the use of the lot"), then they would not have to meet rear or side setbacks (unless adjacent to a street) according to §17.56.090. In that case, the existing structure would be conforming. However, if the garage gets converted to residential use, then it should be considered to be part of, or a second, primary structure that would have to meet setbacks. This particular situation has never come up that I am aware of to provide guidance. However, as part of a Planning Commission approval in 1999, it was determined that garages should not be considered accessory structures, because they would be limited to 15 ft. in height (§17.56.090), would not have to meet setbacks, and would be exempt from design review if less than 500 s.f. If this interpretation were to be taken in this case, then the garage would be nonconforming as to setbacks, and the conversion to residential space would therefore not increase the degree on nonconformity (which is not allowed per §17.64.010). Staff would suggest that this should reasonably be the case.

The maximum height allowed in the UR zone, by Zoning Ordinance § 17.36.06 (average ground level elevation covered by the structure to the highest point of the roof), is 25 feet, except that the Commission may require a lesser height in order to protect views. The maximum height, as shown on the plans, of the existing residence is 15', and the garage and shed are 13'; the proposed additions and modifications will not increase this height. The Trinidad General Plan and Zoning Ordinance protect important public coastal views from roads, trails and vista points and private views from inside residences located uphill from a proposed project from significant obstruction. Because of the location of the addition, within the existing profile of the structure, and the fact that it is small, there is minimal potential for significant view impacts.

The Zoning Ordinance (§ 17.56.180) requires 2 off-street parking spaces other than any garage spaces for single-family dwellings. There are two parking spaces in the driveway shown on the plot plan, in addition to the one garage space, for a total of three parking spaces.

Grading will be minimal, because the project consists of small additions within or adjacent to the existing profile and foundation,. This site is already connected to services and utilities and these will not change. Exterior materials and colors are proposed to match existing materials and colors with new natural cedar shingles on the

east and south sides, and the existing tan siding on the west and north elevations will remain.

SLOPE STABILITY:

The property is located outside of any areas designated as unstable or questionable stability based on Plate 3 of the Trinidad General Plan. The site has a minimal slope to the southwest.

SEWAGE DISPOSAL:

The property has no septic system record on file at DEH. However, an inspection revealed that the property does have a standard system with a tank and leachfield; the leachfield is located to the northwest of the tank shown on the site plan. DEH had no objections or comments on the project. DEH staff visited the site and noted that the proposed additional will not affect the existing system or future reserve area. However, because a fairly large area is being conditioned for living space within the garage, the City's standard condition requiring a deed restriction to be recorded for the property limiting it to one-bedroom and one residential unit has been included to keep the garage space from being converted into a bedroom or secondary dwelling unit.

LANDSCAPING AND FENCING:

No tree removal is proposed as part of this project; no new fencing or landscaping is proposed at this time.

DESIGN REVIEW / VIEW PROTECTION FINDINGS:

Because the project is located within the Coastal Zone and includes an addition to a structure that expands the square footage and alters the exterior profile and appearance, §17.60.030 of the Zoning Ordinance requires Design Review and View Protection Findings to be made as well as approval of a Coastal Development Permit. Application materials show the project location and include a plot plan that shows proposed and existing improvements, and elevations. Required Design Review / View Preservation Findings are written in a manner to allow approval, without endorsing the project. However, if public hearing information is submitted or public comment received indicating that views, for instance, may be significantly impacted, or the structure proposed is obtrusive, the findings should be reworded accordingly.

Design Review Criteria

A. *The alteration of natural landforms caused by cutting, filling, and grading shall be minimal. Structures should be designed to fit the site rather than altering the landform to accommodate the structure.* Response: Little or no grading will be required for this project. The additions are very small and the site is fairly flat.

B. *Structures in, or adjacent to, open space areas should be constructed of materials that reproduce natural colors and textures as closely as possible.* Response: The project is not within or adjacent to any open space areas and colors and textures are proposed to match the existing ones.

C. *Materials and colors used in construction shall be selected for the compatibility both with the structural system of the building and with the appearance of the building's natural and man-made surroundings. Preset architectural styles (e.g. standard fast food restaurant designs) shall be avoided.* Response: The proposed addition is consistent with existing and surrounding residential development. Exterior materials and colors have been chosen to be consistent with the existing residence.

