

Filed: NA (ongoing)  
Staff: Trever Parker  
Staff Report: March 3, 2014  
Commission Hearing Date: March 19, 2014  
Commission Action:

### **STAFF REPORT: CITY OF TRINIDAD**

APPLICATION NO: 2013-11A

APPLICANT (S): Mike and Hope Reinman

AGENT: NA

PROJECT LOCATION: 407 Ocean Ave.

PROJECT DESCRIPTION: After-the-fact Design Review and Coastal Development Permit to add living space (bedroom / bonus room / bathroom) for the primary residence in an unpermitted 650 s.f. accessory dwelling unit converted from a pre-existing 1,080 s.f detached garage.

ASSESSOR'S PARCEL NUMBER: 042-062-12

ZONING: UR – Urban Residential

GENERAL PLAN DESIGNATION: UR – Urban Residential

ENVIRONMENTAL REVIEW: Categorically Exempt from CEQA per § 15303 of the CEQA Guidelines exempting new construction or conversion 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 \_\_\_ / **is not \_X\_** appealable to the Coastal Commission per the City's certified LCP, but may be appealable per Section 30603 of the Coastal Act.

## **SITE CHARACTERISTICS:**

The property is located on the east side of Ocean Avenue, just south of the AT&T utility building, which is zoned PR – Public and Religious. Access to the property is from Ocean Avenue at the front and from an alley at the rear of the property. Neighboring parcels, other than the utility site, are also zoned UR – Urban Residential and are mostly developed with single-family residences. At present, the 9,000 sq. ft. lot contains a 1,655 sq. ft. primary residence on the front (west) half of the property. The lot also contains a 1,080 sq. ft. garage in the rear, approximately 650 sq. ft. of which was converted into an accessory dwelling unit (ADU) without proper permits. One parking space is provided adjacent to the converted garage, and the primary unit has a 2-car garage, plus room for 2 more vehicles in the driveway. The lot is generally flat. There is an existing septic system in the center of the property that serves the primary residence and that was connected to the second unit without Division of Environmental Health (DEH) approval.

## **STAFF COMMENTS:**

There are several other garages in the area that have been converted into ADUs both legally (prior to current zoning requirements) and illegally. The statuses of most are unknown. The City has been working toward getting this unpermitted ADU into compliance with City codes for a number of years in response to ongoing complaints. In the meantime, the City adopted an ADU ordinance based on State requirements to allow second units, and the recognized need for ADUs in order to provide affordable housing in Trinidad. Therefore, City staff decided not to pursue formal Nuisance Abatement on this ADU while the City was pursuing certification of its ADU ordinance through the Coastal Commission. The applicant did submit a generally complete application for the ADU in 2011 after the City's ADU ordinance was passed.

However, for the following reasons, the City is requiring the unpermitted activity to be brought into compliance at this time: (1) Nothing has moved forward in the ADU certification process in over a year, and considering the difficulties in getting the VDU ordinance certified, staff is not confident that an ADU ordinance will ever be approved by the Coastal Commission. (2) The applicants have continued to rent out the unpermitted ADU contrary to instructions from City staff that it not be occupied, and the City has continued to receive complaints about the property. (3) The applicants no longer live on the property, and so would not qualify for an ADU under the City's adopted (but not certified) ADU ordinance, which requires the property owner to occupy one of the units.

City staff sent a letter to the property owners on October 15, 2013 stating that their ADU application was no longer valid and that the City intended to commence Nuisance Abatement if the ADU was not removed. The applicants did respond in a timely manner, and terminated their lease or rental agreement with the tenant at the time; to the City's knowledge, there is no one currently living in the ADU. Instead of converting the space back into a garage, though, the owners have proposed converting the space into additional living space for the primary residence. The City has allowed a variety of garage conversions for

workshops, studios, office space and bedrooms. (Files reviewed include, but are not limited to: Sterling 92-9, APN 042-062-14; Jones 98-15, APN 515-350-17; Preller 2000-02, APN 04-062-23; Fleschner 2003-04, APN 042-061-11; Rheinschmidt 2005-02, APN 515-331-47.) The project that is the most similar to the current proposal is Sterling 92-9 (and 2007-03) located two parcels to the north of the subject property (on the other side of the AT&T facility), which will be discussed further below.

Referrals were sent to the Building Official, City Engineer and the County Health Department for the after-the-fact ADU permit application submitted by the Reinmans in 2011. No response was received from the City Engineer. 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 to the property (see further discussion below); the Health Dept. had no objections to the proposed ADU in response to the referral. In addition, another referral for the current proposal was sent to DEH due to the change in configuration of the bedrooms and floor plans. They had no objections or additional requirements for the current proposal either.

