Posted: January 26, 2018

City of Trinidad

NOTICE AND CALL OF A MEETING OF THE

TRINIDAD PLANNING COMMISSION

The Trinidad Planning Commission will hold a rescheduled monthly meeting on

WEDNESDAY JANUARY 31st, 2018, AT 6:00 P.M.

in Town Hall at 409 Trinity Street.

The following items will be discussed:

I. ROLL CALL

II. APPROVAL OF MINUTES – December 20, 2017

III. APPROVAL OF AGENDA

IV. ITEMS FROM THE FLOOR

V. AGENDA ITEMS

Discussion / Decision / Public Hearing / Action

1. Hasselquist 2017-07: After-the-fact Design Review, Use Permit, Variance and Coastal Development Permit to convert a permitted, 2-story garage with upstairs recreation room (approximately 1,120 sq. ft. total) into a 1-bedroom second dwelling unit. The conversion happened more than 10 years ago under a previous owner. The variance is needed because the structure does not meet residential setbacks. A new septic system designed to accommodate two units was recently installed. Located at: 150 Scenic Drive; APN: 042-141-03

2. Policies for Detached Living Spaces: As directed by the City Council, an initial discussion to develop clear policy recommendations about permitting detached living space to minimize the potential for these spaces to be utilized as separate dwelling units and add enforcement fines and/or fees for violators. *Continued from the July and August meetings.*

PLEASE DO NOT REMOVE OR COVER UP

VI. COUNCIL REPORT

VII. STAFF REPORT

VIII. FUTURE AGENDA ITEMS

IX. ADJOURNMENT

PLEASE DO NOT REMOVE OR COVER UP

MINUTES OF THE MONTHLY MEETING OF THE TRINIDAD PLANNING COMMISSION
Wednesday, December 20, 2017

I. CALL TO ORDER/ROLL CALL (6:07pm)

Commissioners Present: Johnson, Graves, Gregory, Stockness
Commissioners Absent: None
Staff: Parker

II. APPROVAL OF MINUTES

November 15, 2017

Commissioner Johnson asks about the validity of the statement, as an item from the floor during the last meeting, that it is not legal to have someone other than City staff take minutes at the meetings. Planner Parker responded that, to her knowledge, the assertion is incorrect. Johnson also clarifies that he and Commissioner Stockness are not eligible to serve as chair, only as long as there are others on the Commission who have no so served.

***Motion* (Graves/Johnson) to approve the minutes as corrected.**
Passed unanimously (4-0).

III. APPROVAL OF AGENDA

***Motion* (Graves/Stockness) to approve the agenda.**
Passed unanimously (4-0).

IV. ITEMS FROM THE FLOOR

There were no items from the floor.

V. AGENDA ITEMS

1. Frame 2017-05: Design Review, Variance and Coastal Development Permit to convert the existing kitchen/dining area, which was originally a garage, back into a garage and therapy room. The project also includes the addition of a new kitchen/dining area to the back of the residence and a small addition to the front of the garage that will encroach into the front yard setback (343 sq. ft. total in additions). The roofline will increase by approximately 12 inches, but the structure will remain single-story. No increase in the number of bedrooms is proposed. Located at: 770 Underwood Drive; APN: 042-031-16.

Parker summarizes the information in the staff report. She explains the scope of the project and its consistency with the City's zoning regulations. It is a fairly modest and straightforward project except for the variance being requested, which is difficult to grant. The variance is needed in order to allow the proposed garage addition at the front of the house to extend into the front yard setback up to three feet. The purpose of the request is to allow space for a therapy room and a garage, which are both

necessary to accommodate a disability of one of the occupants. Planner Parker explains that jurisdictions are required to make "reasonable accommodation" in building and zoning codes for disabilities. Trinidad's ordinance does not have process for allowing exceptions other than a variance.

Commissioner Comments/Questions
Commissioner Graves asks whether the nonconforming lot size affects the proposed development. Planner Parker responds in the negative. She explains that undersized lots are very common in Trinidad, and the zoning regulations allow them to be developed consistent with other requirements. Commissioner Graves also asks Parker to go through the Variance findings in detail, which she does.

Commissioner Johnson requests clarification as to the two issues of nonconformance on the property. Planner Parker responds that in addition to the lot being somewhat under the minimum lot size, the property is also nonconforming as to parking spaces. She explains that, while the driveway is physically long enough to accommodate two vehicles, only one space is actually located on the property. The driveway will be shortened by a few feet, but will still accommodate one legal parking space on the property; therefore, the degree of nonconformity will not be increased, which is the standard of review included in the zoning ordinance. In addition, a garage space is being added.

Commissioner Johnson then asks for additional information regarding compliance of the property's septic system with the City's OWTS regulations. Parker responds that the system is old, and undersized, but is a standard system (tank and leachline) and is functioning fine. Because the project does not increase the number of bedrooms, or encroach on the OWTS, upgrades aren't required other than identification of a suitable reserve area. Commissioner Johnson also gets clarification on some aspects of the site plan, including the property lines and setback lines.

Commissioner Johnson asks the agent, S. Atkins, whether there will be any utilities installed in the therapy room. S. Atkins responds that there will be no sink or fixed equipment and points out that there is no exterior access to that room. The location of the washer and dryer is also discussed.

Commissioner Stockness asks if the sunroom and windows along the front of the house are staying the same. S. Atkins states that the sunroom will remain as is, other than some interior work, but that the windows on the west side will be replaced with a garage door. Stockness compliments the existing landscaping and asks if it will remain. S. Atkins responds that the landscaping was one of the reasons for purchasing the property and that the owner intends to keep, and likely enhance it. Stockness expresses a concern over the lack of parking. Parker notes that if the driveway were widened by four feet, it could accommodate two parking spaces, and

this could be added as a condition of approval if the Commission feels that is warranted.

Commissioner Graves opines that the City's zoning ordinance needs to be amended to codify allowances or exceptions for accessibility in order to eliminate the need for a variance. Commissioner Johnson agrees and requests that staff include that as part of the current Local Coastal Program update that is in progress.

Commissioner Graves wonders if the Commission should include a condition to restrict the conversion of this house to a Short-Term Rental. Commissioner Johnson states that it probably isn't necessary, because the new STR ordinance caps the number of STRs in residential zones.

Public Comment
D. Bruce (780 Underwood) is a next door neighbor, and is in support of the project. He states that the unusual circumstances justify granting of a variance, including the disability and the curvature of the road, which makes adding onto the front of the house difficult.

Commissioner Discussion
Commissioner Graves reiterates his concerns with some of the nonconformance issues on the property, but is in agreement with the findings and conditions of approval presented in the staff report.

Action
Motion* (Graves, Gregory) Based on application materials, information and findings in the staff report, and based on public testimony, I move to adopt the information and findings in the staff report and approve the project as submitted in the application, as described in this staff report, and as conditioned therein. *Passed unanimously (4-0).

VI. COUNCIL REPORT

Commissioner Johnson, who attended the meeting, reported that a letter from the City to the County regarding development in the Luffenholtz Creek watershed was pulled from the consent calendar, as was a letter regarding cannabis permits within the City's Planning Area. He noted that a new Mayor was chosen—S. Rotwein—and that D. Miller would be Mayor Pro Tem. The City Engineer gave a presentation on street repair priorities. A new contract for the City Manager was approved. And the Civic Club's request for a waiver of fees was pulled from the agenda at the request of the Civic Club.

VII. STAFF REPORT

Planner Parker provided an update as to the current status of the Trinidad Memorial Lighthouse move. She also explained that detached living space policy was not on the

agenda, because she had given priority to getting some work done on the general plan update and the Van Wycke Trail repair CEQA document. Commissioner Graves suggested that Planner Parker contact Cities that regulate detached living spaces to find out how well their regulations were working.

VIII. FUTURE AGENDA ITEMS

There were no future agenda items requested.

IX. ADJOURNMENT

The meeting was adjourned at 7:05

Submitted by:

Trever Parker

Interim Secretary to Planning Commission

Approved by:

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Diane Stockness

Acting Planning Commission Chair

Filed:	December 21, 2017
Staff:	Trever Parker
Staff Report:	January 5, 2018
Commission Hearing Date:	January 31, 2018
Commission Action:	

STAFF REPORT: CITY OF TRINIDAD

APPLICATION NO:	2017-07
APPLICANT / OWNER(S):	Paul and Michelle Hasselquist
AGENT:	NA
PROJECT LOCATION:	150 Scenic
PROJECT DESCRIPTION:	After-the-fact Design Review, Use Permit, Variance and Coastal Development Permit to convert a permitted, 2-story garage with upstairs recreation room (approximately 1,120 sq. ft. total) into a 1-bedroom second dwelling unit. The conversion happened more than 10 years ago under a previous owner. The Variance is needed because the structure does not meet residential setbacks. A new septic system designed to accommodate two units was recently installed.
ASSESSOR'S PARCEL NUMBER:	042-031-16
ZONING:	UR – Urban Residential
GENERAL PLAN DESIGNATION:	UR – Urban Residential
ENVIRONMENTAL REVIEW:	Categorically Exempt from CEQA per §15301 exempting additions to, and modifications of existing structures.

APPEAL STATUS:

Planning Commission action on a Coastal Development Permit, Variance, Conditional Use Permit, and/or Design Review approval 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, and may be appealable per Section 30603 of the Coastal Act.

SITE CHARACTERISTICS:

The property is located on the west side of Scenic Drive at the southeast tip of Trinidad. It is currently developed with a 1-bedroom, split-level, approximately 1,600 sq. ft. primary residence; this structure is currently being remodeled. A garage that was approved with an upstairs recreation room in 1988, was converted into a second dwelling by the previous owner some time ago, and has been used as an STR for a number of years. A new septic system, designed to accommodate two 1-bedroom residences, was installed in June 2017. Topography and geology of the property vary, with some steeps slopes and numerous bedrock outcrops. There are single-family residences to the east, north and south; the Pacific Ocean is to the west.

STAFF COMMENTS:

It came to the City's attention last summer that the garage had been converted into a secondary dwelling unit. Prior to that, I assumed the STR was in the primary residence. The STR license for the property is on hold, and the property owners have ceased renting it until the issue is resolved. The primary residence is currently being remodeled and is vacant.

The structure itself already received Design Review approval from the City. However, a deck and an awning have been added since that approval. Therefore, because the project alters the external profile of the existing structure, Design Review approval is required. In addition, conversion of the structure from a garage / recreation room to a second dwelling is a change of use that requires a Coastal Development Permit, and a Use Permit. Finally, the structure does not meet all required setbacks, which requires approval of a Variance. Therefore, Design Review, Use Permit and Variance findings will all need to be made. Although this project should technically be reviewed as if it doesn't exist, the reality is that it has been a residence for more than 20 years according to the owner. And while the project requires approval of both a Use Permit and a Variance, staff does not find that it has created any land use conflicts, environmental impacts or other negative impacts to the neighborhood.

Referrals were sent to the City Engineer, Building Inspector and County Division of Environmental Health (DEH). The City Engineer had no comments at this time. DEH also had no issues with the proposed project, having recently approved a new septic system to accommodate both units. The Building Inspector also had no comments other than that a Building Permit will be required along with full sets of building plans for that application.

Previous Garage / Recreation Room Approval

The original detached garage was lost in the winter storms of '82-'83. After doing substantial slope protection work, the owners applied to the City to build a replacement garage in 1988. The garage was approved with a recreation room upstairs. The structure has since been converted to a one-bedroom accessory dwelling unit by a previous owner and was connected to the old septic system. A deck and awning have also been added. It has been used as a short term rental (STR) for at least 10 years according to the manager.

The placement of the garage and the design of the foundation were based on substantial geologic work that was done on the property. The entire property is subject to geologic risks. However, there are areas of more stability, particularly due to large, rock outcroppings / buried sea stacks that existing throughout the property. The structure was located where it is based on the recommendations of a licensed geologist, and it has a substantial, engineered foundation.

The current owners purchased the property in December 2016. The City became aware of the second unit through a more detailed review and inspection and inspection of the property during the STR license renewal process last summer. In addition, the City received a copy of the permit to install a new septic system from DEH. After a review of the file information, the City requested that the owners cease operation of the STR. The license could potentially be transferred to the primary unit, but that is currently undergoing a significant interior and structural remodel. City staff met with the applicants to discuss potential options for bringing the property into compliance. Because staff determined that the second unit was potentially permittable, the owners chose to apply for this after-the-fact permit. The property is currently vacant as the City understands it.

Potential Conflicts of Interest
None known; no Commissioners live or own property within 300 ft. of the project.

