



AGENDA ITEM REPORT

TO: Trinidad Planning Commission

FROM: Trever Parker, City Planner

DATE: April 10, 2017

RE: 407 Ocean Avenue Violations Agenda Item

On March 1st the City received formal complaints that planning and building permit conditions imposed on the detached living space (a converted shop/garage) at 407 Ocean Ave. were being violated. You also heard about this issue as 'Items from the Floor' at the February 28th and March 15th Planning Commission meetings this year. In addition, a neighbor filed a request to revoke the after-the-fact Design Review approval to convert a portion of the detached garage to living space that was granted by the Planning Commission on May 28, 2014.

Project (Reinman 2013-11A) Background:

A detached garage/shop located on the alley at the rear of 407 Ocean Ave. was converted into a second dwelling unit without permits sometime around 2005, shortly after it was purchased by the current owner. The City was not aware of the illegal conversion until neighbor complaints in 2006. At that time, the City was starting to draft an Accessory Dwelling Unit (ADU) ordinance that may have allowed the construction to be permitted. Under current regulations, ADUs would not be allowed on most properties. If illegal development is not permissible, then it would have to be removed through enforcement. However, if it is permissible, then it is standard practice to give the property owner a chance to apply for after-the-fact permits rather than tear it out. Therefore, the City ordered that the space was to remain vacant while the ADU ordinance was being drafted rather than pursuing enforcement action at the time.

The situation turned in to an ongoing saga as the back unit continued to be rented out by the property owner, and the ADU ordinance got stalled at the Coastal Commission. The owner did submit an application for an ADU consistent with the City's adopted ADU ordinance in an effort to move towards compliance and to be ready if and when the ordinance was certified by the Coastal Commission. However, by 2013, the owner had moved off the property, and the proposed ADU ordinance requires the owner to live onsite. Also, it had become clear that the City was no longer going to pursue certification of the ADU ordinance at that time due to the ongoing difficulties in getting

the VDU ordinance certified. Therefore, in 2013, the City rejected and ADU applications and required that the improvements either be removed, or an application for another allowable use of the space be submitted.

As noted above, when development occurs without permits, but which would be potentially permissible under existing regulations, it is standard enforcement practice in most, if not all, jurisdictions, to allow the violator to apply for an 'after-the-fact' permit. Often additional fees (e.g. double) are associated with such a permit. Therefore, that was the avenue taken. After a lengthy process, the Trinidad Planning Commission issued an 'after-the-fact' permit (Design Review and Coastal Development Permit approval) allowing some of the improvements to remain, but requiring that the structure be 'detached living space' that is considered part of the main house – basically a detached bedroom, den and bathroom. The approval dictated, among other things, that no kitchen facilities (sink, stove or cabinets) are allowed, any tenant must have access to the main house for cooking and general use, and a deed restriction was placed on the property explicitly limiting the address to one dwelling unit, and three bedrooms total.

General Background on Detached Living Spaces:

For the City as a whole, this 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 law makes it 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.

As a kind of compromise, 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 like this recurring problem at 407 Ocean Ave., 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; and 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. An example from Sonoma County is attached to this report.

Current 407 Ocean Violation(s)

Based on the neighbor's complaint filed on March 1, the City's Building Inspector toured the property a week later, on March 9th, and confirmed that plumbing for a sink and stove had been reinstalled against permit conditions. It appeared that the actual sink and cooktop had been removed in the days before his arrival. The Building Inspector issued a demolition permit to the property owner, requiring the removal of the utilities in violation. That permit also required an aging, non-conforming propane tank to be replaced with a smaller tank consistent with current codes, and cleanup of some other items on the property.

On March 30th, the Building Inspector sent the following report to the City Manager:

The permit 1001 that covers the back unit violation has been finalized.

- 1. The kitchen sink and counter cabinet unit have been removed and wall plastered in.*
- 2. The range hood has been removed and wall sealed up*
- 3. The range has been removed and wall sealed*
- 4. The gas line has been removed and capped off outside of building*
- 5. The fence has been repaired so it no longer leans onto neighbors property*
- 6. The inline electrical meter has been removed*
- 7. Amerigas will change out the propane tank on the 31st. Will document next Thursday.*

The final of the permit was not held up as verification of propane tank replacement can be verified visually after the 31st. As of now the violations on the back unit have been addressed and the propane tank issue will resolve on Friday when Amerigas replaces the tank with a smaller tank.

Therefore, the existing violation has been corrected and the property is now in compliance with the demolition permit and all conditions of the 2013 Design Review approval. The property owner was fully cooperative with the investigation, immediately complying with the request for the Building Inspector to access the property for an inspection, and the violations were quickly corrected.

The property owner argues that the space was basically the same as it was when the Building Inspector signed off on the 2013 building permit, but the City Building Inspector disagrees. The property owner also argues that if any work was done in the back space without proper permits since the 2014 approval, it was done by the tenants without his knowledge. This would be difficult to verify or dispute.

There have also been complaints over the past couple of years about the property owner not complying with another condition of the Design Review approval, which was that the City be provided with copies of the current rental / lease agreement along with the names and vehicle information for each tenant. The property owner and his attorney have argued that such a condition is not legally supportable. They may be correct in their assessment, but they would have had to make that argument during the permit approval process or appeal the approval. In fact, those conditions were partially at the suggestion of the property owner, intended to help smooth the approval process. He agreed to the conditions at the time, and since he did not appeal them within the appeal period, they are now legally binding. The property owner has since submitted current lease, tenant and vehicle information in compliance with that condition.

Finally, questions about the condition of the septic system have also been raised. The most recent OWTS Operating Permit, issued on June 29, 2016, expired on March 18, 2017 based on an inspection report from September 18, 2015 that indicated a sluggish, poorly functioning leachfield. The OWTS permit was conditioned on obtaining a wet weather inspection this winter to better assess the condition of the leachfield. Unfortunately there was a miscommunication between the City and the property owner, because the City requested updated OWTS information last summer as part of the VDU license renewal. Instead of resubmitting the September 2015 inspection report, the owner had a new inspection done, but I had already issued a new OWTS permit conditioned on a wet weather inspection. The July 12, 2016 inspection indicated that the system was functioning normally, but I did not have a copy of it when I issued the OWTS permit.

The property owner did not realize that he needed a third inspection during this winter. But he inquired about the OWTS requirements as part of the sale of the property. I informed him that he would need a new inspection ASAP, and he arranged for an inspection on March 24, 2017. The inspection found that the pump from the back living space to the septic tank was not functioning; that was repaired on March 27. The inspection found the leachfield to be in good working order through performance of a load test. I have not yet had a chance to issue a new OWTS permit. But I did send the new report to the City's Health Officer at the County Division of Environmental Health. He didn't find any problems. Although there was a brief lapse in the operating permit, the property owner has submitted the required documents, and the system is functioning fine. There are many properties currently out of compliance with the City's OWTS Management Program, because staff has not yet had time to implement the program City-wide. This is not being considered a violation by staff.

Permit Revocation

Section 17.72.090 (Revocations) of the Zoning Ordinance provides for the following:

In any case where the terms and conditions of a grant of a variance, conditional use permit, or design review are not complied with, the planning commission shall give notice to the holder of such permit of its intention to revoke such permit. Permits may also be revoked if the planning commission determines that the notification requirements in Section 17.72.130 were not satisfied by the applicant. Procedures for the revocation of a permit shall be the same as for the original consideration except that the city clerk shall assume all notification responsibility. If a coastal development permit has been appealed to, and approved by, the Coastal Commission, the commission may also initiate revocation proceedings pursuant to the requirements of the coastal act.

Based on the above language, the Planning Commission has the authority to revoke the Design Review approval that authorized living space in the detached garage. Note that it is the City Attorney's opinion that the "shall" in the first sentence is in regards to the notification, not the revocation; there is no requirement to revoke the permit. The City has never revoked a permit to my knowledge. As stated in the above section, the process for revoking the permit is the same as for issuing it. Therefore notices would have to be sent to neighbors, and the Planning Commission would have to hold a public hearing and vote on the revocation. It appears that the City would be responsible for the costs of these proceedings, because there is no mechanism to require the property owner to pay.

This recent complaint and enforcement process was about as quick and simple as it could possibly be. If this were the only violation to occur on the property, there would be absolutely no reason to pursue revocation of a permit now that the violations have been corrected. Standard enforcement practice is to get violations corrected, not to revoke permits. On the other hand, there is a long and significant history of violations on this property, which makes the situation somewhat more difficult.