D. *Plant materials should be used to integrate the manmade and natural environments to screen or soften the visual impact of new development, and to provide diversity in developed areas. Attractive vegetation common to the area shall be used.* Response: No changes to existing landscaping are currently proposed. However, it can be found to be unnecessary because the project is consistent with existing and surrounding residential development and a significant change is not proposed.

E. *On-premise signs should be designed as an integral part of the structure and should complement or enhance the appearance of new development.* Response: No on-premise signs are associated with this project.

F. *New development should include underground utility service connections. When above ground facilities are the only alternative, they should follow the least visible route, be well designed, simple and unobtrusive in appearance, have a minimum of bulk and make use of compatible colors and materials.* Response: The project will not alter existing service and utility connections

G. *Off-premise signs needed to direct visitors to commercial establishments, as allowed herein, should be well designed and be clustered at appropriate locations. Sign clusters should be a single design theme.* Response: No off-premise signs are associated with this project.

H. *When reviewing the design of commercial or residential buildings, the committee shall ensure that the scale, bulk, orientation, architectural character of the structure and related improvements are compatible with the rural, uncrowded, rustic, unsophisticated, small, casual open character of the community. In particular:*
   1. *Residences of more than two thousand square feet in floor area and multiple family dwellings or commercial buildings of more than four thousand square feet in floor area shall be considered out of scale with the community unless they are designed and situated in such a way that their bulk is not obtrusive.*
   2. *Residential and commercial developments involving multiple dwelling or business units should utilize clusters of smaller structures with sufficient open space between them instead of a consolidated structure.*

Response: The proposed addition will result in a residence that is approximately 1,050 sq. ft., which is well below the 'guaranteed' minimum of 1,500 sq. ft. provided by View Protection finding 'C' below. The floor-to-lot area ratio (15%) is also well below the 25% guideline used by the Planning Commission.

View Protection

A. *Structures visible from the beach or a public trail in an open space area should be made as visually unobtrusive as possible.* Response: The project is not readily visible from any beach, trail or open space area.

B. *Structures, including fences over three feet high and signs, and landscaping of new development, shall not be allowed to significantly block views of the harbor, Little Trinidad Head, Trinidad Head or the ocean from public roads, trails, and vista points, except as provided in subdivision 3 of this subsection.* Response: The proposed project, because of its size and location, does not have potential to block public views.

C. *The committee shall recognize that owners of vacant lots in the SR and UR zones, which are otherwise suitable for construction of a residence, are entitled to construct a residence of at least fifteen feet in height and one thousand five hundred square feet in floor area, residences of greater height as permitted in the applicable zone, or greater floor area shall not be allowed if such residence would significantly block views identified in subdivision 2 of this subsection. Regardless of the height or floor area of the residence, the committee, in order to avoid significant obstruction of the important views, may require, where feasible, that the residence be limited to one story; be located anywhere on the lot even if this involves the reduction or elimination of required yards or the pumping of septic tank wastewater to an uphill leach field, or the use of some other type of wastewater treatment facility: and adjust the length-width-height relationship and orientation of the structure so that it prevents the least possible view obstruction.* Response: The proposed project, because of its size and location, has minimal potential to affect private views. In addition, the proposed residence is less than this 'guaranteed' 1,500 s.f.

D. *If a residence is removed or destroyed by fire or other means on a lot that is otherwise usable, the owner shall be entitled to construct a residence in the same location with an exterior profile not exceeding that of the previous residence even if such a structure would again significantly obstruct public views of important scenes, provided any other nonconforming conditions are corrected.* Response: There was no residence that was destroyed by fire associated with this project.

E. *The Tsurai Village site, the Trinidad Cemetery, the Holy Trinity Church and the Memorial Lighthouse are important historic resources. Any landform alterations or structural construction within one hundred feet of the Tsurai Study Area, as defined in the Trinidad general plan, or within one hundred feet of the lots on which identified historical resources are located shall be reviewed to ensure that public views are not obstructed and that development does not crowd them and thereby reduce their distinctiveness or subject them to abuse or hazards.* Response: The proposed project is not within 100 feet of the Trinidad Cemetery, the Tsurai Study Area or the Memorial Lighthouse. The project is within 100 feet of the Holy Trinity

Church, but due to the minor nature of the changes proposed, it will not increase the bulk or intensity of use of the structure that could have impacts on adjacent site