ZONING ORDINANCE / GENERAL PLAN CONSISTENCY

The property where the structure is located is zoned SR – Suburban Residential. The lot itself has both SR and SE – Special Environment Zoning. The purpose of the SR zone is to allow low-density residential development consistent with any site limitations; single-family residences are a principally permitted use, and second dwelling units are allowed with a Use Permit. The minimum lot size allowed in the SR zone is 20,000 sq. ft. and the maximum density is one dwelling per 20,000 sq. ft. of lot area. The existing lot is 48,868 sq .ft., which is large enough to accommodate a second unit. The purpose of the SE Zone is to: *"maximize preservation of the natural and scenic character of these areas through minimizing alteration of natural land forms and vegetation and limiting the extent of development in areas affected by geologic instability, steep slopes, tsunami and flood hazards on the basis of on-site investigations."* Single-family dwellings are only allowed in the SE zone with a Use Permit and the density is limited to one dwelling per lot.

The SR Zone (nor anywhere else in the City's Zoning Ordinance) does not specify that the density requirement has to include 20,000 sq. ft. of SR zoning, or that undevelopable portions of a lot are not included in the square footage. The only place where split zoning appears to be considered is §17.20.040—minimum lot area in the SR zone—which prohibits subdivision of SE parcels unless each parcel includes another developable zone and that an identified building site be located partially or entirely in the developable zone. Based on that section, theoretically, this one lot could be split into two lots, each with some area of SR zoning. Taken together,

these facts led me to conclude that a second dwelling unit could be permitted on this property if it is within the SR Zoned area.
The existing primary residence is located within the SE zone, but the (proposed) accessory dwelling is, at least mostly, within the SR zone the best I can tell. I determined the boundary by scaling it off of the officially adopted Land Use Map, Plate 1B of the General Plan. That method was based on §17.12.050 of the Zoning Ordinance (determination of boundaries). Subsection D states: *"Where a boundary line is not determined by any of the above, the zoning boundary shall be determined by using the scale contained in the zoning map. If uncertainty still exists the boundary line shall be established by the planning commission after notifying all the affected landowners and obtaining their comments."* Subsections A, B, and C are streets and alleys, lot lines, and vacated streets or alleys, respectively. Clearly none of those apply in this case. The zoning map is 8.5" x 11" and is not realistically scalable (the line dividing the zones is 20 ft. thick). By law, the zoning map has to be consistent with the General Plan, therefore, I used Plate 1B, which is larger and higher quality.

The zoning boundary in this location appears to be based on the soil stability map, and is also the boundary between the "unstable" and "questionably stable" areas. Therefore, I also looked at the geologic reports and maps that have been prepared for this property in the past to see if I could find a demarcation, such as a bluff edge, that roughly corresponded to that zone boundary. I did not find anything. Therefore, it appears that the only way to objectively determine the boundary line is to scale it off of Plate 1B. Based on my best measurements, the line dividing the two zones crosses the very southern corner of the building as shown on the attached site plan. However, that line could be several feet to the northeast or southwest. The Planning Commission does have the option of making a different determination as provided in §17.12.050.D. The only property owner that would be affected is the applicant, and I did inform him of this issue.

According to the site plan and application materials, the floor area of the both the primary and secondary residences, as defined by the Zoning Ordinance Sec. 17.08.310, will each be less than the maximum guideline of 2,000 sq .ft. suggested in Design Criterion H (see Table 1 below). Another measure that the Planning Commission uses as a standard is a 25% maximum floor-to-lot area ratio even though it is not codified; this number is based on the fact that 2,000 sq .ft. is 25% of an 8,000 sq. ft. lot. In the SR Zone, that ratio would more appropriately be 10% (2,000 sq. ft. on a 20,000 sq. ft. lot). In this case, the residential floor area ratio will by 5.7% including both residences.

The maximum height allowed in the SR zone (Zoning Ordinance §17.28.070) is 25 feet, (measured from the average ground level elevation covered by the structure to the highest point of the roof, §17.56.100), except that the Commission may require a lesser height in order to protect views. The conversion of the garage into a residence did not alter the height of the structure, which is 23 ft. (based on the previously approved plans from 1988).

TABLE 1 - AREAS

	EXISTING/PROPOSED
LOT AREA	48,868 s.f.
FLOOR AREA	
Primary Residence	1,600 s.f.
Accessory Dwelling	1,120 s.f.
Primary + Secondary Dwelling	2,720 s.f.
FOOTPRINT	
Total Building Footprint	2,160 s.f.
Awning/covered porch & storage	105 s.f.
Deck	340 s.f.
Total Structure Footprint	2,605 s.f.
FLOOR TO LOT AREA RATIOS	
Primary Residence	3.27%
Primary + Secondary Residence	5.57%
Total Structure Footprint	5.33%

The Zoning Ordinance (§ 17.56.180) requires two off-street parking spaces other than any garage spaces for single-family dwellings. Each parking space is required to be 18' long and 8.5' wide. There is room for at least four parking spaces in the area indicated on the site plan. Just including just the owner's property, there is room for one perpendicular space and three parallel spaces. However, in practice, vehicles pull in perpendicularly to the toe of the rock, which is technically located on the property to the north. There are also several additional parking spaces within the paved driveway leading to the primary residence. Therefore, parking requirements are easily met.

The SR zone (§17.28.060) requires minimum yards of front-30 ft., rear-20 ft., and side-10 ft. The parcel does not actually have any street frontage, but the shared driveway access is on the north side of the lot. The lot is oddly shaped, so the frontage, if it has any, is difficult to determine. The eastern property line is the one that most directly faces Scenic Drive. However, the shared driveway enters through the northern property line. Section 17.08.410 defines lot frontage as: *"means the line separating a lot from the street, in the case of an interior lot, and the line separating the narrowest street frontage from the street in the case of a corner lot."* Because this lot is not adjacent to a street, it could be argued that there is no front property line. Alternatively, I would argue that it should be the shortest, northern property line, where the driveway enters the lot. The structure is approximately 21 ft. from the property line to the east, 32 ft. from the property line to the north, which meet required setbacks; but it is only about a foot from the property line to the west.

Accessory structures are not required to meet rear or side yard setbacks (§17.56.090). However, detached garages aren't always regulated as accessory structures, which are limited to 15 ft. in height (however, this is still an open question, because application has been inconsistent). In the 1988 staff report, the structure was presented as being in the SE Zone, without any discussion of how that was determined. The SE Zone contains no setback requirements, because development is expected to be dictated by significant site constraints. However, residential structures in the SR Zone are required to meet setbacks, and this one clearly does not meet the 10 ft. side setback. Therefore, a Variance should be required in order to permit this structure as a secondary dwelling. Features such as decks, balconies and stairways are allowed to extend up to eight feet into front, street side, or rear yard setbacks and three feet into side setbacks. Obviously the deck, which was not included as part of the approval of the garage (though the 75 sq. ft. balcony was), does not meet setbacks, since it extends over the property line. The adjoining property owner did provide an easement for the deck to extend on to that property.

Because the structure already exists, no grading is required for this project. This site is already connected to services and utilities, and these will not change. Exterior materials and colors and architectural features are not proposed to change are shown in attached photos. Materials include new horizontal siding to match the existing siding. A standard composite roof is proposed

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. However, the current proposal includes no structural changes to the building, so there is no potential to impact views from residences located adjacent to or above the structure. Elevations have been provided for this project, and the neighbors have been notified.

SE Zone Requirements

Because the structure is located partially within the SE zone, and because the property is zoned mostly SE, the following regulations also have to be considered.

<u>17.20.070 Requirements in tsunami hazard area.</u>

The Trinidad Zoning Ordinance sets the tsunami hazard area as only 20 ft. above mean lower low water. But this data is well out of date; almost nothing was known about the Cascadia Subduction Zone in 1980. Current mapping puts the tsunami hazard zone to approximately 40 ft. above mean sea level. However, there is no uniform elevation that has been set as the hazard zone. Instead maps have been developed for the local area based on computer models that account for a variety of factors such as topography and aspect. The official maps are on TopoQuads and individual properties are difficult to distinguish. However, Humboldt County has digitized the information in their WebGIS, which shows the building site to be outside and above the hazard zone. The structure is located approximately 60 ft. above sea level.

17.20.080 Requirements for structures on ocean bluffs

This section prohibits most structures from being located on bluff faces. This requirement was analyzed and met as part of the approval process for the garage structure. It was determined that the slope that the garage is located above does not meet the definition of a "bluff." Therefore this section does not apply.

17.20.090 Requirements for development on slopes near bluffs

This section was also addressed during the original development of the structure. It was determined that the edge of the bluff, which appears to be at about the 30-ft. contour, was more than 30 ft. from the structure. However, the deck is located further west of the structure, and the bluff may have retreated since 1988, therefore, staff has requested that a geologist review this structure in accordance with zoning ordinance requirements. That report had not been received by the time this staff report was finalized, so that has been included as a condition of approval. If any significant modifications to the deck are required based on the geologic assessment, then additional Design Review approval may be required.

17.20.100 Requirements for development in stream protection areas

This section does not apply. There is no watercourse on the property. There are some seeps and springs, but they don't support riparian vegetation. McConnahas Mill Creek is located approximately 300 ft. from the project location.

17.20.110 Requirements in Tsurai Study Area

The project site is not within or near the Tsurai Study Area.

17.20.120 Requirements for open space protection

This subsection is closely related to §17.56.150 (Public access to the shoreline) and General Plan Policy 65. Section 17.20.120 requires areas within the SE zone, but outside of the construction area to be preserved through an open space easement. Both sections 17.20.120 and 17.56.150 also require granting of a public access easement along the beach between the mean high tide line and the landward edge of vegetation. In general, these access easements are required only for "new development," which includes any intensification of use (17.56.150.C); conversion of use from a detached garage and recreation room to residential unit falls in the category of "new development" for the purposes of these requirements.

Policy 65 of the Trinidad General Plan states in part: *"The city shall require an open space easement or similar agreement to assure public use of designated trails and to protect the natural character of Special Environment areas when approving permits for allowable development. Such agreements shall cover the portions of the lot which need not be disturbed by proposed structures and appurtenant uses."* The public access portion of the easement would be along the beach. The open space easement would protect areas outside of the developed area but within the SE zone from further development, but would not be open to the public.

Public access is one of the key components and requirements of the Coastal Act. Technically, these easements should probably have been required as part of approvals for the shoreline protection work that occurred in 1984. However, I have found no evidence that it was. Section 17.56.150.A of the Trinidad Municipal Code reads as follows: *"As a condition of approval for any variance, conditional use permit or design review of new development, the landowner shall offer to dedicate an easement for public access, for a period of 21 years, along the ocean shoreline from the mean high tide line up to the first line of terrestrial vegetation or a distance inland of 25 feet, whichever is the greater, and a 25-foot-wide easement along any trail designated in the Trinidad general plan located on the subject property. These public easements shall only take effect when a public or private trust approved by the city accepts responsibility for liability and the improvement and maintenance of the access easement."*

Subsection B includes the following restrictions within the 25 ft. wide public access easements:

1. Existing motorized access shall not be enlarged and where motorized access does not exist, it shall not be allowed;
2. Foot trail portions of the easement shall not exceed 10 feet in utilized width;
3. Existing foot trails should be used except when design or stability problems require a change;
4. Buffer zone areas on the unutilized portions of the foot trails shall not be open to the public.

The way these public access easements work is that they are granted as "Offers to Dedicate" (OTDs) the easement for a period of 21 years. They do not actually become public access easements until the OTD is accepted by an appropriate entity, such as a public agency or a land trust. If the OTDs are not accepted within the 21 year period, then they expire. In Trinidad, these OTDs have usually been accepted by the TCLT.

In this case, the public access component could be found to be unnecessary due to lack of existing access to the shoreline and public safety considerations. This part of the shoreline is very narrow and rocky; there is likely little area that is above mean high tide line but outside the first line of vegetation or toe of the bluff. In addition, the proposed development in no way affects any existing access.

However, the open space easement is still important. In particular, the structure is not readily visible from the beach partially due to existing vegetation. That vegetation should be protected to preserve that viewshed in the future. Therefore, staff is recommending an open space easement for areas outside of the developed areas (including existing landscaping) that are also within the SE Zone; this has been included as a condition of approval. The easement should be worded to allow some regular vegetation maintenance, including trimming to maintain the owners' views and to control non-native species.

<u>17.20.130 Determination of development feasibility</u>

This section requires a report by a registered geologist or certified engineering geologist for any development within areas designated as "unstable" or of "questionable stability" as mapped on

Plate 3 of the General Plan. It requires that the Planning Commission find that the proposed development "will not significantly increase erosion and slope instability and that any potential adverse impacts have been mitigated to the maximum extent feasible." The geologic report must be based on an onsite inspection and address all aspects of the project including grading, building, accessways, leachfields, runoff and vegetation disturbance. The report must also contain professional opinions regarding the following:

"1. The area covered in the report is sufficient to demonstrate the geotechnical hazards of the site consistent with the geologic, seismic, hydrologic and soil conditions at the site;
2. The extent of potential damage that might be incurred by the development during all foreseeable normal and unusual conditions, including ground saturation and shaking caused by the maximum credible earthquake;
3. The effect the project could have on the stability of the bluff;
4. How the project can be designed or located so that it will neither be subject to nor contribute to significant geologic instability through the lifespan of the project;
5. A description of the degree of uncertainty of analytical results due to assumptions and unknowns."