Even so, staff is not recommending that the Planning Commission pursue revocation of the Design Review approval in this case. It will likely be a long, drawn-out, expensive process with appeals and litigation, depending on the outcome. This will take staff time away from other important City priorities such as the General Plan update and implementation of the OWTS Management Program. Most of the history of violations occurred prior to issuance of the after-the-fact Design Review approval, which is why that approval included a number of unusual and strict conditions. So, in essence, those previous violations have already been dealt with. There have also been a number of complaints regarding nuisances occurring at the property over the years, such as noise, parking, animals, etc. But those were the result of the tenants, and many were private nuisance issues, rather than violations of City codes and regulations.

The recent building violations have now been corrected, the tenants have moved, and the property is for sale. The existing conditions of approval and limitations on the property will also apply to the new owner. Any potential buyer will be made well aware of the situation through disclosure requirements, the deed restriction, and the specifications on the OWTS permit and in the VDU license. Trinidad's Zoning Ordinance does not have clear guidelines for permit revocation, which is problematic for fair and objective decision-making. And since the violations have been corrected, the basis for revocation at this point is questionable.

Planning Commission Options

The Planning Commission has a number of options for moving forward, some of which are summarized below:

- Pursue revocation of Design Review approval Reinman 2013-11A. This would require a vote by the majority of Commissioners in attendance, and is not recommended by staff at this time for the reasons described above.
- Amend the previous Design Review approval. This may be a possibility. Although the zoning ordinance does not specifically mention this, it seems that if a permit can be revoked on the Planning Commission's initiative, it may be amended as well. We will need to get input from the City Attorney on this option though.
- Write a warning letter to the property owner that the Planning Commission intends to revoke the license if any more violations occur on the property, whether by a current or a future owner. This information should then be disclosed to any future buyer, which will minimize the likelihood of further problems. I understand the City Council already directed staff to write a letter to the property owner reiterating the conditions and limitations applicable to the property. This letter would be step further, by placing the property owner on notice regarding the possibility of revocation.
- Recommend to the City Council that they revoke the existing VDU license for the property based on recent violations of City code. This is not recommended by staff, but is likely to come up as a suggestion at the meeting. The existing VDU ordinance does not explicitly state that VDUs must be in compliance with all other City codes, but the purpose (§17.65.190.C) is: *"to provide for the renting of single- and multi-family dwellings, and accessory dwelling units, for periods of thirty consecutive days or less, as transient visitor accommodations, consistent with all other provisions of the General Plan and Zoning Ordinance, and to ensure that Vacation Dwelling Units are compatible with surrounding residential and other uses and will not act to harm or later the neighborhoods within which they are located."* The VDU ordinance also allows the City Council to revoke a VDU license *"if more than two documented, significant violations occur in any 12-month period... Documented significant violations include, but are not limited to, copies of citations, written warning, or other documentation filed by law enforcement."* Not much more guidance is provided, so it would ultimately be up to the City Council to determine if enough evidence exists to revoke the license. The recent violations were not related to the use of the property as a VDU; the house has been long-term rental since at least 2013, and has not been used as a VDU in that time. In addition, it is

questionable as to whether this one recent incident should be considered more than one significant violation under the VDU ordinance. Further, having the VDU license in place allows the City more oversight of the property than if it were revoked. For example, the new regulations will require periodic inspections. And VDUs are required to have their OWTS in compliance with the City's management program.

- Develop City-wide protocol and standards for permitting detached living spaces as directed by the City Council. This will occur separately, regardless of outcome of the 407 Ocean issue.

Public Submittal Attached

I received the eight page attachment from Dan and Dorothy Cox today, which I have included in the packet. However, I have not yet had a chance to review it in detail. My initial impression was that there is inaccurate and out of context information in it. For example, on the first page, it states that there was never any response from City staff to the neighbor complaints. This is not true. Gabe responded to a request for information from Dorothy on May 10, 2006. I responded to a similar request from Tom Davies and Kathleen Lake in much more detail on February 22, 2007. I will provide a more detailed response to this material next week.

Staff Recommendation

Staff suggests that the appropriate course of action at this point is to develop City-wide protocol and standards for permitting detached living spaces as directed by the City Council. This should make future decision-making easier and help to avoid similar problems in the future.

Attachments

- Sonoma County kitchen policy
- Final Staff Report for Reinman 2013-11A
- May 15, 2014 memo to the Planning Commission, with referenced attachments
- April 14, 2017 Submittal from Dan and Dorothy Cox

Definition of a Kitchen and Determination of a Dwelling Unit

PURPOSE

This policy provides guidance to PRMD staff as to the allowable design and use of an accessory structure and in determining the number of kitchens within a dwelling unit. It shall be used when reviewing permit applications, checking plans, investigating complaints and inspecting buildings. The provision of a kitchen is one of the primary factors used to determine whether a structure is considered to be a dwelling unit and for determining the number of units within a structure or allowed on a given site. These guidelines shall be used by all staff in determining whether a building contains a kitchen and is an allowable dwelling unit.

GENERAL

The Sonoma County General Plan and Zoning Ordinance limits allowable residential densities (units per acre) in all zoning districts and allows additional dwelling units, such as second units, agricultural employee units, and farm family units, in some areas. Dwelling units are defined in the zoning code as “*a permanent building or portion thereof including manufactured and mobile homes designated or used exclusively as the residence, sleeping room or quarters with kitchen facilities which constitutes an independent housekeeping unit, for one (1) or more persons*”. Efficiency dwelling units can be as small as 220 square feet. Similarly, the Building Code defines a dwelling unit as “*A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation*”.

This policy should be used in conjunction with Policy 1-4-1, *Definition of a Bedroom* in determining whether a structure or portion of a structure is considered a *dwelling unit* that must conform with the allowable density under the General Plan and Zoning Code or other applicable zoning requirements (e.g., second units). A *dwelling unit* must also conform to applicable septic system standards.

A non-commercial structure, or portion thereof, shall be considered a *dwelling unit* if it contains a kitchen as defined herein, and an area that constitutes a bedroom as defined in Policy 1-4-1. In most cases, a structure with a full bathroom will be considered as having a bedroom pursuant to Policy 1-4-1. Structures that meet this definition will be considered a *dwelling unit* regardless of how they are labeled on the plans (e.g., pool house, cabana, recreation room, guest house, studio, etc.). Where an additional dwelling unit cannot be allowed, the design of an accessory structure can be modified to eliminate the bedroom or kitchen facilities that constitute a dwelling unit.

AUTHORITY

Chapter 26, Sonoma County Code. Currently, the Sonoma County Code does not include a definition of a kitchen, but a kitchen is one of the determining features in the definition of a dwelling unit. Since dwelling units are limited by the allowable density and zoning standards, the definition of a kitchen is important in making the determination about whether a structure is a *dwelling unit* under the code.

Chapter 2 of the Sonoma County Code authorizes staff to record the conditions of approval of an issued permit.

PROCEDURE

PRMD staff shall determine whether an area is a kitchen and whether the structure is a *dwelling unit*. This determination shall be based on the design of the physical facilities rather than the proposed use or how the area is labeled on the plans. Staff shall use the following criteria.

DEFINITIONS

- A. **Kitchen.** 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 1-1/2 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.
- B. An approved kitchen may have more than one sink, stove, oven or refrigerator in the same room.
- C. **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).

EXCEPTIONS

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

- 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 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 director of PRMD 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 pursuant to Policy 1-4-1. When an exception is made per #4 above, it shall be documented by a Zoning Permit application and a "Notice" on the subject parcel shall be placed in PRMD's permitting computer system so that anyone researching the parcel is aware of the determination. A Deed Restriction and/or an Agreement may be required 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.

An electrical outlet of 240 volts in capacity or a gas outlet including "rough-in" openings that provide for future installation of any kitchen facilities described in Section "A" above must receive planning approval/clearance prior to building permit issuance or final inspection. The criteria noted above shall be used to determine if the structure is an allowable use, if it constitutes a dwelling unit, and/or if it requires a deed restriction and agreement. Kitchen facilities described in Section "A" above, including "rough ins" may be allowed in structures that meet the criteria for a second unit and are designated and permitted as such, even though the structure is not used as a dwelling (i.e. allowing a gas line, refrigerator and sink in a workshop or artist studio or allowing a stove, refrigerator and sink in a pool house). The deed restriction/agreement will be binding on all successors in interest and will limit the use of the structure as permitted.