An after-the-fact building permit will be required for the project if it is approved by the Planning Commission. The Building Inspector has already transmitted several comments and a list of documents required for the building permit application to the applicant. A standard condition of approval has been included that any conditions of the Building Inspector must be met prior to building permit issuance and that all of the unpermitted construction will be addressed during the building permit process. More discussion regarding building permit requirements is included below. The Planning Commission should view this project as if the structure were still a garage, since the ADU was created without permits; the applicants would have to remove all the new interior walls and other improvements to bring the structure back into compliance with existing approvals.

### ***Potential Conflicts of Interest***

Commissioner Vanderpool resides within 300 feet (approximately 150) of the subject property. However, he is not the owner of the property, so there would not be an assumed conflict of interest in accordance with the Fair Political Practices Act. However, Commissioner Vanderpool should consider whether his residence may be affected by noise or traffic from the project in order to avoid even the appearance of a conflict of interest, but no rebuttal is required. It is up to each individual to make the determination as to the need to recuse oneself.

In addition, Commissioner Stockness owns property almost exactly 300 ft. (308 ft. according to the City's GIS data) from the proposed project. Recall that 500 ft. is the cut off for an assumed conflict of interest, but in small towns, that distance can be cut to 300 ft. if certain conditions apply. However, it appears that not all of these conditions are met in this case. Therefore, there is still a potential conflict of interest. The proximity issue is only a conflict based on an assumed monetary change in property values due to the project. According to then City Attorney Paul Hagen's November 2008 memo, when this *presumption* of a direct financial interest is the case, one of two things must occur: (1) the official makes a rebuttal of the presumption of a direct financial interest and proceeds to vote; or (2) if no rebuttal is

made, then the official must recuse themselves and can not vote. Therefore it is an individual decision whether to recuse oneself based upon whether the Commissioner feels they will have any financial gain or loss from the 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. (§17.32.050).

The proposal includes a garage conversion to living space for the primary residence from an unpermitted ADU that was created. Approximately 650 sq. ft. of the existing 1,080 sq. ft. garage was converted to a 1-bdrm ADU, with the remaining portion (approx. 420 s.f.) of the garage being used for storage and utility purposes. The existing and proposed square footages are included in Table 1 below. In addition, an approximately 180 sq. ft. covered patio area was added where a larger covered carport had previously been, according to the applicants. The larger carport structure can be seen on 2004 and earlier aerial photos.

Note that as part of the ADU application, the applicant removed the closet from one of the existing three bedrooms in the residence so that it is now technically only a two bedroom residence. Though it has been being used as a bedroom, the Building Official did verify that the submitted floor plan is accurate. The proposed project will result in a total of three bedrooms on the property.

**TABLE 1 - AREAS**

	EXISTING	PROPOSED
LOT AREA	9,000 s.f.	<b>9,000 s.f.</b>
FLOOR AREA		
Primary Residence	1,655 s.f.	1,655 s.f.
Detached Bedroom / Living Space	0 s.f.	650 s.f.
<b>Total Living Area</b>	1,655 s.f.	<b>2,305 s.f.</b>
Attached Garage	205 s.f.	205 s.f.
Rear Garage / Storage	1,070 s.f.	430 s.f.
FOOTPRINT (w/ garage/storage)	2,930 s.f.	2,930 s.f.
FLOOR TO LOT AREA RATIO		
<b>Total Living Area</b>	18.4%	<b>25.6%</b>
Total Footprint	32.6%	32.6%

### *Exterior Modifications*

There may have been exterior structural modifications that should have required Design Review. The applicant states that the majority of work was replacing existing structures with only minor modifications. The siding on portions of the garage was replaced and new windows and doors added. It is difficult to determine exactly what was pre-existing, but this is not a view issue, and there have not been complaints about the impacts of the exterior modifications (other than the fact that they occurred without permits). However, the fence appears to be over 6 or 7 ft. high, which could require a building permit and engineering for structural integrity. The Building Official will review that as part of the building permit process. Note that Zoning Ordinance §17.72.070.C.2.g exempts 'minor remodeling and repair that does not alter the external profile of the structure' from CDP and Design Review approval, including: alterations to and additions of windows, conversion of windows to doors and residing. Further, interior remodeling is not 'development' within the meaning of the Coastal Act, and also would not require a CDP or DR. Further the applicant did obtain a building permit for some of the work on the garage, including conversion of a window to a door and addition of a window.

### *Residential Living Space Inside of an Accessory Structure*

The Planning Commission has previously approved several types of living spaces inside garages, including a bedroom, offices, workshops, art studios and even a temporary caretaker unit, so this request is not inconsistent with past precedence. As mentioned above, the project with the most similarities to the one before you is Sterling 92-9 (and 2007-03) located two properties away at 381 Ocean. In 1992 the conversion of an existing, 600 s.f. detached garage located at the rear of the property on the alley was approved by the Planning Commission. At this time, a new 2-bedroom septic system was also installed on the property. Several conditions of approval were included with that project to ensure that the structure would not be used as a second dwelling unit. These included: (1) the proposed kitchen facilities are not allowed...; (2) the doorway facing the alley be eliminated; (5) use of the garage structure as a bedroom is not to be used or rented separately from the main structure; and (6) the applicant and subsequent owners are responsible for disclosing these conditions prior to property transfer. Note that (5) and (6) were precursors to our current deed restriction requirement.

