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Appeal Filed: 2/11/13
49th Day Extension Granted: 2/20/12
Staff: J. Baskin-A
Staff Report: 9/20/13
Hearing Date: 10/10/13

STAFF REPORT: APPEAL SUBSTANTIAL ISSUE

Appeal No.: A-1-TRN-13-007

Applicants: Michael Morgan

Appellants: Tsurai Ancestral Society

Local Government: City of Trinidad

Local Decision: Approval with Conditions

Location: 560 Edwards Street, Trinidad, Humboldt County,
APN 042-101-07

Project Description: Modification of an existing Coastal Development Permit for the *Trinidad Bay Bed and Breakfast* to replace two conditions that prohibited laundry washing at the inn and requires revocation of the permit if the septic system were to fail with conditions that require septic inspections and place limitations on water use.

Staff Recommendation: No Substantial Issue

SUMMARY OF STAFF RECOMMENDATION

The original approval of the bed and breakfast prohibited laundry washing at the inn and provided for revocation of the permit amendment upon failure of the septic system. The amendment approved by the

City replaced those conditions with conditions that instead require inspections of the septic system and limitations on water use.

The Appellant Tsurai Ancestral Society appealed the City’s amended approval alleging that the amended development is inconsistent with the LCP because it will adversely impact: (1) geologic stability adjoining the Tsurai Special Study Area; and (2) water quality and cultural resources within the Tsurai Special Study Area.

Staff recommends that the Commission find No Substantial Issue because: (1) many of the provisions cited by the Appellants do not apply to the development that is the subject of the appeal; (2) the permit amendment as approved contains conditions requiring measures to prevent degradation of water quality from septic system use; and (3) the permit amendment’s limit on all water use is a much more effective method for managing ground water impacts from all sources originating at the inn than a selective ban on laundering onsite.

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I. MOTION AND RESOLUTION

Motion:

I move that the Commission determine and resolve that Appeal No. A-1-TRN-13-007 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion by voting “Yes” as is recommended by staff will result in a finding of **No Substantial Issue** and adoption of the following resolution and findings. The local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

Resolution:

The Commission hereby finds that Appeal No. A-1-TRN-13-007 raises No Substantial Issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency of the approved development with the certified LCP and/or the public access policies of the Coastal Act.

II. FINDINGS AND DECLARATIONS

A. APPEAL JURISDICTION AND PROCEDURES

One appeal was timely filed with the Commission’s North Coast District Office on February 11, 2013, within 10 working days of receipt by the Commission of the City’s Notice of Final Action. The appeal was filed by the Tsurai Ancestral Society (**Exhibit No. 5**).

Pursuant to Coastal Act Section 30603, the City’s approval is appealable to the Commission because the approved development is located within 300 feet of the top of the seaward face of a coastal bluff (**Appendix A**). The grounds for an appeal are limited to an allegation that the approved development does not conform to the standards set forth in the certified local coastal program and, if the development is located between the first public road and the sea, the public access policies set forth in the Coastal Act.

Coastal Act Section 30625(b) requires the Commission to hear an appeal unless it determines that no substantial issue exists with respect to the grounds on which the appeal has been filed¹. Commission staff has analyzed the administrative record for the approved project, including the City’s Final Local Action Notice for the development (**Exhibit No. 6**), the appellant’s claims (**Exhibit No. 5**), and the relevant requirements of the certified LCP (Appendix B) and is

¹ The term “substantial issue” is not defined in the Coastal Act or its implementing regulations. In previous decisions on appeals, the Commission has generally been guided by the following factors in making substantial issue determinations: (a) the degree of factual and legal support for the local government’s decision; (b) the extent and scope of the development as approved or denied by the local government; (c) the significance of the coastal resources affected by the decision; (d) the precedential value of the local government’s decision for future interpretations of its LCP; and, (e) whether the appeal raises only local issues, or those of regional or statewide significance.

recommending that the Commission find that the appeal raises no substantial issue with respect to the grounds on which the appeal has been filed.

