Posted: May 11, 2018

City of Trinidad

NOTICE AND CALL OF A MEETING OF THE

TRINIDAD PLANNING COMMISSION

The Trinidad Planning Commission will hold a regularly scheduled monthly meeting on
WEDNESDAY MAY 16th, 2018, AT 6:00 P.M.
in Town Hall at 409 Trinity Street.

The following items will be discussed:

I. ROLL CALL

II. APPROVAL OF MINUTES – April 18, 2018

III. APPROVAL OF AGENDA

IV. ITEMS FROM THE FLOOR

V. AGENDA ITEMS

Discussion / Decision / Public Hearing / Action

1. Election of Vice Chair

2. Mullin 2018-02: Use Permit and Coastal Development Permit to remove a large (>12″ DBH) nonnative Monterey cypress tree from the property that creates a nuisance and poses a potential hazard to adjacent property and structures. Located at 520 Pacific Street; APN: 042-082-001.

3. Farmer 2018-03: Design Review and Coastal Development Permit for construction of a new pitched roof in place of an existing flat roof. Located at 436 View Avenue; APN: 042-062-008.

4. HSU 2018-04: Use Permit and Coastal Development Permit to remove a large (>12″ DBH) nonnative Monterey cypress tree that is damaging infrastructure and causing

PLEASE DO NOT REMOVE OR COVER UP

a public safety hazard from in front of the HSU Marine Lab. Located at 570 Ewing Street; APN: 042-021-001.

VI. COUNCIL REPORT

VII. STAFF REPORT

VIII. FUTURE AGENDA ITEMS

IX. ADJOURNMENT

MINUTES OF THE MONTHLY MEETING OF THE
TRINIDAD PLANNING COMMISSION
Wednesday, April 18, 2018

I. CALL TO ORDER/ROLL CALL (6:00pm)

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

II. APPROVAL OF MINUTES

March 29, 2018

Commissioner Johnson asked Commissioner Graves if there had been any follow-up to his discussion with the City Manager regarding Measure Z funding; Commissioner Graves responded in the negative. Commissioner Johnson noted that the Commission had continued the issue of voting for a Vice Chair, but that it was not on this month's agenda. Commissioner Stockness asked if any action had been taken by the Council towards forming an STR committee to review complaints; Parker responded affirmatively. Planner Parker noted that the signature line of the minutes should be changed to "John Graves, Planning Commission Chair."

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

III. APPROVAL OF AGENDA

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

IV. ITEMS FROM THE FLOOR

None.

V. AGENDA ITEMS

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

Parker provided an overview of the ongoing conversation about the policies for detached living spaces. In her staff report, she stated that the Planning Commission had generally agreed on a definition of a kitchen and a standard set of conditions of approval for future applications for detached living spaces at their last meeting. The Commission had requested she prepare policy documents reflecting these decisions for approval. She presented these policies for Commission discussion. Parker noted that the Commission had not had much chance to discuss Administrative Rules

under the STR ordinance or enforcement and fines at the last meeting. She provided several examples of administrative fine ordinances in the Agenda packet.

Commissioner Comments/Questions
Commissioner Johnson requested clarification from Planner Parker regarding how adoption of these policies would apply to the zoning ordinance. Parker replied that these policies would be incorporated into a future ordinance amendment to codify them, but in the meantime, the purpose of these policies is to provide an interpretation of the rules for Staff to implement and enforce.

Commissioner Johnson also stated his concern about the open-ended inspection requirement, because it could be abused. Parker added that only detached living spaces may be inspected with a 24-hour notice, and that would typically be due to a complaint about the property.

Public Comment
None.

Commissioner Discussion
The Commissioners discussed the questions and suggestions that Parker provided on the Draft Kitchen Definition Policy. With some discussion, the Commission agreed on the list of appliances. A suggestion of including an amount of cabinet and counter space as a criterion was rejected by unanimous agreement of the Commissioners. This limitation was also deleted from the definition of Wet Bars. The phrase, "except for single-purpose refrigerator units such as wine storage units" was added to the description of Wet Bars. The exceptions were agreed upon by all Commissioners, with the modification of "City Manager" replacing "director." It was unanimously decided that he number of kitchens shall be only one per approved dwelling unit unless an exception is granted by the Planning Commission.

Regarding the Standard Conditions for Detached Living Spaces, the Commissioners unanimously agreed on the Draft Policy language as prepared by Parker.

The 'Administrative Rules for STRs' and 'Enforcement and Fines' were discussed by the Commissioners. Using several examples, Planner Parker stressed the importance to Staff of having clear rules, or interpretations of them, that can then be used to respond to complaints and then enforced.

Public Comment
M. McHenry (407 Ocean) asked about the 24-hour contact requirement, noting that she has an owner-occupied STR. She also stated that she had not noticed an overpopulation problem in town.

DRAFT

Commissioner Discussion
The Commission did not think that the existing situations used as examples constituted a serious issue, because they generally complied with the letter of the law. In addition, the Commission did not want to add new rules when existing rules weren't being enforced. The Commissioners decided not to make a recommendation to the City Manager on Administrative Rules at this time. However, there was a discussion about the difficulties and lack of enforcement in the City. Eventually, the discussion was boiled down to the following motion:

***Motion* (Stockness, Johnson): The Planning Commission finds that real-time enforcement and complaint follow-up is critical to public safety and the well-being of the Trinidad community and recommends that the City Manager and City Council pursue Measure Z funding for a code enforcement officer and additional law-enforcement coverage, and immediately engage the Sherriff's Office to negotiate increased patrols that include enforcement of City codes as well as other applicable laws.**
***Passed unanimously* (4-0).**

The Commissioners continued their discussion on fines and administrative fine ordinances. The Commission generally agreed that the one provided from the City of Arcata was too confusing, but they liked parts of the other three.

***Motion* (Johnson, Gregory): The Planning Commission recommends that the City Council adopt and implement a comprehensive administrative fine ordinance.**
***Passed unanimously* (4-0).**

VI. COUNCIL REPORT

Parker states that the City Council voted to form a standing sub-committee to address and respond to complaints regarding STRs. They want a Planning Commissioner to Chair the committee. The committee will be comprised of a Planning Commissioner, two members of the public, and two managers/owners of STRs.

The Council also voted to extend the Verizon lease on Trinidad Head. They had previously voted to terminate the lease, however Verizon asked for an extension of time to develop additional sites to supplement the coverage loss.

City staff are moving forward with round two of the LCP grant and the Van Wyke Trail repair CEQA document. The City is also working towards securing a federal funding match for Phase 2 of the stormwater project and will be completing a NEPA document for USDA funding.

VII. STAFF REPORT

Staff is working on implementation of the OWTS Management Program and making good progress.

A list of issues and a timetable for the General Plan Update was provided for the City Council and will also be provided to the Planning Commissioners. The grant deadline is in October, so the City needs to be making steps toward completion. Little input has been provided for the Cultural Resources Element.

Commissioner Graves notes that Mercer-Fraser withdrew their proposal for industrial zoning along the Mad River. He also noted that the Coastal Commission recently approved an ordinance of the City of Santa Cruz banning new, unhosted STRs against staff recommendations.

VIII. FUTURE AGENDA ITEMS

Selection of a new Vice-chair.

IX. ADJOURNMENT

The meeting was adjourned at 7:55.

Submitted by:
Cheryl Gunderson
Interim Secretary to Planning Commission

Approved by:

_____
John Graves
Planning Commission Chair

DRAFT

Filed:	April 20, 2018
Staff:	Trever Parker
Staff Report:	May 1, 2018
Commission Hearing Date:	May 16, 2018
Commission Action:	

STAFF REPORT: CITY OF TRINIDAD

APPLICATION NO.:	2018-02
APPLICANT(S)/OWNER(S):	Reilley Mullin
AGENT:	N/A
PROJECT LOCATION:	520 Pacific Street
PROJECT DESCRIPTION:	Use Permit and Coastal Development Permit to remove a large (>12" DBH) nonnative Monterey cypress tree from the property that creates a nuisance and poses a potential hazard to adjacent property and structures.
ASSESSOR'S PARCEL NUMBER:	042-082-01
ZONING:	UR – Urban Residential
GENERAL PLAN DESIGNATION:	UR – Urban Residential
ENVIRONMENTAL REVIEW:	Categorically Exempt from CEQA per § 15304 of the CEQA Guidelines exempting minor alterations to land, water and/or vegetation.

APPEAL STATUS:
Planning Commission action on a Coastal Development Permit, Variance, Conditional Use Permit, and/or Design Review approval application will become final 10 working days after the date that the Coastal Commission receives a "Notice of Action Taken" from the City unless an appeal to the City Council is filed in the office of the City Clerk at that time. Furthermore, this project **_X_ is** ___ ~~is not~~ appealable to the Coastal Commission per the City's certified LCP, and may be appealable per the requirements of Section 30603 of the Coastal Act.

SITE CHARACTERISTICS:

The project site is located on the north end of Pacific Street overlooking Trinidad State Beach. The site is developed with a 2-bedroom, single-family residence served by a standard septic system that is located west of the residence; the property is in compliance with the City's OWTS ordinance. The non-native cypress tree that is proposed to be removed is located on the southern property line at the eastern end of the lot, near Pacific Street. The property slopes towards the west.

STAFF COMMENTS:

The applicant has submitted an arborist's report that recommends removal of the tree for a variety of reasons. The tree has outgrown its location, and falling limbs pose a hazard to neighboring property and structures, including a propane tank and parked vehicles. The tree is non-native and also blocks coastal views from properties to the east. Pruning the tree to remove the potential hazard was deemed to be undesirable by the arborist due to its location and growth form. Therefore, the application is requesting full removal.

Referrals were sent to the Coastal Commission and Public Works. Public Works requested notification if any road closure is required. In addition, an encroachment permit would be required for any work that takes place within the City right-of-way, including staging.

The site plan that was submitted as part of the arborist report indicates that the tree is actually located on the neighboring property to the south. I requested clarification on the tree's location from the applicant. She provided some photos and survey information that indicate that the tree is on the applicant's property.

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 single-family residential development. In the UR zone, removal of trees over 12 in. diameter at breast height (DBH) requires a use permit (§17.32.030). Section 17.32.080 allows the removal of diseased trees, or trees posing an imminent danger to structures or people subject to the approval of the City Engineer. However, this tree does not meet those criteria.

The definition of development, both in the City's Zoning Ordinance (§17.08.200) and the Coastal Act (PRC §30106) includes "removal or harvesting of major vegetation." While no definition of "major vegetation" exists in either set of regulations, one of the

commonly accepted cut-offs for what constitutes 'major vegetation' is 12 in. DBH or larger. Therefore, a Coastal Development Permit is also required for the tree's removal.

No buildings or site improvements are proposed other than the tree removal. This project involves no structures and will not affect setbacks, heights, parking or square footages of structures. Specific requirements of the zone are not applicable in this case

The Trinidad General Plan and Zoning Ordinance protect importance public coastal views from roads, trails and vista points and private views from inside residences located uphill from a proposed project from significant obstruction. Removal of trees does not generally have the potential to negatively impact coastal views and may actually improve them.

The arborist report does not describe whether the stump will be removed. Often, it is recommended that the trunk be ground down to at or near the soil level, with the roots left in place. This avoids any soil disturbance and leaves the root system intact, which can provide stability until other vegetation grows in its place; this has been included as a condition of approval.

This property is already connected to all services and utilities, which will not be altered. Care must be taken to protect utilities that may be located adjacent to the trees. Exterior colors and materials are not applicable. An encroachment permit may be required for tree removal, since it is adjacent to a public roadway.

SLOPE STABILITY:

The western portion of this property is mapped as being of "questionable stability" based on Plate 3 of the Trinidad General Plan. A geologic report was prepared as part development of the residence. The tree is outside the area of potential instability, and no further geologic investigation is necessary.

SEWAGE DISPOSAL:

The residence is served by an existing septic system that will not be impacted by the tree removal. The septic system, including the leachfield, is located to the west of the residence, well away from the cypress tree. Therefore this project does not have the potential to impact the OWTS. The property has a valid OWTS Operating Permit.

LANDSCAPING AND FENCING:

No new landscaping or fencing is proposed. The cypress tree does provide some habitat for nesting songbirds due to its dense foliage, but it is not known to house any sensitive species. In order to protect any potential nests, a condition of approval has been included that the tree be checked by a qualified person 24 to 48 hours prior to tree removal, if removal occurs during the nesting season (prior to September 1). The Planning Commission could also consider including a condition of approval that requires replacement of the cypress with other vegetation, but staff does not feel that is necessary.

DESIGN REVIEW / VIEW PROTECTION FINDINGS:

Because the project is located within the Coastal Zone, a Coastal Development Permit for "major vegetation removal" is required. However, because the project will not alter any structures, and will not change the topography of the site by more than 2 feet, no design review is required.

USE PERMIT FINDINGS:

Section 17.32.030 requires a use permit for large tree removal, and § 17.72.040 requires written findings to be adopted as part of the approval of a use permit. The following findings, as may be revised, are required in order to approve this project.

A. *The proposed use at the site and intensity contemplated and the proposed location will provide a development that is necessary or desirable for and compatible with the neighborhood or the community.* Response: The proposed project includes the removal of one large cypress tree from a residentially zoned property. The tree is non-native and poses a potential hazard to adjacent property and structures. It also likely blocks coastal views. Therefore, its removal could be considered necessary and desirable for the neighborhood.

B. *Such use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity or injurious to property improvements or potential development in the vicinity with respect to aspects including but not limited to the following:*

   1. *The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;* Response: The size and nature of the tree is such that it currently poses a hazard and nuisance to property and structures; removal of the tree will eliminate these hazards.

2. *The accessibility of the traffic patterns for persons and vehicles, and the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;* Response: The proposed tree removal will not affect traffic or parking. An encroachment permit will be required for any tree removal activities that require use of a public right-of-way, which will ensure temporary traffic impacts are appropriately addressed.

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

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

C. *That such use or feature as proposed will comply with the applicable provisions of this title, will be consistent with the policies and programs of the general plan and will assist in carrying out and be in conformity with the Trinidad coastal program.* Response: As discussed above, under the "Zoning Ordinance / General Plan Consistency section, the proposed tree removal can be found to be consistent with the City's Zoning Ordinance, General Plan and Local Coastal Program.

D. *That the proposed use or feature will have no significant adverse environmental impact or there are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available which would substantially lessen any significant adverse impact that the actions allowed by the conditional use permit may have on the environment.* Response: Removal of individual trees is exempt from CEQA per § 15304 of the CEQA Guidelines exempting minor alterations to land, water and/or vegetation except in the case of officially designated scenic trees or trees within an officially designated state scenic highway, which this tree is not.

E. *When the subject property is located between the sea and the first public road paralleling the sea or within three hundred feet of the inland extent of any beach or of the mean high tide line where there is no beach, whichever is the greater, that:* Response: The project is located between the sea and the first public road, therefore the following findings are applicable.

1. *The development provides adequate physical access or public or private commercial use and does not interfere with such uses.* Response: The tree removal will not affect public access. A public access easement already exists on this property along the beach.

2. *The development adequately protects public views from any public road or from a recreational area to, and along, the coast.* Response: The tree's current growth form is not particularly scenic, and is not necessary for screening; its removal may improve coastal views.

3. *The development is compatible with the established physical scale of the area.* Response: The proposed tree removal will not impact the physical scale of the area.

4. *The development does not significantly alter existing natural landforms.* Response: As conditioned, no soil disturbance is required for tree removal.

5. *The development complies with shoreline erosion and geologic setback requirements.* Response: The tree is outside any areas of known geologic instability, and complies with the setbacks recommended in the geologic report that was prepared for construction of the residence.

STAFF RECOMMENDATION:

Based on the above analysis, and as conditioned, proposed tree removal can be found to be consistent with the City's Zoning Ordinance and General Plan and other policies and regulations, and the necessary findings for granting approval of the project can be made. If the Planning Commission agrees with staff's analysis, the project may be approved with the following motion:

Based on the information submitted in the application, and included in the staff report and public testimony, I move to adopt the information and findings in this staff report and approve the project as conditioned herein:

PLANNING COMMISSION ALTERNATIVES

If the Planning Commission does not agree with staff's analysis, or if information is presented during the hearing that conflicts with the information contained in the staff report, the Planning Commission has several alternatives.

A. Alter the proposed conditions of approval to address any specific concerns on the part of the Commission or the public.
B. Delay action / continue the hearing to obtain further information.
   - In this case, the Planning Commission should specify any additional information required from staff or the applicant and / or suggestions on how to modify the project and / or conditions of approval.