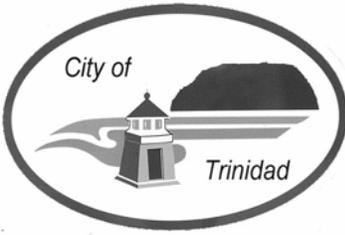
ATTACHMENTS

Sample Deed Restriction and Agreement

Approved by: /s/
Tennis Wick, Director

Lead Authors: Jennifer Barrett, Dean Parsons
DeWayne Starnes, Ben Neuman

<input type="checkbox"/>	Make available on Intranet only	<input checked="" type="checkbox"/>	Make available on Intranet and Internet
--------------------------	---------------------------------	-------------------------------------	---



Filed: NA (ongoing)
Staff: Trever Parker
Staff Report: April 11, 2014
Commission Hearing Date: April 16, 2014
Continued Hearing Date(s): May 21 and 28, 2014
Commission Action: Conditionally Approved

STAFF REPORT: CITY OF TRINIDAD

APPLICATION NO: 2013-11A

APPLICANT (S): Mike and Hope Reinman

AGENT: NA

PROJECT LOCATION: 407 Ocean Ave.

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

ASSESSOR'S PARCEL NUMBER: 042-062-12

ZONING: UR – Urban Residential

GENERAL PLAN DESIGNATION: UR – Urban Residential

ENVIRONMENTAL REVIEW: Categorically Exempt from CEQA per § 15303 of the CEQA Guidelines exempting new construction or conversion of small structures.

APPEAL STATUS:

Planning Commission action on a coastal development permit, a variance or a conditional use permit, and Design Assistance Committee approval of a design review application will become final 10 working days after the date that the Coastal Commission receives a "Notice of Action Taken" from the City unless an appeal to the City Council is filed in the office of the City Clerk at that time. Furthermore, this project is ~~is~~ / **is not X** appealable to the Coastal Commission per the City's certified LCP, but may be appealable per Section 30603 of the Coastal Act.

SITE CHARACTERISTICS:

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

STAFF COMMENTS:

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

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

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

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

Referrals were sent to the Building Official, City Engineer and the County Health Department for the after-the-fact ADU permit application submitted by the Reinmans in 2011. No response was received from the City Engineer. Current policies of the Health Department do not require further review of this project since the project will not encroach on the existing system, nor is it adding a bedroom to the property (see further discussion below); the Health Dept. had no objections to the proposed ADU in response to the referral. In addition, another referral for the current proposal was sent to DEH due to the change in configuration of the bedrooms and floor plans. They had no objections or additional requirements for the current proposal either.

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

Potential Conflicts of Interest

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

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

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

ZONING ORDINANCE / GENERAL PLAN CONSISTENCY

The property where the project is located is zoned UR – Urban Residential. The purpose of this zone is to allow relatively dense residential development; single-family residences are a principally permitted use. The minimum lot size allowed in the UR zone is 8,000 s.f. and the maximum density is one dwelling per 8,000 s.f. (§17.32.050).

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

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

TABLE 1 - AREAS

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

Exterior Modifications

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

Residential Living Space Inside of an Accessory Structure

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

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

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

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

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

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

Setbacks

The Urban Residential zone requires minimum yards of front 20', rear 15', and side 5' (§ 17.36.060). The parcel faces Ocean Avenue to the west. Section 17.56.110 allows eaves and overhangs to extend 2.5' into side yards and 4' into front, street-side and rear yards. Decks and stairways, landings, balconies and uncovered porches are allowed to extend up to eight feet into front, rear or street-side yards and three feet into side yards. The existing residence meets these required setbacks. However, the converted garage does not, but no changes to the building footprint have occurred or are proposed. It depends on how the garage is defined whether it is currently nonconforming or not as to setbacks.

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

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

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

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

Other LCP Issues

The maximum height allowed in the UR zone, by Zoning Ordinance § 17.36.06 (average ground level elevation covered by the structure to the highest point of the roof), is 25 feet, except that the Commission may require a lesser height in order to protect views. The maximum allowable height for accessory structures in the UR zone (§17.56.090) is 15 ft. As shown on the plans, the maximum height of the existing garage / proposed office is 14 ft; the project will not alter the height of the structure.

The Trinidad General Plan and Zoning Ordinance protect important public coastal views from roads, trails and vista points and private views from inside residences located uphill from a proposed project from significant obstruction. Because of the location of the addition, within the existing profile of the structure, and the fact that it is small, there is minimal potential for view impacts.

The Zoning Ordinance (§ 17.56.180) requires 2 off-street parking spaces other than any garage spaces for single-family dwellings. There are two parking spaces in the driveway shown on the plot plan, in addition to the two garage spaces. In addition, there is another parking space off the alley adjacent to the converted garage as shown on the plot plan for a total of five off-street parking spaces for the residence.

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

SLOPE STABILITY:

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

SEWAGE DISPOSAL:

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

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

LANDSCAPING AND FENCING:

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

DESIGN REVIEW / VIEW PROTECTION FINDINGS:

Only minor exterior modifications were made in converting the garage to an ADU, including modifications to an existing overhang and porch and the surrounding fence or screen, siding, windows and doors. However, the project is proposing a change in use of a structure and increasing the residential square footage on the property, which requires a Coastal Development Permit at a minimum. The City's Zoning Ordinance does not provide for a separate CDP process apart from other approvals. Therefore, since neither a Use Permit nor Variance is required, Design Review is the most appropriate process, along with the LCP consistency analysis above, to approve this project. Recommended Design Review / View Preservation Findings are written in a manner to allow approval, without endorsing the project. However, if public hearing information is submitted or public comment received indicating that views, for instance, may be significantly impacted, or the structure proposed is obtrusive, the findings should be reworded accordingly.

Design Review Criteria

- A. *The alteration of natural landforms caused by cutting, filling, and grading shall be minimal. Structures should be designed to fit the site rather than altering the landform to accommodate the structure.* Response: The project does not require grading or other ground disturbance.

- B. *Structures in, or adjacent to, open space areas should be constructed of materials that reproduce natural colors and textures as closely as possible.* Response: The project site is not adjacent to any open space areas.

- C. *Materials and colors used in construction shall be selected for the compatibility both with the structural system of the building and with the appearance of the building's natural and man-made surroundings. Preset architectural styles (e.g. standard fast food restaurant designs) shall be avoided.* Response: Only minor exterior modifications were done for this project, and the exterior materials and colors of the converted garage are consistent with the existing residence.
- D. *Plant materials should be used to integrate the manmade and natural environments to screen or soften the visual impact of new development, and to provide diversity in developed areas. Attractive vegetation common to the area shall be used.* Response: No new buildings are proposed, and the development is consistent with the surrounding residential neighborhood. Vegetative screening can be found to be unnecessary.
- E. *On-premise signs should be designed as an integral part of the structure and should complement or enhance the appearance of new development.* Response: No signs are proposed as part of this project.
- F. *New development should include underground utility service connections. When above ground facilities are the only alternative, they should follow the least visible route, be well designed, simple and unobtrusive in appearance, have a minimum of bulk and make use of compatible colors and materials.* Response: The site is already connected to utilities and no changes are proposed.
- G. *Off-premise signs needed to direct visitors to commercial establishments, as allowed herein, should be well designed and be clustered at appropriate locations. Sign clusters should be a single design theme.* Response: No off-premise signs are proposed as part of this project.
- H. *When reviewing the design of commercial or residential buildings, the committee shall ensure that the scale, bulk, orientation, architectural character of the structure and related improvements are compatible with the rural, uncrowded, rustic, unsophisticated, small, casual open character of the community. In particular:*
1. *Residences of more than two thousand square feet in floor area and multiple family dwellings or commercial buildings of more than four thousand square feet in floor area shall be considered out of scale with the community unless they are designed and situated in such a way that their bulk is not obtrusive.* Response: The existing residence is 1,655 sq. ft. in size, and the proposed additional space would bring the entire residential square footage to 2,305. This is somewhat larger than the 2,000 sq. ft. guideline, but it is broken up into two structures rather than one large one. Further, the project is not proposing any increases in the footprint or height of the existing structures. The City also uses a 25% floor-to-area ratio based on a 2,000 sq. ft. residence on an 8,000 sq. ft. lot. This lot is 9,000 sq. ft. in size, and the floor-to-area ratio will be 25.6%.