In addition, the same property (Sterling) received approval in 2007 for a 378 s.f. family room addition. I have included the discussion of that project as an example for the deed restriction condition (limiting the property to 2 bedrooms and a single unit) and for comparison of residential square footages and lot coverage. That application resulted in a project that, in terms of size and structural configuration, was very similar to the Reinmans' proposal on a substantially smaller lot (6,000 s.f). In the Sterling case, the residential square footage totaled 2,276 s.f., including the garage conversion, with a 38% residential floor-to-area ratio and lot coverage. The Sterling property no longer has any garage parking spaces and very limited off-street parking (it appears none of the available spaces would actually meet the City's size requirements), with no off-street parking available in the front.

The applicant has proposed to keep the layout and features of the new living space the same as it was for the ADU, the only difference being that the stove has been removed

(which was required by the Building Inspector). Staff feels that the submitted floor plan still too closely resembles an ADU. As proposed, this is not only inconsistent with past precedent, it would be too easy to quietly convert back to an ADU by the current or a future property owner. I have reviewed various files and spoken at length with the Building Inspector in regards to the previously proposed office space and the current project. The Building Inspector has stated that jurisdictions he is familiar with generally do not allow a stove, a shower or a separate room with a closet (= a bedroom) in this type of accessory structure conversion in order to ensure it does not become a separate living unit. He stated that he has discussed these requirements with the applicants. (He also stated that the plumbing and electrical connections associated with those features would have to be removed such that they could not easily be reconnected.)

The amended proposal does complicate this issue somewhat, because the closet is necessary for the bedroom, and the shower also makes sense in that context. In looking at past projects where some type of living space was allowed in a garage or accessory structure, the Planning Commission has fairly consistently not allowed a shower or a kitchen sink / wet bar; there was also an approval that specifically did not allow any 220V electrical power, in order to preclude large appliances. For the Sterling project, a doorway facing the alley was proposed that was not allowed. In other jurisdictions I have also seen limitations on counters and cabinets to minimize the chance of a kitchen being created.

Consistent with past approvals, staff recommends that, at a minimum, the stove / oven and kitchen sink be required to be removed to the satisfaction of the Building Inspector. In addition, a deed restriction will be required to be recorded that limits the property to 3 bedrooms and a single residential unit based on the septic system capacity. The existing doorway facing the alley on the Reinmans' garage provides access to the storage area and so is not part of the residential application. In this case it also makes sense to require the removal of any 220V electrical connections and / or the kitchen cabinets in the living space if the closet and shower remain. The Planning Commission could also consider requiring removal of the shower and / or other improvements as necessary to address remaining concerns.

### *Setbacks*

The Urban Residential zone requires minimum yards of front 20', rear 15', and side 5' (§ 17.36.060). The parcel faces Ocean Avenue to the west. 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 existing residence meets these required setbacks. However, the converted garage does not, but no changes to the building footprint have occurred or are proposed. It depends on how the garage is defined whether it is currently nonconforming or not as to setbacks.

A couple of past Planning Commission approvals, one as recent as 2006, have determined that garages are not accessory structures, and therefore presumably subject to the same requirements and restrictions as a primary structure. Note that both of those projects were located east of the freeway off Berry Road. This interpretation was made so that detached

garages are not limited to 15 ft. in height (per §17.56.090) and also to ensure that they are subject to Design Review (§17.72.070.B.1 allows construction of an accessory structure up to 500 s.f. in size in certain areas without Design Review or a CDP). However, this interpretation also means that detached garages would be subject to setback requirements, the implications of which were not discussed in either of those staff reports. Setbacks also were not discussed in the two staff reports I have reviewed where living space was allowed to be created in an existing detached garage on an alley (and therefore in the rear setback). There is a handwritten note in my copy of the Zoning Ordinance stating that garages on alleys do not have to meet rear setbacks, but no reference to a file or code section was included.

It does make some sense that detached garages should not have to meet the 15 ft. height limitation on accessory structures. And it also makes sense that detached garages should have to meet some kind of setback requirement (besides just the front), unlike the existing allowance for accessory structures in §17.56.090. Most jurisdictions do allow reduced setbacks for garages, particularly on alleys, but still require some setback. However, if garages are not accessory structures, then they don't fall under any existing definition in the Trinidad Zoning Ordinance; how would they be regulated other than as a primary structure? I find this to be a somewhat difficult situation without clear guidance from either the existing regulations or past precedence, and it is an area where the City's Zoning Ordinance could use updating.