This requirement was already addressed as part of the construction of the garage structure in 1988. The applicant submitted a brief report from a Certified Engineering Geologist that the conversion of the approved structure to a dwelling unit is not going to affect site stability or increase the existing risks to the structure from geologic instability. However, the deck was not assessed as part of the original garage approval, so I have requested an additional geologic assessment of the deck that complies with these requirements. As mentioned above, this has been included as a condition of approval.

SLOPE STABILITY:

The project site is mapped as being "unstable" (SE zoned area) and of "questionable stability" (SR zoned area) on Plate 3 of the General Plan. The project is located outside of the Alquist-Priolo Fault Zone. However, the structure itself has already met the geologic requirements of the City's LCP (see discussion above). A registered geologist submitted a report addressing the change in use of the structure, finding that it would make no difference to the stability of the site or structure.

As part of the approval of the garage, the City included a condition that the owner sign and record a hold harmless agreement for the benefit of the City. In that agreement, the owner was to acknowledge that the property is subject to geologic hazard and agree to hold the City harmless for any future damage that might occur. Apparently that agreement was never recorded, and so has been included as a condition for this project.

SEWAGE DISPOSAL:

The previous septic system was very old and very undersized (450 gallon tank and a leachpit), though it was adequately functioning. As part of the OWTS Operating Permit and STR License review, the City was monitoring and limiting water use, and requiring annual pumping. As part of the property sale, DEH evaluated the site and found that there was no feasible location for a repair. Therefore, the property was allowed to sell without requiring an upgrade of the system. However, the new owner had the property evaluated by a geologist who is also qualified to design septic systems. He found room to install a new, standard system partially under what had been part of the deck of the primary residence. That system was approved by DEH and installed last summer. The new system meets current standards for two one-bedroom units, except that there is no identified reserve area. It is a huge improvement over the old system. And DEH has no issues with the proposed project.

LANDSCAPING AND FENCING:

This project does not involve any new landscaping or fencing.

DESIGN REVIEW / VIEW PROTECTION FINDINGS:

Because the project proposes (even minor) changes to the external profile of the structure and is not exempt (§17.72.070.C) from a CDP, §17.60.030 of the zoning ordinance requires Design Review and View Preservation Findings to be made. The only external changes that have been made since the approval of the garage are the addition of the awning along the south side of the structure and the addition of the deck along the north and west sides, so those are the only features that need to be evaluated in terms of the Design Review findings. The required findings are written in a manner to allow approval, without endorsing the project. However, if conflicting information is submitted at the public hearing, 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 structure already exists, so no grading is required.

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 located adjacent to the coastline and beaches. These areas are not zoned open space, but function as such. The materials and colors of the existing structure, consisting of naturally stained

wood and composite shingles, were originally chosen to blend with the site and are not proposed to change.

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: Exterior materials and colors are not proposed to change. The deck is constructed with naturally finished wood.

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 in landscaping are proposed at this time. The property is already heavily vegetated. The structure is not readily visible from most public viewing locations. 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 new signs are proposed as part of this project. There is an existing sign identifying the structure as the STR "Raven House" on the front of the building that complies with the City's sign regulations.

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: No changes to the existing overhead utilities 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 square footage of the residence after the proposed addition will be 1,120 sq. ft., well under the maximum guideline.
   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 primary and secondary dwellings are separated by approximately 80 feet of forested land.

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: Although the structure is located close to the coastline, it is not readily visible from many locations. It is visible from the Bay, from the rocky point at the south end of Old Home Beach and from the small beach around the mouth of McConnahas Mill Creek. The structure is surrounded by mature vegetation and is constructed of naturally stained wood to blend with its surroundings.

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 location and topography, the structure does not have the 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 project will not be located on a vacant lot, and due to the project location and topography, the structure does not have the potential to block private 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 Holy Trinity Church, the Memorial Lighthouse, the Tsurai Study Area, or the Cemetery.

USE PERMIT FINDINGS:

The following findings, as may be revised, are required in order to approve this project. As usual, the findings are written in a manor to allow approval of the project, but if the Planning Commission disagrees with any of the findings, or public testimony presents conflicting information, then the findings should be reworded accordingly.

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 use of the site for a second residence is consistent with LCP requirements and provides additional housing in a low-density neighborhood. It has been in existence for more than 20 years, and rented as an STR for at least 10 years with no known complaints.

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: Geologic risks of and to the structure have been evaluated and are not considered significant. Construction of a modern septic system is a benefit to public health.

   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: Access to the structure is provided via a private, shared driveway that serves three properties, each with an existing residence (in addition to the proposed second unit). The project won't affect existing traffic patterns.

   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: The proposed project will not affect any of these existing 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 project 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: Conversion of a garage to a living unit is exempt from CEQA per §15303 of the CEQA Guidelines exempting new construction or conversion of small structures, including "conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure." There are no foreseeable environmental impacts that would result from the project.

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 following findings are applicable.

1. *The development provides adequate physical access or public or private commercial use and does not interfere with such uses.* Response: The project does not provide public access or commercial use. However, the development does not interfere with existing access and is not a site where new access would be a priority.

2. *The development adequately protects public views from any public road or from a recreational area to, and along, the coast.* Response: The project is not readily visible from many locations. The structure is constructed with naturally finished wood and is located in a vegetated area so it blends with its surroundings.

3. *The development is compatible with the established physical scale of the area.* Response: The structure is modestly sized and has been in existence for almost 30 years. It is located approximately 80 feet from the main residence, so the site does not appear crowded or more densely developed than neighboring properties.

4. *The development does not significantly alter existing natural landforms*. Response: No grading is required for the project.

5. *The development complies with shoreline erosion and geologic setback requirements.* Response: Shoreline erosion and geologic setback issues and requirements have been

adequately addressed by a Registered Engineering Geologist. Also see discussion above under Slope Stability and SE Zone requirements.

VARIANCE FINDINGS

Because the southwest corner of the structure, and the deck, will not meet the side yard setback required by Zoning Ordinance § 17.28.060, 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. The responses to the Variance findings include justification from both staff and the applicant.

In this case, significant, physical limitations do exist on the property. The garage was placed in one of the only developable locations on the property, according to the geologic evaluations. However, an accessory dwelling unit is not really essential to the use and enjoyment of the property, since a primary living unit already exists. 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 provides 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 required findings are listed below, with some responses from staff. The

applicant has also provided a response and justification for each finding, which is attached to this staff report.

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: There are clearly exceptional geologic and stability issues that apply to this property. These same circumstances do apply to other properties directly along the coast, but still justify placement of the structure in the most stable location on the property, which does not meet a required side 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: If the variance is not granted, the owner would not be able to establish a second unit on the property, which is an allowable use with granting of a use permit. In addition, because the garage was converted by a previous owner, the situation is not attributable to the current owner. And by not granting a variance, the current owner would be required to remove all of the improvements at their expense, and lose a valuable improvement. According to the applicants: *"Literal enforcement of this title would result in unnecessary hardship to the owners as they need the second unit rental income to cover the property's mortgage payments. In order to afford to live there and put 3 kids through college, the second unit needs to be a residential dwelling* [to rent]. *Also with a large family, the second unit is necessary to accommodate said* [visiting] *college kids in the years to come as owners will be residing in the 1 bedroom main house."*

C. *That such variance will not constitute a grant of special privilege inconsistent with limitations imposed on similarly zoned properties.* Response: Most of the other properties along this section of coast, that would be large enough to permit a second unit, have larger areas of SR zoning that could accommodate a second unit. However, the City would still consider a similar variance for those properties in order to locate a structure on the most stable portion of a lot. According to the applicants, the continued use and enjoyment of the second residence that has been in existence for 25 years is not a grant of special privilege, since they purchased the property in good faith with the understanding that they could rent the second unit to help pay for their mortgage.

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: Other properties that have a combination of SR and SE zoning and that are larger than 40,000 sq. ft. also have a right to apply for a use permit for a second unit. According to the applicants: "*The most exceptional feature of this property, the epitome of a Trinidad coastal residence, comes from the use of the second dwelling. In addition, continued use of this dwelling allows another human presence on the property to help keep the transient community from illegally squatting under and around the unit. This is currently the situation as we go through the permitting process and the unit is vacant."*

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. The structure itself has been in existing for almost 30 years, and has been a residence for at least 20 years with no detrimental impacts. The structure underwent significant geologic review and was placed in the most stable location on the property. A new septic system was installed, which benefits public safety and environmental health. The structure is not near to any other structures or public amenities that could be impacted. According to the applicants: *"All bordering neighbors support the variance."*

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 Zoning Ordinance allows exceptions to setbacks to protect views (View Protection finding C). This exception is required for the structure to be located on the most stable portion of the lot, which is consistent with the SE Zone requirements. Other requirements of the City's Local Coastal Program are also met as described in the staff report above.

G. *That the variance will not permit a use other than a use permitted in the applicable zoning district.* Response: A secondary dwelling unit is allowed with a Use Permit, which has been included as part of this staff report.

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. The new septic system that was recently installed by the applicants is a significant improvement over the old system.

I. *When the subject property is located between the sea and the first public road paralleling the sea and the first public road paralleling the sea or within three hundred feet of the inland extent of any beach or the mean high tide line where there is no beach, whichever is the greater, that:* Response: Please see responses to Use Permit Finding E (1-5).
   1. *The development provides adequate physical access or public or private commercial use and does not interfere with such uses,*
   2. *The development adequately protects public views from any public road or from a recreational area to, and along, the coast,*
   3. *The development is compatible with the established physical scale of the area,*
   4. *The development does not significantly alter existing natural landforms,*
   5. *The development complies with shoreline erosion and geologic setback requirements.*

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, View Protection, Use Permit and Variance findings in this staff report and approve the project as submitted in the application, as described in this staff report, and as conditioned herein.

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: 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 the project has been initiated through issuance of a building permit or an extension is requested from the Planning Commission prior to that time. *Responsibility: Building Inspector prior to building permits being issued.*

3. 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 two bedrooms, or number of dwelling units above

two, will require City approval of adequate sewage disposal capabilities and other applicable standards. *Responsibility: Building Inspector to verify prior to building permits being issued.*

4. Any construction related activities are to occur in a manner that incorporates storm water runoff and erosion control measures as necessary 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 Inspector to confirm prior building permits being issued.

5. Recommended conditions of the City Building Inspector 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 Inspector prior to building permits being issued.*

6. An open space easement for those portions of the lot outside of the building envelope / developed area shall be recorded in order to protect the natural and scenic character of that area. Annual maintenance of vegetation shall be allowed to control non-native species and trimming of annual growth to maintain the existing yard area and viewshed; periodic maintenance of the existing gabian walls is also allowable. *Responsibility: City Clerk to verify prior to final project sign off.*

7. The applicant shall offer a dedication of public access easement for the right to pass and repass along the shoreline, between the mean high tide line and the first line of terrestrial vegetation, or 25 feet, whichever is greater, unless the applicants can show that their property does not extend on to the beach below the first line of vegetation. *Responsibility: City Clerk to verify prior to final project sign off.*

8. All construction activity shall minimize the removal of vegetation, minimize alteration of natural landforms and adverse impacts on the scenic qualities of the area including minimizing the degree of visibility from beaches, shorelines, stream corridors, and other public viewpoints. *Responsibility: Building Official to verify prior to final project sign off.*

9. A geologic report, meeting the requirements of sections 17.20.090 and 17.20.130, which addresses the deck location and support system shall be submitted by the applicants. Any recommendations of the report will be required to be met as part of the building permit process. If any significant modifications to the deck are needed, additional design review approval may be required. *Responsibility: City Planner to verify prior to issuance of building permits.*

Project description for 150 Scenic.

We recently purchased this property and we were made aware that it does not have the proper permits. We want to bring this accessory dwelling into compliance with the city.

Owners:

Michelle & Paul Masselquist

RECEIVED
DEC 21 '17
CITY OF TRINIDAD

East Elevation

Overview

AWNING ADDITION

Order No.
Escrow No.
Loan No.

WHEN RECORDED MAIL TO:

JULIE JOYNT / BILL BOSS
PO BOX 625
Trinidad, CA 95570

SPACE ABOVE THIS LINE FOR RECORDER'S USE

DOCUMENTARY TRANSFER TAX $ NONE

..... Computed on the consideration or value of property conveyed; OR

..... Computed on the consideration or value less liens or encumbrances remaining at time of sale.

Signature of Declarant or Agent determining tax — Firm Name

EASEMENT GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, William A. Boss, an unmarried man, and Julie C. Joynt, a single woman

hereby GRANT(S) to Edmund T. Wright and Barbara A. Wright, husband and wife as joint tenants.

the real property in the City of Trinidad
County of Humboldt, State of California, described as

The easement is for the use and maintenance of a deck built by grantee. See Exhibit "A" attached hereto and made a part hereof.