C. Denial of the project.
- The Planning Commission should provide a motion that identifies the Finding(s) that can not be made and giving the reasons for the inability to make said Finding(s).

CONDITIONS OF APPROVAL:

1. The applicant is responsible for reimbursing the City for all costs associated with processing the application. *Responsibility: City Clerk to place receipt in conditions compliance folder prior to authorization of tree removal or encroachment permit being issued.*

2. Based on the findings that community values may change in a year's time, approval of this Use Permit is for a one-year period starting at the effective date and expiring thereafter unless an extension is requested from the Planning Commission prior to that time. *Responsibility: City Clerk to verify prior to tree removal approval or encroachment permit being issued.*

3. The applicant will need to obtain an encroachment permit for any work that takes place within, or hinders access to, a public right-of-way. *Responsibility: City Clerk to verify prior to tree removal.*

4. Tree removal shall occur in a manner that does not disturb the soil. The stump may be ground down to ground level, but the stump and roots below that will be left in place. *Responsibility: City Clerk to verify after tree removal.*

5. An environmental scientist or other qualified individual will check the tree for active nests 24 to 48 hours prior to tree removal, unless removal takes place after September 1. Any active nests shall not be disturbed pursuant to CA Fish and Game Code §3503. *City Clerk to verify prior to tree removal approval or encroachment permit being issued.*

ATTCHMENTS
- Arborist Report
- Site Plan
- Street View photo
- Survey information and photo documentation
- Letter of support from neighbor

Trinidad Tree Service

398 Old Wagon Rd. • Trinidad, CA 95570 • 707-832-3086
trinidadtreeservice@gmail.com

April 9th 2018

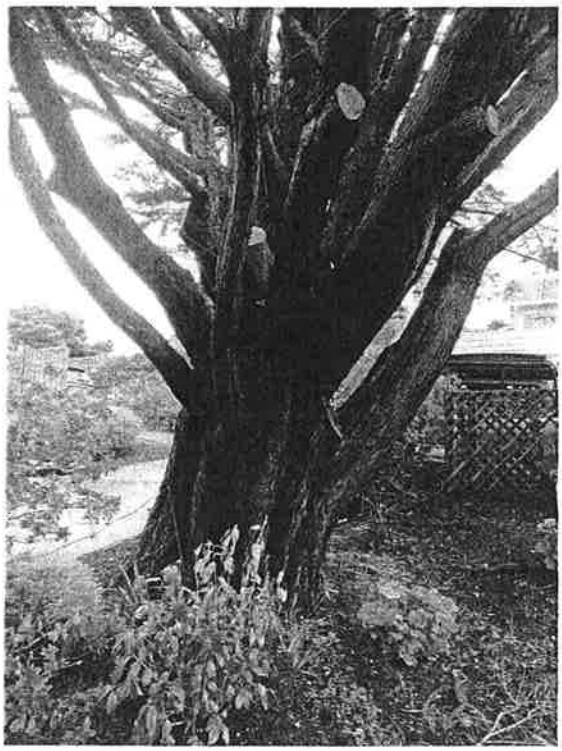
520 Pacific St.

To whom it may concern:

My name is Merlin Sabo, I am a local ISA Certified Arborist and the owner of Trinidad Tree Service based out of Trinidad, CA. I have been practicing Arboriculture in the North Coast since 2005. Reilley Mullin, the owner of 520 Pacific St. in Trinidad, asked me to provide a professional opinion of a problematic Monterey cypress located on her sea side property.

Looking at the tree, I saw that the tree was medium in size with a height around 45 ft. The trees structure fans out predominately to the south west and east do to the prevailing north winds blowing off the ocean. Being a Monterey cypress the tree has naturally long branches, which now are affecting multiple houses in the immediate vicinity. Effects ranging from view blockage to potential damage to cars, propane tanks and neighboring roofs if branches/trunks fail during a heavy wind event. The immediate neighbor to the south has had their parking area and house impacted with the overhanging branches and has suggested potential mitigation.

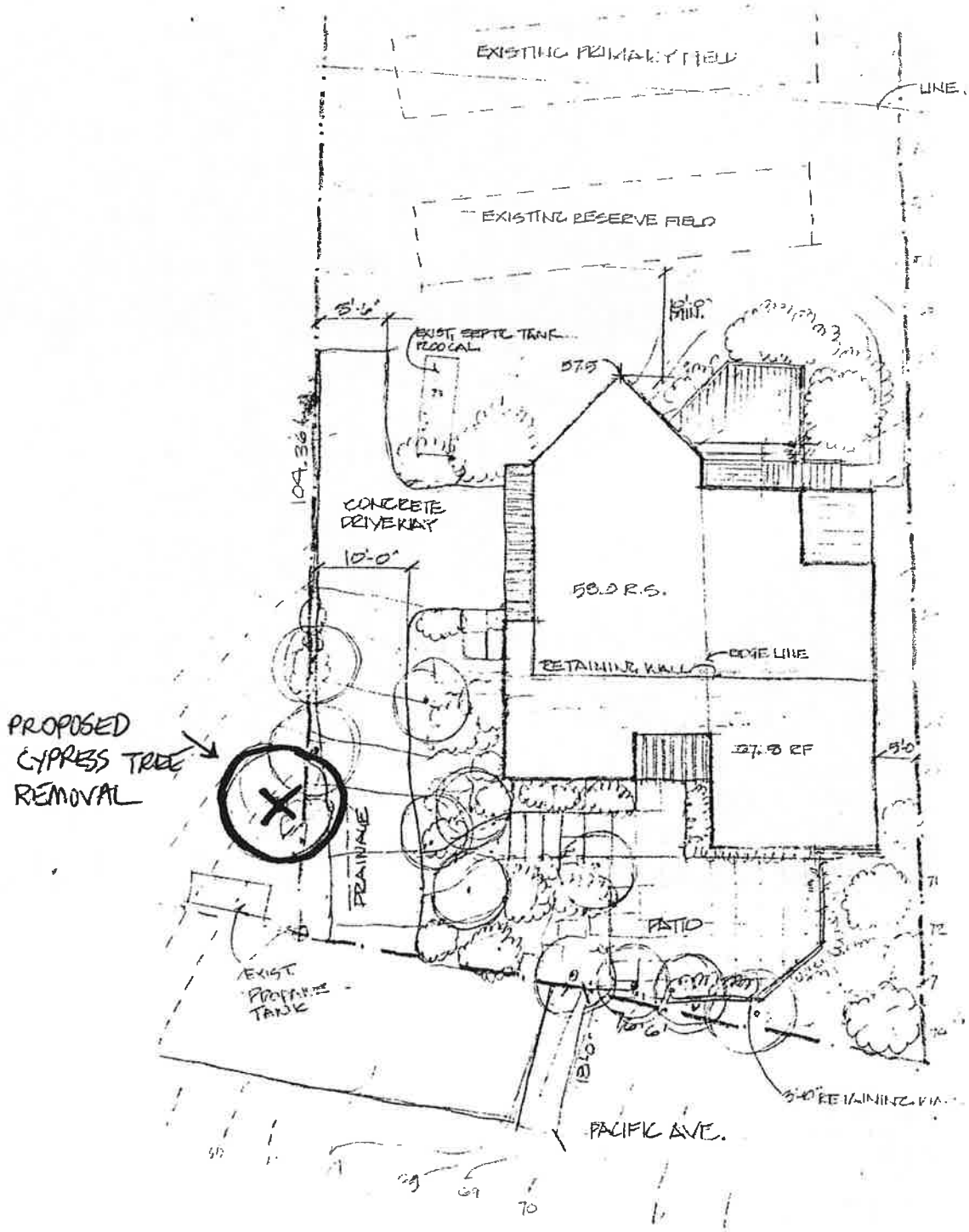
As the tree sits you can clearly see the prevailing north winds affects upon the trees overall structure, causing a southern lean. This lop sided canopy is also contributed to from living in a northern latitude with our sun generally being in the southern sky.



Overall I believe the tree has become too large for the small median that is has grown into. The trunk straddles the property lines with a large amount of its canopy stretching into the neighbors property. To safely mitigate any potential threats to either house, the southern and northern branches would be to be drastically reduced creating a odd two dimensional tree between the lots. If training and pruning were introduced into the trees structure at a early age, this tree would be a beautiful tree to showcase the coastal property. Currently as the tree sits with its lean and uneven canopy, creating a aesthetically pleasing but also structurally sound canopy may not be feasible. As a professional arborist, I would recommend a removal of the current tree and replaced with a smaller bush/tree that can be maintained within a small growing area.

Thank you for your time and consideration, and feel free to contact me for further questions.

Merlin Sabo
ISA CERTIFIED ARBORIST
WE-9279A



PLOT PLAN SCALE 1" = 10'-0"

AP 42-082-01

ASSUMED BUILDING HEIGHT 19.4' AVERAGE GRADE 63.6

REVISED MAY 8, 2000

UPPER FLOOR 1960 ☐' LOWER FLOOR 360 ☐' TOTAL 2320 ☐'

Hazardous T....pdf (1.3 MB)

REILLEY MULLIN

520 PACIFIC ST., TRINIDAD

Google Maps 554 Pacific Ct

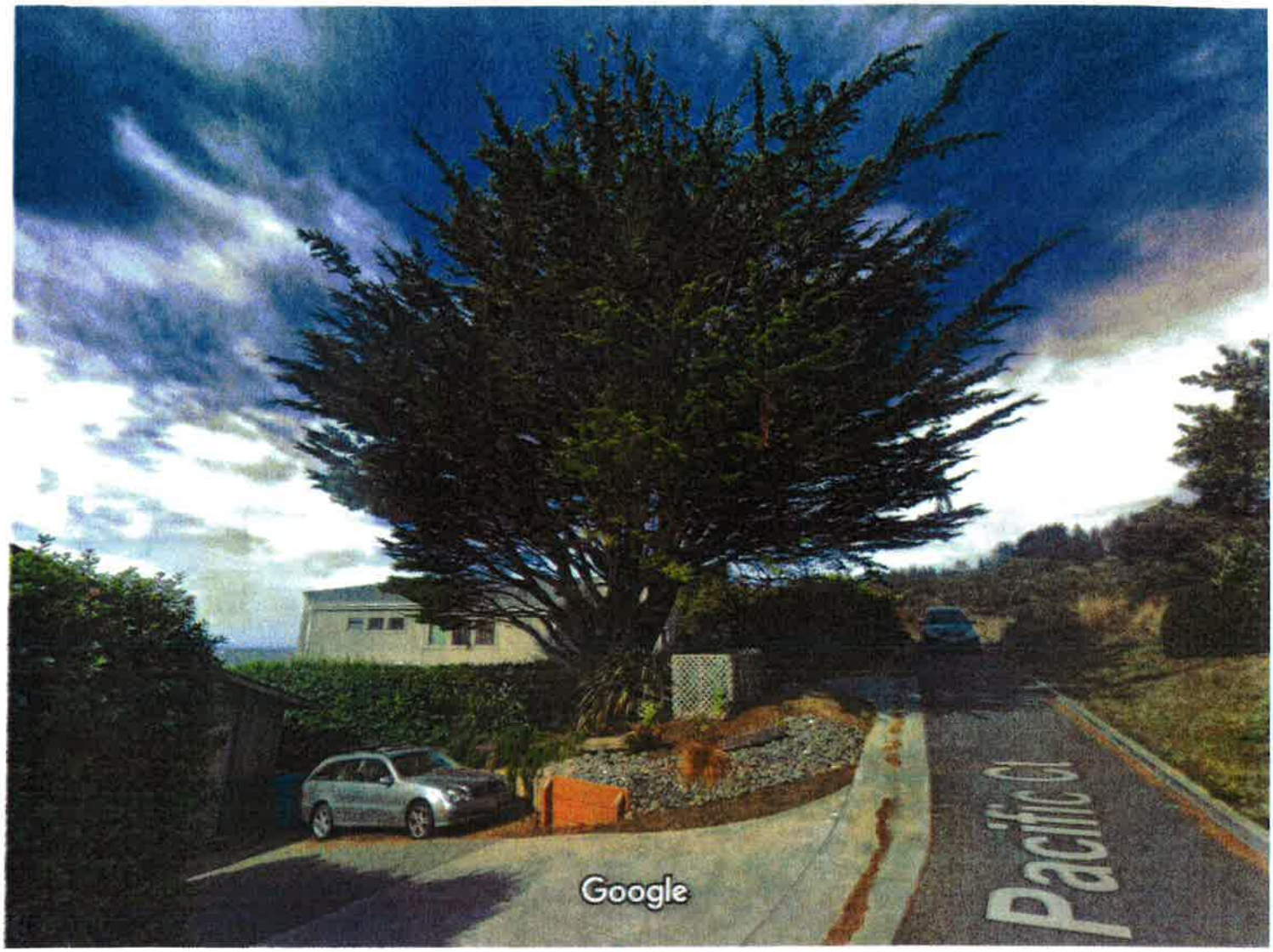


Image capture: Oct 2017 © 2018 Google

Trinidad, California

Google, Inc.

Street View - Oct 2017

mullin cypress tree permit

Reilley Mullin <lavadog@suddenlink.net>

Mon 4/30/2018 4:57 PM

To Trever Parker <trever@streamlineplanning.net>;

Cc:Trinidad City Clerk <cityclerk@trinidad.ca.gov>;

1 attachments (419 KB)

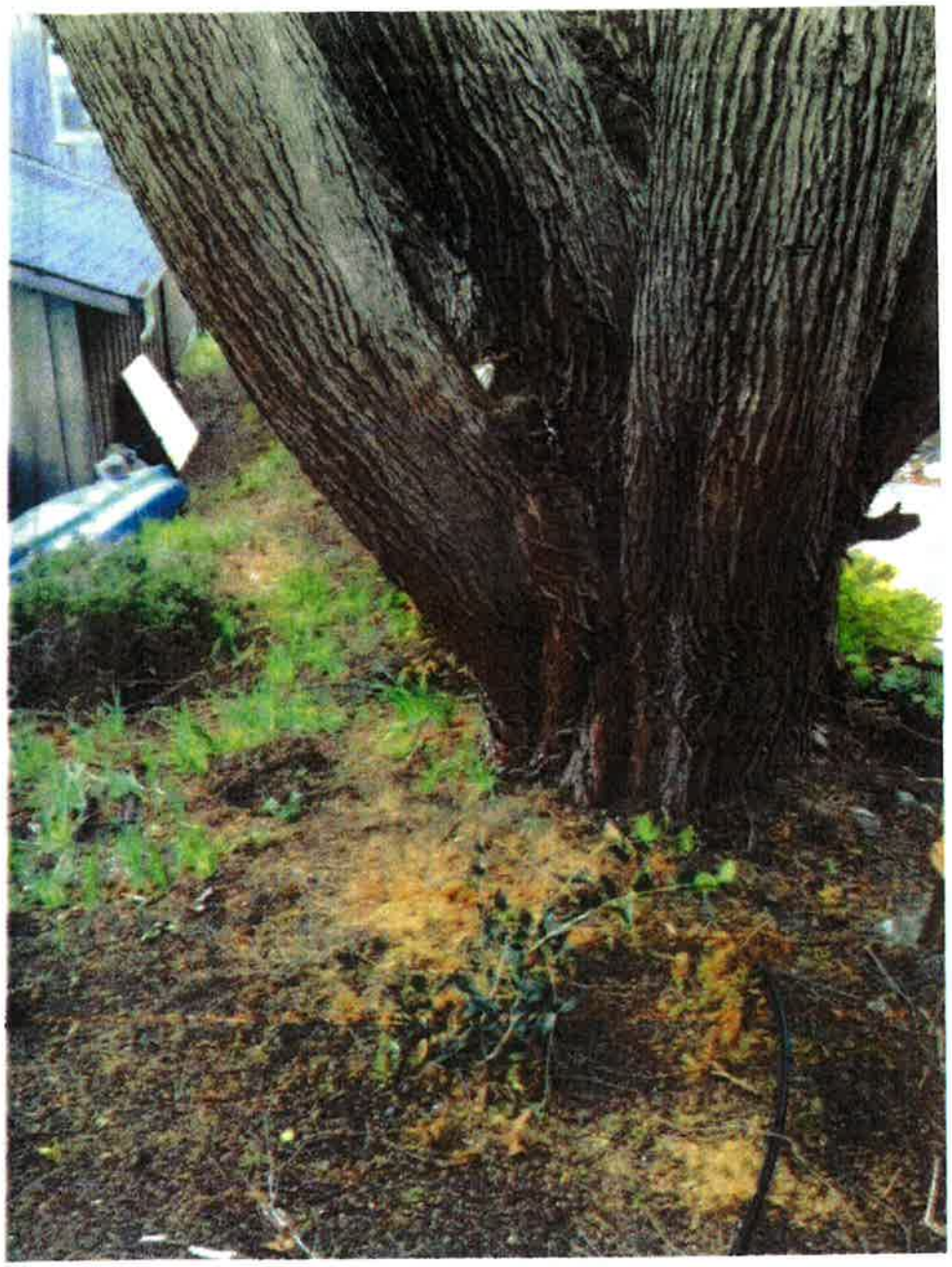
mullin cypress tree survey.pdf;

hi trever-

thanks for your call the other day requesting clarification that the cypress tree referenced is indeed on my property and not the neighbor's property. i was able to locate the yellow survey marker placed by surveyor dylan kolstad shown in photos below. the number on the yellow marker corresponds with the number on survey map (LS5677). on the survey map #9 robin trust is now owned by mizzoguchi while #10 berresford is now owned by me. in the photos below, the mizzoguchi property is to the left of the cypress (garage and blue kayak).

in this photo the yellow survey marker is just to the left and in front of the leafy plant in forground, approx 1/3 in from the left toward bottom of photo.

again survey marker is at bottom of photo 1/3 of way in. mizzoguchi garage & house is seen on left and my driveway to right of tree. this photo shows tree on my property.



survey done feb 2007 in book #65 of surveys, page #79, job no. 7011

please let me know if any further clarification or photos would be helpful.