In looking at the existing code, since garages are not otherwise defined, then staff feels that they should be regulated as accessory structures, and they do fit within the definition (“a detached building or structure, other than a sign, the use of which is accessory to the use of the lot” (§17.08.690)). That would make the existing garage structure conforming as to setbacks, since accessory structures do not have any required side or rear setbacks. Converting the garage to living space does not change the detached, subordinate nature of the structure, and so it would still meet the definition of an accessory structure. Therefore the project would not create any zoning ordinance conflicts or nonconformance in terms of setbacks. However, even if the Planning Commission feels that garages should be regulated as primary structures, then the pre-existing garage would be nonconforming as to setbacks (it was constructed prior to the Zoning Ordinance being adopted). Conversion of the garage space to living space would not alter or increase the degree of nonconformity and so would be allowable under §17.64.010 (nonconforming uses and structures). Therefore, this is probably a moot point for this project.

#### *Other LCP Issues*

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 allowable height for accessory structures in the UR zone (§17.56.090) is 15 ft. As shown on the plans, the maximum height of the existing garage / proposed office is 14 ft; the project will not alter the height of the structure.

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 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 two garage spaces. In addition, there is another parking space off the alley adjacent to the converted garage as shown on the plot plan for a total of five off-street parking spaces for the residence.

No grading is required for the project. This site is already connected to services and utilities and these will not change. Exterior materials were altered as part of the unpermitted work, but generally match existing materials and colors with new natural cedar shingles on the east and south sides, and the pre-existing tan siding on the west and north elevations.

#### **SLOPE STABILITY:**

The project site is not mapped as being unstable or of questionable stability on Plate 3 of the General Plan. The project is located outside of the City's slope stability map for areas mapped "unstable" or "questionable stability" and is also located outside of the Alquist-Priolo Fault Zone. Therefore, the finding can be made that no geologic study is required by the Zoning Ordinance.

#### **SEWAGE DISPOSAL:**

The property has an existing septic system serving the 3-bedroom residence. The proposed garage conversion will not affect the existing system and will not significantly increase sewage flows. The project does not include the overall addition of any bedrooms or building footprints. The unpermitted ADU was connected to the septic system without proper approvals. However, City staff worked closely with Humboldt County Division of Environmental Health (DEH) on the previously submitted ADU application, and they had no objection to the existing connection. The applicant also had the system inspected and some soil testing done at the time of the ADU application to locate and design a reserve field. For this project I sent DEH another approval and spoke with staff on the phone. DEH staff visited the site and confirmed the existing conditions. In addition, the City Building Official inspected the primary structure to verify that the closet had been removed from one of the bedrooms, leaving only 2 bedrooms in that structure. Based on the 2011 septic inspection information, the existing system appears to be undersized to serve a 3-bedroom residence under current standards. However, it is functioning fine, and there is room for a full reserve field on the lot. DEH standards do not require any upgrades to the septic system for this project, and DEH staff had no objections.

Although current DEH regulations do not require an upgrade for this project, the City's OWTS ordinance does require upgrades for undersized (nonconforming) systems when certain improvements are proposed (§13.12.410). As with any project that increases square footage or adds rooms, staff is proposing a condition requiring recordation of a deed restriction for the number of bedrooms and units on the property, which in this case would be 3-bedrooms and one dwelling unit. Because the property is being improved, some upgrades to the system are required, but not a full upgrade to current standards based on the size of the project. The City's OWTS Guidelines (§7:02) suggest upgrades if improvements total 10%-25% of the value of the property; full septic compliance is not required unless that improvement value is greater than 25% of the property value. This project would clearly fall in the 10%-25% range. Therefore, the applicant must obtain DEH approval for a reserve leachfield. The soil testing and design work has already been done for this anyway; it should just be a matter of obtaining the DEH permit. In addition, tank risers and an effluent filter are required to be installed if there are not already.

### **LANDSCAPING AND FENCING:**

This project does not involve any changes in landscaping or fencing.

### **DESIGN REVIEW / VIEW PROTECTION FINDINGS:**

Only minor exterior modifications were made in converting the garage to an ADU, including modifications to an existing overhang and porch and the surrounding fence or screen, siding, windows and doors. However, the project is proposing a change in use of a structure and increasing the residential square footage on the property, which requires a Coastal Development Permit at a minimum. The City's Zoning Ordinance does not provide for a separate CDP process apart from other approvals. Therefore, since neither a Use Permit nor Variance is required, Design Review is the most appropriate process, along with the LCP consistency analysis above, to approve this project. 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: The project does not require grading or other ground disturbance.
  
- 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 site is not 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: Only minor exterior modifications were done for this project, and the exterior materials and colors of the converted garage are 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 new buildings are proposed, and the development is consistent with the surrounding residential neighborhood. Vegetative screening can be found to be unnecessary.
- 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 signs are proposed as part of 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 site is already connected to utilities and no changes are proposed.
- 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 proposed as part of 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.* Response: The existing residence is 1,655 sq. ft. in size, and the proposed additional space would bring the entire residential square footage to 2,305. This is somewhat larger than the 2,000 sq. ft. guideline, but it is broken up into two structures rather than one large one. Further, the project is not proposing any increases in the footprint or height of the existing structures. The City also uses a 25% floor-to-area ratio based on a 2,000 sq. ft. residence on an 8,000 sq. ft. lot. This lot is 9,000 sq. ft. in size, and the floor-to-area ratio will be 25.6%.