Dated 05/03/05

Julie Joynt
William A. Boss

STATE OF CALIFORNIA }
COUNTY OF Humboldt } ss.

On May 3, 2005 before me,
Monika Lyn Ballew,
personally appeared Julie C. Joynt and William A. Boss,

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Monika Lyn Ballew

MONIKA LYN BALLEW
COMM. #1488996
NOTARY PUBLIC • CALIFORNIA
HUMBOLDT COUNTY
My Comm. Expires May 11, 2008

(This area for official notarial seal)

MAIL TAX STATEMENTS TO:

Exhibit "A"

EASEMENT LEGAL DESCRIPTION

An easement over, under and across the following described real property, situated in the County of Humboldt, State of California:

COMMENCING on the southerly boundary of the parcel of land conveyed to William A. Boss and Julie C. Joynt by Deed, recorded as Document # 2000-9969-2, Humboldt County Records, at the westerly terminus of the course "North 80 degrees 45 minutes East, 19.2 feet" described therein, said westerly terminus marked by a ¾" iron pipe with pipe cap, as shown on a Record of Survey for McCarty, filed in Book 50 of Surveys, Page 104;

Thence along the southerly line of said lands of Boss and Joynt, South 21 degrees, 05 minutes, 00 seconds West, 29.48 feet to the POINT OF BEGINNING of the herein described easement;

Thence leaving said southerly line, South 75 degrees, 06 minutes, 21 seconds West, 13.23 feet;

Thence South 29 degrees, 03 minutes, 56 seconds West, 8.44 feet;

Thence South 15 degrees, 10 minutes, 01 seconds East, 8.86 feet;

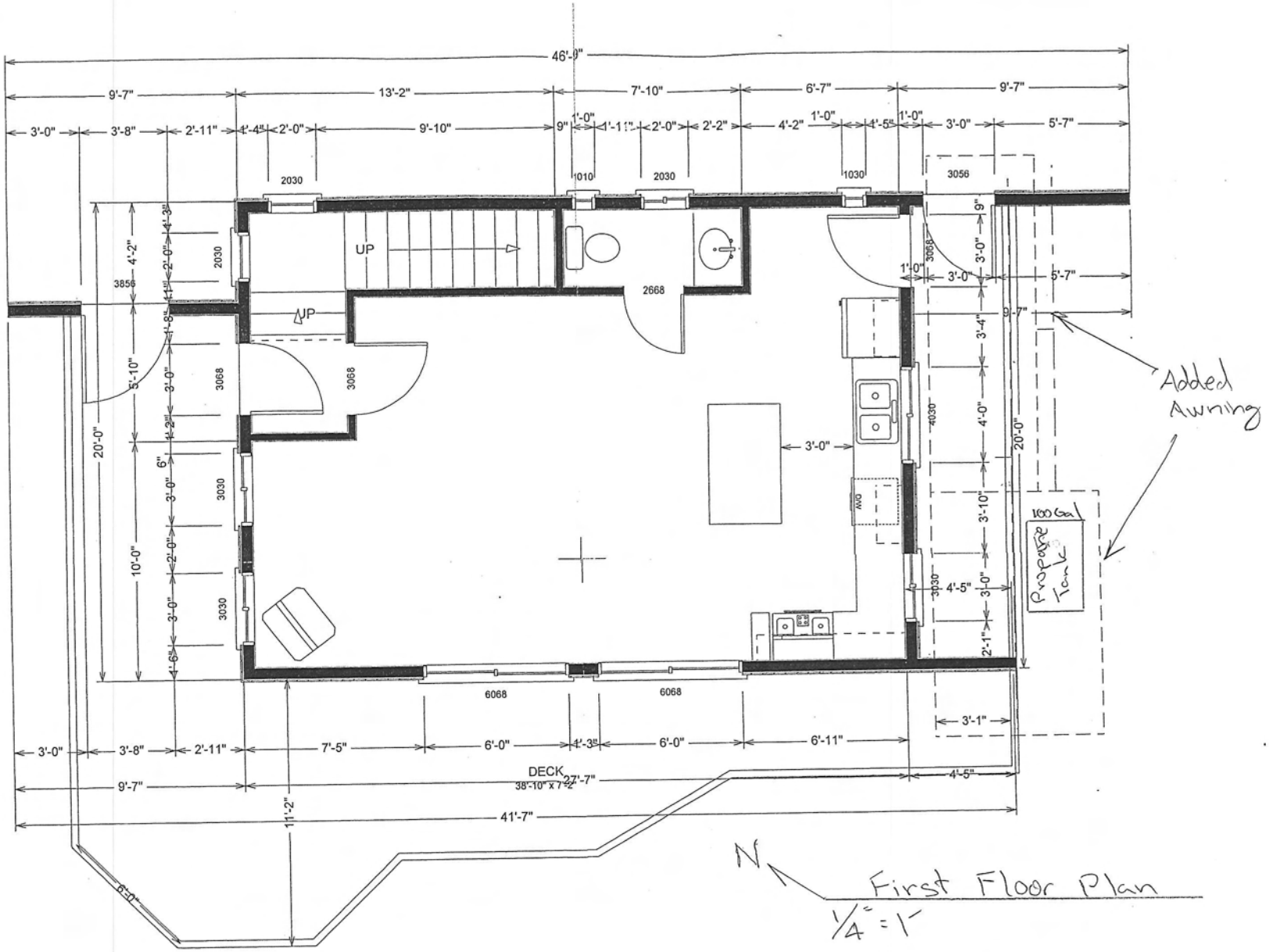
Thence South 58 degrees, 03 minutes, 21 seconds East, 6.76 feet to the above mentioned southerly line of said lands of Boss and Joynt;

Thence along said southerly line, North 21 degrees, 05 minutes, 00 seconds East, 24.55 feet to the Point of Beginning.

END OF DESCRIPTION

The basis of bearings for this description is Document # 2000-9969-2, Humboldt County Records.

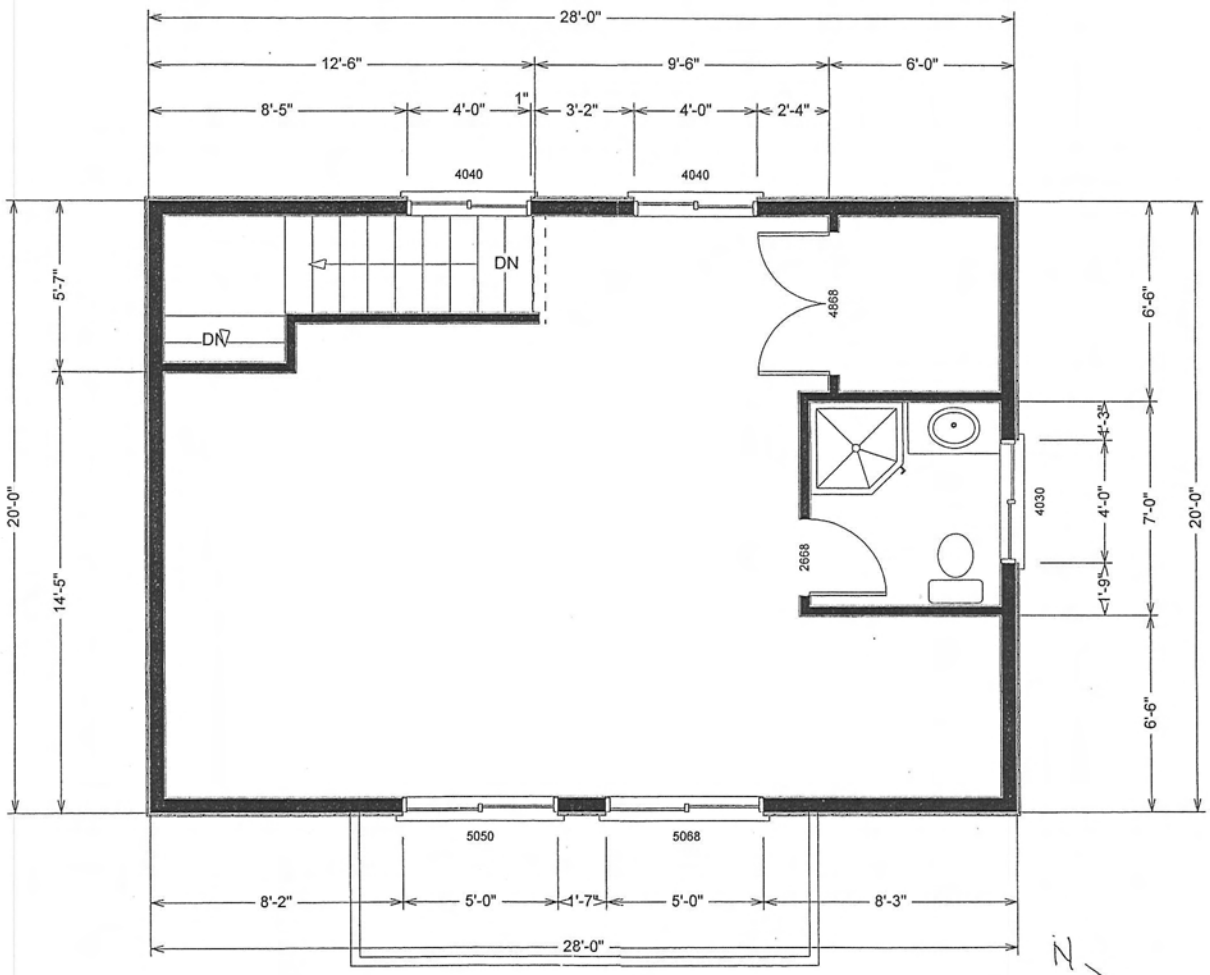
LICENSED LAND SURVEYOR
BARRY L. KOLSTAD
EXPIRES
9-30-05
No. 5877
STATE OF CALIFORNIA



First Floor Plan

1/4" = 1'