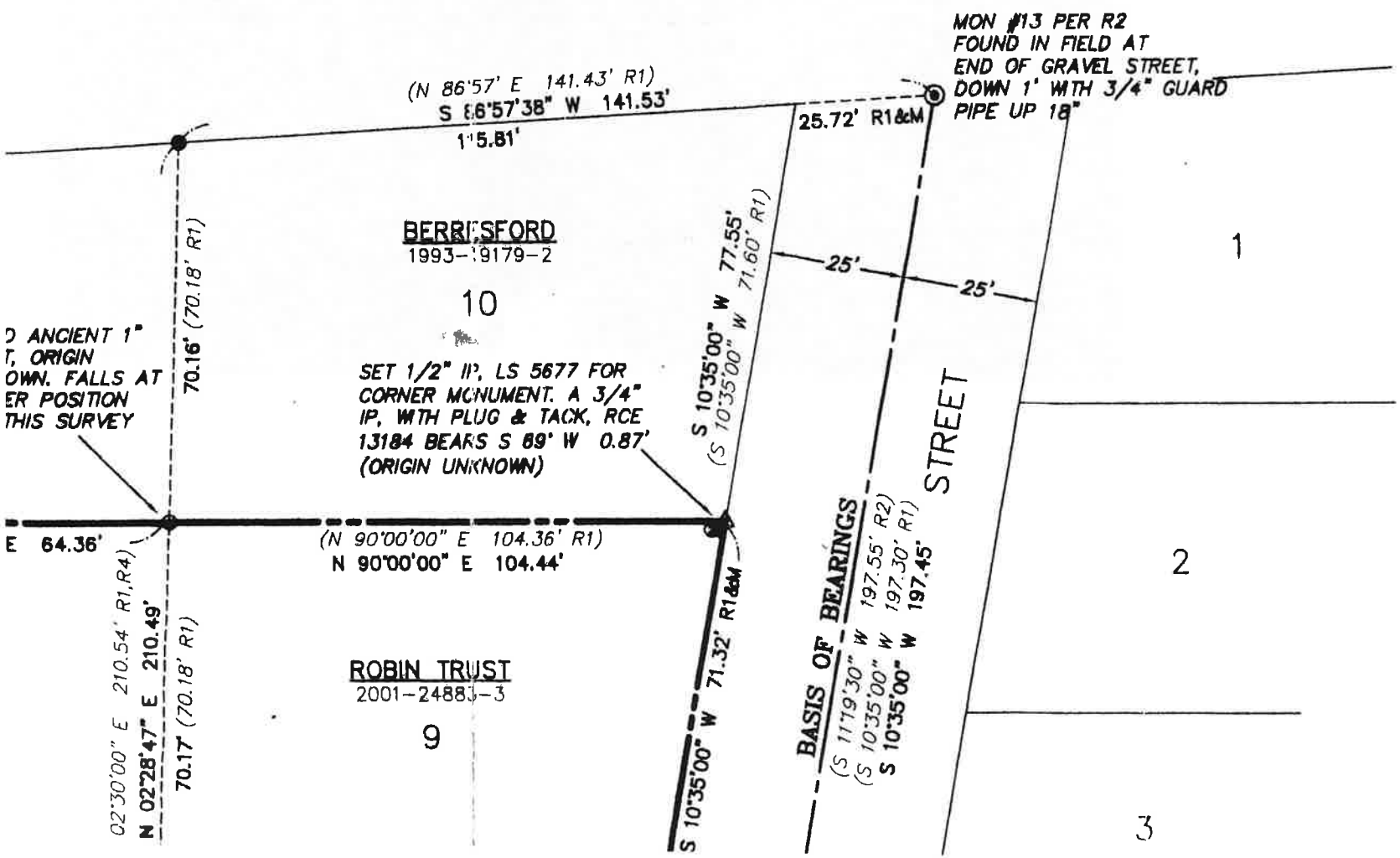
thanks much-
reilley mullin

NUMENTS MARKING THE
HEREON.

GENERAL NOTES

1. ALL DISTANCES AND DIMENSIONS SHOWN AND DECIMALS THEREOF.
2. ALL TIES SHOWN HEREON ARE PERPENDI OTHERWISE.

RECORD OF SURVEY
19 O.S. 120



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THIS MAP HAS
OF THE PROFES
DAY OF JUA

DAVID J. RYAN
COUNTY SURVE
STATE OF CALIF

Removal of Cypress Tree on Azalea

Deborah Fitzpatrick <deborahfitzpatrick@me.com>

Tue 5/1/2018 4:28 PM

To: Trever Parker <tparker@shn-engr.com>;

Cc: Trinidad City Clerk <cityclerk@trinidad.ca.gov>;

I am writing in support of removing this large Cypress tree which has blocked a huge portion of the view from my home at 925 Edwards. I can no longer see the sun setting except in the far corner of a bedroom but the living room view is totally blocked. Aside from the setting sun just the general view of the Pacific in all its moods is something we have all missed since the tree has grown so huge. My family has owned this home for something like 45 years and I remember the tree as being barely a shrub a long time ago! We have always regretted we didn't buy the lot it was on just to take it down.

I believe the tree has caused some problems for the new owner as well and for the people who live next door to it what with its branches overhanging a propane tank and the possibility of it coming down in a storm. I sincerely hope you will honor the request to have it removed.

Thank you for your consideration,

Deborah Fitzpatrick
925 Edwards ST.
Trinidad, CA

Filed:	April 25, 2018
Staff:	Trever Parker
Staff Report:	May 1, 2018
Commission Hearing Date:	May 16, 2018
Commission Action:	

STAFF REPORT: CITY OF TRINIDAD

APPLICATION NO:	2018-03
APPLICANT / OWNER(S):	Terry Farmer
AGENT:	Keith Stearns
PROJECT LOCATION:	436 View Avenue
PROJECT DESCRIPTION:	Design Review and Coastal Development Permit for construction of a new pitched roof in place of an existing flat roof.
ASSESSOR'S PARCEL NUMBER:	042-062-008
ZONING:	UR – Urban Residential
GENERAL PLAN DESIGNATION:	UR – Urban Residential
ENVIRONMENTAL REVIEW:	Categorically Exempt from CEQA per §15301 exempting minor alterations of existing structures.

APPEAL STATUS:

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SITE CHARACTERISTICS:

The property is located on the west side of View Avenue, across from the intersection with Parker Creek Drive. It is currently developed with a 3-bedroom, single-story, 1,392 sq .ft. single-family residence with a 210 sq. ft. garage. The property is accessed from View Avenue. The existing septic system is in the back yard, to the west of the residence. The lot is essentially flat. The property is surrounded by other single-family residences other than a vacant, PD – Planned Development zoned lot to the northeast.

STAFF COMMENTS:

Although the project is minor, because the project alters the external profile of the existing structure, it is not exempt from Design Review or a Coastal Development Permit. Referrals were sent to the Building Inspector and Coastal Commission. The Building Inspector noted that framing details would be required at the time of the building permit application.

Potential Conflicts of Interest
Commissioner Stockness owns and lives at 439 View Avenue, which is within 300 ft. of the project (approximately 200 ft. to the southeast). Normally, a 500 ft. distance 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. Since the distance is less than 300 ft., there is still a potential conflict of interest. The proximity issue is only a conflict based on a presumed monetary change in property value 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 cannot vote. Therefore it is an individual decision to recuse oneself or not based upon whether the Commissioner feels they will have any financial gain or loss from the project.

In this case, little change is proposed, and therefore changes in nearby property values are unlikely. Part VI of the memo referenced above provides a series of questions that can be used to help officials determine whether they need to recuse themselves. I have included that memo in the packet for your convenience.

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 sq. ft. and the maximum density is one dwelling per 8,000 sq. ft. The existing lot is approximately 6,300 sq. ft.

According to the application materials, the existing residence is 1,392 sq. ft. with a 46 sq. ft. covered porch and 213 sq. ft. garage. The proposed project will not change any of the existing square footages.

The maximum height allowed in the UR zone (Zoning Ordinance §17.36.06) is 25 feet, (measured from the average ground level elevation covered by the structure to the highest point of the roof, §17.56.100), except that the Commission may require a lesser height in order to protect views. The current height of the roof peak is approximately 10 ft. as measured from the average ground elevation. The proposed height is approximately 15 ft., an increase of 5 ft.

The Urban Residential zone (§17.36.050) requires minimum yards of front 20 ft., rear 15 ft., side 5 ft., and street side 15 ft. for corner lots (§17.36.060). The parcel faces View Avenue to the east. The proposed project will not affect existing building setbacks. Features such as eaves are allowed to extent up to 2.5 ft. into side setbacks and up to 4 ft. into front and rear setbacks. The site plan indicates that the new roof and eaves will meet all required setbacks.

The Zoning Ordinance (§ 17.56.180) requires two off-street parking spaces other than any garage spaces for single-family dwellings. Each parking space is required to be 18 ft. long and 8.5 ft. wide. The existing driveway can accommodate three tandem parking spaces. The addition will not affect the existing parking spaces or increase parking requirements.

No grading is required to complete this project. This site is already connected to services and utilities, and these will not change. Exterior materials and colors will not change. The new roof will be covered with black asphalt shingles.

The Trinidad General Plan and Zoning Ordinance protect importance public coastal views from roads, trails and vista points, and private views from inside residences located uphill from a proposed project, from significant obstruction. Because the project increases the roof height, there is the potential to impact views from residences located adjacent to the structure. Elevations have been provided for this project, and the neighbors have been notified. I did not request story poles to be placed, since, because of the project location, there is minimal potential to impact any views.

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 Alquist-Priolo Fault Zone. Therefore, no geologic study is required.

SEWAGE DISPOSAL:

The property is served by an existing septic system. It is an older system, having been installed in 1975, but consists of a standard 1200 gallon tank and two leachlines. The system was designed/permitted for 2-bedrooms, and the leachlines may be undersized compared to today's standards. In addition, the application states that the residence is a 3-bedroom residence. The property does not currently have an OWTS Operating Permit, but the owner submitted an inspection report in 2015. At that time, the leachlines were cleaned out, the distribution box replaced, and risers and an effluence filter were installed on the tank; the system was then functioning fine.

The City is making a push to get the OWTS Management Program fully implemented, and has recently sent out more letters requesting inspections and OWTS permit applications. In addition, the OWTS ordinance requires review of the system as part of any improvements to the property. Therefore, this project has been conditioned on the owner submitting the OWTS application fee and questionnaire. Along with the inspection report submitted in 2015, that will complete the OWTS application requirements.

LANDSCAPING AND FENCING:

This project does not involve any new landscaping or fencing.

DESIGN REVIEW/VIEW PROTECTION FINDINGS:

Because the project proposes changes to the external profile of the structure and is not exempt from a CDP (§17.72.070.C), §17.60.030 of the zoning ordinance requires Design Review and View Preservation findings to be made. The required findings are written in a manner to allow approval, without endorsing the project. However, if conflicting information is submitted at the public hearing or public comment received indicating that views, for instance, may be significantly impacted, or the structure proposed is obtrusive, the findings should be reworded accordingly.

Design Review Criteria

A. *The alteration of natural landforms caused by cutting, filling, and grading shall be minimal. Structures should be designed to fit the site rather than altering the landform to accommodate the structure.* Response: No grading is required for the proposed project.

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

C. *Materials and colors used in construction shall be selected for the compatibility both with the structural system of the building and with the appearance of the building's natural and man-made surroundings. Preset architectural styles (e.g. standard fast food restaurant designs) shall be avoided.* Response: The proposed shingles are a standard residential construction material and will be consistent with the existing structure and surrounding development.

D. *Plant materials should be used to integrate the manmade and natural environments to screen or soften the visual impact of new development, and to provide diversity in developed areas. Attractive vegetation common to the area shall be used.* Response: No changes in landscaping are proposed at this time. The property is already landscaped. Screening can be found to be unnecessary, because the structure is consistent with surrounding development.

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: No changes to the existing utilities are proposed. The existing utilities are not underground in this area of town, but this project does not constitute new development.

G. *Off-premise signs needed to direct visitors to commercial establishments, as allowed herein, should be well designed and be clustered at appropriate locations. Sign clusters should be a single design theme.* Response: No off-premise signs are proposed as part of this project.

H. *When reviewing the design of commercial or residential buildings, the committee shall ensure that the scale, bulk, orientation, architectural character of the structure and related*

improvements are compatible with the rural, uncrowded, rustic, unsophisticated, small, casual open character of the community. In particular:

1. *Residences of more than two thousand square feet in floor area and multiple family dwellings or commercial buildings of more than four thousand square feet in floor area shall be considered out of scale with the community unless they are designed and situated in such a way that their bulk is not obtrusive.* Response: The square footage of the residence, which won't change as a result of this project, is 1,392 sq. ft., well under the maximum guideline.
2. *Residential and commercial developments involving multiple dwelling or business units should utilize clusters of smaller structures with sufficient open space between them instead of a consolidated structure.* Response: No such development is proposed.

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 readily visible from any beach, trail or open space area.

B. *Structures, including fences over three feet high and signs, and landscaping of new development, shall not be allowed to significantly block views of the harbor, Little Trinidad Head, Trinidad Head or the ocean from public roads, trails, and vista points, except as provided in subdivision 3 of this subsection.* Response: Due to the project location and adjacent development, it does not have the potential to block public views. The proposed peaked roof will be consistent with adjacent development.

C. *The committee shall recognize that owners of vacant lots in the SR and UR zones, which are otherwise suitable for construction of a residence, are entitled to construct a residence of at least fifteen feet in height and one thousand five hundred square feet in floor area, residences of greater height as permitted in the applicable zone, or greater floor area shall not be allowed if such residence would significantly block views identified in subdivision 2 of this subsection. Regardless of the height or floor area of the residence, the committee, in order to avoid significant obstruction of the important views, may require, where feasible, that the residence be limited to one story; be located anywhere on the lot even if this involves the reduction or elimination of required yards or the pumping of septic tank wastewater to an uphill leach field, or the use of some other type of wastewater treatment facility: and adjust the length-width-height relationship and orientation of the structure so that it prevents the least possible view obstruction.* Response: The project will not be located on a vacant lot. The roof line will be raised, but private views are not likely to be impacted due to the project's location. The proposed peaked roof will be consistent with adjacent development.

D. *If a residence is removed or destroyed by fire or other means on a lot that is otherwise usable, the owner shall be entitled to construct a residence in the same location with an exterior*

profile not exceeding that of the previous residence even if such a structure would again significantly obstruct public views of important scenes, provided any other nonconforming conditions are corrected. Response: There was no residence that was destroyed by fire associated with this project.

E. *The Tsurai Village site, the Trinidad Cemetery, the Holy Trinity Church and the Memorial Lighthouse are important historic resources. Any landform alterations or structural construction within one hundred feet of the Tsurai Study Area, as defined in the Trinidad general plan, or within one hundred feet of the lots on which identified historical resources are located shall be reviewed to ensure that public views are not obstructed and that development does not crowd them and thereby reduce their distinctiveness or subject them to abuse or hazards.* Response: The proposed project is not within 100 feet of the Holy Trinity Church, the Memorial Lighthouse, the Cemetery, or the Tsurai Study Area.

