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Staff: Trever Parker
Staff Report: March 5, 2007
Commission Hearing Date: March 21, 2007
Commission Action:

STAFF REPORT: CITY OF TRINIDAD

APPLICATION NO: 2007-01V

APPLICANT (S): Peter Van Aylea

AGENT: NA

PROJECT LOCATION: Chevron Station, corner of Main St. and Patrick's Point Dr.

PROJECT DESCRIPTION: Design Review, Variance, Use Permit and Coastal Development Permit to replace the approx. 70 ft. tall, 150 sq. ft. freeway sign with a smaller, 78 sq. ft. sign at 30 ft. in height. The Variance is necessary in order to allow a sign larger than the maximum 50 sq. ft. allowed in the Zoning Ordinance and the Use Permit is required to allow the sign to exceed the maximum building height of 25 ft.

ASSESSOR'S PARCEL NUMBER: 042-051-30

ZONING: C – Commercial

GENERAL PLAN DESIGNATION: C – Commercial

ENVIRONMENTAL REVIEW: Categorically Exempt from CEQA per §15301 exempting maintenance and minor alterations of existing facilities and §15303 of the CEQA Guidelines exempting new construction of small 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 requirements of Section 30603 of the Coastal Act.

SITE CHARACTERISTICS:

The property is located on the northwest corner of the intersection of Main Street and Patrick's Point Drive and access is available from both streets. The site was developed as a service station in 1971. The gas station was torn down in 1992 and rebuilt in 1994. The current station has four pumps and a food mart building containing an 'Aztec Grill' and a variety of other standard gas station services, such as a pay phone and propane refilling tank. The lot is approximately one acre in size. Patrick's Point Drive and Highway 101 are located to the east of the site, Saunder's Shopping Center to the south and the Museum / Park property to the north and west. The site is generally flat and was constructed on fill placed during the construction of Hwy 101.

STAFF COMMENTS:

This project is in conjunction with a concurrent application for Design Review to update and improve several aspects of the Chevron gas station. The large sign was not part of the original proposal. As part of the changes the applicant is willing to make to improve the aesthetics around the entrance to town as part of the Gateway Project, the applicant is proposing to allow a shorter and smaller Chevron logo sign that would still be visible to freeway travelers. The proposal is to replace the existing sign with one approximately half the size and at half the height in the same location, using the same poles if possible. The sign would have the updated Chevron logo. A description has been provided. The applicant is also proposing that the City, or some other group, pay for the change (\$27,234.44) as the applicant would prefer to retain the existing taller, larger sign at no cost.

TRINIDAD SIGN REGULATIONS

Please see the staff report for the companion application to this project, application no. 2007-01 for a complete review of Trinidad's sign regulations. Of particular note for this part of the project are the sections included below.

Signs:

§17.56.160:

B. In the PD, VS and C zones, on-premise signs shall be permitted, subject to the following regulations and the review of the [Planning Commission]:

- 1. The total advertising area permitted for any parcel of land shall be one square foot for each foot of street frontage, provided that any parcel shall be permitted at least twenty square feet, but in no case shall the advertising area for any parcel exceed three hundred square feet. **No individual sign established after the adoption of the ordinance codified in this title shall be greater than fifty square feet in area** (emphasis added).*

- 2. No freestanding sign shall exceed the maximum building height for the zone in which the sign is located. Signs attached to buildings shall not project more than three feet above the roof line.**

Commercial Zone

§17.44.070 – Maximum Building Height: *Maximum building height in the C zone is twenty-five feet, **provided that a greater height may be permitted subject to obtaining a use permit.***

EXISTING SIGNS

Please see the staff report for companion project no. 2007-01 for a detailed description and history of the existing signage on the property.

ZONING ORDINANCE/GENERAL PLAN CONSISTENCY

The property where the project is located is zoned C – Commercial. The purpose of this zone is to provide for the commercial services that meet the convenience and retail needs of the residents, visitors and the fishing industry. Service stations are a principally permitted use in this zone. The minimum lot size allowed in the C zone is 8,000 sq. ft.; the property is approximately 40,000 sq. ft. The maximum density allowed in the C zone is one motel unit per 2,500 sq. ft. of lot area, or one dwelling unit per 8,000 sq. ft. of lot area. The proposed project will not alter the density or lot size, and the existing improvements meet the current criteria.

Prior to the 1993 approval granting a use permit for this sign, the sign should have been removed or made conforming on at least one previous occasion – three years after the Zoning Ordinance was certified in 1980 per the nonconforming regulations listed above (§17.64.010). There is also a requirement that signs advertising a discontinued use must be removed after thirty days of discontinuance, and the signs (both the price sign and freeway sign) should probably have been removed when the station was demolished in 1992. However, plans for the new gas station could have already been in the works, and therefore, the signs were not removed, because the use was only temporarily discontinued and not abandoned. The sign was given Design Review approval in December 1993 after a noticed public hearing. In addition, the sign was also given a Use Permit to exceed the building height limitation, and this approval was not appealed.