150 Scenic



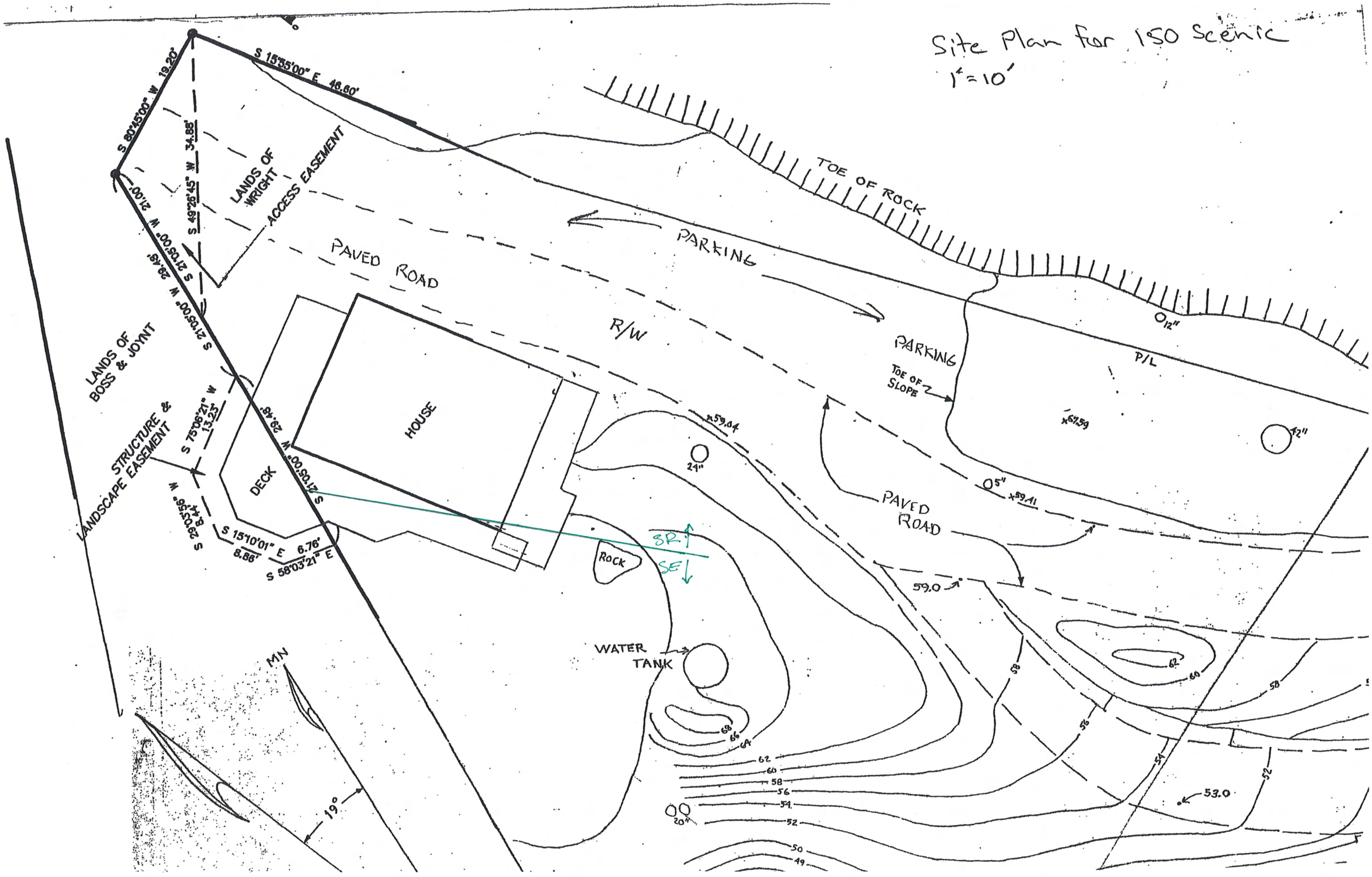
N

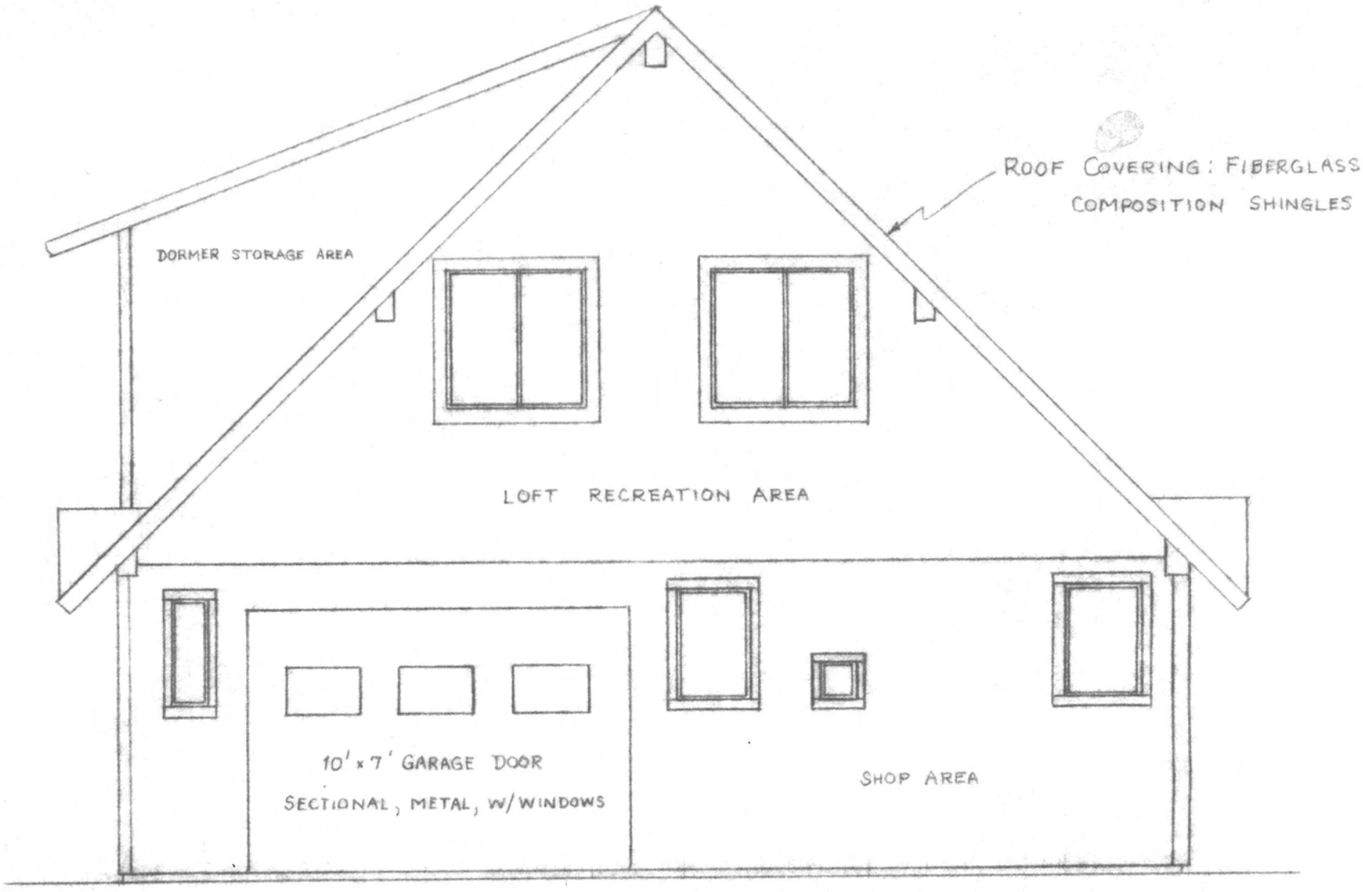
Second Floor Plan

1/4" = 1'

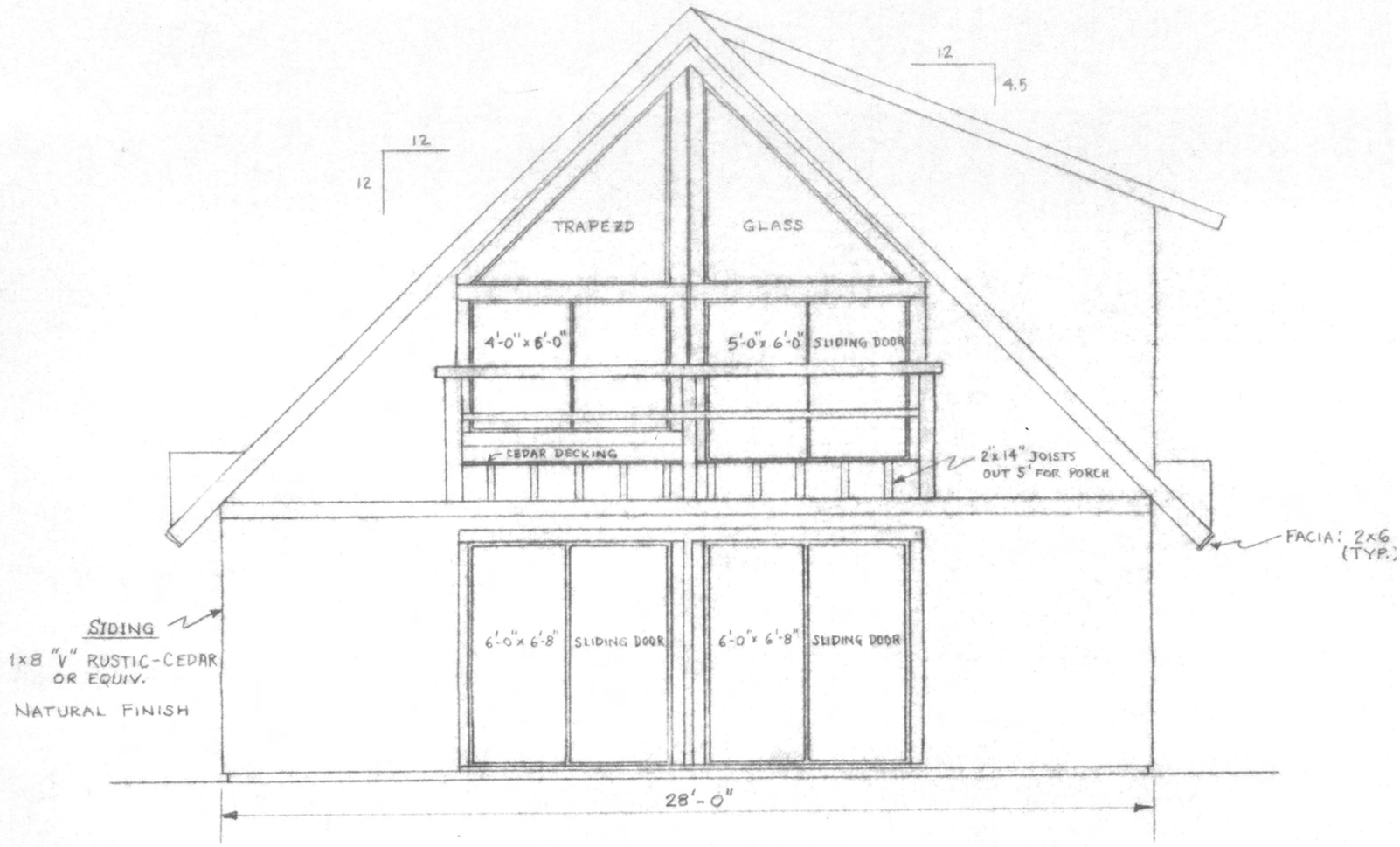
150 Scenic

Site Plan for 150 Scenic
1" = 10'





REAR ELEVATION

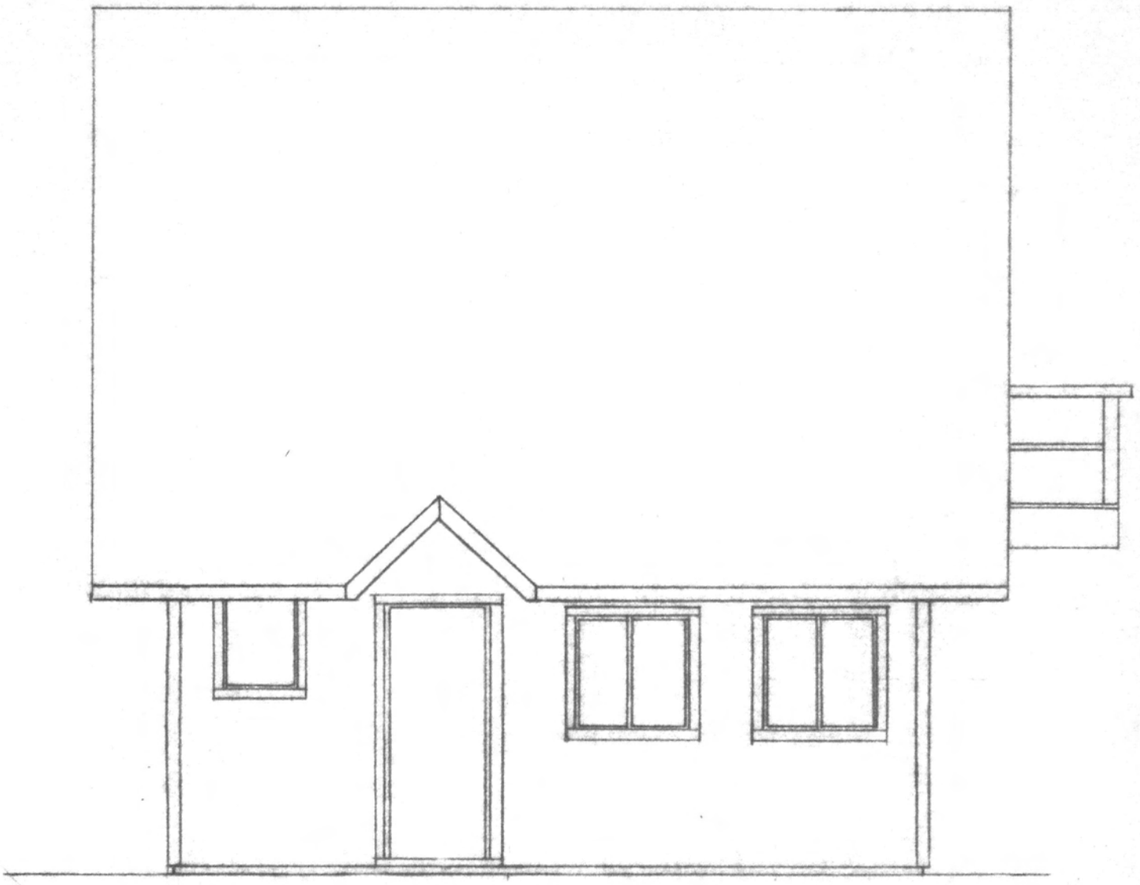


FRONT ELEVATION
(FACES TRINIDAD BAY)