STAFF RECOMMENDATION

Based on the above analysis, the project can be found to be consistent with the City's Zoning Ordinance, General Plan, Coastal Act, and other applicable policies and regulations. Therefore the necessary findings for granting approval of the project can be made. If the Planning Commission agrees with staff's analysis, a proposed motion might be similar to the following:

<u>Based on application materials, information and findings included in this Staff Report, and based on public testimony, I move to adopt the information and required Design Review and View Protection findings in this staff report and approve the project as submitted in the application, and described in this staff report, and as conditioned herein.</u>

PLANNING COMMISSION ALTERNATIVES

If the Planning Commission does not agree with staff's analysis, or if information is presented during the hearing that conflicts with the information contained in the staff report, the Planning Commission has several alternatives.

A. Add conditions of approval to address any specific concerns on the part of the Commission or the public.
B. Delay action / continue the hearing to obtain further information.
   - In this case, the Planning Commission should specify any additional information required from staff or the applicant and / or suggestions on how to modify the project and / or conditions of approval.
C. Denial of the project.

- The Planning Commission should provide a motion that identifies the Finding(s) that can not be made and giving the reasons for the inability to make said Finding(s).

CONDITIONS OF APPROVAL

1. The applicant is responsible for reimbursing the City for all costs associated with processing the application. *Responsibility: City Clerk prior to building permits being issued.*

2. Based on the findings that community values may change in a year's time, approval of this Design Review is for a one-year period starting at the effective date and expiring thereafter unless the project has been initiated through issuance of a building permit or an extension is requested from the Planning Commission prior to that time. *Responsibility: City Clerk prior to building permits being issued.*

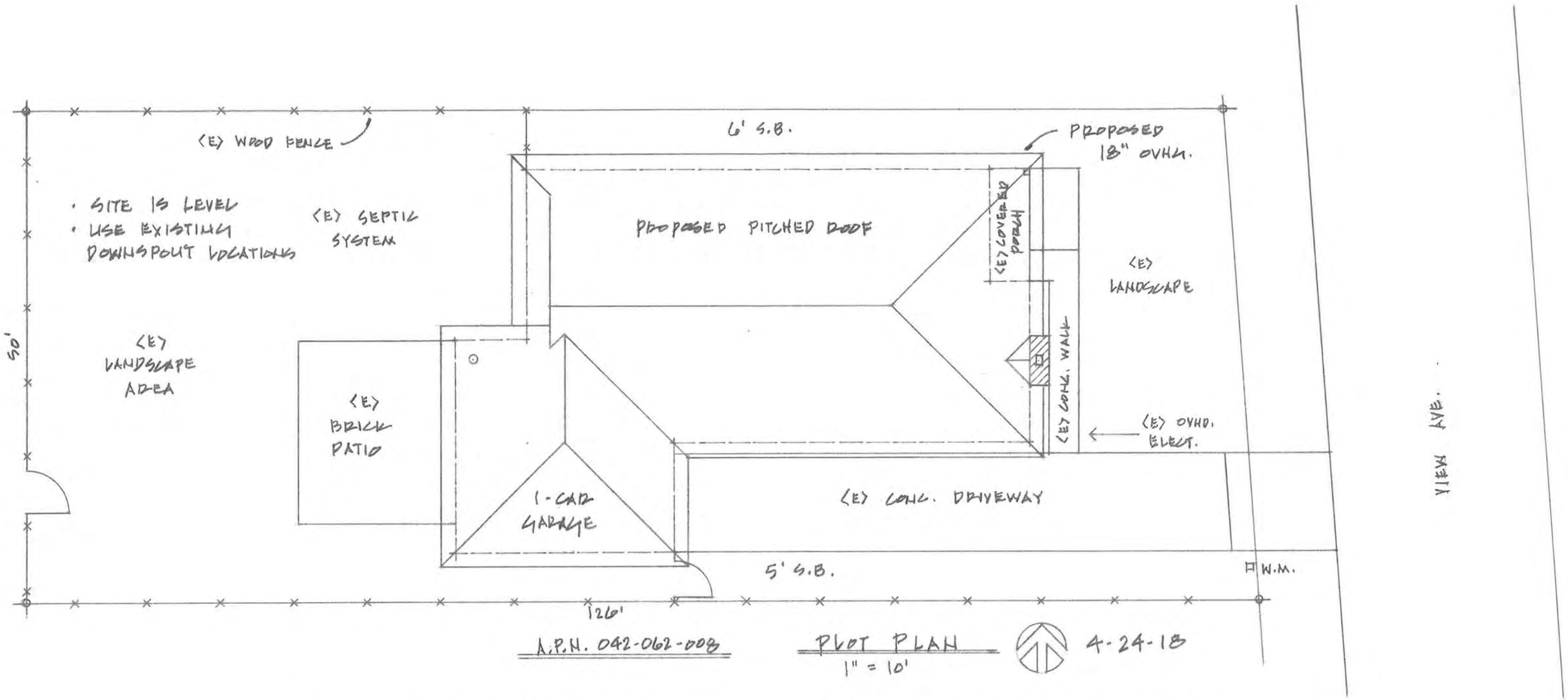
3. Applicant shall direct roof drainage downspouts away from the septic system components. *Responsibility: Building Inspector to confirm at time building permits are issued.*

4. Recommended conditions of the City Building Inspector shall be required to be met as part of the building permit application submittal. Grading, drainage and street improvements will need to be specifically addressed at the time of building permit application. *Responsibility: Building Inspector prior to building permits being issued.*

5. Applicant shall submit an OWTS application questionnaire and fee at the time of building permit application. *Responsibility: City Clerk prior to building permits being issued.*

ATTACHMENTS

- Plan Sheets
- Hagen 2008 Conflict of Interest Memo



PROJECT LOCATION: 436 VIEW AVE.
TRINIDAD, CA. 95570

OWNER: TERRY R. FARMER

PROJECT: PROPOSED CONSTRUCTION OF A NEW PITCHED ROOF OVER AN EXISTING FLAT ROOF.

PROJECT INFO. NEW ROOF SHALL BE FRAMED WITH MANUF. TRUSSES WITH ASPH. SHINGLE ROOFING. (BLACK) NEW 18" OVHGS. WITH ALUM. GUTTERS AND DOWNSPOUTS. CHIMNEYS SHALL BE EXTENDED TO MEET BLDG. CODES.

RESIDENCE IS AN EXISTING 1-STORY 3 BDRM., 2 BATH, SINGLE-FAMILY RESIDENCE WITH AN ATTACHED 1-CAR GARAGE.

RESIDENCE = 1392 SQFT.
GARAGE = 213 SQFT.
COVERED PORCH = 46 SQFT.

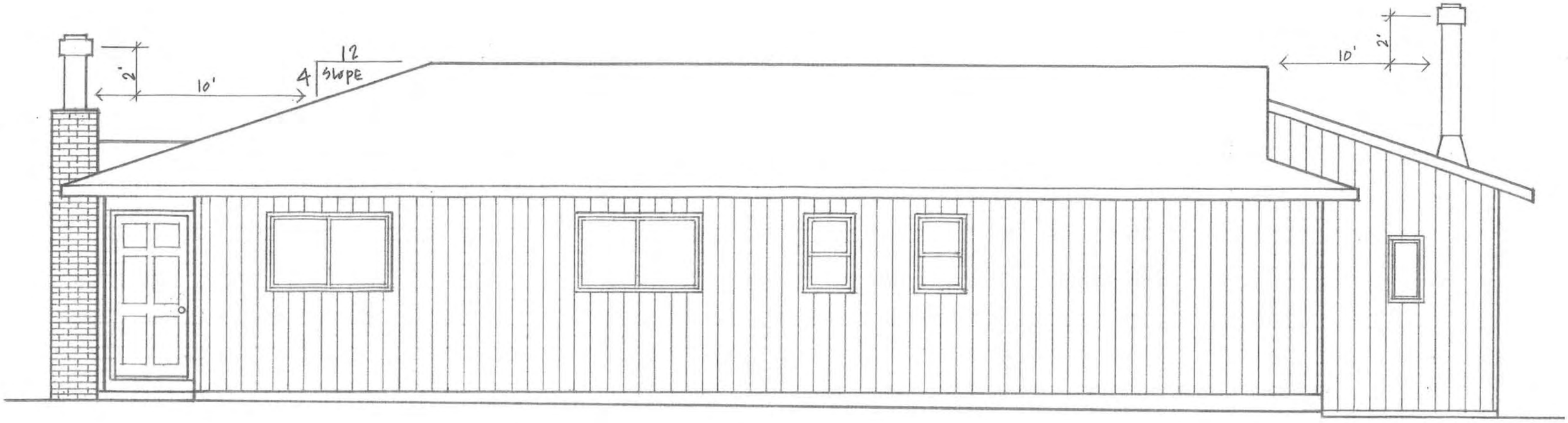
LOT = 50' x 126'
= 6,300 SQFT., 0.14 AC.

AGENT: KEITH STEARNS
P.O. BOX 731, TRINIDAD, CA. 95570
707 599-8422
KEITHSTEARNSDESIGN@GMAIL.COM.

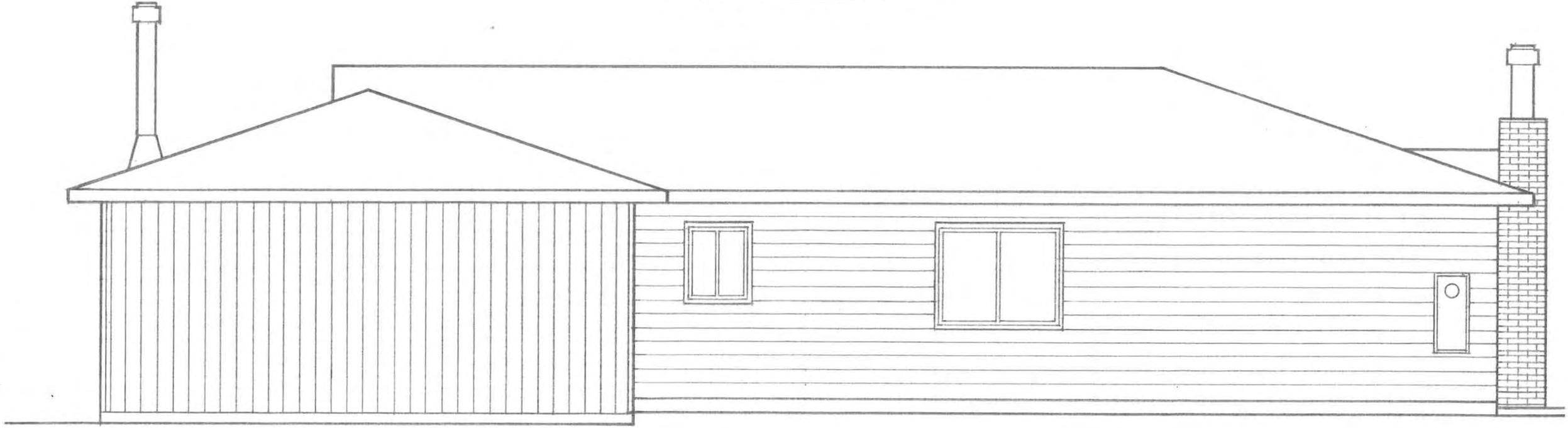
ALSO CONTACT:
VICKI FARMER 502-0213
P.O. BOX 146 TRINIDAD.

EAST ELEVATION

WEST ELEVATION
1/4" = 1' 4-24-18



NORTH ELEVATION



SOUTH ELEVATION

1/4" = 1' 4-24-18

MEMORANDUM

TO: Steve Albright, Trinidad City Manager
FROM: Paul Hagen, Trinidad City Attorney
DATE: November 14, 2008
Re: ***Residential Locale of City Councilmembers and Planning Commissioners, Conflicts of Interest, and Requirements of Recusal***

I. Introduction

The Request

The City of Trinidad has recently been confronted with conflict of interest issues that must be addressed. You have asked me to provide a memorandum which will address two things:

1) Assist the Trinidad City Councilmembers and the Planning Commissioners in recognizing and properly responding to potential conflicts of interest on matters before them which involve the issue of real property located within a certain distance ("proximity") of their respective homes (or other property the pubic official may own); and

2) Provide a series of questions and responses which an official may use in this exercise.

The Purpose of This Memorandum

The purpose of this memorandum is limited to the proximity question, and is twofold:

1) The memo explains only the area of conflicts of interest law addressing the proximity of a public official's domicile to a parcel of real estate which is part of an matter upon which the official is called to vote. Stated differently, given the distance between an official's home and the project being voted on, when must the official recuse (*i.e.*, disqualify) him or herself?

   a) There is an extension of this issue when a majority of a public body may be faced with recusal--the "rule of necessity" addresses this;

2) The memo provides a list of steps which an official may take when facing a situation involving proximity of real property.

II. The Proximity Conflicts of Interest Issue

Conflicts of Interest Generally

The issue is one of a potential conflict of interest in such situations; the challenge is how to address such a situation when extant. More specifically, the question is when must a member either (a) make an 'absence of conflict' determination prior to voting, or (b) recuse him or herself from voting altogether?

Conflicts of interest for public officials are governed by the Political Reform Act (Gov't Code section 81000 *et seq.*; conflicts of interest situations are addressed at sections 87100 *et seq.*). The purpose of the act is to ensure that "Public officials, whether elected or appointed, should perform their duties in an impartial manner, free from bias caused by their own financial

interests or the financial interests of persons who have supported them." (GC §81001(b).) The basic idea is that public officials are disqualified from participating in governmental decisions in which they have a financial interest. Defining such a financial interest is rather complicated, consisting of a series of steps with multiple layers.

We begin with the initial inquiry which each official must make.

The Initial Inquiry for Each Official to Make

The beginning of the inquiry is whether the official has one of six qualifying types of economic interest at stake. One of these six types is an "interest in real property," which is a premise of the question addressed herein. Suffice it to say that if the official or a spouse or dependent has an interest of $2,000 or more in a parcel of property which lies within the city's jurisdiction, an interest is deemed to exist.

The Proximity Inquiry

The next step in this inquiry would be whether or not the official's financial interest in real property is "directly" or "indirectly" involved in a decision before the official. If the official's property is located within 500 feet of the property which is the subject of the decision, the official's interest is typically presumed to be "direct." At this stage of inquiry, there is an exception to the 500-feet rule.

The 'Small Jurisdiction Exception' (Possibly) Available to Trinidad

The regulations for the Political Reform Act are found at Title 2 of the California Code of Regulations (section 18700 *et seq.*). Section 18707.10 contains an exception for the domicile of public officials in 'small jurisdictions.' The effect of a governmental decision on the residential real property of a public official is deemed "not distinguishable from the effect on the public generally" if all of the following are met:

1) The jurisdiction (City of Trinidad):
   a) Has a population of 30,000 or less, and
   b) Covers less than 10 square miles;
2) The public official is required to live within the jurisdiction;
3) The public official, if elected, is elected in an at-large jurisdiction; this would mean not from a ward or precinct, etc., but rather from the city as a whole;
4) The official's property is more than 300 feet from the boundaries of the property at issue in the decision;
5) The official's property is located on a lot which is either:
   a) Not more than one-quarter acre in size, or
   b) Not larger than 125 percent of the median residential lot size in the jurisdiction;
6) There are at least 20 other properties under separate ownership within a 500 foot radius of the boundaries of the property at issue in the decision that are similar in value. (2 CCR 18707.10.)

It would appear that Trinidad meets all of the requirements for the exception *as to the city*, which are 1 through 3.[1] *That leaves requirements 4 through 6, which are peculiar to each public official*. Assuming that numbers 5 and 6 are met, the analysis once again focuses on the distance between the properties of the official and the matter before the official.

The short version of this exercise is that the 'small jurisdiction exception' whittles the distance between a public official's property and that of the property at issue from 500 feet down to 300 feet. This assumes requirements 1-3, 5 and 6 are met.

The Result as to a Single Member's Need to Recuse

As to matters before either the Planning Commission or the City Council, which involve real property within the city's jurisdiction ("the property at issue"), the question of conflict of interest due to proximity as to any given member's property is analyzed as follows:

1) If a given public official lives *more than 500 feet* from the property at issue, there is no conflict as to proximity; no recusal is necessary.

2) If a given public official lives
a) *Less than 500 feet* from the property, but
b) *More than 300 feet* from the property at issue, and
c) The city can establish that items 5 and 6 in the 'Small Jurisdiction Exception' above,

then there is no conflict as to proximity; no recusal is necessary.

3) If a given public official lives *less than 300 feet* from the property, then:
a) There is a *presumption* by law of a direct financial interest, and therefore
b) One of two things must occur: Either
   i) The official makes a *rebuttal of the presumption* of a direct financial interest and proceeds to vote; or
   ii) The official does *not make a rebuttal of the presumption* of a direct financial interest, and therefore must recuse him or herself, and therefore cannot and does *not vote*.