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

View Protection

- A. *Structures visible from the beach or a public trail in an open space area should be made as visually unobtrusive as possible.* Response: This project is not visible from open space areas.
- B. *Structures, including fences over three feet high and signs, and landscaping of new development, shall not be allowed to significantly block views of the harbor, Little Trinidad Head, Trinidad Head or the ocean from public roads, trails, and vista points, except as provided in subdivision 3 of this subsection.* Response: The project, due to its location and minimal external modifications, does not have the potential to block views.
- C. *The committee shall recognize that owners of vacant lots in the SR and UR zones, which are otherwise suitable for construction of a residence, are entitled to construct a residence of at least fifteen feet in height and one thousand five hundred square feet in floor area, residences of greater height as permitted in the applicable zone, or greater floor area shall not be allowed if such residence would significantly block views identified in subdivision 2 of this subsection. Regardless of the height or floor area of the residence, the committee, in order to avoid significant obstruction of the important views, may require, where feasible, that the residence be limited to one story; be located anywhere on the lot even if this involves the reduction or elimination of required yards or the pumping of septic tank wastewater to an uphill leach field, or the use of some other type of wastewater treatment facility; and adjust the length-width-height relationship and orientation of the structure so that it prevents the least possible view obstruction.* Response: The project does not involve a vacant lot.
- D. *If a residence is removed or destroyed by fire or other means on a lot that is otherwise usable, the owner shall be entitled to construct a residence in the same location with an exterior profile not exceeding that of the previous residence even if such a structure would again significantly obstruct public views of important scenes, provided any other nonconforming conditions are corrected.* Response: There was no residence that was destroyed by fire associated with this project.
- E. *The Tsurai Village site, the Trinidad Cemetery, the Holy Trinity Church and the Memorial Lighthouse are important historic resources. Any landform alterations or structural construction within one hundred feet of the Tsurai Study Area, as defined in the Trinidad general plan, or within one hundred feet of the lots on which identified historical resources are located shall be reviewed to ensure that public views are not obstructed and that development does not crowd them and thereby reduce their distinctiveness or subject them to abuse or hazards.* Response: The proposed project is not within 100 feet of the Tsurai Study Area, Holy Trinity Church, the Memorial Lighthouse or the Cemetery.

PLANNING COMMISSION ACTION

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 supplemental materials, and based on public testimony, I move to adopt the information and required Design Review and View Protection findings in this staff report and approve the residential addition as detached living space as proposed and as conditioned in this staff report and amended at the hearings.

CONDITIONS OF APPROVAL (as amended at the hearings)

1. The applicant is responsible for reimbursing the City for all costs associated with processing the application. *Responsibility: City Clerk / Building Inspector prior to building permits being issued.*
2. Based on the findings that community values may change in a year's time, approval of this Design Review is for a one-year period starting at the effective date and expiring thereafter unless building permits have been issued or an extension is requested from the Planning Commission prior to that time. *Responsibility: Building Inspector prior to building permits being issued.*
3. Recommended conditions of the City Building Inspector shall be required to be met as part of the building permit application submittal. Both indoor and outdoor unpermitted structural improvements, including all improvements listed in the attached 'Work done on Proposed 3rd Bedroom' items 1-14, will need to be specifically reviewed and addressed at the time of building permit application. Specific inspections required include, but are not limited to, electrical, structural, plumbing and mechanical to the satisfaction of the Building Inspector. *Responsibility: Building Inspector prior to building permits being issued.*
4. The following improvements will be removed from the improved portion of the garage to the satisfaction of the Building Inspector: Stove / oven, kitchen sink, kitchen cabinets, and 220V outlets. *Responsibility: Building Inspector prior to building permits being issued.*
5. The applicant is responsible for submitting proof that a statement on the deed, in a form approved by the City Attorney, has been recorded indicating that any increase in the number of bedrooms above a total of three bedrooms, or number of dwelling units above one, will require City approval of adequate sewage disposal capabilities and

other applicable standards. *Responsibility: Building Official to verify prior to building permits being issued.*

6. A copy of the current rental or lease agreement shall be kept on file with the City and shall include the following stipulations and information: (1) The detached living space is not to be used or rented separately from the primary structure; any tenant must have full access to the common areas of the primary structure; (2) No more than six adults may be living on the property at any one time; (3) A list of the make, model and license plate number of the vehicle(s) of each tenant shall be attached. *Responsibility: Property owner to ensure on an ongoing basis and City Clerk to ensure agreement is on file at City Hall.*
7. The applicant shall demonstrate that the site can support a reserve leachfield by obtaining a sewage disposal system permit for a reserve area from the Humboldt County Division of Environmental Health. *Responsibility: Building Inspector to verify prior to building permits being issued and during construction.*
8. The applicant shall install risers and an effluent filter on the existing septic tank if not already in place. *Responsibility: Building Official to verify prior to building permits being issued.*

Work done on Proposed 3rd Bedroom (*Trever's notes in italics*)

1. Large (approx.. 20 ft x 35 ft) outdoor covering removed, except for small section that was repaired & reinforced (*demo / building permit required*)
2. 4 ft movable fence that went from garage to neighbor's property was removed (*no permits required*)
3. Fencing put up around entry way – about 7 ft high and going 8 ft in each direction (*no permits required for fences up to 6 ft. in height; building permit required for fences over 6ft. in height; fences within side and rear setbacks can not be over 6 ft. in height unless written permission is given from the adjacent neighbor; fences outside the required setbacks, in the interior portion of the lot, can be over 6 ft. with a building permit; a condition of approval should be included to require that these standards be met*)
4. Large (*interior*) wooden loft removed (*possibly building permits required*)
5. Small deck, about 1 ft off of the ground, and approx. 10 x 7 ft (*no permits required at this size and height*)
6. French doors put in (*building permit required*)
7. Wooden floors installed in all but bedroom and bathroom (*no permits required*)
8. Bathroom installed (*building permit required; full bath (shower) requires planning approval*)
9. Kitchen installed (*kitchen not allowed by ordinances*)
10. Window in bedroom and kitchen installed (*building permit required and obtained*)
11. Framing and drywall (*building permit required; increase residential floor area requires planning approval*)
12. Outlets & lighting fixtures (*building permit required*)
13. Heater & hot water heater installed (*building permit required*)
14. *Propane tank installed in front of back / alley parking space (building permit required)*



MEMORANDUM

TO: Trinidad Planning Commission

FROM: Trever Parker, City Planner

DATE: May 15, 2014

RE: Reinman 2013-11A Supplemental Packet Materials

This memo provides a brief summary of the supplemental materials that have been provided for the continued Reinman hearing at this month's meeting.

You should have all received a packet of copies of everything that was in the Reinman building permit file as requested at the last meeting.

It was my understanding that one of the reasons that the Planning Commission wanted to review the building permit file was to get more information about exactly what construction and changes had occurred on the back unit without permits. That level of detail was not included in the building file. Therefore, I asked the applicant to provide a list of the work that was done. It is fairly general, but should give you a better idea as to what activities have taken place. I have also included some notes on that list indicating what permits, if any, should have been procured prior to the work.

At the last meeting it was also suggested that the Planning Commission review the Preller 2000-02 file as a precedent for making a decision on the Reinman application. That project, located next door to the Reinmans (435 Ocean, now owned by Mr. Davies and Ms. Lake), proposed to demolish and rebuild the house (1400 sq. ft.) and convert a portion (240 sq. ft.) of the rear, detached garage into office space on an 8,360 sq. ft. lot (which is approximately 650 sq. ft. smaller than the Reinman lot). I found a memo that I wrote in 2002 explaining the results of that process. Some of the information used in the memo came from the minutes from the Planning Commission meetings, since the file did not reflect the circumstances of the denial.

However, the memo does not provide a complete picture of the project. Another project (99-02) proposed by the same applicant was approved the previous year. (Note that, in contrast to the memo, I believe the emergency temporary caretaker residence was actually approved in 1996.) The 1999 proposal was to demolish the existing house and build a 2-story, 2,000 sq. ft. house with an additional 240 sq. ft. office in the garage. This was a period of time in which the

Planning Commission was making a fairly strict interpretation of the 2,000 sq. ft. maximum residence size guideline in the Design Review findings due to concerns over the increasing size of residences in Trinidad. The Planning Commission approved the 1999 proposal, but without the office in the detached garage, because that would have brought the residential floor area above 2,000 sq. ft., and because the house was two stories and all the adjacent development is single-story. The approval also required the incomplete shower to be removed from the garage to ensure that it could not be used as a second residence. (As described in the Reinman staff report, this has been a fairly common and consistent requirement.) The applicant was not happy with the Planning Commission's approval, and therefore redesigned the project, resulting in the 2000-02 application that was denied due to the applicant not attending the hearings. The house was actually put up for sale prior to those Planning Commission hearings.

Due to some controversies over the strict 2,000 sq. ft. guideline (which appears to be part of the reason Ms. Preller gave up her project and sold the property), the Planning Commission started to relax that standard somewhat. The 25% floor-to-area ratio was developed at this time in order to consider square footage on a case-by-case basis based on the size of the lot. Though residential floor area and mansionization are still concerns, the Planning Commission considers both the 25% standard and the design review allowance for larger structures, if they are "designed and situated in such a way that their bulk is not obtrusive" (§17.60.040). Based on this guideline, the Planning Commission has allowed fairly large floor areas, particularly when no significant external changes are proposed to a building (e.g. creating living space in an existing attic), because the actual bulk of the structure does not increase.