The maximum building height allowed in the C zone, by Zoning Ordinance § 17.44.070 is 25 feet, except that a greater height may be allowed subject to obtaining a Use Permit (note this and the PR (Public and Religious) are the only zones that allow a greater height). This appears to be the only other thing a use permit can be granted for other than uses listed under each zone as uses allowed with a use permit. Zoning Ordinance §17.08.010 dealing with interpretation states that *“the word ‘building’ shall include the word ‘structure.’”* Although there may be signs that are not in themselves structures,

such as painted lettering on a building, this sign clearly meets the definition of a 'structure': *"anything constructed, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground."* The fact that signs are generally structures is further supported by the definition of 'accessory structure': *"a detached building or structure, other than a sign..."* implying that signs are structures. Note that the caveat "other than a sign" is not included in the definition of a structure. These sections described above therefore allow 'structures,' including signs, to exceed the building height with the approval of a use permit. Zoning Ordinance §17.64.010 allows nonconforming structures to be *"altered, repaired or extended provided that such alteration, repair or extension shall not increase the degree of nonconformity."* Replacing the existing sign with a smaller, shorter sign could be considered alteration of a nonconforming structure that does not increase the nonconformity. However, Zoning Ordinance §17.56.160.B.1 clearly states that no new sign shall exceed 50 sq. ft. The proposed sign will exceed this allowed square footage by 28 sq. ft. Therefore a Variance is required for this portion of the project. The required Variance findings and the applicant's justification are provided below.

Parking in the Commercial Zone is governed by Zoning Ordinance (§ 17.56.180) and is generally based on the square footage of the use / business. In this case, existing parking is in compliance with applicable regulations and the square footage and uses are not changing, and so no change in parking is required.

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. Although the tall Chevron sign has been accused of blocking views, it is assumed that a smaller, lower sign would improve views. However, it is reasonable that while improving views from some locations, the new sign would also block views from different locations.

No grading or excavation or new utilities are required for this project.

SLOPE STABILITY / ALQUIST PRIOLO:

The project site is not mapped as being unstable or of questionable stability on Plate 3 of the General Plan. Please see staff report 2007-01 for more information.

SEWAGE DISPOSAL:

No change in sewage flow will result from the proposed project. Please see staff report 2007-01 for more information.

LANDSCAPING AND FENCING:

No changes in fencing or landscaping is proposed as part of this project.

VARIANCE FINDINGS

Because the project will not meet the maximum size limits for signs set forth by Zoning Ordinance § 17.56.160, a “Variance” is being requested by the applicant. Govt. Code Section 65906 defines the 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, only recommending them for severely, physically limited properties where development would be precluded by zoning standards. In order to avoid setting precedence, staff does not 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 other viable use(s) available on the lot. However, the Planning Commission may feel that the required findings can be made and 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 applicant has provided justification for making the required findings, and that is included below as well.

- 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.*

- 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*

- C. *That such variance will not constitute a grant of special privilege inconsistent with limitations imposed on similarly zoned properties.*
- 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.*
- 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.*
- 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.*
- G. *That the variance will not permit a use other than a use permitted in the applicable 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.*
- I. *When the subject property is located between the sea and the first public road paralleling the sea... Response: Not applicable.*

Justification (from the applicant)

"In further support of my variance request, this is to advise you that the subject property (Hwy 101 and Patrick's Point Drive in Trinidad) qualifies for consideration of my request for a variance because it is unique due to the following attributes:

1. It is at the gateway to the City of Trinidad, and therefore the most visible and important property in the city.
2. It fronts on Highway 101, which is the main North-South Highway in the county.
3. It is extremely important for the other businesses in the city. When the station was closed for rebuilding, the other merchants in town suffered economic damage due to the fact that many tourists simply drove past without leaving the freeway since they could not purchase gasoline, buy snacks, use our free air and water for their vehicles, use the free restroom that we provide, dispose of their trash, get propane, or get a freshly made burrito while they wait.
4. It will not be detrimental to the public welfare.

The denial of this variance request will force me to keep the existing legal highway sign, which is considerably larger and higher than the one proposed. Alternatively, to remove the existing sign entirely would cause many motorists to simply continue on their way and

not stop to shop at one of the other businesses in town. Your consideration of the request would be most appreciated."

Note that there is some precedent for granting a variance for a larger sign. In 1995, a Variance was approved for the 56 sq. ft. Trinidad Market sign across the street from the Chevron Station. Also, the larger, existing sign was allowed to remain in 1993. Because the sign should have been removed prior to that, it was similar to an approval for a new sign.