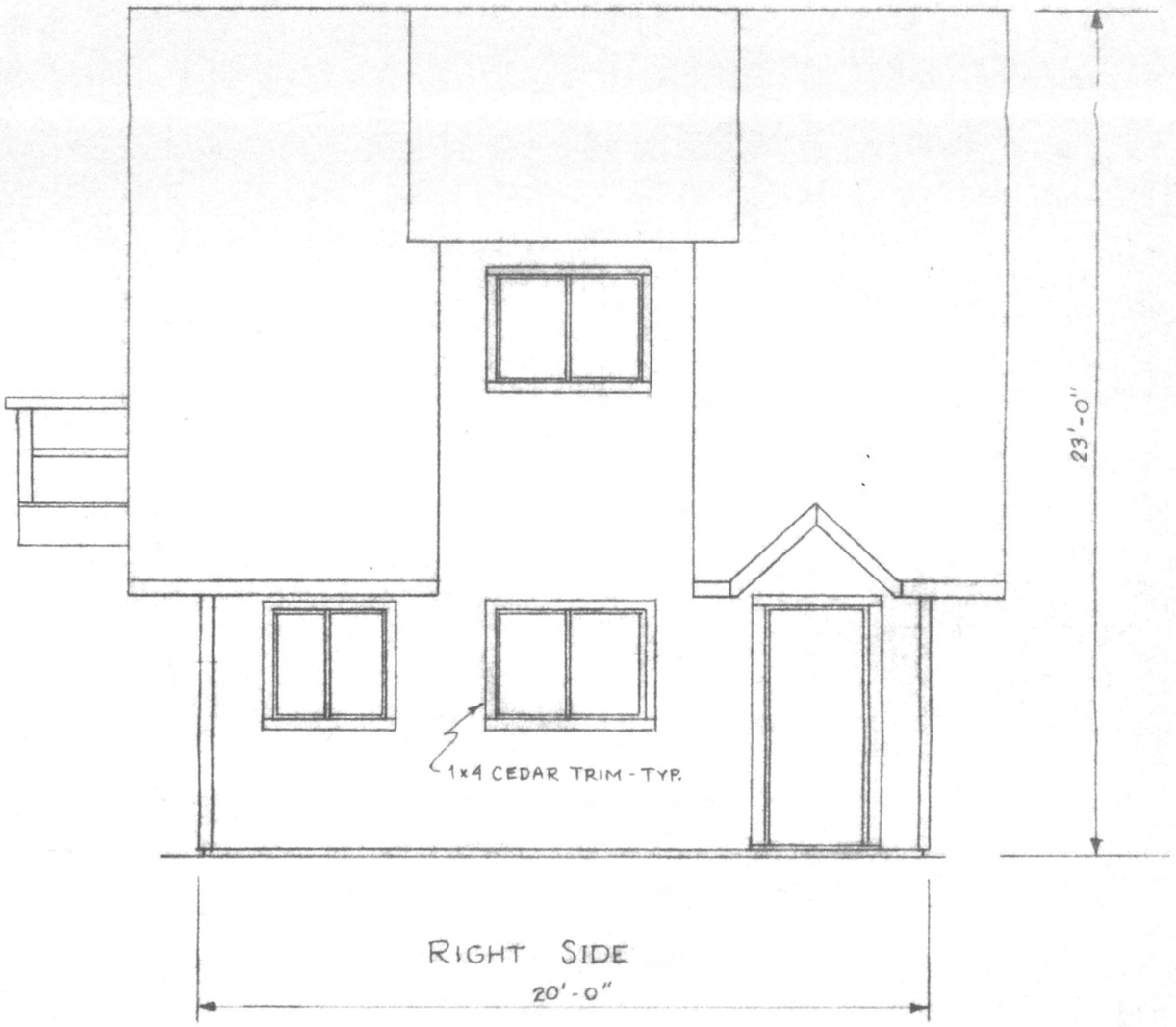
received
12/1/88
CITY OF TRINIDAD
P. O. BOX 390
TRINIDAD, CA 95570

E FOR WRIGHT RESIDENCE
AD, CA
E. T. WRIGHT
TIONS
SCALE: 1/4" = 1'-0"

AREAS:
GARAGE/WORKSHOP - 560 ☐
LOFT/RECREATION - 560 ☐
BALCONY - 75 ☐



LEFT SIDE



RIGHT SIDE

REPLACEMENT GARAGE
TRINIDAI
11 NOV 88
PAGE 1 OF 3
ELEVAT

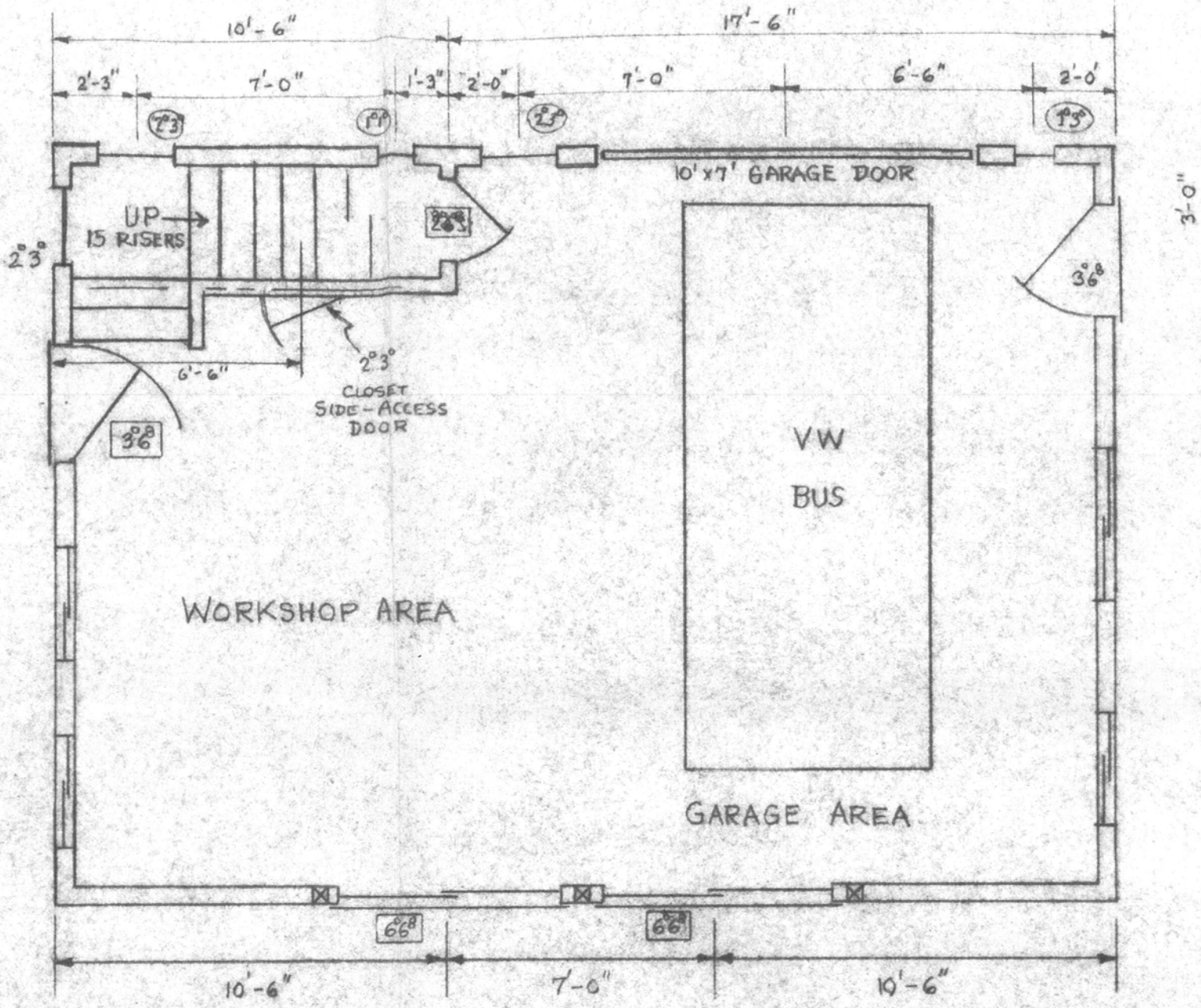
View of the structure from the driveway.

View of the structure from the parking area.

View of the deck and rear of the structure.

View from the deck showing where the structure is visible from along the coast.

View of the structure from the bay.

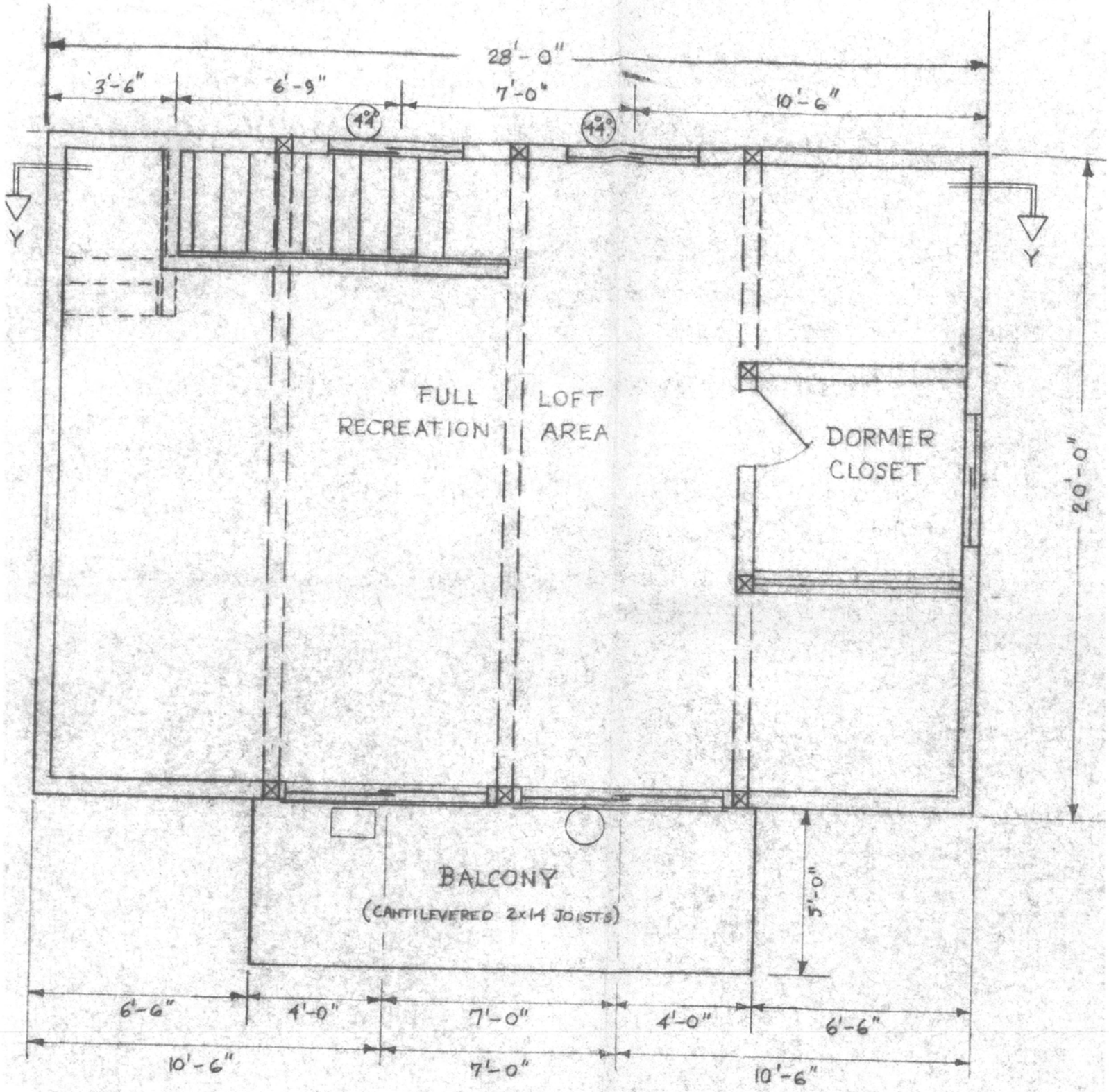


REPLACEMENT

E.T. WRIGHT

SCALE 1/4" = 1' FL

RE



RESIDENCE

11 NOV. 88

D p. 2 of 3

AREAS:

GARAGE/WORKSHOP - 560 ☐

LOFT/RECREATION - 560 ☐

BALCONY - 75 ☐

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Reference: PH-2017

December 18, 2017

Paul Hasselquist
P.O. Box 72
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Subject: **Qualitative Assessment of Slope Stability Conditions, 150 Scenic Drive, Trinidad; Assessor's Parcel Number 042-141-003**

Introduction

This report presents the results of a visual assessment of slope stability conditions conducted by a Certified Engineering Geologist at the above-referenced subject property. The site assessment was performed to evaluate potential long-term impacts to the existing secondary dwelling in response to episodic soil creep and ground movements that have occurred in the site vicinity.

Project Description

It is my understanding that the existing secondary dwelling was converted from a permitted garage to conditioned living space by the former owners. The current owner is in the process of obtaining an after-the-fact Building Permit from the City of Trinidad for the structure for its continued use as a secondary dwelling.

Based on my review of the original foundation plan sheets provided by the current owner, the foundation for the original garage structure was engineered and designed by LACO Associates Consulting Engineers in May 1989. The existing foundation consists of a continuous concrete perimeter spread footing on the east and south edges of the structure. The north and west edges of the structure are supported by reinforced concrete pier and post foundations. According to the plan sheets, the cast-in-place concrete pier blocks are 2 feet square and are embedded a minimum depth of 3.5 feet below the ground surface. Construction of the entire foundation system appears to be in conformance with the LACO plans.