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: NA

## **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: This project is not visible from open space areas.
- 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 project, due to its location and minimal external modifications, does not have the potential to block 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 project does not involve a vacant lot.
- 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 Tsurai Study Area, Holy Trinity Church, the Memorial Lighthouse or the Cemetery.

## STAFF RECOMMENDATION

Based on the above analysis, the project can be found to be consistent with the City's Zoning Ordinance, General Plan, Coastal Act, and other applicable policies and regulations. Therefore the necessary findings for granting approval of the project can be made. If the Planning Commission agrees with staff's analysis, a proposed motion might be 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 Design Review and View Protection findings in this staff report and approve the residential addition as proposed and as conditioned in this staff report.

## 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.

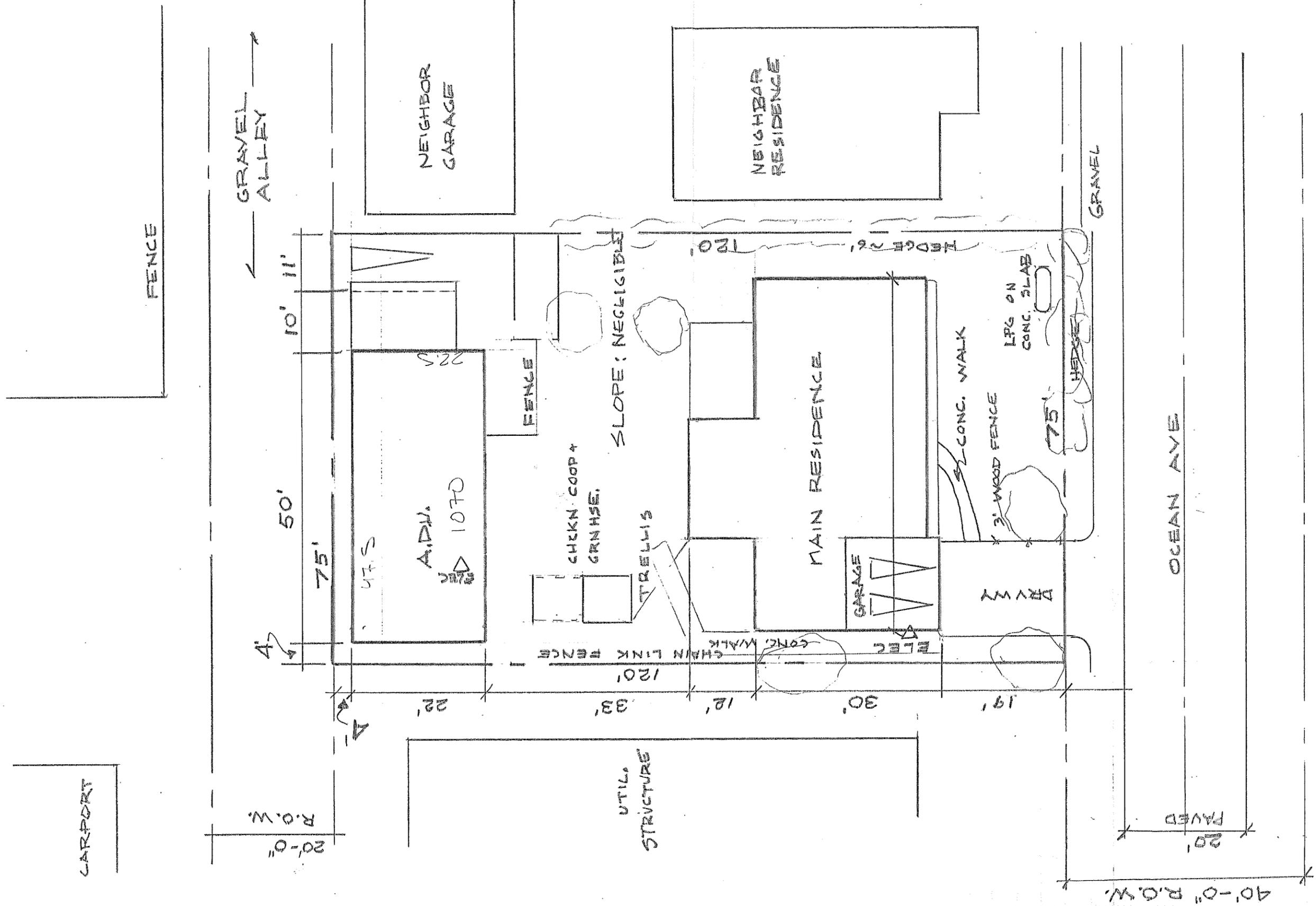
- A. Add conditions of approval to address any specific concerns on the part of the Commission or the public.
- B. Delay action / continue the hearing to obtain further information.
  - In this case, the Planning Commission should specify any additional information required from staff or the applicant 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 / Building Inspector prior to building permits being issued.*
2. Based on the findings that community values may change in a year's time, approval of this Design Review is for a one-year period starting at the effective date and expiring thereafter unless building permits have been issued or an extension is requested from the Planning Commission prior to that time. *Responsibility: Building Inspector prior to building permits being issued.*
3. Recommended conditions of the City Building Inspector shall be required to be met as part of the building permit application submittal. Both indoor and outdoor unpermitted structural improvements, including the enclosed porch on the south side of the garage,