USE PERMIT FINDINGS:

As discussed above this project requires a use permit to exceed the maximum building height of 25 ft. Section 17.72.040 requires written findings to be adopted in approval of a use permit. The following findings, as may be revised, are required in order to approve this project. The responses to the findings are taken mostly from the 1993 staff report to allow the existing sign to remain at 70' tall. They are still applicable to the current project.

- A. *The proposed use at the site and intensity contemplated and the proposed location will provide a development that is necessary or desirable for and compatible with the neighborhood or the community.* Response: The sign is adjacent to the freeway and at such a location as to minimally affect adjacent developed properties. The sign has been found necessary for notice of visitor services which is an important part of the well being of the City.

- B. *Such use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity or injurious to property improvements or potential development in the vicinity with respect to aspects including but not limited to the following:* Response: The existing sign has been found to service the community in the past without being detrimental as consistent with the provisions below. The existing sign, being smaller and shorted would be expected to have less detriment to the community.
 - 1. *The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;* Response: The sign is a standard design that will be built to current codes and will not pose a safety hazard.

 - 2. *The accessibility of the traffic patterns for persons and vehicles, and the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;* Response: The sign will not affect traffic or parking. It is intended to attract the same number of patrons as the existing sign.

3. *The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;* Response: The sign will have no emissions once constructed.
 4. *Treatment given, as appropriate, to such aspects as landscaping, screening, open space, parking and loading areas, service areas, lighting and signs;* Response: The sign is designed to be visible and to complement the service station use. Other items listed will not be affected.
- C. *That such use or feature as proposed will comply with the applicable provisions of this title, will be consistent with the policies and programs of the general plan and will assist in carrying out and be in conformity with the Trinidad coastal program.* Response: The sign is taller than the maximum building height of 25 ft in the Commercial Zone. However, §17.44.070 allows a greater height with approval of a use permit. The sign will identify the existence of a commercial service to freeway travelers.
- D. *That the proposed use or feature will have no significant adverse environmental impact or there are no 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 conditional use permit may have on the environment.* Response: The project is exempt from CEQA per Guidelines §15301 exempting additions and alterations to existing development and §15303 exempting new construction of small structures.
- E. *When the subject property is located between the sea and the first public road paralleling the sea or within three hundred feet of the inland extent of any beach or of the mean high tide line where there is no beach, whichever is the greater, that:* Response: The project is not located between the sea and the first public road; therefore items following this finding are not applicable.

DESIGN REVIEW / VIEW PROTECTION FINDINGS:

Because the project is located within the Coastal Zone and alters the external profile and / or appearance of a structures on the property, §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. Recommended 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: No grading would be required for the proposed project.
- 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 in or adjacent to any open space areas.
- 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 change would consist of 'preset architectural styles' in terms of the standard Chevron logo and design that are used for most every other Chevron station. However, exterior materials and colors will be similar to the existing sign. The project is adjacent to the future City Park / Museum / Library parcel, which may be taken into consideration.
- 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 change in landscaping is 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: This project involves an on-premise sign, which has been designed to be consistent with this and other Chevron stations and updated with the new Chevron logo.
- 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: Underground utilities are already provided to the site.
- 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.*

This project does not involve any new buildings.

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 site is not readily visible from a beach, trail or open space area. Although the site of the future City Park is not officially zoned open space, it could be considered as such. That site is already generally screened from the station with fencing and landscaping. The proposed smaller logo sign may be less visible and obtrusive than the existing sign.
- 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 existing sign will be replaced with a smaller, lower sign, which should improve views from some locations, but may negatively affect views from other locations uphill from the project. However, there are no significant public viewing locations uphill from the project.
- 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 existing sign will be replaced with a smaller, lower sign, which should improve views from some locations, but may negatively affect views from other locations uphill from the project. The fact that the sign will be smaller should provide an overall benefit to views.

- 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, Memorial Lighthouse or the Tsurai Study Area.

STAFF RECOMMENDATION

Based on the above analysis, the proposed project can be found to meet the Design Review / View Protection requirements and Use Permit findings. 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 a sign that is larger than the maximum contained in the Zoning Ordinance is not justified. There are not physical limitations on the lot that require a sign larger than 50 sq. ft. A smaller sign bearing the Chevron logo would still be readily identifiable by freeway motorists. 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 altering the type, location of the sign, even if that is not the most desirable configuration to the applicant. 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 C, D and / or F can not be made because the sign size 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.

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. 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.
- B. Approval of the project.
 - The Planning Commission should provide a motion that identifies that all Finding(s) can be made based on information contained in this staff report, application materials and / or evidence presented at the meeting.
- C. Alter the proposed conditions of approval to address any specific concerns on the part of the Commission or the public and approve the project as in 'B' above.

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 time, but allowing time for raising the necessary funds to the complete this project, design review approval is for a two-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. Prior to the implementation of this project / construction of the sign, the existing sign must be removed and the supporting poles removed or shortened to accommodate the approved height of this sign. *Responsibility: Building Official to verify prior to building permits being issued.*