In this case, because the staff is recommending that the appeal raises no substantial issue, the Commission will hear arguments and vote on the substantial issue question. Proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission on the substantial issue question are the applicant, the appellant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. It takes a majority of Commissioners present to find that no substantial issue is raised.

If the Commission determines that the appeal does raise a substantial issue, the Commission would continue the *de novo* portion of the appeal hearing to a subsequent meeting.

B. SITE DESCRIPTION AND PROJECT BACKGROUND

The subject development is located at 560 Edwards Street in the City of Trinidad on a bluff-top parcel (APN 042-101-07) situated on the northeast corner of the intersection of Edwards and Trinity Streets (**Exhibits 1-4**). The approximately 9,840-square-foot parcel is designated on the Land Use Plan Map and the coastal zoning map as Planned Development (PD). The parcel is developed with a two-story, five-bedroom residence that has been operated as a bed and breakfast inn since mid-1980s under Coastal Development / Conditional Use Permit No. 85-2 granted by the City on April 17, 1985.²

At its November 14, 2012 public hearing on the permit amendment, the City Council adopted its staff's recommendation that, with regard to the two permit conditions requested for removal: (a) the condition to use a commercial linen service, while intended to reduce the amount of wastewater going into the septic system, would not limit or reduce the amounts or types of groundwater inputs from other discharges originating from the bed and breakfast inn; and (b) the revocation of the permit authorization upon failure of the septic system until appropriate repairs or upgrades are accomplished unnecessarily duplicates other health and safety codes requiring cessation of the commercial inn use if a functioning septic system is not in operation. The City Council continued the item to allow the City staff to work with the applicant to find mutually agreeable alternative conditions with an emphasis on developing a numerical limit on the volume of water used at the inn.

On January 23, 2013, the City of Trinidad City Council approved Coastal Development / Conditional Use Permit Modification No. 2010-006 that authorized the requested removal of two permit conditions from the original 1985 CDP/CUP, that required: (1) the use of a commercial laundry service in place of onsite laundering; and (2) the inn to cease business if the septic system were to fail. In their place, the City imposed substitute conditions requiring that: (1) annual inspections of the septic system be conducted during the wet weather season with the

² The original permit was also appealed to the Commission (Appeal No. A-1-TRN-85-50). Although the central emphasis of the appeal was the introduction of a commercial transient overnight accommodation use in what was asserted to be a residential neighborhood, the appeal similarly raised issues with respect potential geological instability and water quality impacts. The Commission subsequently found that appeal raised no substantial issues of conformity with the LCP.

results provided to the County of Humboldt Department of Health – Division of Environmental Health (DEH) and the City, with provisions to modify the inspection schedule as needed as the City's Onsite Wastewater Treatment System (OWTS) Management Program is implemented, with the written approval of the DEH; (2) the permittee acknowledge that, should the septic system fail, steps will be taken by the City and/or DEH to rectify the situation, which will include suspension of the Use Permit or temporary closure of the business until the system is repaired to the satisfaction of DEH; (3) the next annual inspection occur in the upcoming wet season and be subject to the requirements of the OWTS for a “performance inspection,” verifying the function of the entire system, including the leachfield, and mandating the installation of an effluent filter if one is not already installed; and (4) water use on the property be limited to an average of 2,000 cubic feet per month on an annual basis (**Exhibit 6**).

C. ANALYSIS OF APPELLANT’S APPEAL CONTENTIONS

Appellant Tsurai Ancestral Society raises four grounds for appeal, claiming:

