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Staff:	Trever Parker
Staff Report:	October 6, 2006
Commission Hearing Date:	October 18, 2006
Commission Action:	

STAFF REPORT: CITY OF TRINIDAD

APPLICATION NO:	2006-14
APPLICANT (S):	Michael Pinske
AGENT:	NA
PROPERTY OWNER	Ford and Frances Hess
PROJECT LOCATION:	811 Underwood Drive
PROJECT DESCRIPTION:	Use Permit and Coastal Development Permit to remove two large (>12" DBH) cypress trees from the property that were damaged during winter storms and which pose a potential hazard to adjacent structures and pedestrians along the Underwood Trail.
ASSESSOR'S PARCEL NUMBER:	042-041-29
ZONING:	UR – Urban Residential
GENERAL PLAN DESIGNATION:	UR – Urban Residential
ENVIRONMENTAL REVIEW:	Categorically Exempt from CEQA per §15304 of the CEQA Guidelines exempting minor alterations to land, water and/or vegetation.

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 project site is located on the west side of Underwood, along the south side of the Underwood Trail. The trees are on an undeveloped lot that appears to be managed as one property with the parcel to the east (APN: 042-041-14). The project parcel is surrounded by residential development on all sides. The parcel slopes toward the west.

STAFF COMMENTS:

The applicant has submitted a project description that states the specific reasons for this tree removal request and includes photos of the trees as well. The applicant had a certified arborist review the site and the trees and the potential hazards they pose. The applicant has stated that the trees were damaged in the storms last winter and is requesting a permit to completely remove them. For similar projects in the past, the City Engineer has commented that care should be taken to avoid above- and below-ground utilities during tree and/or stump removal activities. The same is true for the OWTS (onsite wastewater treatment system), particularly the leachfield. A building permit will not be required for this project, but an encroachment permit may be necessary if tree removal activities or equipment will require the use of any public right-of-way, including the Underwood Trail.

Although tree removal, especially when posing a potential hazard to people and structures, is allowed under City ordinances, many large trees have already been removed in Trinidad this year following major winter storm damage to them. The arborist's report and visual inspection reveal that the smaller tree (#1) is clearly in bad condition, but the larger tree (#2) still has a significant crown that could be considered an aesthetic and environmental resource to the community and may pose less of a hazard than the first other tree. The City has recently adopted a Views and Vegetation Ordinance that encourages trimming and thinning before complete removal of trees. Staff would request that the applicants consider whether their objectives can be met with thinning and trimming of Tree #2, but without complete removal of the tree. This may be discussed at the meeting, but is not a requirement.

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. Removal of trees over 12" diameter at breast height (DBH) requires a use permit (§ 17.32.030). Section 17.32.080 allows the removal of diseased trees, or trees posing an <u>imminent</u> danger to structures or people subject to the approval of the City Engineer. Trees may also be removed from an approved building site, subject to the approval of the Building Official. Also, small trees and brush may be removed to improve views. Although the trees proposed to be removed pose a potential hazard to people and structures, they are not an 'imminent' hazard and therefore the applicant has applied for a Conditional Use Permit.

The minimum lot size allowed in the UR zone is 8,000 s.f. (§17.32.040) and the maximum density is one dwelling per 8,000 s.f. (§17.32.050). The lot on which the tree is located is basically vacant. No buildings or other site improvements are proposed other than the tree removal.

The Urban Residential zone (§17.36.050) requires minimum yards of front 20', rear 15', and side 5' (§ 17.36.060). 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 Zoning Ordinance (§ 17.56.180) requires 2 off-street parking spaces other than any garage spaces. This project involves no structures and will not affect setbacks, heights, parking or square footages of structures.

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. Removal of trees does not have the potential to negatively impact views and may actually improve them.

Some grading may be required if the tree stumps are to be removed, however, this would be minimal. This property is already connected to all services and utilities. Exterior colors and materials are not applicable. Care must be taken to protect utilities and OWTS components located adjacent to the trees.

SLOPE STABILITY:

The property where the proposed project is located is outside of any areas designated as unstable or questionable stability based on Plate 3 of the Trinidad General Plan.