VARIANCE FINDINGS

Because the proposed addition to the front of the house (east side) will not meet the front yard setback required by Zoning Ordinance § 17.32.060, Variance findings need to be made in order to approve this project. Govt. Code Section 65906 defines certain limitations to granting a variance. One such provision limits consideration to natural, physical conditions of the property where application of the general regulations would be confiscatory or produce unique hardship to the property owner. City staff, State Law and the Courts have all taken a strict interpretation of Variance provisions, generally only recommending them for severely, physically limited properties. In order to avoid setting precedence, staff does not normally recommend approval of variances, regardless of their nature or impact, when the owner has alternative options, even though those options may be less desirable, and when there are viable use(s) available on the lot. However, the Planning Commission can make their own determination. The Planning Commission should evaluate whether the required findings can be made to approve this project. The following is an explanation of variances from the *California Planning Guide* put out by the Governor's Office of Planning and Research:

> *"A variance is a limited waiver of development standards allowed by the zoning ordinance. It may be granted, after a public hearing, in special cases where: (1) strict application of the zoning regulations would deprive property of the uses enjoyed by nearby lands in the same zone; and (2) restrictions have been imposed to ensure that the variance will not be a grant of special privilege.*
>
> *"A variance does not permit a use that is not otherwise allowed in that zone (for example, a commercial use may not be approved in a residential zone by variance). Economic hardship alone is not sufficient justification for approval of a variance. Typically, variances are considered when the physical characteristics of the property make it difficult to use. For instance, in a situation where the rear half of a lot is a steep slope, a variance might be approved to allow a house to be built closer to the street than usually allowed."*

Section 17.72.030 of the Trinidad Zoning Ordinance allows that: *A variance may be granted only upon adoption of written findings showing that <u>all</u> of the following conditions are present*" (emphasis added). The responses below have been provided by the applicant's agent.

A. *That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other properties or uses in the same class or district.* Response: The exceptional circumstance for this property is that the residence of 605 sq. ft. is positioned in such a manner that an addition of living space of like use to existing living space is not feasible because the addition would encroach on the current code for front setbacks.

The only way to expand the dining room living space without redesigning the whole interior layout of the residence is to have an addition on the East side of the property which is in the front setback. The proposed addition of 10 sq. ft. does not extend past the existing building line, thus not decreasing the existing setback.

B. *That owing to such exceptional or extraordinary circumstances the literal enforcement of specific provision of this title would result in the practical difficulty or unnecessary hardship not created by or attributable to the applicant or the owner of the property.* Response: The practical difficulty and unnecessary hardship of not being able to expand 10 sq. ft. of addition is that the 605 sq. ft. residence is not large enough to fulfill the owners' rightful use of residential living space. Even after converting the existing entry into dining room space, it still isn't big enough to provide adequate use without the additional 10 sq. ft.

C. *That such variance will not constitute a grant of special privilege inconsistent with limitations imposed on similarly zoned properties.* Response: This variance does not constitute a grant of special privilege because it is within the owners' right to expand residential living space and the owner is faced with a residence positioned in such a manner that it is not feasible to do so under the current setback ordinance, whereas the addition requested does comply with the setback ordinance that was in place when the building was constructed.

D. *That such variance is necessary for the preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class or district.* Response: The variance is necessary for the owner's right to expand their residence which will provide them with an aesthetic and functional living space. The existing dining room is not functional for its intended use and inhibits the owners from having useful living space.

E. *That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvement in the vicinity.* Response: The addition will in no way be materially detrimental to public welfare due to the minimal square footage of the addition and the manner in which it is incorporated into the existing building.

F. *That the granting of such variance will be consistent with the general purpose and intent of this title and will be in conformity with the policies and programs of the general plan and the Trinidad coastal program.* Response: The granting of this variance conforms with the general plan of Trinidad for expanding residential living space.

G. *That the variance will not permit a use other than a use permitted in the applicable zoning district.* Response: The variance is within the use permitted in the zoning district.

H. *That either the variance will have no significant adverse environmental impact or there are not feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available which would substantially lessen any significant adverse impact that the actions allowed by the variance may have on the environment.* Response: There are no adverse environmental impacts on the property.

I. *When the subject property is located between the sea and the first public road paralleling the sea...* Response: Not applicable.