Though not specifically requested, from what I heard at the meeting, I also felt that the Planning Commission would benefit from a little more history regarding the Reinman second unit violation. To this end, I have provided you with a memo that I wrote to the Council in 2011 that includes a summary of the violation up to that time. I did send the courtesy letter described in the memo. At that time, the City had just adopted its Accessory Dwelling Unit (ADU) ordinance that potentially would have allowed a second unit to be permitted on this property. Therefore, one of the options given to the Reinmans was to submit an application for an ADU, which they did. The City then found out that the ADU ordinance could not be implemented at all until it had been certified by the Coastal Commission. Therefore, the Reinmans ADU application was put on hold while the City applied to the Coastal Commission for an LCP amendment to add the ADU ordinance. As described in the current staff report (Reinman 2013-11A), that process has moved nowhere, the applicants/property no longer meet the requirements for an ADU, and the City has continued to receive complaints about the use of the unpermitted ADU. Therefore, I wrote a second courtesy letter in October last year that I have also attached, which explains the situation as it currently stands. If you would like more detail regarding the property and the ADU violation, all correspondence is available in the file (APN: 042-062-12) at City Hall.



MEMORANDUM

TO: Trinidad City Council
FROM: Trever Parker, City Planner *yp*
DATE: June 20, 2011
RE: Reinman ADU Violation and Nuisance Abatement

This memo is to inform the Council about an ongoing violation at 407 Ocean Avenue and my intent to commence formal nuisance abatement procedures to correct the violations in accordance with Chapter 8.12 of the Municipal Code.

Nature of the Violation

The violation consists of the conversion of a garage structure into an accessory dwelling unit without proper planning approval and in violation of City ordinances. Further, a second unit puts improvements of the septic system, and no approval was received from the Humboldt County Division of Environmental Health. In addition, structural improvements occurred that would have required a building permit, which poses a public safety issue if the unit was not built to code. Also external construction occurred that should have gone through the Design Review process.

History

An inquiry was received by the City in 2004 by the Reinmans as to whether the garage at 407 Ocean Avenue could be converted into an accessory dwelling unit (ADU), or second unit, and staff informed them that it was not allowed under current City ordinances. The City then received several complaints in 2006 regarding the unpermitted conversion and use of the garage as an ADU. After investigation, a stop-work-order was placed on the property in November 2006 by the building inspector (though work had generally been completed). At that time, structural work had occurred, and the garage had been converted into living space. Through a series of emails in late 2006 and early 2007, the Reinmans were given several options for resolving the violations and appropriately developing their property.

The City continued to receive complaints regarding the use of the ADU and additional work occurring on the property. I sent a detailed letter to the Reinmans in April 2007 explaining the City's regulations and what work was subject to permits. Nuisance abatement was not pursued at the time, because

the City was considering drafting an Accessory Dwelling Unit ordinance that could allow second units like the Reinmans’.

Correspondence and meetings between the Reinmans and City staff occurred in 2008 to again discuss their options and put together a work plan. The City continued to receive complaints regarding the occupancy of the illegal ADU. Steve Albright sent a letter to the Reinmans requesting information regarding that occupancy and stating that no one should be living there until the issues were resolved. At this time though, the City was working on drafting an ADU ordinance, and so the situation was allowed to continue in good faith that the Reinmans would resolve the violations once the ordinance was passed.

In March of 2010, I sent another detailed letter to the Reinmans explaining the applicable regulations, including the adopted ADU ordinance and again providing them with various options to correct these violations and for legally developing their property. In response, the Reinmans submitted a preliminary (incomplete) application, and met with me and Steve Albright to discuss their plans and project. Specific instructions were provided as to what needed to be submitted to complete an application. The Reinmans did not agree with the stated requirements, and though there has been some correspondence since, the required information has not been submitted.

Next Steps

At this point, staff has commenced formal Nuisance Abatement procedures to bring the property into compliance with City regulations. The first step, once the violation has been documented, is to send a courtesy letter to the property owners documenting the violation and required corrective actions; two weeks are given for a response. I have attached the letter that was sent to this memo. After that the process continues with a formal ‘Notice to Abate Nuisance’. Eventually, if the violation is not corrected, the City can impose fines and / or take legal action.

Section 8.12.070.D requires the enforcement official to notify the Council of their intent to commence nuisance abatement. This memo serves as that notification. The same section also allows the City Council to request that the issue be put on a public agenda for discussion. Staff does not recommend that course of action at this point due to the nature of the violation and the length of time that is has been ongoing.



City of Trinidad

October 28, 2013

Sent via certified mail

Michael and Hope Reinman

P.O. Box 963

Trinidad, CA 95570

Re: Rejection of Application #2011-08 (After-the-fact permit for construction of an Accessory Dwelling Unit at 407 Ocean Ave., Trinidad, CA) and Courtesy Letter informing you of the City's intent to commence Nuisance Abatement for an ongoing violation.

Dear Mr. and Mrs. Reinman,

This is a formal Courtesy Letter as required by section 8.12.090 of the City's nuisance abatement ordinance to inform you of the requirements under the City's nuisance abatement procedures (Chapter 8.12 of the Municipal Code). It has been determined, in accordance with section 8.12.070 that your property is being maintained in violation of City ordinances, which constitutes a nuisance as defined by section 8.12.040.

The City has continued to receive complaints regarding your unpermitted Accessory Dwelling Unit (ADU) at 407 Ocean Avenue. These complaints have increased recently, apparently due to a large number of people living on the property and the resultant traffic, noise and other disturbances to the neighborhood. In addition, there is evidence that you may be running a commercial laundry business at the property. These complaints have caused the City to reassess the situation at this address.

The City's file shows a significant amount of correspondence between you and the City regarding the illegal ADU on this property, so you are well aware of the situation. The City has been hesitant to move forward with formal enforcement of the unpermitted construction at 407 Ocean due to the fact that an ADU ordinance was being considered by the City that could legally allow an ADU on the property. As you know, current City regulations would not allow an ADU on your 407 Ocean property. You have been told by the City on several occasions to not rent out the ADU until it could be properly permitted, but it is clear that you have never complied with this request. More importantly, your ADU application no longer meets the requirements of the City's adopted ADU ordinance, because you are not living on the property. Section 17.54.070(m) of the ADU ordinance includes the requirement that the property owner reside in either the primary or secondary unit. The intent of this section is to ensure that ADUs provide affordable housing, not income property.

In response to a similar Courtesy Letter sent to you dated June 20, 2011, you did submit a generally complete set of application materials for an after-the-fact permit for your ADU under the City's

adopted ADU ordinance in November 2011. However, because the ADU ordinance had not been certified by the Coastal Commission as part of the City's Local Coastal Plan, the City could not process that application. At the time, City staff was in the process of preparing an application to the Coastal Commission for certification of the ADU ordinance, which was submitted in June 2012. The City also submitted its Vacation Dwelling Unit (VDU) ordinance for certification at the same time. Though the City is making progress in moving the less development-intensive VDU ordinance through the certification process, the ADU ordinance is still on hold. Because the ADU ordinance actually allows denser development, it will have significantly more issues and ones that are more difficult to address than the VDU ordinance. At this point, the City has no idea how long it might take to get the ADU ordinance certified by the Coastal Commission, or even whether it ever will be. Therefore, the City must fall back on its existing regulations.

State housing law (Government Code Section 65852.2) includes a subsection (j) that states: "*Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act... except that the local government shall not be required to hold public hearings for coastal development permit application for second units.*" This means that all the standards of the City's existing, certified zoning ordinance still apply, and are not superseded by the State ADU law. Even if you could argue that the State standards apply in this case, you don't meet those standards either, because the floor area of the ADU exceeds 30% of the primary residence (§65852.2(b)(1)(E)), and the septic requirements have not been met (§65852.2(b)(1)(I)). In addition, as explained above, even if the City's ordinance is eventually certified by the Coastal Commission, your ADU would not be allowable under those regulations.

For these reasons, I have to reject your outstanding application for an after-the-fact ADU as being inconsistent with current City regulations, State second unit law, and the City's adopted ADU ordinance. I am also informing you that the City is recommencing the Nuisance Abatement process with transmittal of this Courtesy Letter.

Property: The property on which the violation is occurring is known as 407 Ocean Avenue, Trinidad, CA 95570. The Assessor's Parcel Number is 042-062-12. The registered owners are Michael and Hope Reinman.

Nuisance: An accessory dwelling unit (ADU) was created on the property, specifically through the conversion of a garage structure in the rear of the property, without appropriate City approvals and permits.