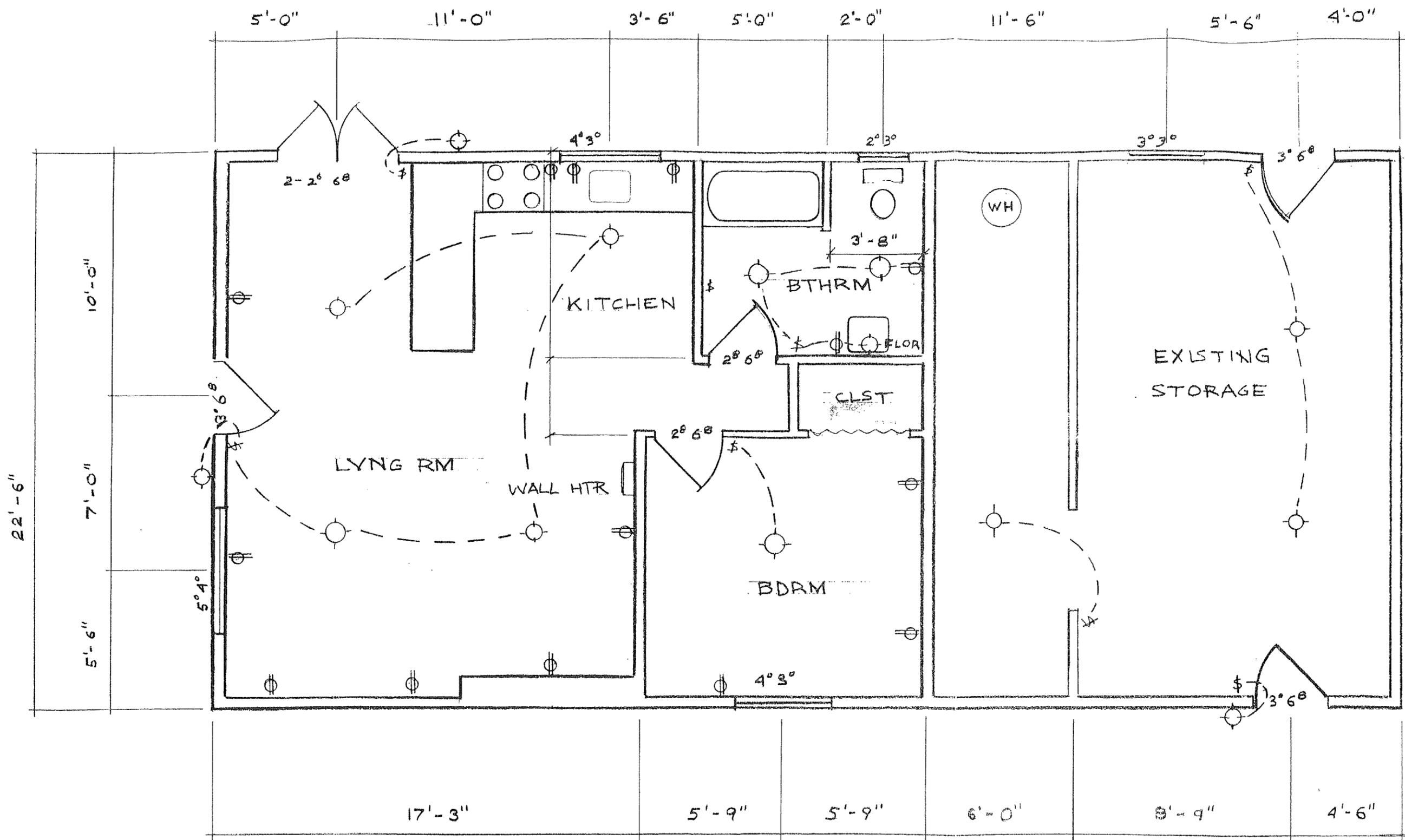
will need to be specifically reviewed and addressed at the time of building permit application. *Responsibility: Building Inspector prior to building permits being issued.*