The Result as to a Majority of the Body's Members Need to Recuse

What do we do if a *majority* of members of one of the bodies falls within the 500/300 foot situation, requiring recusal of that majority? That is, what happens when the body has a quorum to do business, but due to a conflict of proximity as discussed herein, less than a majority of the quorum exists due to such conflicts? Stated differently, what happens when at least three of the five members live within 500 or 300 feet of a property at issue in a decision and none of them can rebut the presumption of a direct financial interest? How is government to take action?

This situation pits two very strong public policies against each other. One is the "duty to vote," and the other is the duty to avoid conflicts of interest. The Political Reform Act and its implementing regulations anticipate this and case law provides a solution to it.

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[1] The city staff needs to make this determination. This memo does not assume the 300' situation obtains.

There are two bodies in Trinidad which may find themselves in this situation--the Planning Commission and the City Council.

III. The "Rule of Necessity"

Governmental Bodies Must Be Able to Take Action; Inability to Act is Not an Option

The "rule of necessity" is recognized as an exception to the conflict of interest statutes, and its effect is found in the Political Reform Act at section 87101, and its regulations at 2 CCR 18701(a). This rule "permits a public officer to carry out the essential duties of his office despite a conflict of interest where he is the only one who may legally act. It ensures that essential governmental functions are performed even where a conflict of interest exists." (65 Ops.Cal.Atty.Gen. 305.)

In so doing, the Rule balances the competing policies of the duty to avoid a conflict with the duty to vote:

> "The common law developed the rule of necessity to prevent the vital processes of government from being halted or impeded by officials who have conflicts of interest in the matters before them. (*Gonsalves v. City of Dairy Valley* (1968) 265 Cal.App.2d 400, 404 [...; applying rule of necessity to situation where all public officials had financial stake in decision].) There is a strong public policy "that members of public legislative bodies take a position, and vote, on issues brought before them. This policy has been expressed as 'the duty of members of a city council to vote and that they ought not" by inaction, prevent action by the board. " ' " [citations omitted]" (*Kunec v. Brea Redevelopment Agency* (1997) 55 Cal.App.4th 511, 520.)

The "Rule of Necessity" Allows A Vote Despite a Majority with a Conflict

Since the 15th century, English common law has recognized that situations exist in which a governmental body may be required to act even when all of its members have some conflict. Although the so-called "rule of necessity" began with the courts' necessity to hear a case even if the judge had a personal interest in the matter, the Rule has long since been applied to administrative bodies and their officials, whether acting in the quasi-judicial or the administrative function. That is, it applies to the city council as well as its subordinate body, the planning commission, and it applies to administrative decisions (*e.g.*, voting on contracts, budgets, etc.) as well as quasi-judicial decisions (*e.g.*, involving permits).

> " "There is an exception, based upon necessity, to the rule of disqualification of an administrative officer. An officer, otherwise disqualified, may still act, if his failure to act would necessarily result in a failure of justice." The rule of necessity has been applied in this state to members of municipal bodies .... [citations omitted] The rule is not confined to officers exercising quasi-judicial functions." (*Caminetti v. Pacific Mut. Life Ins. Co. of Cal.* (1943) 22 Cal.2d 344, 366.)
>
> "The rule is well settled that where an administrative body has a duty to act upon a matter which is before it and is the only entity capable to act in the matter, the fact that the members may have a personal interest in the result of the action taken does not disqualify them to perform their duty. It is a rule of necessity which has been followed consistently." (*Gonsalves v. City of Dairy Valley* (1968) 265 Cal.App.2d 400, 404.)

How the Rule of Necessity Works

Two-Phase Analysis:

Invocation of the Rule only comes into effect after a two-phase analysis, asking:

1) Whether the participation of one or more of the conflicted members is legally required? If so,
2) Whether there is any alternative to the body as a source of decision which does not present a conflict of interest situation?

1) Is the Participation of One or More Members Legally Required?

Where a governmental body lacks a majority simply because one or more of its members were not actually present at the time of disqualification the Rule would *not* apply. Stated differently, if a sufficient number of non-conflicted members exist to form a quorum, their mere absence does not make participation by a conflicted member required.

However, if a *majority* of a governmental body *were* present and *must* recuse themselves due to a potential conflict, then the body would be unable to act, and then the Rule comes into play because the body is legally required to take action. Stated differently, if the conflicts leave *less than a quorum* of the body available to act, the legally-required-participation exception comes into play.

As to how many members may act, it is *only the number needed to form a quorum*; no other members may be brought back to voting status and participate.

2) Is There Any Alternative to the Body as a Source of Decision Which Does Not Present a Conflict of Interest Situation?

The Rule can only be invoked when "there exists no alternative source of decision consistent with the purposes and terms of the statute authorizing the decision." (2 CCR 18708(a).) This means that the body must make a determination as to whether there is any alternative to the body as a source of decision which does not present a conflict of interest situation. (Simply put, can someone else do this?)

Application to Planning Commission vs. to City Council

In our case, the question becomes whether or not the Commission must treat the Council as "alternative source of decision consistent with the purposes and terms of the statute authorizing the decision." The answer is No. The reason is that to do so would automatically deprive the Commission of its obligation to act. The Commission is charged with legal authority to address certain matters *before* the Council does, and some of those matters may be appealed to the Council.

Thus, where the facts of a matter place a majority of the Planning Commission in a conflict of interest situation, the Commission must invoke the rule of necessity and choose enough of its members to constitute a quorum and vote. Having done this, the citizen parties involved in the decision are free to appeal that decision to the Council if they will.

Application to the City Council

If the Council is confronted with any situation in which a majority of its members are conflicted and therefore may not vote, there is no alternative source of decision to the Council and the Council must invoke the Rule.

Caveat to Invoking the Rule of Necessity

The Rule is not invoked to either:

a) Break a tie; or

b) Allow a member to vote if there is any other way to convene a quorum (*i.e.*, it cannot be used to convene a quorum when there is another way to do so, such as waiting until someone who can vote without a conflict shows up and does so).

Mechanics of Invoking the Rule of Necessity

When such a majority of the members of either body are conflicted out and cannot vote, one of the members will be chosen by a random method and then be allowed to vote on the matter despite the conflict. Those remaining members not necessary to comprise a quorum will not be allowed to vote at all. The vote must be accompanied by an explanation of why, given the existence of a conflict of interest, it was taken. That is, a record must be made when invoking the Rule.

Requirements of Making a Record When Invoking the Rule of Necessity

Should invocation of the rule of necessity arise, the public official(s) who proceed to vote despite a conflict must make a public record of the following, containing the language in "Appendix A" to this memorandum (specifically section (b)(1-4)).

The disclosure in Appendix A above must be in the minutes, for purposes of public disclosure and judicial review:

> "Such conflicts should be disclosed in the minutes to make them easily accessible to the public at large. [citations omitted] "The rationale behind requiring the reasons to be set forth in the minutes as contrasted with allowing them to be ... transcribed from a reporter's notes is to ensure that the reasons are readily ascertainable and available to the public and the reviewing court." " (*Kunec, supra* at 522-523.)

Care in Invoking the Rule of Necessity

Care must be taken in proceeding when the Rule is invoked, as the Rule is an exception to the very strong public policy of public officials not voting when they have a conflict of interest. Several points here:

1) The official is prohibited from using his or her influence on any other member of the body on the matter in question;

2) The official must state exactly why there is no alternative route by which action can be taken; and

3) The official must limit his or her participation to action that is legally required.

All of these steps must be closely adhered to in order for the action to be valid. (*Kunec, supra.*)

IV. A Series of Questions and Responses Which an Official May Ask and Answer When Facing a Proximity Conflicts of Interest Issue

Introduction

This portion of the memorandum provides a series of questions and responses which an official may use when confronted with addressing only the proximity issue discussed. The first questions are more general, applicable to more situations. However, overall the questions address only the situation where a public official has an interest in real property within the City of Trinidad which may cause a conflict of interest requiring a recusal.

The memo assumes the 500 feet situation obtains. If an official has an interest in property situated between 500 and 300 feet from real property at issues before the public body, it is up to the city and that official to make a determination as to items 1-3, 5 and 6 noted above in 2 CCR 18707.10 and ascertain the applicability of the 300 feet exception.

Questions

1) Am I Making a Governmental Decision?

Obviously, if the matter has proceeded to the point where the public official must vote on it, it is a governmental decision. There are many situations short of this may also require recusal. However, if you vote on it as a public official, you are making a governmental decision. Proceed.

2) Do I Have an Economic Interest in the Decision?

Economic interests may lie in any of five or six different categories[2]. Here, we are looking only at real property interests.

An interest in real property is considered an economic interest if the interest is worth $2,000 or more in fair market value. "Interest" here includes not only ownership, but also mortgages, options to buy, equity (direct or indirect) and leasehold interests. It does not include month-to-month tenancies (this means monthly tenants do not have an interest, while landlords do).

So the question here is better phrased:

Do I have an interest in real property which is both:

a) Within either

- **i) The City of Trinidad, or**
- **ii) Two miles of the geographical boundaries of the City; and**

b) Worth more than $2,000 in fair market value?

If the answer is Yes, you must proceed to the next question.

---

[2] Categories of Interests: Business entity investments (holding any business position in a business entity constitutes another, sixth, category); Real property; Income; Gifts; Personal finances of official or their immediate family. (2 CCR 18703-18703.5.)

3) Is My Interest in Real Property Directly or *In*directly Involved in the Decision?

Actually, for these purposes, it doesn't matter much. This is because economic interests which are not directly involved (*i.e.*, which are *in*directly involved) must still be analyzed under the rules for economic interest involvement. So either way you have to pay close attention. This is the tricky part of the analysis.

The underlying issue here is one of the *materiality* of the impact of the decision on you. The short version here is that economic interests which are directly involved are presumed to be material, whereas such interests which are *in*directly involved are presumed to be *non*-material. Either of these presumptions may be rebutted (see "Appendix B").

There is a basic distinction here between leasehold interests and *non*-leasehold interests. Since for most people the interest will be *non*-leasehold, we will start with that first and move to leaseholds:

3a) Is my *non*-leasehold interest directly involved?

- If the real property at issue in the decision lies within a 500 foot-radius of your real property, your interest is *presumed* to be direct and therefore material.
- If the decision involves the zoning, annexation, sale, lease or permitted use of, or taxes or fees imposed on the official's property, it has a direct involvement.
- **Caveat:** A material financial effect is *presumed* here, and *recusal required*, unless the official can show that the decision will have no financial effect on his or her economic interests.
- **Rebuttal of presumption of materiality:** The official may *rebut* this presumption "by proof that it is not reasonably foreseeable that the governmental decision will have any financial effect on the [official's] real property." (2 CCR 18705.2(a)(1).)

3b) Is my *non*-leasehold interest *in*directly involved?

- When the real property at issue in the decision is more than 500 feet from the official's real property, the official's interest is only *in*directly involved. This interest is *presumed not* to be *material*.
- The presumption of *non*-materiality may be overturned if it can be shown that the official's property will be materially affected by the decision.
- The law provides specific language for rebuttal of *non*-materiality here; see 2 CCR 18705.2(b)(1).

3c) Is my leasehold interest directly involved?

- Again, the presumption of materiality applies. The "rebuttal" and "caveat" sections above apply here as well.
- The law provides specific language for rebuttal of materiality here; see 2 CCR 18705.2(a)(2).

3d) Is my leasehold interest *in*directly involved?

- A presumption of *non*-materiality applies here.

- The law provides specific language for rebuttal of *non*-materiality here; see 2 CCR 18705.2(b)(2).

4) Is it Reasonably Foreseeable That My Economic Interest Will Be Materially Affected?

The catch-alls to every possible economic conflict of interest (of which there are two; this section and the next) comes at the end: Is it reasonably foreseeable that your economic interests will be materially affected? For this you must look at all of the circumstances at the time the decision is made, with the concept of foreseeability hinging on the specific facts of each individual case.

For the effect of a decision to be foreseeable, it need not be either certain or direct. However, it must be more than merely conceivable.

For the effect of a decision to be foreseeable, *it must appear that there is a substantial likelihood*, based on all facts available to you at the time you make the decision, *that the effects that would bring about the conflict of interest will occur*. If the conflict is reasonably foreseeable, you must recuse yourself; if the conflict is not reasonably foreseeable, you may vote. For help with this, see "Appendix C".

5) Is the Effect of the Decision on My Economic Interest Distinguishable from Its Effect on the General Public?

Even if the decision has a reasonably foreseeable material effect which cannot be rebutted (and thus would otherwise require recusal), there is one last variable which may avoid disqualification here: Whether the decision will affect your economic interest differently than it does of the "public generally."

If the decision affects the general public's financial interests in the same manner as it does your own, the fact that affects your interest materially does not create a conflict of interest. The idea here is that when your interests are in harmony with those of the public in general *or a significant segment of it*, there is no conflict in your making that decision:

> "A public official has a financial interest in a decision within the meaning of Section 87100 [disallowing decisions by public officials where a financial interest exists] if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of his or her immediate family, or on any of the following [categories discussed above follow here]:" (Gov't Code § 87103.)

For help (so to speak) on this, see "Appendix D" for the regulation written for that purpose.

V. Close

This memorandum is but a *beginning* tool for your analysis in determining the existence of a conflict requiring your recusal. There are many regulations and other laws not mentioned herein. If you are in any doubt as to whether or not you have a conflict, please do not hesitate to contact the city attorney for advice.

Appendix A
2 CCR 18708; Legally Required Participation

"§ 18705.2. Legally Required Participation

(a) A public official who has a financial interest in a decision may establish that he or she is legally required to make or to participate in the making of a governmental decision within the meaning of Government Code section 87101 only if there exists no alternative source of decision consistent with the purposes and terms of the statute authorizing the decision.

(b) Whenever a public official who has a financial interest in a decision is legally required to make or to participate in making such a decision, he or she shall state the existence of the potential conflict as follows:

(1) The public official shall *disclose the existence of the conflict and describe with particularity the nature of the economic interest.* "Particularity" as used in this regulation shall be satisfied if the official discloses:

(A) Whether the conflict involves an investment, business position, interest in real property, or the receipt of income, loans or gifts;

(B) If the interest is an investment, the name of the business entity in which each investment is held; if the interest is a business position, a general description of the business activity in which the business entity is engaged; if the interest is real property, the address or another indication of the location of the property, unless the property is the official's principal or personal residence, in which case the official shall disclose this fact. For income, loans or gifts, the official shall disclose the person or entity that is the source.

(2) The public official or another officer or employee of the agency shall give a *summary description of the circumstances under which he or she believes the conflict may arise.*

(3) Either the public official or another officer or employee of the agency shall *disclose the legal basis for concluding that there is no alternative source of decision.*

(4) *The disclosures* required by this regulation *shall be made in the following manner*:

(A) If the governmental decision is made during an open session of a public meeting, the disclosures shall be made orally before the decision is made, by either the public official or by another officer or employee of the agency. The information contained in the disclosures shall be made part of the official public record either as a part of the minutes of the meeting or as a writing filed with the agency. The writing shall be prepared by the public official and/or any officer or employee and shall be placed in a public file of the agency within 30 days after the meeting; or

(B) If the governmental decision is made during a closed session of a public meeting, the disclosures shall be made orally during the open session either before the body goes into closed session or immediately after the closed session. The information contained in the disclosures shall be made part of the official public record either as a part of the minutes of the meeting or as a writing filed with the agency. The writing shall be prepared by the public official and/or any officer or employee and shall be placed in a public file of the agency within 30 days after the meeting; or

Appendix A
2 CCR 18708; Legally Required Participation

(C) If the government decision is made or participated in other than during the open or closed session of a public meeting, the disclosures shall be made in writing and made part of the official public record, either by the public official and/or by another officer or employee of the agency. The writing shall be filed with the public official's appointing authority or supervisor and shall be placed in a public file within 30 days after the public official makes or participates in the decision. Where the public official has no appointing authority or supervisor, the disclosure(s) shall be made in writing and filed with the agency official who maintains the records of the agency's statements of economic interests, or other designated office for the maintenance of such disclosures, within 30 days of the making of or participating in the decision." (2 CCR 18708; emphasis added.)

Appendix B

2 CCR 18705.2.; Materiality Standard: Economic Interests in Real Property

"§ 18705.2. Materiality Standard: Economic Interests in Real Property.

(a) Directly involved real property.

(1) Real property, other than leaseholds. The financial effect of a governmental decision on the real property is presumed to be material. This presumption may be rebutted by proof that it is not reasonably foreseeable that the governmental decision will have any financial effect on the real property.