STAFF RECOMMENDATION:

Based on the above analysis, the proposed project can be found to meet the Design Review / View Protection requirements, and sewage disposal requirements. However, because of the Variance request, the project by definition does not meet all the provisions of the Zoning Ordinance and General Plan. In this case, some of the variance findings can be made, or at least partially made. However, the need for the specific location of the expansion is based on owner (or previous owner) imposed limitations, including the desire for the most convenient location and the existing location of the residence. There are not physical limitations on the lot that require the addition to be placed in the front setback. There is already a viable use existing on this lot; enforcement of the Zoning provisions would not be confiscatory. There are other options available to the owner, including adding on elsewhere, even if that is not the most convenient location, or redesigning the addition so that it will not encroach into the setback. Secondly, it is possible that the proposed project will meet setback requirements if the property lines were to be accurately located, eliminating the need for a Variance. If the Planning Commission agrees with staff's analysis, and the public does not bring up additional issues, the proposed motion might be similar to the following:

Based on the information submitted in the application included in the staff report and public testimony, I find that Variance findings A, B and / or D can not be made because the addition location is not limited because of the natural, physical characteristics of the property, the owner has other options, and / or has an existing viable use of the property, and I move to deny the project.

Alternative Motion for Partial Approval

As an alternative, the Planning Commission could approve the Design Review and Coastal Development Permit portions of this project with the condition that the property lines be accurately located, and that all additions meet the 20 ft. front yard setback requirement. Such a motion might be similar to the following:

Based on application material, information and findings included in this Staff Report, and based on public testimony, I move to adopt the information and required findings relating to Design Review and View Protection in this staff report and approve the

Coastal Development Permit for the project as submitted and as conditioned below, with the additional condition that the property lines be accurately located and that the additions meet the required 20 ft. front yard setback.

Alternative Motion for Approval – *Adopted by Planning Commission*

If the Commission does not agree with staff's analysis, or if the public presents evidence that conflicts with the information contained in this staff report, the Commission may choose to approve the project. If the Commission does decide to approve the project, the approval should be based on specific findings that can be made and specific aspects of this project that would not normally apply to other projects in order to avoid setting precedence,

Based on application material, information and findings included in this Staff Report, and based on public testimony, I move to adopt the information and required findings in this staff report and approve the project as submitted and as conditioned below.

PLANNING COMMISSION ALTERNATIVES

If the Planning Commission does not agree with staff's analysis, or if information is presented during the hearing that conflicts with the information contained in the staff report, the Planning Commission has several alternatives.

A. Alter the proposed conditions of approval to address any specific concerns on the part of the Commission or the public.
B. Delay action / continue the hearing to obtain further information.
    - In this case, the Planning Commission should specify any additional information required from staff or the applicant and / or suggestions on how to modify the project and / or conditions of approval.

CONDITIONS OF APPROVAL

1. The applicant is responsible for reimbursing the City for all costs associated with processing the application. *Responsibility: City Clerk to place receipt in conditions compliance folder prior to building permits being issued.*

2. Based on the findings that community values may change in a year's time, design review approval is for a one-year period starting at the effective date and expiring thereafter unless an extension is requested from the Planning Commission prior to that time. *Responsibility: City Clerk to verify prior to building permits being issued.*

3. Construction related activities are to occur in a manner that will not impact the integrity of the septic system. The leachfield area shall be staked and flagged to keep equipment off the area. Alternatively, a written description of

techniques/timing to be utilized to protect the system will be required from the contractor. If the existing system area is impacted by construction activities, an immediate Stop-Work Order will be placed on the project. The contractor will be required to file a mitigation report for approval by the City and County Health Department prior to permitting additional work to occur. *Responsibility: Building Official to verify prior to building permits being issued and during construction.*

4. Recommended conditions of the City Building Official and City Engineer shall be required to be met as part of the building permit application submittal. Grading, drainage and street improvements will need to be specifically addressed at the time of building permit application.
Responsibility: Building Official prior to building permits being issued.

5. Construction related activities are to occur in a manner that incorporates storm water runoff and erosion control measures in order to protect water quality considerations near the bluffs. Specific water quality goals include, but are not limited to:
    a. Limiting sediment loss resulting from construction
    b. Limiting the extent and duration of land disturbing activities
    c. Replacing vegetation as soon as possible
    d. Maintaining natural drainage conditions
Responsibility: Building Official to confirm at time building permits are issued.

6. The applicant is responsible for submitting proof that a statement on the deed, in a form approved by the City Attorney, has been recorded indicating that any increase in the number of bedrooms or use, above a total of one unit and one bedroom, will require City approval of adequate sewage disposal capabilities.
Responsibility: Building Official to verify at them time building permits are issued.

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