4. The following improvements will be removed from the improved portion of the garage to the satisfaction of the Building Inspector: Stove / oven, kitchen sink, 220V outlets. *Responsibility: Building Inspector prior to building permits being issued.*
5. 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 number of dwelling units above one, will require City approval of adequate sewage disposal capabilities and other applicable standards. *Responsibility: Building Official to verify prior to building permits being issued.*
6. The detached living space is not to be used or rented separately from the primary structure; any tenant must have full access to the common areas of the primary structure. *Responsibility: Property owner to ensure on an ongoing basis.*
7. The applicant shall demonstrate that the site can support a reserve leachfield by obtaining a sewage disposal system permit for a reserve area from the Humboldt County Division of Environmental Health. *Responsibility: Building Inspector to verify prior to building permits being issued and during construction.*
8. The applicant shall install risers and an effluent filter on the existing septic tank if not already in place. *Responsibility: Building Official to verify prior to building permits being issued.*



$1/16" = 1'-0"$

# PLOT PLAN

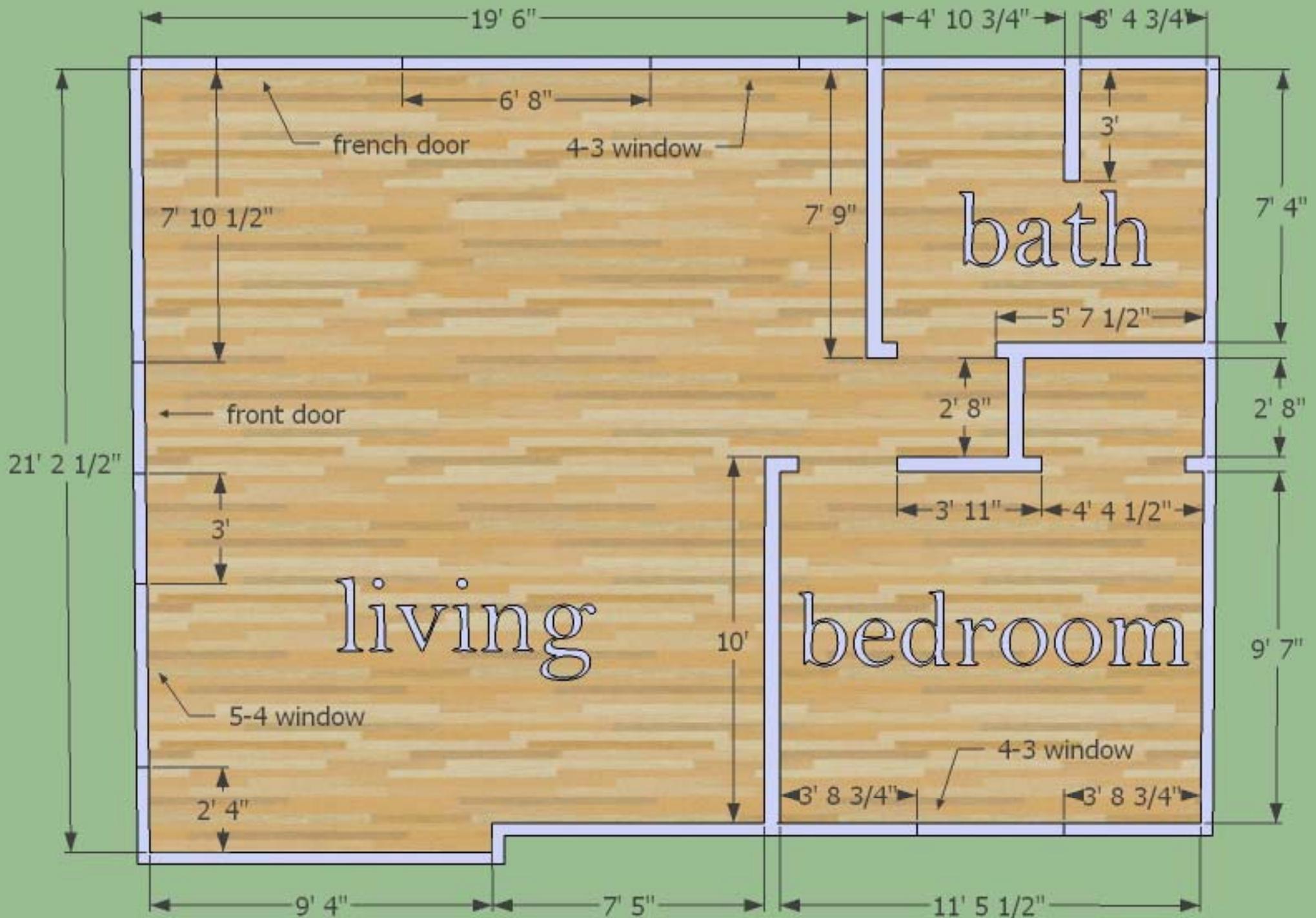


CDR SHNGL  
1/2" CDX PLY

TYVEK OR  
EQUIV

TYPICAL  
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ADU Floor Plan







## MEMORANDUM

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**TO:** Trinidad Planning Commission

**FROM:** Trever Parker, City Planner

**DATE:** April 3, 2014

**RE:** Reinman request for a determination whether the proposed use of a storage area for support of a VDU management business is an accessory use allowable in a residential zone.