(2) Real property, leaseholds. The financial effect of a governmental decision on the real property in which an official holds a leasehold interest is presumed to be material. This presumption may be rebutted by proof that it is not reasonably foreseeable that the governmental decision will have any effect on any of the following:

(A) The termination date of the lease;

(B) The amount of rent paid by the lessee for the leased real property, either positively or negatively;

(C) The value of the lessee's right to sublease the real property, either positively or negatively;

(D) The legally allowable use or the current use of the real property by the lessee; or

(E) The use or enjoyment of the leased real property by the lessee.

(b) Indirectly involved real property interests.

(1) Real property, other than leaseholds. The financial effect of a governmental decision on real property which is indirectly involved in the governmental decision is presumed not to be material. This presumption may be rebutted by proof that there are specific circumstances regarding the governmental decision, its financial effect, and the nature of the real property in which the public official has an economic interest, which make it reasonably foreseeable that the decision will have a material financial effect on the real property in which the public official has an interest. Examples of specific circumstances that will be considered include, but are not limited to, circumstances where the decision affects:

(A) The development potential or income producing potential of the real property in which the official has an economic interest;

(B) The use of the real property in which the official has an economic interest;

(C) The character of the neighborhood including, but not limited to, substantial effects on: traffic, view, privacy, intensity of use, noise levels, air emissions, or similar traits of the neighborhood.

(2) Real property, leaseholds. The financial effect of a governmental decision on real property in which a public official has a leasehold interest and which is indirectly involved in the governmental decision is presumed not to be material. This presumption may be rebutted by proof that there are specific circumstances regarding the governmental decision, its financial effect, and the nature of the real property in which the public official has an economic interest, which make it reasonably foreseeable that the governmental decision will:

Appendix B

2 CCR 18705.2.; Materiality Standard: Economic Interests in Real Property

(A) Change the legally allowable use of the leased real property, and the lessee has a right to sublease the real property;

(B) Change the lessee's actual use of the real property;

(C) Substantially enhance or significantly decrease the lessee's use or enjoyment of the leased real property;

(D) Increase or decrease the amount of rent for the leased real property by 5+percent during any 12-month period following the decision; or

(E) Result in a change in the termination date of the lease.

Appendix C

2 CCR 18706. Determining Whether a Material Financial Effect Is Reasonably Foreseeable

"§ 18706. Determining Whether a Material Financial Effect Is Reasonably Foreseeable.

(a) A material financial effect on an economic interest is reasonably foreseeable, within the meaning of Government Code section 87103, if it is substantially likely that one or more of the materiality standards (see Cal. Code Regs., tit. 2, ss 18704 18705) applicable to that economic interest will be met as a result of the governmental decision.

(b) In determining whether a governmental decision will have a reasonably foreseeable material financial effect on an economic interest as defined in subdivision (a) above, the following factors should be considered. These factors are not intended to be an exclusive list of the relevant facts that may be considered in determining whether a financial effect is reasonably foreseeable, but are included as general guidelines:

(1) The extent to which the official or the official's source of income has engaged, is engaged, or plans on engaging in business activity in the jurisdiction;
(2) The market share held by the official or the official's source of income in the jurisdiction;
(3) The extent to which the official or the official's source of income has competition for business in the jurisdiction;
(4) The scope of the governmental decision in question; and
(5) The extent to which the occurrence of the material financial effect is contingent upon intervening events, not including future governmental decisions by the official's agency, or any other agency appointed by or subject to the budgetary control of the official's agency.

(c) Possession of a real estate sales or brokerage license, or any other professional license, without regard to the official's business activity or likely business activity, does not in itself make a material financial effect on the official's economic interest reasonably foreseeable."

Appendix D
2 CCR 18707, Public Generally

"§ 18707. Public Generally.
(a) Introduction.

Notwithstanding a determination that the reasonably foreseeable financial effect of a governmental decision on a public official's economic interests is material, a public official does not have a disqualifying conflict of interest in the governmental decision if the official can establish that the governmental decision will affect the public official's economic interests in a manner which is indistinguishable from the manner in which the decision will affect the public generally as set forth in 2 Cal. Code Regs. sections 18707.1-18707.9.

(b) Steps to Determine Application of Public Generally.

To determine if the effect of a decision is not distinguishable from the effect on the public generally as set forth in subdivision (a) of this regulation, apply Steps One through Four:

(1) Step One: Identify each specific person or real property (economic interest) that is materially affected by the governmental decision.

(2) Step Two: For each person or real property identified in Step One, determine the applicable "significant segment" rule according to the provisions of 2 Cal. Code Regs. section 18707.1(b).

(3) Step Three: Determine if the significant segment is affected by the governmental decision as set forth in the applicable "significant segment" rule. If the answer is "no," then the analysis ends because the first prong of a two-part test set forth in 2 Cal. Code Regs. section 18707.1(b) is not met, and the public official cannot participate in the governmental decision. If the answer is "yes," proceed to Step Four.

(4) Step Four: Following the provisions of 2 Cal. Code Regs. section 18707.1(b)(2), determine if the person or real property identified in Step One is affected by the governmental decision in "substantially the same manner" as other persons or real property in the applicable significant segment. If the answer is "yes" as to each person or real property identified in Step One, then the effect of the decision is not distinguishable from the effect on the public generally and the public official may participate in the decision. If the answer is "no" as to any person or real property identified in Step One, the public official may not participate in the governmental decision unless one of the special rules set forth in 2 Cal. Code Regs. sections 18707.2 through 18707.9 applies to each person or real property triggering the conflict of interest."

Table of Contents
Residential Locale of City Councilmembers and Planning Commissioners, Conflicts of Interest, and Requirements of Recusal

I. Introduction 1

The Request 1

The Purpose of This Memorandum 1

II. The Proximity Conflicts of Interest Issue 1

Conflicts of Interest Generally 1

The Initial Inquiry for Each Official to Make 2

The Proximity Inquiry 2

The 'Small Jurisdiction Exception' (Possibly) Available to Trinidad 2

The Result as to a Single Member's Need to Recuse 3

The Result as to a Majority of the Body's Members Need to Recuse 3

III. The "Rule of Necessity" 4

Governmental Bodies Must Be Able to Take Action; Inability to Act is Not an Option . 4

The "Rule of Necessity" Allows A Vote Despite a Majority with a Conflict 4

How the Rule of Necessity Works Two-Phase Analysis: 5

1) Is the Participation of One or More Members Legally Required? 5

2) Is There Any Alternative to the Body as a Source of Decision Which Does Not Present a Conflict of Interest Situation? 5

Application to Planning Commission vs. to City Council 5

Application to the City Council 6

Caveat to Invoking the Rule of Necessity 6

Mechanics of Invoking the Rule of Necessity 6

Requirements of Making a Record When Invoking the Rule of Necessity 6

Care in Invoking the Rule of Necessity 6

Table of Contents
Residential Locale of City Councilmembers and Planning Commissioners, Conflicts of Interest, and Requirements of Recusal

IV. A Series of Questions and Responses Which an Official May Ask and Answer When Facing a Proximity Conflicts of Interest Issue 7

Introduction 7

Questions 7

1) Am I Making a Governmental Decision? 7

2) Do I Have an Economic Interest in the Decision? 7

3) Is My Interest in Real Property Directly or *In*directly Involved in the Decision? 8

3a) Is my *non*-leasehold interest directly involved? 8

3b) Is my *non*-leasehold interest *in*directly involved? 8

3c) Is my leasehold interest directly involved? 8

3d) Is my leasehold interest *in*directly involved? 8

4) Is it Reasonably Foreseeable That My Economic Interest Will Be Materially Affected? 9

5) Is the Effect of the Decision on My Economic Interest Distinguishable from Its Effect on the General Public? 9

V. Close 9

Filed:	May 1, 2018
Staff:	Trever Parker
Staff Report:	May 4, 2019
Commission Hearing Date:	May 16, 2018
Commission Action:	

STAFF REPORT: CITY OF TRINIDAD

APPLICATION NO.:	2018-04
APPLICANT(S):	Humboldt State University
AGENT:	N/A
PROPERTY OWNER:	California State Parks
PROJECT LOCATION:	570 Ewing Street
PROJECT DESCRIPTION:	Use Permit and Coastal Development Permit to remove a large (>12" DBH) nonnative Monterey cypress tree from in front of the HSU Marine Lab that is damaging infrastructure and causing a public safety hazard.
ASSESSOR'S PARCEL NUMBER:	042-021-001
ZONING:	UR – Urban Residential
GENERAL PLAN DESIGNATION:	UR – Urban Residential
ENVIRONMENTAL REVIEW:	Categorically Exempt from CEQA per § 15304 of the CEQA Guidelines exempting minor alterations to land, water and/or vegetation.

APPEAL STATUS:

Planning Commission action on a Coastal Development Permit, Variance, Conditional Use Permit, and/or Design Review approval application will become final 10 working days after the date that the Coastal Commission receives a "Notice of Action Taken" from the City unless an appeal to the City Council is filed in the office of the City Clerk at that time. Furthermore, this project **_X_ is** ___ ~~is not~~ appealable to the Coastal Commission per the City's certified LCP, and may be appealable per the requirements of Section 30603 of the Coastal Act.

SITE CHARACTERISTICS:

The tree is located adjacent to the front (west) of the HSU Marine Lab, just north of their parking area. It is adjacent to Ewing Street, a driveway, a flagpole and a sidewalk. There is also a parking area for a State Beach trail head across the street. The site slopes to the south.

STAFF COMMENTS:

Originally it was assumed that the tree was on HSU property, because the tree and surrounding improvements (curb, sidewalk and landscaping) were installed by HSU when the Marine Lab was constructed and have always been maintained by HSU. When HSU found that it was not on their property, it was then assumed that it must be within the City's Ewing Street right-of-way. However, it was later determined that the City's right-of-way ends just south of the tree, and that it is actually located on State Parks property.

The applicant has submitted an arborist's report that recommends removal of the tree for a variety of reasons, which have been explained in more detail in a letter included as part of the application. In summary, the tree has outgrown its location, and the roots are buckling the adjacent curb and asphalt, which is causing a public safety hazard. Stormwater infrastructure is also located near the tree, and could be threatened by the roots. In addition, the limbs are interfering with a nearby flagpole and weather station. Further, a letter from State Parks, the property owner, supports removal of the tree due to the existing hazards and because landscaping with non-native species is inconsistent with State Park policy. Therefore, the application is requesting full removal.

Referrals were sent to the Coastal Commission and Public Works. No comments were received.

ZONING ORDINANCE/GENERAL PLAN CONSISTENCY:

The property where the project is located is zoned OS – Open Space. The purpose of this zone is to "*maximize preservation of the natural and scenic character of these areas including protection of important wildlife habitat and cultural resources, and to ensure that the health and safety of the public is ensured through careful regulation of development in areas affected by geologic instability, steep slopes, tsunami and flood hazards*." Removal of trees posing an imminent danger to structures or people subject to the approval of the City Engineer is a principally permitted use (§17.16.020). However, this tree does not meet that criterion. Removal of vegetation, including timber, is permitted with a use permit (§17.16.030).

The definition of development, both in the City's Zoning Ordinance (§17.08.200) and the Coastal Act (PRC §30106) includes "removal or harvesting of major vegetation." While no definition of "major vegetation" exists in either set of regulations, one of the commonly accepted cut-offs for what constitutes major vegetation is 12 inches DBH or larger. Therefore, a Coastal Development Permit is also required for the tree's removal.

No buildings or major site improvements are proposed other than the tree removal. This application is for tree removal only. Any necessary infrastructure repairs will be part of a separate application at a future time. This project involves no structures and will not affect setbacks, heights, parking or square footages of structures. Specific requirements of the zone are therefore not applicable in this case

The Trinidad General Plan and Zoning Ordinance protect importance public coastal views from roads, trails and vista points and private views from inside residences located uphill from a proposed project from significant obstruction. Removal of trees does not usually have the potential to negatively impact coastal views and may actually improve them. There could be an impact to views inland from the shoreline, which are also protected by the Coastal Act. However, due to the low profile of the Marine Lab and coastal scrub located along the top of the nearby bluff, any impacts are not expected to be significant.

Although the arborist report recommends removal of the entire stump and root structure, that is not being proposed at this time. State Parks noted that soil disturbance is not allowed without further studies. Therefore, the trunk will be ground down to at or near the soil level, with the roots left in place for the time being. This property is already connected to all services and utilities. Exterior colors and materials are not applicable. Care must be taken to protect utilities that may be located adjacent to the trees. An encroachment permit may be required for tree removal, since it is adjacent to a public roadway.

SLOPE STABILITY:

The western portion of the property is mapped as being of questionable stability based on Plate 3 of the Trinidad General Plan. However, the tree is well outside the area of potential instability, and no geologic investigation is necessary.

SEWAGE DISPOSAL:

The Marine Lab is served by an existing septic system that will not be impacted by the tree removal. The septic system, including the leachfield, is located to the south of the building, well away from the cypress tree. Therefore this project does not have the

potential to impact the OWTS. The City is in the process of determining how the OWTS Management Program applies, or not, to State property.

LANDSCAPING AND FENCING:

No new landscaping or fencing is proposed. The cypress tree does provide some habitat for nesting songbirds due to its dense foliage, but it is not known to house any sensitive species. The Planning Commission could consider including a condition of approval that requires replacement of the cypress with other vegetation, but staff does not feel that is necessary; it would also require approval by State Parks.

DESIGN REVIEW / VIEW PROTECTION FINDINGS:

Because the project is located within the Coastal Zone, a Coastal Development Permit for "major vegetation removal" is required. However, because the project will not alter any structures, and will not change the topography of the site by more than 2 feet, no design review is required.

USE PERMIT FINDINGS:

Section 17.32.030 requires a use permit for large tree removal, and § 17.72.040 requires written findings to be adopted in approval of a use permit. The following findings, as may be revised, are required in order to approve this project.

A. *The proposed use at the site and intensity contemplated and the proposed location will provide a development that is necessary or desirable for and compatible with the neighborhood or the community.* Response: The proposed project includes the removal of one large cypress tree from an open space zoned property. The tree is non-native and is damaging existing infrastructure and posing a potential hazard to adjacent property and structures. Therefore, its removal could be considered necessary and desirable for the neighborhood.

B. *Such use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity or injurious to property improvements or potential development in the vicinity with respect to aspects including but not limited to the following:*

1. *The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;* Response: The size and nature of the tree is such that it currently poses a hazard and nuisance to the

property and existing structures; removal of the tree will eliminate these hazards.

2. *The accessibility of the traffic patterns for persons and vehicles, and the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;* Response: The proposed tree removal will not affect traffic or parking. An encroachment permit will be required for any tree removal activities that require use of a public right-of-way, which will ensure any traffic impacts are appropriately addressed.

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

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

C. *That such use or feature as proposed will comply with the applicable provisions of this title, will be consistent with the policies and programs of the general plan and will assist in carrying out and be in conformity with the Trinidad coastal program.* Response: As discussed above, under the "Zoning Ordinance / General Plan Consistency section, the proposed tree removal can be found to be consistent with the City's Zoning Ordinance, General Plan and Local Coastal Program.

D. *That the proposed use or feature will have no significant adverse environmental impact or there are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available which would substantially lessen any significant adverse impact that the actions allowed by the conditional use permit may have on the environment.* Response: Removal of individual trees is exempt from CEQA per § 15304 of the CEQA Guidelines exempting minor alterations to land, water and/or vegetation except in the case of officially designated scenic trees or trees within an officially designated state scenic highway, which this tree is not.

E. *When the subject property is located between the sea and the first public road paralleling the sea or within three hundred feet of the inland extent of any beach or of the mean high tide line where there is no beach, whichever is the greater, that:* Response: The project is located between the sea and the first public road, therefore the following findings are applicable.

1. *The development provides adequate physical access or public or private commercial use and does not interfere with such uses.* Response: The tree

removal will not affect public access. Public access to the beach already exists across the street from the tree.

2. *The development adequately protects public views from any public road or from a recreational area to, and along, the coast.* Response: The tree's current growth form is not particularly scenic, and is not necessary for screening; its removal may improve coastal views.

3. *The development is compatible with the established physical scale of the area.* Response: The proposed tree removal will not impact the physical scale of the area.

4. *The development does not significantly alter existing natural landforms.* Response: As conditioned, no soil disturbance is required for tree removal.

5. *The development complies with shoreline erosion and geologic setback requirements.* Response: The tree is outside any areas of known geologic instability.