1. The City's Zoning Ordinance requires a permit to be approved by the Planning Commission to create an ADU. Certain requirements must be met in order to create an ADU, including notifying neighbors, parking, setbacks and septic (17.54.070).
2. Your property is zoned Urban Residential (UR), which currently does not allow accessory units at all. A guest house or servant's quarters (each of which is specifically defined in the ordinance) is allowed if the lot meets the density requirement of one unit per 8,000 sq. ft.; your lot is only around 9,000 sq. ft. and so is only large enough for one unit.
3. External structural work has occurred that requires Design Review, such as the covered porch / entryway for the illegal unit. Any exterior modifications that have been made to the structures on the property must receive Planning Commission approval.
4. Building permits are required for interior remodeling including structural, plumbing and electrical work. You did not apply for building permits for the work that has occurred on the accessory unit.

5. Your project meets the definition of development in accordance with City regulations and the Coastal Act, which requires issuance of a Coastal Development Permit by the City.
6. Upgrades and approval for the septic system serving the ADU is required from the Humboldt County Division of Environmental Health.

Corrective Action: In order to correct the violations and avoid further action on the part of the City (see 'penalties' below), you have two options. First, you would be required to remove all unauthorized construction that has occurred on the garage structure. This would include all interior improvements and converting the garage back into a garage without a dwelling unit or other living space. Demolition must also include any external additions or remodeling that has occurred since 2004. Second, you could submit an application to convert the garage to an allowable use/structure in the UR Zone such as a studio, office, or other extra living space not to be used or rented out separately from the main residence. Further, your ongoing violation has continued to cause the City to incur costs for responses to complaints and correspondence with you. Regardless of what corrective action you choose to take, you are also responsible for paying the attached invoice for expenses incurred to-date by the City related to this property.

Time Limit: You are hereby ordered to abate the described nuisance by paying the attached invoice and either commencing removal of the ADU, or submitting an application for an allowable use as described above within 2 weeks of delivery of this Courtesy letter and must thereafter diligently complete the abatement to avoid further action on the part of the City.

Penalties: If the described nuisance is not resolved in a timely manner, then further action on the part of the City will be necessary. Otherwise, the City will first issue a Notice and Order to Abate Nuisance. If corrective action has still not commenced, then the City can enforce the violation in a number of ways, including issuing infractions or misdemeanors and fines. Current and additional costs to the City from the nuisance abatement process shall become a charge against the premises. However, if prompt abatement occurs, no further action will be taken by the City.

Public Hearing: If you feel aggrieved by this Courtesy Letter, in accordance with section 8.12.130, you have the right to request a public hearing before the City Council to discuss these issues. A written request for a public hearing must be received by the City within 10 days of the delivery of this notice.

I look forward to solving these ongoing issues. Please feel free to contact me at 822-5785 if you have any questions.

Sincerely,



Trever Parker, City Planner

cc. Karen Suiker, City Manager
Andrew Stunich, City Attorney
John Roberts, City Building Inspector

April 14, 2017

To: Trinidad Planning Commission

From: Dan Cox and Dorothy Cox

Re: REVOCATION of the "after the fact design review (CUP) permit" granted on 5/28/2014
(*we filed this appeal as a CUP permit revocation because that is the information that was provided to us as directed by city staff*)

The neighbors to 407 Ocean Avenue have been subjected to years and years of nuisances.

As neighbors of 407 Ocean Avenue we have done our due diligence in reporting nuisances to law enforcement, by filing complaints to the City as requested, regarding this property.

We have attended and spoken at most of the PC and CC meetings regarding STR's for the last 2 plus years and have included this property in all of those conversations.

We have forfeited the quiet enjoyment of our property because of the continued and profound nuisances at this address. The city of Trinidad has not addressed the concerns of the neighbors.

The first complaints were made in 2004. The city received a written complaint in 2006 asking for evidence of any Planning Commission history about this property, eg: copy of the original permit applications, the minutes from either the City Council or the PC meeting regarding this applications, the minutes from the PC meeting where there was discussion of this project, a copy of the "notice" that is routinely sent to neighbors regarding new projects where public input is solicited, a copy of any permits granted for an addition to an existing septic system, and any design review permits for this property. There was no response from any city staff. Ever.

The same letter was sent often, in subsequent years. These actions of the City of Trinidad could be construed as catering to a few constituents and arbitrarily and capriciously addressing code violations to Trinidad residents.

When Planner Parker stated: "therefore, even though a proposal for a home office for an absentee landlord is a somewhat unusual request, there is nothing in Trinidad's ordinances that would prohibit this" we were appalled, as neighbors. The owner was allowed to have a "home occupation" in a single family UR zone when the actual business did not comply with home occupation ordinance requirements, requiring NO EMPLOYEES. The level of use was not consistent with the UR zone, as was later determined by the City Attorney.

The Planner accommodated the property owner in every step he made. She allowed him to retain the large covered area (180 sq patio area) connected to the back unit saying because “ the majority of the work was replacing existing structures” She stated “ there have not been complaints about exterior modifications”. This is simply not true. Never did she confirm with neighbors about what was in existence prior to the homeowner’s modifications and this overhang is much different in scope and size especially as it pertains to jutting into the alley.

In the 3/3/14 staff report the city planner states: “ **the zoning ordinance requires two off street parking spaces other than any garage spaces for single family dwellings. There are two parking spaces in the driveway shown in the plot plan, in addition to the two garage spaces, for a total of four parking spaces for the residents. In addition, there is another parking space off the alley adjacent to the converted garage.” These Staff report statements were incorrect. The property has a one car garage and room for one car in the front driveway.**

Parking on the 2016-17 VDU renewal application was also incorrect but was approved by the city manager. The VDU inspection by the city manager states “all structures are accurately shown, front and back, and off street parking is shown correctly and number and placements of bedrooms is accurate and drawing is to scale”. This statement is grossly false

The OWTS operating permit states :” sluggish leach-field which is an indication of possible failure” Updated OWTS was requested but was not provided by the city.

We feel the structure was and continues to be obtrusive. The exterior modifications were NOT minor, and we continued to object to them, including the existing overhang and porch, surrounding fence or screen,siding windows and doors.

The revocation of this “after the fact design review conditional use permit” is necessary and must be addressed because the owner has not demonstrated ANY compliance for years.

At one recent PC meeting the city planner said, and I quote, “ this owner has been thumbing his nose at the city for years now”.

With regard to the city planner allowing the unpermitted illegal back unit to remain, the property owner was allowed to designate one of the bedrooms in the main unit as an “office, den, or “room without a closet”. This was the allowance to retain the living area of the back unit that was

converted in 2006 or before without any permits of any kind. This “ room without a closet” was definitely being used as a bedroom for many years. Bunkbeds were visible.

With regard to the STR permit that was renewed and approved in June of 2016:

Parking was inaccurately recorded on the site plan

There was no kitchen reported on the ADU

This ADU was inspected by the city manager, not by the building inspector as directed by the planning commission.

When asked how the VDU permit was approved with the back unit having a kitchen, the city manager replied “ I guess I just wasn’t looking for a kitchen”

The property owner had been reprimanded and told to remove the kitchen as part of the ‘after the fact design review’ for the second time in May of 2014. How did the city manager not see a kitchen when he walked in to do the VDU permit inspection?

In the spring of 2016 he city manager made a decision not to address the appeal of the “vacation rentals with two dwellings” that have not met city ordinances or building code requirements

The outcome of that appeal regarding VDUs with two kitchens was that the building inspector was to complete the inspections as specifically directed by the planning commission.

Commissioner Pinske stated on 4/20/16 that “the city needs to do their due diligence and work with the owners in the renewal process” . That did not happen. The city manager did not follow the clear direction of the planning commission. He inspected 407 Ocean Avenue himself and wrongly found no compliance issues.

At that meeting the Commissioners made the following comments: Cliff Pouton, ***Staff cannot ignore requests for information just because it is inconvenient.*** Richard Johnson: ***These properties must be inspected by the building inspector and reports returned to the PC.*** Laura Scott: ***Ground truthing and verifying this with inspections by the Building Inspector with reports returned to the PC.*** Mike Pinske: ***Get properties into compliance some may not be able to renew licences. Have them inspected by the building inspector and return those reports to the PC.*** Staff completely failed to follow the directives of the PC. The City Manager and City Manager Assistant completed inspections that were directed by the PC to be completed by the Building Inspector. The Building Inspector also completed some

inspections *without full file requirements regarding deed restrictions or other property issues.*

For many, many years the neighbors of 407 Ocean Avenue have been subjected to constant, and pervasive nuisances due in large part to the planning commission's approval of this project on the property. We asked for relief. We have been told through this process that the ordinances in this town are addressed by a complaint system. We have done our part. We request that this property be returned to the conditions as it was purchased.