SEWAGE DISPOSAL:

There is no sewage disposal associated with this project. The parcel to the east, which contains the residence, utilizes a leachfield that is partially located on the project property. Although the exact location is not mapped in City files, it should not be in a location that would be directly impacted by tree removal activities. However, the applicant should ensure that the tree removal does not impact the OWTS and that the leachfield area is protected from heavy equipment traffic; this has been made a condition of approval.

LANDSCAPING AND FENCING:

No new fencing or landscaping is proposed at this time. The project does involve tree removal consistent with zoning ordinance provisions.

DESIGN REVIEW / VIEW PROTECTION FINDINGS:

Because the project is located within the Coastal Zone, a Coastal Development Permit for "major vegetation removal" is required. However, because the project will not alter any structures, and will not change the topography of the site by more than two feet, no design review is required.

USE PERMIT FINDINGS:

Section 17.32.030 of the Zoning Ordinance allows removal of trees over 12" DBH (diameter at breast height) with a use permit. 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.

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 proposed project includes the removal of two large cypress trees from a residentially zoned property. The trees are non-native and pose potential hazards to this and neighboring properties. There has been recent community support for the idea of improving veiwsheds by removing and trimming trees and hedges, and the removal of these trees may improve coastal views.

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:*

1. *The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;* Response: The size and nature of the trees are such that they currently pose a hazard and nuisance to the property and existing structures and pedestrians. Removal of the trees will benefit surrounding properties by removing the potential hazards.

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 proposed tree removal will not affect traffic or parking. An encroachment permit will be required during tree removal activities.

3. *The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;* Response: The proposed project will not involve any emissions.

4. *Treatment given, as appropriate, to such aspects as landscaping, screening, open space, parking and loading areas, service areas, lighting and signs;* Response: Tree removal will not affect or require any of the listed items.

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: As discussed above, under the "Zoning Ordinance / General Plan Consistency section, the proposed development can be found to be consistent with the City's Zoning Ordinance, General Plan and Local Coastal Program.

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: Removal of individual trees is exempt from CEQA per § 15304 of the CEQA Guidelines exempting minor alterations to land, water and/or vegetation except in the case of officially designated scenic trees or trees within an officially designated state scenic highway, which this tree is not.

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 located between the sea and the first public road; therefore the flowing items are applicable:

1. *The development provides adequate physical access or public or private commercial use and does not interfere with such uses.* Response: The Underwood Trial, which is already publicly owned, is located just to the north of this property. The tree removal will not affect access.

2. *The development adequately protects public views from any public road or from a recreational area to, and along, the coast.* Response: The tree removal will not block views, and may improve coastal views.

3. *The development is compatible with the established physical scale of the area.* Response: There are other trees and vegetation in the vicinity; the tree removal will not affect the scale of the surrounding community.

4. *The development does not significantly alter existing natural landform*; Response: If the stumps are removed, some ground disturbance will be necessary, but landforms will not be altered.

5. *The development complies with shoreline erosion and geologic setback requirements.* Response: There are no shoreline or geologic setbacks required for this property.

STAFF RECOMMENDATION

Based on the above analysis, the proposed project can be found to be consistent with City regulations and the required Use Permit Findings can be made. Provisions of the Zoning Ordinance and General Plan can be met. If the Planning Commission agrees with staff's analysis, 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 move to adopt the information and findings in this staff report and recommend approval of the project as conditioned below:

Alternative Motion for Denial

If the Commission does not agree with staff's analysis, or if the public presents evidence that conflicts with the findings contained in this staff report, the Commission may choose to deny the project. If the Commission does decide to deny the project, the denial should be based on specific findings that can not be made. The Commissioners should specifically state the reasons for denial and which finding(s) can not be made. A motion could be similar to the following:

Based on public testimony and information included in the application, I find that Use Permit/Design Review/View Protection Finding(s) "---" can not be made because ---, and I move to deny the project.

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 authorization of tree removal or encroachment permit 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 tree removal approval or encroachment permit being issued.*

3. Tree removal activities are to occur in a manner that incorporates storm water runoff and erosion control measures in order to account for 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: Applicant to ensure at time of project completion.

4. The applicant shall assure that tree removal activities, including heavy equipment operation, do 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: City Clerk to verify prior to tree removal approval or encroachment permit being issued.*