STAFF RECOMMENDATION:

Based on the above analysis, and as conditioned, proposed tree removal can be found to be consistent with the City's Zoning Ordinance and General Plan and other policies and regulations, and the necessary findings for granting approval of the project can be made. If the Planning Commission agrees with staff's analysis, the project may be approved with the following motion:

Based on the information submitted in the application, and included in the staff report and public testimony, I move to adopt the information and findings in this staff report and approve the project as conditioned below:

PLANNING COMMISSION ALTERNATIVES

If the Planning Commission does not agree with staff's analysis, or if information is presented during the hearing that conflicts with the information contained in the staff report, the Planning Commission has several alternatives.

A. Alter the proposed conditions of approval to address any specific concerns on the part of the Commission or the public.
B. Delay action / continue the hearing to obtain further information.

- In this case, the Planning Commission should specify any additional information required from staff or the applicant and / or suggestions on how to modify the project and / or conditions of approval.

C. Denial of the project.

- The Planning Commission should provide a motion that identifies the Finding(s) that can not be made and giving the reasons for the inability to make said Finding(s).

CONDITIONS OF APPROVAL:

1. The applicant is responsible for reimbursing the City for all costs associated with processing the application. *Responsibility: City Clerk to place receipt in conditions compliance folder prior to authorization of tree removal or encroachment permit being issued.*

2. Based on the findings that community values may change in a year's time, approval of this Use Permit is for a one-year period starting at the effective date and expiring thereafter unless an extension is requested from the Planning Commission prior to that time. *Responsibility: City Clerk to verify prior to tree removal approval or encroachment permit being issued.*

3. The applicant will need to obtain an encroachment permit for any work that takes place within, or hinders access to, a public right-of-way. *Responsibility: City Clerk to verify prior to tree removal*.

4. Tree removal shall occur in a manner that does not disturb the soil. The stump may be ground down to ground level, but the stump and roots below that will be left in place. *Responsibility: City Clerk to verify after tree removal*.

5. An environmental scientist or other qualified individual will check the tree for active nests 24 to 48 hours prior to tree removal, unless removal takes place after September 1. Any active nests shall not be disturbed pursuant to CA Fish and Game Code §3503. *City Clerk to verify prior to tree removal approval or encroachment permit being issued.*

ATTACHMENTS

- HSU Letter
- CA Dept. Parks and Rec. Letter
- Site Plans
- Arborist Report
- Street View photos

HUMBOLDT STATE UNIVERSITY

Facilities Management

707 826-3646 | PHONE
707 826-5888 | FAX
facilitymgmt@humboldt.edu | EMAIL
707 826-4475 | ALT

April 30, 2018

Dan Berman, City Manager
City of Trinidad
PO Box 390
Trinidad, CA 95570

Mr. Berman

The Facilities Management Department of Humboldt State University has been aware for some time the Monterey cypress tree at the northwest corner of the Telonicher Marine Laboratory (41° 3'32.52"N

124° 8'50.90"W, approximate tree latitude and longitude, respectively), located on Ewing Street in Trinidad, has grown to the point of creating infrastructure and liability issues for the TML facility (APN# 042-041-013). In examining the potential remedies to the issues presented by the tree, FM has determined the best course of action is removal. The following information details the concerns and information used to arrive at the removal decision.

As part of normal periodic evaluation of maintenance needs for HSU facilities, the hardscape infrastructure and landscaping was examined during early 2015. The following items were noted regarding the subject tree:

1. Canopy structure of the tree does not resemble a typical example of this species and has many crossing limbs creating health and dead branch issues; evident prior pruning has greatly skewed the ratio of the trunk to canopy resulting in a trunk now too large for the available space.
2. The large tree trunk is breaking up and lifting the concrete curb and asphalt adjacent to the north and west side of the trunk base. This action is causing a pedestrian tripping hazard and compromising the paving of the driveway to the TML service and operational area.
3. Due to the large trunk and root heaving activity (#2, above) it is expected the tree roots have or soon will compromise the storm water infrastructure running underground, very close to the trunk location.
4. The tree trunk is showing a pronounced lean to the southeast, toward the TML building.
5. The canopy is interfering with the normal operation of both the flagpole and weather station installed at the TML. Pruning to alleviate the immediate issues for this interference will not result in resolving this problem for very long, nor other issues mentioned above.

After review of the above information, FM determined it was in the best interest of the facility and public safety to remove the tree. In the course of investigating this process, we were informed the action would require a permit from the City of Trinidad. This was viewed as a normal course of action that could be accommodated; however, at about the same time, a contemporary survey of the property was commissioned as part of the seawater tank replacement project for the TML and it showed the tree was just outside of the facility property boundary, on State Parks property (APN# 042-021-001-000). With this new information, the removal needed to involve State Parks in the decision process. [Note: It was apparent from the research supporting the contemporary survey and maintenance investigation, which showed the original construction of the TML back in the early 1960's involved landscaping the area occupied by the tree, even though it was clearly not part of the facility property. No evidence of an agreement between State Parks and HSU at the time could be found, but it is speculated because the adjacent properties were both held by the State of California, the managers at the time did not deem an agreement was necessary for the minor encroachment].

Carol Wilson, Environmental Scientist for California State Parks, North Coast Redwoods District, was contacted for consultation regarding the situation. Through sharing information and discussions, Ms. Wilson concluded removal was also in the best interest of State Parks, for reasons that will be detailed in a separate letter to the City and Trinidad Planning Commission from the North Coast Redwoods District Superintendent, Victor Bjelajac. It has been further negotiated HSU will act as the agent for Parks in the permit process, since HSU has been the sole entity maintaining the subject landscaping and should be responsible for all associated costs of this effort.

To complete the permit application HSU has filled out the appropriate form with the following supporting documents:

1. Aerial photograph with property boundary and infrastructure overlay.
2. Current record of survey for the TML parcel.
3. Arborist report of the subject tree, commissioned by HSU; includes ISA risk assessment form.
4. Letter from the North Coast Redwoods District Superintendent, concurring with tree removal.

Please contact me if you have any question or concerns regarding the completeness of the permit application or anticipate needing additional information for the application to be reviewed at a future Planning Commission meeting.

Sincerely,

TALLCHIEF A. COMET | Interim Associate Vice President
Facilities Management
HUMBOLDT STATE UNIVERSITY | 1 Harpst Street Arcata, CA 95521
Office: 707-826-5920 | Fax: 707-826-5888
E-Mail: tcc4@humboldt.edu

CC: Carol Wilson, Redwood National and State Parks
Douglas Dawes, Humboldt State University
Brian Tissot, Humboldt State University

State of California • Natural Resources Agency
Edmund G. Brown Jr., *Governor*
DEPARTMENT OF PARKS AND RECREATION
Lisa Ann L. Mangat, *Director*
North Coast Redwoods District
P.O. Box 2006
Eureka, CA 95502-2006
(707) 445-6547

April 26, 2018

Dan Berman, City Manager
City of Trinidad
P.O. Box 390
Trinidad, CA 95570

Mr. Berman,

California State Parks' North Coast Redwoods District (NCRD) supports the removal of a large Monterey cypress at the northwest corner of the Humboldt State University (HSU) Telonicher Marine Lab on Ewing Street in Trinidad. The tree was presumed to be on HSU marine lab facility property, but a recent survey revealed the tree to be located on California State Parks (Trinidad State Beach) property, in close proximity to the marine lab property line.

The assessment of our resources staff, along with the report of certified arborist, *Treeworks Arborist Service*, concur the tree appears to be a hazard to the facilities, infrastructure, pedestrian, driver, cyclist and ADA visitor safety, and potentially to parked vehicles. Furthermore, this tree is an exotic species and has no natural resource value to Trinidad State Beach. The Department of Parks and Recreation Operations Manual, Section 0301.1, states that landscaping with invasive exotic plants is not appropriate in either natural or developed portions of units of the State Park System. Section 0310.7.2 states that Parks may eradicate an exotic species if it has a deleterious effect on public health and safety.

The NCRD supports removing the tree by cutting it down, leaving the roots intact, and grinding the stump down to the ground level of the imported dirt in the planter. If ground-disturbing work needs to be done at a later date, there will need to be further cultural review.

If you have any questions, please contact Environmental Scientist Carol Wilson at (707) 845-5782 or carol.wilson@parks.ca.gov.

Sincerely,

Victor Bjelajac
North Coast Redwoods District Superintendent.

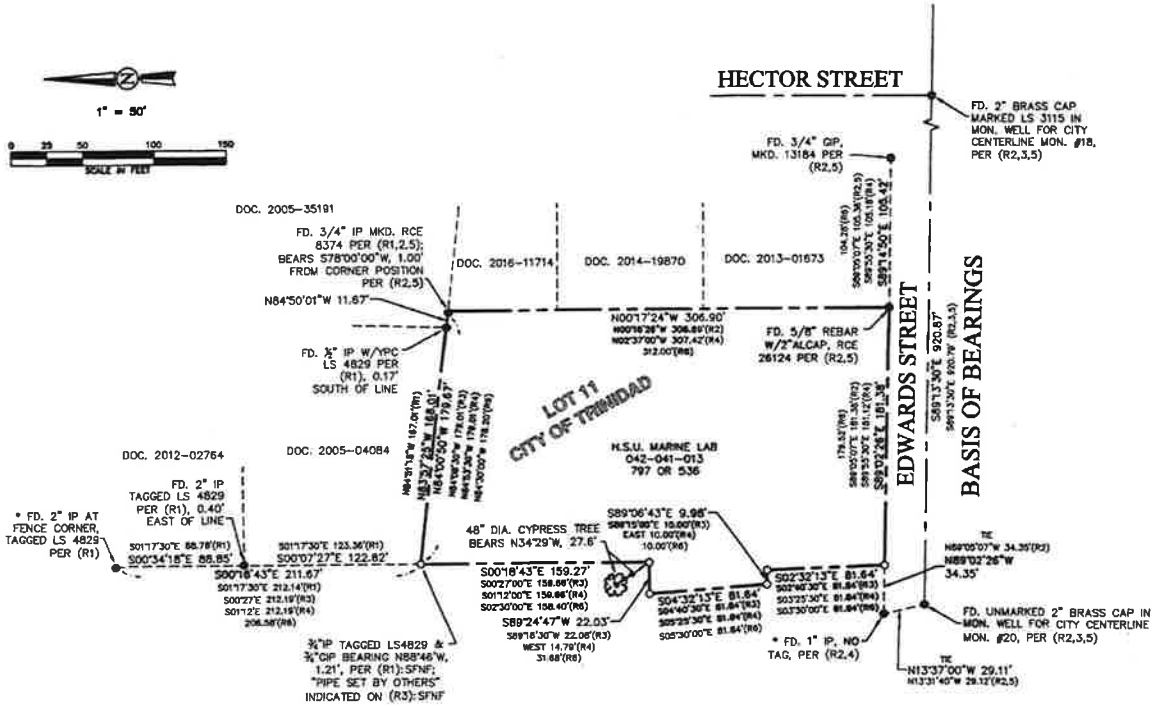
ec: TallChief A. Comet, Humboldt State University
Elizabeth Whitchurch, Humboldt State University

Greg Collins, NCRD
Shannon Dempsey, NCRD
Michelle Forys, NCRD
Lathrop Leonard, NCRD
Amber Transou, NCRD

LEGEND

SYMBOL INDICATES

- DOUBLE POST SIGN
- SINGLE POST SIGN
- METAL BOLLARD
- CONCRETE WALKS, SLABS, ETC. (HATCHING NOT SHOWN ON NARROW CONCRETE FEATURES)
- TREE TRUNK - DBH AND SPECIES NOTED (SPECIES AS REDWOOD IF NOT NOTED. "SPECIES UNKNOWN (SYMBOL)")
- GEOTECH INVESTIGATION DOPE HOLE WITH NUMBER
- PLANTER OR LANDSCAPE AREA
- AC ASPHALT FENCE
- CAMPUS PROPERTY LINE
- COORDINATE GRID TICK (NGVD29)
- SURVEY CONTROL POINT
- PCC PORTLAND CONCRETE CEMENT
- CLF CHAIN LINK FENCE
- SPOT ELEVATIONS (SEE CAD FILE FOR OTHERS)
- CONTOURS (1 FOOT)
- FENCE (WITH SIZE AND TYPE)
- UTILITY LINE (SHOWING UTILITY TYPE AND DETAILS)
- POT VALLEY GUTTER
- MAIL BOX
- WATER LINE OR FEATURE
- WATER LINE
- HYDRANT
- BACKFLOW PREVENTER
- FIRE HYDRANT
- HOSETBIB
- WATER VALVE
- WATER METER
- WATER SHUTOFF
- DRINKING FOUNTAIN
- ELECTRIC LINE OR FEATURE
- ELECTRIC OR STREETLIGHT LINE
- OVERHEAD
- CONCRETE ENCASED
- HIGH VOLTAGE
- POWER POLE
- ELECTRIC MANHOLE OR VAULT
- ELECTRIC PULLBOX (LARGER BOXES SHOWN AT TRUE SIZE)
- STREETLIGHT LINE OR FEATURE
- STREETLIGHT
- STREETLIGHT PULLBOX
- SW SECTIONALIZING SWITCH
- EM ELECTRICAL METER
- EP ELECTRICAL PANEL
- ELECTRICAL CONDUIT UNDERGROUND
- ELECTRICAL OUTLET
- SD STORM DRAIN LINE OR FEATURE
- STORM DRAIN LINE
- STORM DRAIN DROP INLET W/ NUMBER
- STORM DRAIN MANHOLE W/ NUMBER
- STORM DRAIN CLEANOUT W/ NUMBER
- RAINWATER LEADER INTO GROUND SURFACE (IF NO LINE ATTACHED)
- GAS LINE OR FEATURE
- GAS LINE
- GAS REGULATOR
- GAS VALVE
- GAS METER
- IW IRRIGATION LINE OR FEATURE
- IRRIGATION LINE
- IRRIGATION QUICK CONNECT
- IRRIGATION CONTROL VALVE
- BACKFLOW PREVENTER
- MASTER VALVE/FLOW SENSOR
- PHONE LINE OR FEATURE
- SIGNAL LINE OR FEATURE
- PHONE OR SIGNAL LINE
- OVERHEAD
- CONCRETE ENCASED
- PHONE/SIGNAL PULLBOX (LARGER BOXES SHOWN AT TRUE SIZE)
- TELEPHONE MANHOLE OR VAULT
- CCTV CLOSED CIRCUIT TELEVISION LINE OR FEATURE
- CCTV PULLBOX
- TELEPHONE POLE
- TELEPHONE CONDUIT UNDERGROUND
- SS SANITARY SEWER LINE OR FEATURE
- SANITARY SEWER LINE
- SANITARY SEWER CLEANOUT W/ NUMBER
- SANITARY SEWER MANHOLE W/ NUMBER



NOTES

THIS MAP CONSTITUTES A BOUNDARY-LINE SURVEY ONLY AND DOES NOT DETERMINE THE LOCATION OF RIGHT-OF-WAYS, EASEMENTS, OR ENCROACHMENTS OTHER THAN THOSE INDICATED.

LEGEND

- ● FOUND MONUMENT AS NOTED
- ○ SET ½" x 30" LONG IRON PIPE, W/YELLOW PLASTIC PLUG, "PLS 8335"
- ——— PROPERTY LINE
- - - - - - ADJACENT PROPERTY LINE
- (R#) RECORD DATA PER REFERENCE NUMBER
- IP IRON PIPE
- YPC YELLOW PLASTIC CAP
- ALCAP ALUMINUM CAP
- MKD. MARKED
- GIP GALVANIZED IRON PIPE
- SFNF MONUMENT SEARCHED FOR, NOT FOUND

REFERENCES

R1 = BOOK 58 OF SURVEYS, PAGE 63
R2 = BOOK 30 OF SURVEYS, PAGE 69
R3 = BOOK 19 OF SURVEYS, PAGES 120-126
R4 = BOOK 12 OF SURVEYS, PAGE 104
R5 = BOOK 16 OF PARCEL MAPS, PAGE 105
R6 = OFFICIAL MAP OF TRINIDAD, 1 UR 478, ON FILE WITH THE HUMBOLDT COUNTY SURVEYOR

BASIS OF BEARINGS

BEARINGS SHOWN HEREON ARE BASED ON THE LINE BETWEEN TRINIDAD CENTERLINE MONUMENTS #18 AND #20, AS SHOWN ON THE RECORD OF SURVEY MAPS RECORDED IN 19 R/S 120-126 AND 30 R/S 69, TAKEN AS SOUTH 89°13'30" EAST.

SURVEY NOTES

1.) THE PURPOSE OF THIS SURVEY WAS TO DELINEATE THE WEST BOUNDARY OF THE H.S.U. MARINE LAB PARCEL (PARTICULARLY IN THE AREA OF A LARGE CYPRESS TREE) AS DESCRIBED IN DOCUMENT 797 OR 536, BEING LOT 11 AS SHOWN ON THE MAP OF TRINIDAD.