Site Conditions

Bedrock directly underlying the subject parcel consists of Central Belt Franciscan Complex. Franciscan Complex bedrock in and around Trinidad Bay is composed of a tectonically sheared assemblage of isolated blocks of very hard and resistant coherent rock floating in a highly erodible matrix of pervasively sheared, deeply weathered, and clay-rich argillite. The resistant, isolated rock blocks are predominately composed of greenstone, metamorphosed basalt, and graywacke sandstone. These blocks range from boulder-size to Trinidad Head-size in maximum dimension. The precipitously steep rock face in the vicinity of the parking area along the inboard edge of the driveway is an example of a large, resistant, and coherent bedrock block. Numerous smaller coherent bedrock blocks are located downslope of the primary residence within and directly above the intertidal zone.

In the Trinidad area, the Franciscan Complex is commonly described as mélange due to its assemblage of disassociated rock types, its pervasively sheared character, and its apparent lack of structural continuity. Common slope failure mechanisms along the shoreline of Trinidad Bay include a combination of gravity-driven slumping and deep-seated earthflows. These types of failures occur wherever the clay-rich matrix of the mélange bedrock is exposed to undercutting by wave and tidal action. As a result, the matrix material mobilizes seaward leaving a concentration of resistant boulders within the tidal zone. The locations of active earthflows around the shoreline of Trinidad Bay are readily identifiable by the dense concentration of

large boulders at the base of the coastal bluffs including the stretch of shoreline directly seaward of the subject parcel.

Downhill soil creep associated with deep-seated earthflow activity generally occurs at very low rates on the order of inches to feet per year, with the greatest slope movements occurring during the winter and spring months when pore water pressures within the clay-rich mélange matrix are highest. Ground movements and settlement are typically manifested in the form of back-tilting and rotation of the ground surface. As a result, any structure constructed on an earthflow complex may become rotated out of level due to differential movement of the ground surface. Due to the large areal extent and complex nature of the active earthflow underlying the secondary dwelling on the subject parcel, it should be expected that episodic soil creep and minor ground settlements will recur in the future at rates similar to those of the past.

Conclusions

Based on my observations of existing conditions and an understanding of the geologic processes affecting the site, it is my professional opinion that the modifications and change of use of the structure from a garage to habitable living space will neither contribute to slope instability, nor be substantially affected by slope instability within its economic lifespan. Differential settlement on the order of inches may occur during the remaining life of the structure and may require re-leveling of the structure. Catastrophic failure of the coastal bluff slope directly west of the structure, however, is not expected to occur due to the slow rate of ground movement associated with the earthflow complex in the site vicinity.

Sincerely,

Giovanni A. Vadurro, CEG
Engineering Geologist

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PC DISCUSSION / ACTION AGENDA ITEM

Wednesday, January 31, 2018

Item: Continued Discussion of Policies for Detached Living Spaces: As directed by the City Council, an initial discussion to develop clear policy recommendations about permitting detached living space to minimize the potential for these spaces to be utilized as separate dwelling units and add enforcement fines and / or fees for violators.

Background

At the last meeting this item was discussed (November 2017), the Planning Commission directed me to draft some sample policy language for you to review. I thought it would be helpful, particularly for the new Commissioners, to again include my original report on this topic (July 19, 2017). Before I actually write up a draft policy document, I wanted to get some additional direction and details from the Commission, but I did create an outline of what some of these considerations might be with some sample language in this memo.

One of the things that I noticed that was very common in jurisdictions that allow and regulate detached living spaces is that they are not allowed to be rented separately from the main structure. This is an important consideration, and where confusion and grey areas tend to occur currently. If these spaces are just an extension of the rest of the residence, then can the owner rent out the detached space just like they could a bedroom in their home? Does it make a difference if the house is owner-occupied? Whether it is rented under separate contracts to different tenants? Whether it is sublet by a tenant that leases the property under one contract? Can they be used as a Homeshare STR? If these spaces can be rented separately to long-term tenants, there should be stipulations that the tenant have access to the common areas of the main structure, including the kitchen. Contracts and contract language are something that the City can verify pretty easily.

Also, should there be different rules or standards for different types of spaces? A bedroom with a full bath is much easier to use as a quasi-second unit than a workshop or studio that only has a half bath and no room divisions for example. What review process should be used? Under what circumstances should these spaces come to the Planning Commission for review? In the past, I have only required Planning Commission review for projects that increase the floor area/living space of the residence, because floor area is a design review issue. However, what exactly requires Planning Commission approval is a bit of a grey area. Section 17.60.030 of the City's Zoning Ordinance states that: *"Approval need not be required for remodeling that does not*

affect the external profile or appearance of an existing structure." And *"Minor remodeling which does not alter the external profile of the structure"* is exempt from a CDP (§1772.070.C.2.g). On the other hand, a change of use of a structure generally does meet the definition of "development" in the Coastal Act, particularly if there is the potential for it to be used as a second dwelling. It would be good to have clearer guidance on this.

I also wanted to include another case example to add to those presented in the July 19 report. This project is located at 311 Trinity Street. This is a relatively large lot (13,030 sq. ft.) and zoned Planned Development, so a mix of uses are allowed on the property. The owner proposed converting a portion of the garage into a "fish and game processing and exercise room." Project components included the following:

- Sheet rocking and insulating
- Replacing an existing shower with a tub
- Removal of an interior wall
- Installation of a utility sink, counters cabinets, refrigerator/freezer and shelves for a fish and game preparation area
- Retaining 220V and 30 amp outlets / connections
- Storage space
- Exercise equipment
- A portable / outdoor burner is used for cooking crab, etc.

This project was not considered to be "living space" because the use is for a utility room, and it is not continuously occupied. However, there are no hard and fast definitions to rely on, even in the Uniform Building Code. And when it comes to Building Permits, Building Inspectors generally must rely on the use as stated by the contractor or owner, not how a space could *potentially* be used.

Policies

Definitions

I took the following detached living space definition from the City of Santa Cruz and modified it to better fit more of the existing situations in Trinidad. We may want to define other types of spaces (e.g. studios, workshops, utility rooms) if they are going to be regulated differently. I did not immediately find definitions for all of those in the zoning regulations I looked at, but if the Planning Commission wants to pursue that further, I can. It depends on how the policy is written whether those definitions will matter, but the terminology is important.

Detached (or Accessory) Living Space: A detached structure of a permanent type of construction containing conditioned living and/or sleeping quarters, which is clearly subordinate and incidental to the main building on the same lot, and which ~~is not separately rented, let, or leased, whether compensation is direct or indirect~~ is used as an

extension of a single-family dwelling, and which does not have a kitchen. (Santa Cruz) Detached living spaces may only be created within existing accessory structures.

Studio: A workroom, which may include a shop, for use by an artist, photographer or crafts person, which contains no kitchen but may include a lavatory and sinks, and is not intended for use as a dwelling unit, and which, unlike a gallery, is not open to the public. (Pt. Arena)

Kitchen: (I included several examples for consideration)

- A room or space within a building used or intended to be used for the cooking or preparation of food, which includes any of the following: refrigerator, stove, oven, range top, dishwasher, kitchen sink. (Fort Bragg)
- Any room or portion of a building used or intended or designed to be used for cooking or the preparation of food, whether the cooking unit be permanent or temporary and portable, including any room having a sink and cooking stove that has a flat top with plates or racks to hold utensils over flames or coils. (Mendocino)
- Any room, all or any part of which is designed or used for cooking and preparation of food. The use of a portable microwave oven or mini-refrigerator appliance utilizing one hundred ten volt plugs for the purpose of incidental wet-bar or snack bar purpose without food storage, a cook stove or preparational/clean-up area shall not constitute a kitchen. (Crescent City)
- Any room or portion of a room used or designed to be used for cooking and/or preparation of food and containing two or more of the following appliances and/or fixtures; any sink (larger than fourteen inches by fourteen inches and/or having a drain outlet larger than one and one-half inches in diameter), refrigerator (larger than two and one-half cubic feet), hot plate, microwave, burner, stove or oven. (Santa Cruz)
- A kitchen means an area within a structure that is used or designed to be used for the preparation or cooking of food and that contains one or both of the following:
    1. Cooking appliances or rough in facilities including, but not limited to: ovens, convection ovens, stoves, stove tops, built-in grills or microwave ovens or similar appliances, 240 volt electrical outlets or any gas lines. OR
    2. A sink less than 18 inches in depth with a waste line drain 1-½ inches or greater in diameter AND a refrigerator exceeding five (5) cubic feet in capacity or space opening with an electrical outlet that may reasonably be used for a refrigerator exceeding five (5) cubic feet in capacity. (Sonoma)

Wet bar: A single sink with a waste drain line no greater than 1-1/2 inches in diameter and an under counter refrigerator no greater than 5 cubic feet in size with cabinets and/or counter top area not exceeding 6 lineal feet. A wet bar shall not include a refrigerator in excess of 5 cubic feet in size or a kitchen sink greater than 2 square feet in

size or a gas or electric range, stove top and/or oven (but may include a microwave oven). (Sonoma).

Allowable uses of Accessory / Detached Living Spaces

Allowable Improvements / Appliances

Notwithstanding the criteria above, the following shall not be considered to be a kitchen (Sonoma):

A. Gas lines and/or electrical outlets of 240 volts in a residential garage, barn, workshop or similar structure, if an operable garage door is provided and the space is unconditioned as defined in the adopted model codes. A garage may contain a refrigerator or freezer but cannot contain any cooking appliances.
B. One laundry/utility room in a dwelling unit. The laundry room may include utility hook-ups for gas or electric laundry appliances and may include a utility sink with a sink depth 18 inches (18") or greater and/or a full size refrigerator or freezer. A laundry room shall not contain cooking appliances.
C. An "outdoor kitchen" that is placed in an unenclosed area that may be roofed but is open on at least two sides and exposed to weather.
D. Any room where the City Manager or his/her designee determines that the room, by its design, clearly cannot reasonably be used as a kitchen. In considering whether a room is a kitchen that would designate a structure as a dwelling unit, the director may also consider but not be limited to, whether or not the structure has a full bathroom and/or potential sleeping area. When an exception is made pursuant to this section, it shall be documented by a Deed Restriction and/or an Agreement to be signed by the property owner and recorded to inform future property owners of restrictions on the use of a building and future permit requirements for any change in use.

Restrictions on / Standards for the Use of Accessory/Detached Living Spaces

1. An accessory living space shall operate as an extension of and be dependent upon the principal use and shall not be a separately functioning dwelling unit.
2. A "kitchen" is prohibited within an accessory living space.
3. Separate mailing addresses are prohibited for an accessory living space.
4. Separate utility meters for electricity, water, and other utility services are prohibited.
5. There shall be only one detached living space structure allowed on any parcel, in addition to a detached garage.
6. Size or percentage floor area limit?
7. Setbacks?

Permitting Procedures for Accessory / Detached Living Spaces

Detached living spaces may contain a full bathroom only when Design Review is approved in accordance with Chapter 17.60 of the Trinidad Zoning Ordinance, and if all of the following findings are made:

a. The structure and use are subordinate to the principal use; and
b. The purpose of the use is incidental to the principal use; and
c. The use is customarily appurtenant to the permitted use; and
d. The structure will not be used as a dwelling unit; and
e. A deed restriction will be recorded limiting the use of the structure to that approved under the permit unless otherwise authorized by the city. (Santa Cruz)

A special purpose food preparation facility may be permitted upon the following findings by the Planning Commission:

a. The applicant has demonstrated a need for a special purpose food preparation facility. Such need cannot be adequately served by the domestic food preparation facility.
b. The design of the facility, in its relationship to the internal floor plan of the dwelling, will not lead to the establishment of a separate dwelling unit.
c. The facility will be removed when the special purpose is no longer required.
d. The applicant has agreed to record a deed restriction limiting the use of the food preparation facility to a special purpose.

Workshops, studios, and storage areas. An accessory structure intended as a workshop or studio for artwork, crafts, light hand manufacturing, hobbies and/or storage may be approved administratively by the City Planner or City Manager subject to the following standards:

a. Limitation on use. The use of an accessory structure as a studio shall be limited to: non-commercial hobbies or amusements; maintenance of the primary structure or setbacks; artistic endeavors, including painting, photography, or sculpture; or for other similar purposes. Any use of an accessory workshop for any commercial activity shall comply with Section 17.56.060 (Home Occupations); and
b. Floor area. A workshop studio and/or storage area footprint shall not occupy an area larger than 25 percent of the building footprint of the primary structure.

DISCUSSION / ACTION AGENDA ITEM

Wednesday, July 19, 2017

Item: Policies for Detached Living Spaces: As directed by the City Council, an initial discussion to develop clear policy recommendations about permitting detached living space to minimize the potential for these spaces to be utilized as separate dwelling units and add enforcement fines and / or fees for violators.