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The following is a description of the proposed use as provided by Mr. Reinman: *"The use varies quite a bit, and we are adding a supplies storage location in Arcata (which will be our meeting office as well) for this season to reduce the use on the Trinidad site and to be closer to our other properties. During the high season we can average about 15 - 20 visits per day (because cleaners have to sometimes pick up the clean laundry and then drop off the dirty laundry when they are done cleaning the one or two houses they are working on). They are generally there for less than 5 minutes. They usually work in teams of two so just one of them would do the pick up & drop off. Things that we store there are laundry, cleaning supplies, soaps, detergents, wine, flowers, and hot tub supplies. During the low season there are days with no activity and days with 6-8 visits, with possibly more on a busy in/out day like Sunday."*

The Trinidad Zoning Ordinance (§17.56.020) does allow accessory uses to any permitted use in any zone. Accessory uses are defined by §17.08.710: *"Accessory use" means a subordinate use which is customarily incidental to the primary use of the premises, and which does not alter or change the character of the premises. (Ord. 166 Appx. A(part), 1979)*

As mentioned in my staff report for the previously proposed 'home office,' it is not unusual for a property owner to rent out a majority of their property while maintaining access to a portion of it for their own use such as storage or even a workshop. Due to additional correspondence and complaints I have been researching this issue more thoroughly, because Trinidad's ordinances do not provide definitive guidance. There are actually more legal precedents and ramifications than I originally thought. Because Trinidad's zoning ordinance did not seem to provide a clear answer, I focused on the impact of the use (e.g. 'which does not alter or change the character of the premises'), because the terms 'subordinate' and 'customarily incidental' seemed to allow a lot of flexibility. I concluded that as long as it fell within the standards for home occupations, which includes similar language in its definition to accessory use, it could be an allowable use. There are also some property right issues to consider, both for the subject property owner and the neighboring owners, but that is an even more complex topic.

It may be beneficial to consider the various parts of the definition separately. Clearly the amount of space proposed to be used for the VDU business is subordinate to the area of the primary use.

However, other considerations for subordinate may include the frequency of the use and its relationship to the primary use – whether it is a different, alternative, additional use or incidental. The term incidental in terms of land use appears to assume a relationship to the primary use. Customarily refers to whether the use is normal, or at least not unique, in the zoning designation, which can be considered from a local or more general context.

I believe that storage, even in support of a commercial business, could meet these terms depending on the circumstances. However, I do find that the use as proposed, generating 15-20 visits per day during even just part of the year, exceeds normal residential use and that it likely alters the character of the premises. The best data I can find (7<sup>th</sup> Edition of the Trip General Manual prepared by the Institute of Transportation Engineers) suggests that detached single-family housing overall averages 10 vehicle trips per day. Those numbers can vary depending on density, distance to services and income levels, and the range of averages is from approximately 4 to 22 trips per day. Note that each trip coming and going is counted, so that one trip to the store and back would be 2 vehicle trips. Therefore, the Reinmans are proposing up to 40 vehicle trips per day.

Property owners and tenants have wide discretion in whom and how many people access their property, and it is not inconceivable for a residence to generate this much traffic; however, that is unlikely to occur on a regular basis. But would 2-4 vehicle trips per day be accessory and incidental, and if so, when does the traffic cross the line into changing the residential character of the premises? It might be helpful to think of other uses and scenarios that could occur in residential areas, especially those that are customary in Trinidad. A common commercial use in residential areas is a vacation rental, which can generate a variety of noise and traffic impacts and which may be serviced by non-household employees. Even though vacation rentals are not mentioned at all in Trinidad's zoning ordinance, and they are not a home occupation, they have not been found to be inconsistent with residential zoning and not considered a change in the residential use. However, due to the impacts they cause, the City has found a need to adopt regulations to minimize their impacts. Because the proposed business use is a vacation rental management business, that could give credence to the 'customarily incidental' requirement in the context of Trinidad.

This determination will set some precedent, so it needs careful consideration. Again, it may be helpful to consider various scenarios that should or should not be allowed in a residential area and compare the proposal to them. For example, what if a property owner allowed (for free or a fee) their neighbor to store commercial crab pots in an unused garage? Storage appears to clearly be a subordinate and customarily incidental use to a residential property, particularly crab pot storage in Trinidad. But what if a couple of deckhands were to access the garage to do maintenance or repair work on those pots or to transport them to and from the boat periodically or seasonally? The Planning Commission has a better idea than I do as to what might fall under the category of usual or customary in Trinidad. Therefore, I am going to leave it up to the Commission to determine at what level, if any, the Reinmans could be allowed to utilize their garage / storage space to support their VDU management business. The purpose of this determination is to give some certainty to both the property owners and the neighbors to hopefully avoid conflicts in the future.