2.) THE WEST LINE OF SAID PARCEL WAS DETERMINED BY GRANT BOUNDARY ADJUSTMENT BETWEEN THE FOUND MONUMENTS DENOTED WITH '*'.

SURVEYOR'S STATEMENT

This map correctly represents a survey made by me or under my direction in conformance with the requirements of the Professional Land Surveyors' Act at the request of Humboldt State University in September, 2016.

Matthew T. Herman 10/30/16

Matthew T. Herman *Date*
PLS 8335

PROFESSIONAL LAND SURVEYOR MATTHEW T. HERMAN Exp.12-31-17 8335 STATE OF CALIFORNIA

COUNTY SURVEYOR'S STATEMENT

This map has been examined in accordance with Section 8766 of the Professional Land Surveyors' Act this 2nd day of January, 2017.

Ronald C. Garton PLS 7717
Humboldt County Surveyor

PROFESSIONAL LAND SURVEYOR RONALD C. GARTON No. 7717 STATE OF CALIFORNIA

COUNTY RECORDER'S STATEMENT

Filed this 10th day of January 2017, at 3:43 p.m., in Book 72 of Surveys, at Page 114, Humboldt County Records, at the request of SHN Consulting Engineers & Geologists.

Kelly E. Sanders
Humboldt County Recorder

By: Kano *Deputy*

Fee $ 13.00

Instrument No. 2017-000531

RECORD OF SURVEY for Humboldt State University in the City of Trinidad in the SE 1/4 of Section 23, T. 8 N., R. 1 W., Humboldt Meridian

County of Humboldt - State of California
January 2017

SHN CONSULTING ENGINEERS & GEOLOGISTS
812 W. Wabash Eureka, CA 95501 (707)441-8855 FAX (707)441-8877

SHEET 1 OF 1

BOOK 72 OF SURVEYS, PAGE 114

TREEWORKS ARBORIST SERVICE

CORRECT TREE CARE PROVIDER & Consultation

ISA Certified Professional Arborist # WE-9362A
P.O. BOX 736
Bayside, CA 95524
Tel: 707.849.7225

Arborist Report

Location: Humboldt State University Marine Lab, located on Ewing St. Trinidad Ca.

Species: *Cupressus macrocarpa* Monterey Cypress

This species native range, where trees naturally occur is along the Pacific Coast at Carmel (near Monterey), in two groves, at Cypress Point and Point Lobos. Any individuals found growing elsewhere have been planted, as is the case here with this tree under discussion.

Site/Tree History: Marine lab was built in the mid 1960's. This Cypress tree was planted approximately 1968-1969. As most trees are planted as young nursery stock or container grown stock, this trees approximate age is between 55-60 yrs. The tree's DBH measures over 15 feet and the crown diameter is approximately 60 feet. The soil in which the tree was planted in, is adjacent to the Marine Lab property, but is actually State Parks land.

This Cypress tree has exceeded the carrying capacity for the site in which it is located. The basal trunk area and root crown has bulged/buckled the cement infrastructure surrounding the root zone to the north and northwest of the tree's drip line. These topographic features in the asphalt and cement surfaces present liability issues for foot traffic, bicyclists and ADA visitors, as well as create other problems with drainage for storm water. Large lateral/scaffold limbs in the architecture of the upper canopy are within close proximity to the marine lab infrastructure. Debris and annual leaf litter accumulate in roofing and gutters.

This somewhat iconic Cypress tree has run its course. In order to achieve ample mitigation measures, the removal of this tree is imperative. Tree trimming operation(s) would create future problems and leave the tree with a un-aesthetical appearance and poor structure on the wind prone bluffs above the ocean. A full removal of the tree and its root structure is recommended.

After the tree removal process is complete, all surface(s) and infrastructure can be updated free of concerns about this tree and its sub-terrianian features.

Report Created by: Andy Waxman ISA # WE-9362A

ISA Basic Tree Risk Assessment Form

Client Humboldt State University Date 17 Aug. 2017 Time 9:50am
Address/Tree location Humboldt State University Marine Lab, located on Ewing St. Trinidad Ca. Tree no. 1 (individual) Sheet 1 of 2
Tree species Cupressus macrocarpa Monterey Cypress dbh ~15 ft Height ~35 ft Crown spread dia. 60 ft
Assessor(s) Andy Waxman WE-9362A Time frame 30 min Tools used binoculars & tape measure

Target Assessment

Target number	Target description	Target zone: Target within drip line	Target within 1 x Ht.	Target within 1.5 x Ht.	Occupancy rate 1–rare 2–occasional 3–frequent 4–constant	Practical to move target?	Restriction practical?
1	aquarium, building infrastructure, side walks, flag pole, parking areas, pedestrians, bicyclist		✓		3-4	no	
2							
3							
4							

Site Factors

History of failures _____ **Topography** Flat ☒ Slope ☐ _____% **Aspect** west
Site changes None ☐ Grade change ☐ Site clearing ☐ Changed soil hydrology ☐ Root cuts ☐ Describe _____
Soil conditions Limited volume ■ Saturated ☐ Shallow ☐ Compacted ■ Pavement over roots ■ 45 % Describe imprevious asphalt & cement
Prevailing wind direction NW **Common weather** Strong winds ■ Ice ☐ Snow ☐ Heavy rain ■ Describe S.winds in winter storm events

Tree Health and Species Profile

Vigor Low ☐ Normal ■ High ☐ **Foliage** None (seasonal) ☐ None (dead) ☐ Normal 95 % Chlorotic ____% Necrotic ____%
Pests _____ **Abiotic** _____
Species failure profile Branches ■ Trunk ☐ Roots ☐ Describe wind loading

Load Factors

Wind exposure Protected ☐ Partial ☐ Full ■ Wind funneling ☐ _____ **Relative crown size** Small ☐ Medium ☒ Large ☐
Crown density Sparse ☐ Normal ☐ Dense ■ **Interior branches** Few ☐ Normal ☐ Dense ■ **Vines/Mistletoe/Moss** ☐ _____
Recent or planned change in load factors _____

Tree Defects and Conditions Affecting the Likelihood of Failure

— Crown and Branches —

Unbalanced crown ☐ LCR ____%
Dead twigs/branches ■ 25 % overall Max. dia. 2.5"
Broken/Hangers Number _____ Max. dia. _____
Over-extended branches ■
Pruning history
Crown cleaned ☐ Thinned ■ Raised ☐
Reduced ☐ Topped ☐ Lion-tailed ☐
Flush cuts ■ Other _____

Cracks ☐ _____ Lightning damage ☐
Codominant ■ multiple stems common for species Included bark ☐
Weak attachments ■ crotches Cavity/Nest hole ____% circ.
Previous branch failures ☐ _____ Similar branches present ☐
Dead/Missing bark ☐ Cankers/Galls/Burls ☐ Sapwood damage/decay ☐
Conks ☐ Heartwood decay ☐ _____
Response growth _____

Main concern(s) root zone areas have created topographic relief on surrounding surfaces--> hazardous condtions present. multiple large lateral limbs towards building & crown is very dense & wind prone.

Load on defect N/A ☐ Minor ☐ Moderate ■ Significant ☐
Likelihood of failure Improbable ☐ Possible ☐ Probable ■ Imminent ☐

— Trunk —

Dead/Missing bark ☐ Abnormal bark texture/color ☐
Codominant stems ■ Included bark ☐ Cracks ☐
Sapwood damage/decay ☐ Cankers/Galls/Burls ☐ Sap ooze ☐
Lightning damage ☐ Heartwood decay ☐ Conks/Mushrooms ☐
Cavity/Nest hole ____% circ. Depth _____ Poor taper ☐
Lean ____° Corrected? _____
Response growth _____
Main concern(s) _____

Load on defect N/A ☐ Minor ■ Moderate ☐ Significant ☐
Likelihood of failure
Improbable ☐ Possible ■ Probable ☐ Imminent ☐

— Roots and Root Collar —

Collar buried/Not visible ☐ Depth _____ Stem girdling ☐
Dead ☐ Decay ☐ Conks/Mushrooms ☐
Ooze ☐ Cavity ☐ ____% circ.
Cracks ☐ Cut/Damaged roots ☐ Distance from trunk _____
Root plate lifting ■ Soil weakness ☐

Response growth _____
Main concern(s) asphalt & cement damage

Load on defect N/A ☐ Minor ☐ Moderate ■ Significant ☐
Likelihood of failure
Improbable ☐ Possible ☐ Probable ■ Imminent ☐

Risk Categorization

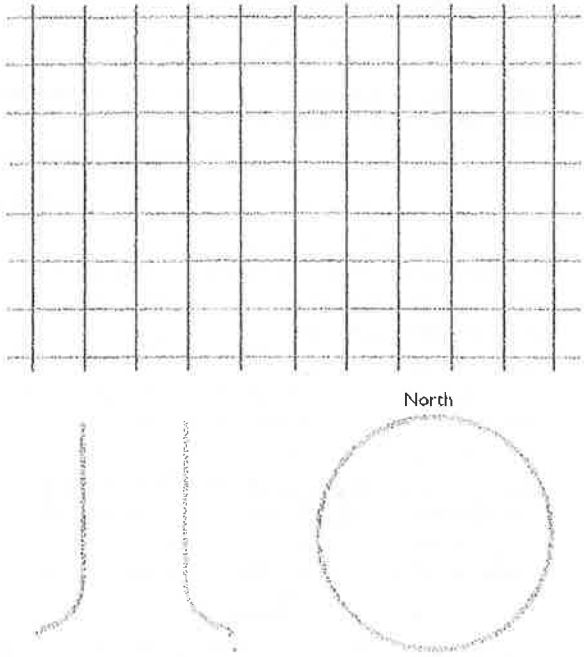
Condition number	Tree part	Conditions of concern	Part size	Fall distance	Target number	Target protection	Likelihood: Failure: Improbable	Likelihood: Failure: Possible	Likelihood: Failure: Probable	Likelihood: Failure: Imminent	Likelihood: Impact: Very low	Likelihood: Impact: Low	Likelihood: Impact: Medium	Likelihood: Impact: High	Likelihood: Failure & Impact (from Matrix 1): Unlikely	Likelihood: Failure & Impact (from Matrix 1): Somewhat	Likelihood: Failure & Impact (from Matrix 1): Likely	Likelihood: Failure & Impact (from Matrix 1): Very likely	Consequences: Negligible	Consequences: Minor	Consequences: Significant	Consequences: Severe	Risk rating of part (from Matrix 2)
1																							
2																							
3																							
4																							

Matrix 1. Likelihood matrix.

Likelihood of Failure	Likelihood of Impacting Target			
	Very low	Low	Medium	High
Imminent	Unlikely	Somewhat likely	Likely	Very likely
Probable	Unlikely	Unlikely	Somewhat likely	Likely
Possible	Unlikely	Unlikely	Unlikely	Somewhat likely
Improbable	Unlikely	Unlikely	Unlikely	Unlikely

Matrix 2. Risk rating matrix.

Likelihood of Failure & Impact	Consequences of Failure			
	Negligible	Minor	Significant	Severe
Very likely	Low	Moderate	High	Extreme
Likely	Low	Moderate	High	High
Somewhat likely	Low	Low	Moderate	Moderate
Unlikely	Low	Low	Low	Low



Notes, explanations, descriptions _____

Mitigation options Tree take down & full removal is highly recommended. Residual risk _____

Stump grinding and or excavation of stump and all root material recommended. Residual risk _____

Residual risk _____

Residual risk _____

Overall tree risk rating Low ☐ Moderate ■ High ☐ Extreme ☐ Work priority 1 ☐ 2 ☐ 3 ■ 4 ☐

Overall residual risk Low ☐ Moderate ☐ High ☐ Extreme ☐ Recommended inspection interval _____

Data ■ Final ☐ Preliminary Advanced assessment needed ■ No ☐ Yes-Type/Reason _____

Inspection limitations ■ None ☐ Visibility ☐ Access ☐ Vines ☐ Root collar buried Describe _____

This datasheet was produced by the International Society of Arboriculture (ISA) and is intended for use by Tree Risk Assessment Qualified (TRAQ) arborists – 2013

Google Maps 514 Ewing St

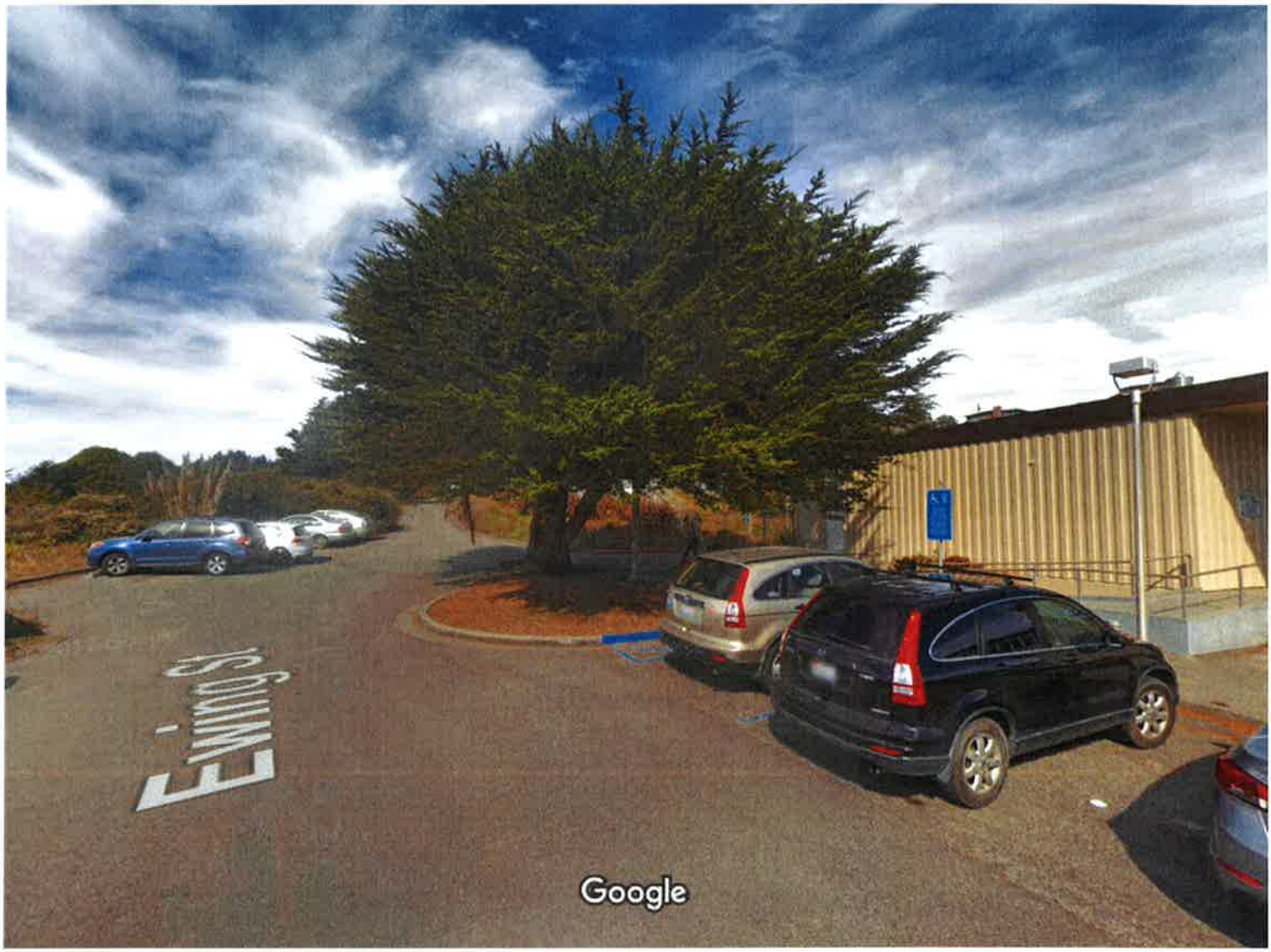


Image capture: Oct 2017 © 2018 Google

Trinidad, California

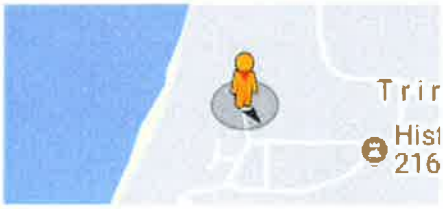
Google, Inc.

Street View - Oct 2017

Google Maps 510 Ewing St

Image capture: Oct 2017 © 2018 Google

Trinidad, California

Google, Inc.

Street View - Oct 2017