Documents in Binder include:

2004-2009

- 3/10/2004 From Trinidad City Clerk to Planner: Questions regarding converting 407 garage to ADU. Also first complaints to City from neighbors regarding illegal construction.
- 5/25/2006 From Concerned Citizen to Trinidad City Clerk: Formal complaint regarding 407 both dwellings rented as vacation rentals, no permits...
- 11/1/06- Building Inspector Scott Kelly note to Planner and call from Gabe possible un-permitted secondary dwelling unit.
- 11/2/06 Site visit and **STOP WORK** notice: "clearly being used as a dwelling unit.
- 11/13/06 From Planner to Mr. Reinman: "Home Occupations are allowed. Density 8000 feet a variance would be needed. You could apply and the PC could approve one. Nonconforming, residences are not allowed in the rear yard setback. Was it already in existence? If not then apply."
- 2/22/07 KL to Mayor K Bhardwaj-Spring summer of 2004 converted garage to second dwelling. Using it continuously as a vacation rental. **Added a covered patio area during time that was given a STOP WORK order.** Completed the cover with the STOP Work order in place.
- 2/22/07 Planner to Davies Lake Apology letter for lack of response for their letter dated 4/17/06. It took ten months to get a response.
- 4/16/07 City Planner to Mike Reinman: City continues to receive concerned inquiries ... "You were told that ADU's were not allowed. You were informed of the requirements thru a stop work order and several emails from me and explaining your options" ... "there is unauthorized work occurring again still" ... " the unauthorized second unit is being rented out in violation" There should not be anyone living in the unauthorized

ADU.....please ensure that no more than two people per bedroom are living in the main residence as this is what the septic is designed for"

- 4/16/07 Note: Planner to Reinman to bring property into compliance.
- 4/18/07 Scott Kelley to City Planner: He visited the site and posted a Stop work order on 11/2/16
- 4/26/07 Mike Reinman to City Planner: "going to apply for a building permit for a new roof on the back, landscaping on the front house and reconnecting lighting to the back unit"
- 2/11/08 City Planner to Mike Reinman: Received work plan for improvement to a storage area in the garage adjacent to ADU of questionable status. ADU illegally converted after the property was purchased by Reinman and in 2004.
- 2/11/2008 additional letter from Planner to Reinman to bring property into compliance and a complaint from neighbor regarding ADU being used as vacation rental.
- 4/3/08 City Planner to Trinidad City Clerk: "Work should not be allowed.....working with Reinman's"
- 6/13/2008 City Manager to Trinidad City Clerk: Spoke with city's legal counsel about the city's options....about illegal second dwelling units DAVIES/LAKE to City Manager "any further discussion or action or follow-up on this issue?"
- 6/13/2008 Davies Lake to City Manager Steve Albright: Complaint regarding the illegal ADU....the illegal back unit show on the City's Trinidad Chamber of Commerce website
- 6/13/2008 Response from City Manager Steve Albright to all council members stating "this is unacceptable...nobody should be allowed to do what is being done by this individual and then flaunt it on the chamber's website. There is a long history of complaints...I spoke about it with the attorney today"
- 6/19/08 additional STOP WORK order was written for lack of permits. (main house bathroom remodel) Building Inspector was there at the time for the complaints about the back unit
- 6/23/08 Mike Reinman to City Manager Steve Albright: Response to complaint....Mike Reinman states that he is going to cease using back unit as an VDU and continue to use it as an illegal ADU, "We would not longer rent out our primary residence as a VDU" "We also told them we would no longer VDU our back place.....but that we would just rent it out to a quiet person or a couple"

- 7/8/2008 City Planner to City Manager Steve Albright: Early correspondence and first complaints came in spring of 06 which he got wind of...I do have notes and "It just shows again that the various regs were explained to him, "He had not even attempted to resolve any of the outstanding issues regarding the STOP WORK order in almost a year". " He came in and met with me to discuss options. I took him at his word that he was preparing an application to the PC to at least permit the second unit as an extra bedroom similar to Sterling's. I gave him no guarantee that it would be approved ...he did have preliminary plans drawn up. Because he had made such an effort toward resolving his problems, I agreed to let him get a building permit to convert the window to the door in the spirit of cooperation. I was told that the side of the building was storage only and the improvement was not part of the ADU. Since the work required a building permit, I assumed that would be confirmed and transmitted ...to the Building Inspector but he did not even get that permit. The reason that I was willing to try to work with him was because people with second units or who want them are in sort of limbo right now with the draft ADU ordinance that would allow them but current regulations not allowing them."
- 8/20/08 Reinman to City Planner: Regarding: application for variances on backspace....."Go for leaving our home as a 3 br and making the other unit a fourth bedroom because in either case the septic would have to be made bigger"
- 9/22/08 M. Reinman to City Planner " it seems that some of the other projects that I have seen come in front of the PC have not have all of the studies done yet. We are looking to apply to the permit in two stages"

2010-2014

- 2/17/2010 Complaint from D. Cox.
- 7/8/2010 City Manager Steve Albright to City Council: Regarding all three Reinman properties and non compliance issues. 407 Ocean "No fines have been levied and a tenant continues to reside in the illegal ADU. "
- 3/5/2010 Planner STOP WORK order Business in the alley, laundry in the garage
- 8/5/2010
City Manager Steve Albright to Reinman

“ I understand that you had a discussion yesterday with John Roberts regarding the building permits.He is expecting to see plans (before and after) and a valuation leading to a paid building permit (with Gabe) before he commences any review.

SEPTIC SYSTEM

“ I talked with Trever about your plan to request our Prop 84 Grand Funds for replacing your 3-BR system and you paying the incremental cost increase to expand that new system to a 4 BR system. Neither of us is willing to go forward with this plan. First, there was no report ever that your system was failing In fact in retrospect, when the issue first arose, your stated reasoning for proceeding with the unit off the alley was that your septic system handled it fine Since then, you have also told me that the third bedroom in the house is not really a bedroom anymore (no closet) and that the third bedroom in the garage is within your operating 3 BR system. Finally, if the system is now not operating properly, common sense tells me that it could likely be because the illegal unit in the garage is now overwhelming the designed system. This grant program is meant to improve environmental quality by replacing some of the oldest and failing systems in the watershed, not to provide owners an opportunity to simply upgrade their older systems or address other problems, such as the illegal rear unit. You still need to proceed with the plans that you outline in your earlier email to me to modify or improve the system. I do not know if that means total replacement, or if the current system can be improved or expanded. That is a call that still needs to be made by the County Health Department after the improved system is designed to meet the needs of the 3 BR house plus a one-bedroom accessory dwelling unit in the garage.”

- 8/11/2010 Reinman to Trinidad Clerk regarding next steps.
- 1/9/12 John Roberts to City Manager Karen Suiker: Planner working with Reinmans to establish ADU.
- 12/19/2012 City Planner to Lake: Working with Reinmans for compliance. Home Based Business requirements. Request for Lake/Davies to document any violations traffic, noise or employees.“ADU was created over the past four years without the appropriate approvals required by the PC and without the required...has made no efforts to rectify the outstanding problems. (This is when the roll up garage door window was installed.)
- 6/14/11 Lake to Trinidad City Clerk: written and verbal complaints ...failure to act. PRR.