At their meeting of March 22, 2017, the City Council directed the Planning Commission and staff to develop recommended policies for permitting detached living spaces. This issue has come to the forefront of the City's attention due to a violation that recently occurred at 407 Ocean Avenue. The violation and potential revocation of the permit to convert a portion of a detached garage into living space were discussed at the April and May Planning Commission meetings.

Background (from my April 10, 2017 memo to the Planning Commission)
For the City as a whole, the 407 Ocean Avenue episode reflects the challenges that exist in allowing living spaces within detached structures, while trying to prevent them from being used as full accessory dwelling units. Secondary units are being encouraged by the State as a way to provide additional, and often affordable, housing stock. New state laws have made it more and more difficult for local governments to restrict accessory dwelling units, generally requiring ministerial approvals with no public hearings (like a building permit). In Trinidad the situation is unusual in that secondary units are limited not just by our zoning regulations (which the state housing law overrides) but also by our reliance on Onsite Wastewater Treatment Systems (OWTS or septic systems). Most residential OWTS are not sized to support two separate dwelling units, which generally produce more and stronger wastewater than simply another bedroom in a single residence. In addition, most lots are not large enough to accommodate a septic system that is big enough for two separate dwellings.

As a kind of compromise, and for the convenience of residents, the City has a history of allowing existing, detached structures to be converted into living space as an economical alternative to an addition. These spaces can and have been used for a variety of legitimate, single-family, residential uses. However, there are powerful financial incentives, as well as reasons of simple personal convenience, for owners or residents to convert a detached bedroom/living space into its own complete dwelling unit. Staff, citizens, the Planning Commission, and the Council have spent quite a bit of time in recent years over concerns and disagreements about the difference between a second dwelling unit and a detached living space, and whether any secondary cooking facilities should be allowed on a property that is only authorized to have one dwelling unit.

To reduce the likelihood of future incidents, the City Council has directed the Planning Commission and Planning Staff to develop clear policy recommendations about permitting detached living spaces. The policies should address the potential for these spaces to be utilized as separate dwelling units in violation of permit requirements, and the challenges for the City in identifying such violations. This could include some or all of the following concepts: a) not allowing them; b) requiring periodic walk-throughs by the Building Inspector; c) creating a more explicit list of exactly what utilities and appliances mark the boundary between a second dwelling unit, and a detached living space associated with a single main dwelling unit; and d) developing specific policies for how these spaces can be used. An example from Sonoma County is attached to this report.

Relevant Trinidad Code Sections

"Dwelling unit" (17.08.250) *"means one room, or a suite of two or more rooms in a building designed for, intended for, or used by one family, which family lives, sleeps and cooks therein and which unit has one kitchen or kitchenette."*

"Single-family dwelling" (17.08.230): "*means a freestanding building designed for and / or occupied exclusively by one family to include mobilehomes on a foundation which conform to...*"

The new STR regulations include a definition of "dwelling" on order to clarify what can and can not be an STR. *"'Dwelling' means a single-family dwelling, including associated accessory structures, or a dwelling unit within a duplex or multi-family dwelling, not to include mobile homes in a mobile home park."* (17.56.190.D.2)

"'Short Term Rental' (STR) means a rental of any dwelling, in whole or in part, within the City of Trinidad, to any person(s) for transient use, other than (1) a permitted bed and breakfast, (2) ongoing month-to-month tenancy granted to the same renter for the same dwelling, (3) one less-than-30-day rental per year, or (4) a house exchange for which there is no payment." (17.56.190.D.12)

Section 17.54.020 of the City's adopted (but not certified by the Coastal Commission, so not in effect) ADU ordinance includes the following definitions.

"A. "Accessory dwelling unit" or ADU means any residential dwelling unit which provides complete independent living facilities on the same building site as a legal single-family residence, including permanent provisions for living, sleeping, cooking, eating, and sanitation, as defined in Government Code Section 65852.2(i)(4).

B. "Primary unit' means the primary, existing legal single-family residential dwelling unit which provides complete independent living facilities for one or more persons."

There is nothing in Trinidad's codes (or the State's) that prohibits a single-family dwelling from having two kitchens. The purpose of defining a 'dwelling unit' as having a kitchen is not to limit the number of kitchens in a dwelling unit, or to define the number of dwelling units by the number of kitchens alone, but to avoid someone being able to rent out substandard housing as a separate dwelling unit. So the building code has minimum

standards for what kinds of food preparation facilities must be in dwelling.

A "family" (17.08.270): "*means one person; or two or more persons; or a group not in excess of five persons living together as a single housekeeping unit.*"

However more recent (than 1980) court cases and state and federal fair housing laws (e.g. Fair Housing Amendments Act of 1988) generally do not allow jurisdictions to define families as related or to put a maximum number on them. Therefore larger families and unrelated groups of people can still fit within a "single-family" use.

Determination of a Kitchen and Second Unit

The presence or absence of a kitchen is often used by jurisdictions to determine whether a second unit exists. The City's code does not have a definition of kitchen, and the building code definition is pretty generic. The building code requires a dwelling unit to have food preparation facilities, but does not define what those are. Presence of a stove and/or oven is often used by jurisdictions as defining a kitchen. That is typically what Trinidad has used, and it is also consistent with County practice according to City Building Inspector, John Roberts. These distinctions become particularly important when approving living space in detached accessory structures. I have provided an example, which you have seen before, from Sonoma County on how they define a kitchen and therefore determine a dwelling unit.

There are a number of reasons that one dwelling may have multiple kitchens though. Full outdoor kitchens, for example, have become popular. Sometimes an upper or lower story or a recreation/game room will have a partial kitchen or wet bar installation for convenience. Some people may want separate cooking facilities if someone has allergies or religious restrictions on what they can eat or how food is prepared. Also, a second kitchen or supplemental cooking facilities could be important for someone who does a lot of food prep such as smoking, canning and other types of preserving, such as hunters for example. The Building Inspector suggested a process whereby a second kitchen may be allowed subject to special approval.

In addition to kitchen facilities, the following is a list of other limitations that have been discussed in terms of ensuring detached bedrooms do not become second units (but may not be exhaustive).

- Shower: This is a restriction that the County uses along with the no stove policy in detached structures. However, that requirement has generally been rejected in Trinidad because many people want showers in garages or otherwise outside the main house for use after surfing, fishing, hunting, etc. Also, if a detached structure will be a bedroom, then a shower makes sense in that context.
- 220 volt power hook-ups: This would prevent certain appliances from being installed. However, this is also a common feature of workshops and garages, and many detached structures already have them.

- Counters / Cabinets: I have seen some jurisdictions prohibit installation of kitchen type counters and cabinets, but again, this is a common storage / workshop feature that some of these structures already have.
- Sinks: This limitation is used by other jurisdictions. However, this has not generally been required in Trinidad because a utility sink in a workshop, or a wetbar in a game room, make a lot of sense.
- Separate entrance: In the case of a single structure, individual entrances can, and are, used to help determine whether separate units exist.

Since kitchen is not defined in the City's code, determinations can focus on how a building is being used. But kitchen facilities, and others in the list above, are still an important component as to what defines a secondary living unit. Therefore, I think it would be beneficial for the City to have a cohesive and consistent policy as to how second units are defined. In addition to the Sonoma County kitchen policy, I have provided some other related policy guidance from that jurisdiction, including Definition of a Bedroom, Detached Residential Accessory Structures, and Guidelines for Remodeling and Additions with Respect to Septic Systems. I think these documents provide some good ideas for how to define and regulate these things as well as help to frame the issues that are involved.

Case Examples

The issue of detached living space and how to define a second unit become even more problematic when the property is used as an STR. This is especially true if the STR has a host or any long-term tenants. Last year there was an appeal of staff's issuance of several VDU licenses over this. The appeal highlighted a number of properties where these issues occur, and they present a diverse study of some of the situations that can and have occurred in Trinidad. As part of this discussion, the Planning Commission should try to address as many of these and other potential scenarios as possible.

381 Ocean Ave.
This property has a detached bedroom that was approved by the City back in 1992 as a garage conversion. That approval included several conditions to ensure that it would not be used as a second unit. These included that the space could not have a kitchen and that the space could not be used or rented separately from the main structure (this was before the City used deed restrictions). The owner has tried several times to get the space permitted as a second unit under the State second unit law, but can not for several reasons, including septic capacity.

The City has received complaints that the detached living space has been converted to a separate dwelling unit, and it has been inspected on more than one occasion. Most recently, on August 31, 2016, City Building Inspector John Roberts found that: *"The back*

unit is a detached bedroom with a full bath, small sitting room with a sink and counter. A small fridge exists. No cooking facilities exist."

The space has been used by a caretaker of the property owner in the past, which seems reasonable and consistent with the allowed use. It is currently rented to an individual person. The rental agreement states that the tenant has access to the kitchen in the main structure. That also seems reasonable, and consistent with someone renting out a bedroom in their home. However, ensuring that the tenant actually has free access to the kitchen in practice is difficult to verify or enforce. However, as long as no kitchen facilities exist in the back space, that may not matter. More recently though, the owner has converted her VDU license from inactive to active. The VDU is for the primary structure. Although the VDU rental agreement notes that the tenant of the detached structure has access to the kitchen in the primary structure, the situation seems problematic. With the two separate living spaces and rental contracts, it feels like these are de facto separate units. There could be more lenient restrictions for owner-occupied properties, or those that are occupied by long-term tenants under one rental contract than what may be allowable for STRs.

652 Underwood

This property also has a bedroom within a portion of a detached garage. The property is currently owner-occupied, but also has a VDU license. When it is rented as a VDU/STR, the owners move into the detached bedroom and either eat out or do limited cooking on their barbeque. This seems like it could be reasonable if done on a limited basis, which it is currently. But how much time could the owners spend in that detached bedroom before it would have to be considered a separate dwelling unit? One suggestion would be less than 60 days, which would qualify the use as a Resident STR under the new regulations.

789 Underwood Dr.

This example addresses the issue of the number of kitchens allowed in a single-family residence rather than detached living space, but the issues are related. The house was built in 1986 with an illegal mother-in-law unit downstairs. However, in 2006 as part of a permit application for a small addition, the City first became aware of the illegal unit. The owners were not using the second unit, nor were they aware of its illegality. Rather than require the kitchen to be removed or other alterations made to the downstairs space, the Planning Commission required the owners to sign and record a deed restriction limiting the property to 3 bedrooms and a single dwelling unit (which is what the septic was designed for). Part of the reason that the second unit was not required to be removed was because the City was starting to discuss developing a second unit ordinance at that time.

The deed restriction on this property also applies to the current owner and the VDU license. So the downstairs unit is part of the VDU, but can not be rented separately. The entire residence is rented as part of the VDU, and there are no long-term residents. The VDU is rented under a single contract, which means it is occupied by one group of people, and still qualifies as 'single-family' use. Another way to think of this is if the house had an outdoor kitchen – some of the group may want to cook outside and enjoy the view, while

others may think it's too cold and windy and prefer to cook inside. Just because some people are cooking outside while others in the group are cooking inside at the same time, does not necessarily mean there are two dwelling units.

88 Van Wycke St.
This is an example that shows that living space does not have to be detached for it to be effectively converted into separate living units. As a result of a complaint, the City was made aware that the home, which was approved for construction as a single family residence, had apparently been converted into a duplex. There was a long-term tenant upstairs, and the downstairs was being rented separately as a VDU. The VDU license was issued for the entire 2-bedroom house. The occupancy of the VDU had been lowered on the booking site to reflect only one bedroom, since one was being utilized by the upstairs tenant. But a kitchenette and additional laundry facilities had been added downstairs at an unknown date. The City Building Inspector required a number of corrections to be made (including removal of the downstairs kitchenette and laundry). The downstairs is now rented as a one-bedroom VDU with no kitchen or laundry facilities. Although the upstairs tenant is not technically a VDU "host," the intensity of use is no more (in fact almost certainly less) than if the entire house was rented as a VDU, and the upstairs provides housing for a long-term resident. So in many ways, this can be seen as a beneficial situation. However, it is also very similar to the first example, 381 Ocean, but there is no detached space, and VDU is rented without a kitchen, which is probably more reasonable than a long-term tenant not having a kitchen.

Staff Recommendation

I do not expect any decisions to be made at this meeting, but I wanted to get the discussion started with this report by identifying some of the issues and providing some examples to think about. The Planning Commission should consider giving direction to staff to provide additional information and/or start drafting some policies.

Attachments

Sonoma County Permit and Resource Management Department Policies and Procedures:

- Number 1-4-1: Definition of a Bedroom
- Number 1-4-5: Definition of a Kitchen and Determination of a Dwelling Unit
- (Administrative Manual) Number 1-4-6: Detached Residential Accessory Structures
- Number 9-2-12: Guidelines for Remodeling and Additions with Respect to Septic Systems