- 6/16/11 City Manager to City Council: Nuisance Order to Abatement sent, with time-limit for abatement.
- 6/20/11 City Planner to City Council: History: Stop work order 11/2006 staff working with Reinman's..."good faith that Reinmans would resolve violations", no one should be living there". Next steps "nuisance abatement".
- 6/20/11 To Reinman from City of Trinidad: Nuisance Abatement letter. External structural work occurred, covered porch/entry way for illegal unit. Building permits for interior remodel. Needs CDP. Approval of Septic. Given two weeks to comply.
- 6/28/11 Planner to Reinman: The City could have pursued code enforcement against you more than three years ago but tried to work with you and then waited for the ADU ordinance to pass in order to allow your illegal unit. I think this is a special case."
- 6/28/11 Reinman to Planner "getting an ADU permit" Received nuisance abatement letter. Covering at entry way to that unit "my understanding is no permit required". Ordinance states we have another 2 years to comply. Reinman to Planner: "property does not have the space for a new 4 bedroom septic. Put a deed restriction on our main house making it 2 bedrooms instead of 3. The third bedroom is the ADU".
- 9/7/11 From City Manager to Tom Davies: frustrated that CCC did not approve ordinance. Start over again, consulting with Bonnie Neely.
- 9/13/2011 Building Inspector to Trinidad City Manager. "I CANNOT MAKE HEADS OR TAILS OF THIS. ...EVERYONE'S GOT THEIR HANDS INTO THIS PROJECT. PLANNING NEEDS TO FOCUS ON PLANNING ISSUES AND APPROVAL. I NEED A COMPLETE SUBMITTAL OF DOCUMENTS AS LISTED IN THE LIST I GAVE TO TREVER SOME TIME AGO. PIECEMEALING THE APPLICATION PROCESS BY GIVING SOME STUFF TO PLANNING AND SOME STUFF TO BUILDING DOES NOT GET US WHERE WE NEED TO BE... ALL DOCUMENTS NEED TO BE RETURNED TO REINMAN AS AN INCOMPLETE SUBMITTAL RATHER THAN EVERYONE GIVING OUT INCOMPLETE INFORMATION ..."
- 10/5/11 Planner to Reinman: Submittal of application materials for an ADU at 407 Ocean. Ministerial approval and exceptions can only be granted by the PC. Does not meet floor area requirements or setbacks.
- 11/18/2011 Planner to Building Inspector: What is a bedroom? "A room cannot by design function as a bedroom". Building Inspector to Planner: (If the citizens of the community

want to continue to skirt around the regulations then the deed restriction seems to be a tool to regulate the ongoing use of the structure.) (This has not worked out.)

- 12/1/11 Jim Baskin CCC to Reinman: The City has not to date submitted ADU or VDU ordinances for review..”
- 12/2/11 City Planner to Reinman “You have been renting out an illegal second unit for 5 years or more...” The City can agree to not pursue nuisance abatement against you while the City processes an LCP amendment...”
- 12/5/2011 Planner to Reinman: ADU request put on hold while City processes an LCP application with the CCC.
- 10/27/12 Davies/Lake to City Manager K. Suiker: business operation for vacation Rental business taking place in the alley with laundry and drop off pick up.
- 9/14/13 Jim Baskin, Coastal Commission to Planner “ADUs will be impossible”
- 9/14/13 Jim Baskin to Bob Merrill and replay (both Coastal Commission staff) Bob Merrill says “ the regional board staff shares many of the same concerns commission staff have raised with respect to how this and other potentially more intensive land uses.....such as second dwelling units....may affect water quality in the Trinidad area especially considering the city’s dependence on individual sewage disposal systems and antiquated nature of many of the septic systems int own, the history of system failures, the documented presence of coliform pathogens in water courses and ground water, and the status of biologically significant and /or impaired receiving waters.”
- 10/7/13 From Davies/Lake to City Manager: cars blocking the alley and laundry complaint with photos.
- 10/15/13 Planner to Reinman: Rejection of application and courtesy letter informing them of city’s intent for nuisance abatement for ongoing violation including corrective action options: “require to remove all unauthorized construction that has occurred on the garage structure. This would include all interior improvements and converting the garage back into a garage without a dwelling unit or other living space. Demolition must also include any external additions or remodeling that has occurred since 2004”
- 12/6/13 Davies Lake to City Manager, Karen Suiker: Asking for enforcement at 407 Ocean Avenue
- 12/9/13 Tom Davies to City Manager Karen Suiker: Original written complaint was written in 2004. Second written complaint 2006. Garage conversion carport that still stands without design review and with a STOP WORK order. Windows (one in the roll up

garage door) and doors also added. “Nine years of inaction of these outstanding building code violations”

- 12/9/13 CM Karen Suiker to Tom Davies: “There were two complaints... (1)illegal ADU and (2) illegal laundry and vacation rental business
- 12/16/13 Davies Lake to all “Someone working (again) on the garage at Reinman’s today”

2014-2017

- 1/2/14 Building Inspector (John Roberts) to Reinman: Stop Work order and letter outlining “ next steps” toward compliance. “ Your submittal should be forwarded to the building department within the next 30 and failure to submit a completed applications will increase penalties”
- 1/6/14 Lake report to Sheriff: regarding alley blocked with vehicles for Reinman’s business.
- 3/16/14 Davies /Lake to PC: Concern about lack of public notice for PC mtg to hear the 407 Ocean issue. Notice was sent late, and not sent to all concerned parties
- 3/17 City Planner to Davies/Lake and City Manager Karen Suiker: Questionable processes regarding hearing.....explanations by CP
- 3/18/2014 Davies/Lake to PC: Letter from Davies/Lake asking for a denial of the “after the fact design review permit” and requesting that all obtrusive items removed...septic, siding, overhangs, porches, added doors and windows (one inserted into a roll-up garage door), and all interior modifications and the unpermitted propane tank.
- 3/21/14 Davies/Lake to City Planner: “Planner did not address the business in the alley in her report.
- 3/21/14 Planner to Reinman: “DO NOT OCCUPY includes not using the restroom or shower, cooking or “hanging out for any period of time or recreating”
- 3/31/14 Reinman to City Planner: Written description of Reinman’s intended use for the property.
- 4/1/14 Reinman to City Planner Re: Laundry vacation rental business.....” during high season we can average 15-20 visits per day, off season 6-8 visits per day with possibly more on weekends”

- 4/1/14 John Roberts to Trinidad City Clerk: confirms that the submitted photo of the interior of the garage/laundry business shows obvious non-permitted and dangerous wiring.
- 4/14/14 letter from Mr. Tom Becker, city resident, to be included in the May 21/14 PC mtg. “ My concerns relate to precedence and the Reinman’s successors. If the Riemann permit is approvedit will encourage further non-compliance with city building and planning codes”
- 4/16/14 CP report: Reinman proposed 40 vehicle trips per day for the laundry business and this amount of traffic was also recommended to be approved by City Planner.
- 5/21/14 PC mtg packet “after the fact design review permit” Staff report says : the fence is too high, conversions of windows to doors, alterations to and additions to windows, projected back unit added to main unit does put the property at the greater 2000 sf floor to area ratio ***Parking was not calculated correctly (states two cars in the one car garage and two cars in the one car driveway)
- The PC voted to continue the public hearing for one more week.
- 5/28/14 Conditions of Approval Compliance Checklist (THE DATES ARE NOT CONSISTENT with the 5/28/14 meeting agreement between PC and Reinman) John Roberts’ building permit application **938** shows 10/16/14 as the date and it was signed off on by Mr. Roberts on 12/11/14. There is a great time lapse...Why almost 5 months?
- *This time lapse could be perceived as a favor to Reinman because of the VDU season and bookings that were probably already made.*
- 6/19/14 CM to Davies Lake Updated “ tenant info” with regard to cars and license plates at 407 Ocean per direction of the PC at the 5/28/14 mtg (part of the PC’s and Reinman’s agreement)
- 2015-2016 Continued concerns expressed with multiple complaints by neighbors regarding.....excessive parking, excessive noise, odors, number of people occupancy had to have been more than the 6 adults agreed on by MR at the 5/28/14 meeting
- 3/1/17 City Manager to neighbors “ I did walk through the back unit when I did the STR inspection and it appeared to be in compliance at that time (6/21/2014).
- Illegal ADU determined to be in the garage by the Building Inspector.

On February 28, 2017 I received an email from a gentleman who had done a “property walk-through” as a possible prospective buyer. He was shown both units and was told by the

property owner that he could “live in the back unit and rent the front house out as a VDU or rental.” He informed the prospective buyer that the back unit was “unpermitted” . This would be illegal as per city code and property restrictions. When I questioned the use of the back unit, the gentleman pointedly told me that there WAS a full, functional kitchen in the back unit. The neighbors presumed this all along....hence the continuous complaints to the city/staff.

I attended the PC meeting on March 1, 2017 and let them all know that this violation was indeed happening. I told the commission that in granting the “after the fact design review” that they all had been duped. The many years-long history of this property owner should have been a red flag to them all....But instead they gave him conditions to abide by and granted his requests. I am confident that it wasn't too long after that May meeting that the back unit was again converted into a full living area including the full kitchen.

The two units on this property have never been consistent with UR zoning for single family dwelling. The fact that the floor/area ratio was over the standard 2,000 sq feet must be corrected. The parking as stated on the staff report was incorrect. This must be corrected also.

So I am appealing to you all to direct staff and City council to REVOKE Mr. Reinman's “after the fact design review” permit at 407 Ocean Avenue. He has years and years of history showing his blatant disregard for any permit process or compliance. We ask that you direct him to return the back unit into its original state: a garage.

I have documentation of all data I have provided (listed below by date) and it is available to you to review.

We are confident that the findings we are providing you with are more than adequate to make your decision.

Most Sincerely,

Dan and Dorothy Cox