- (1) **Impacts to Geologic Stability.** The amendment to the permit conditions to allow onsite laundering will increase the volume of wastewater to be processed by the septic system and increase septic system groundwater discharge, thereby exacerbating geologic instability, inconsistent with the Coastal Act, City of Trinidad’s General Plan Policies 69 and 72; Municipal Code section 17.20.103, and Section 4.02.C.5 of the City of Trinidad’s Zoning Ordinance;
- (2) **Impacts to Water Quality.** In light of the dated, substandard septic system in place at the inn, the amendment to the permit conditions to allow laundering will result in further degradation to the water quality of the seeps, springs, and watercourses within the Tsurai study Area, inconsistent with Municipal Code section 17.20.103;
- (3) **Impacts to Cultural Resources.** The increased volume of wastewater associated with allowing onsite laundering will likely cause failures of the inn’s septic system, resulting in contaminated overflow discharges entering the Tsurai Study Area that will further pollute its water resources. These water resources are a source of clean water for conducting ceremonial rites. Such impacts would be inconsistent with Policies 69 and 72 of the Land Use Plan.
- (4) **Inadmissibility of the Permit Amendment Request.** The approved permit amendment should not have been accepted for processing, as it would lessen or avoid the intended effects of the original permit to protect geologic stability and water quality by reducing the volume of septic stem effluent originating from the inn’s laundering.

As set forth in Section 30603(b) of the Coastal Act, after certification of its local coastal program, an appeal of a local government-issued coastal development permit is limited to allegations made on the grounds that the approved development does not conform to the standards set forth in the certified local coastal program or the public access policies of the Coastal Act. Three of the four contentions of the appeal raise valid grounds for appeal. As discussed below, the Commission finds that the appeal raises no substantial issue of conformance of the approved development with the policies of the certified LCP or the public access policies of the Coastal Act. The fourth appeal contention, regarding the processing of the amendment request, is not a valid ground for appeal in that the contention does not allege an inconsistency of the approved development with a policy or standard of the LCP, but rather alleges improper processing based on a section of the Commission’s administrative regulations.

1. Impacts to Geologic Stability

The first contention asserts that the approved amended development is inconsistent with the LCP policies and standards addressing the avoidance and minimization of risks from exposure to geologic instability. The appellant states:

The Trinidad B&B permit amendment removes a condition intended to protect the geologic stability of the bluff directly below the B&B that constitutes the Tsurai Study Area. At least three separate geologic investigations by three separate consultants have confirmed this instability, and the danger caused by hydrologic overloading of the bluff. The purpose of the original condition was to prevent the operation of the laundry component of the B&B from contributing to this potentially catastrophic problem, and there is no evidence in the record, either from the applicant or from anyone else to suggest that these conditions have changed since the permit was issued or that the problem no longer exists...

Approval of the amendment without supporting evidence regarding changes in the geologic conditions is in violation of the City's Municipal Code Zoning Ordinance (*sic*) 17.20.103³, the Coastal Act and City of Trinidad's General Plan Policy 72 Section 4.02 (C) (5), as well as General Plan Policy 69.

The Commission notes that none of the three cited LCP provisions apply to development within the Planned Development zoning district in which the project is located, for several reasons. First, the cited Municipal Code section addresses requirements for geologic reports for assessing the feasibility of certain classes of development *within* Special Environment zoning districts. The approved amended development is not located within the Special Environment zoning district. Second, the Coastal Act has not been certified as a part of the LCP and is not part of the standard of review for this project. Third, LUP Policies 69 and 72 address efforts to protect the coastal bluff faces and/or the Tsurai Study Area by limiting public recreational development and activities *therein* and are not applicable to adjoining lands. Finally, Section 4.02.C.5 is only applicable to development within the Open Space zoning district, which the development is not.

³ The Trinidad Municipal Code has not been certified as part of the LCP. However, much of the language within Trinidad Municipal Code (TMC) Title 17 comes verbatim from the certified Zoning Ordinance of the City of Trinidad (ZOTC). TMC Chapter 17.20 comprises prescriptive regulations for development *in* Special Environment zoning districts, for which ZOTC Section 4.03 would be the certified equivalent. As no such numbered provision (17.20.103) appears within the Trinidad Municipal Code, that the appellant may have transposed the citation and meant to cite Section 17.20.130 (i.e., certified ZOTC section 4.03.C.10), a section which set requirements for determining the feasibility of development within Special Environment zoning districts via supplemental geologic investigations (see **Appendix B**). However, as the development site is situated approximately 300 feet away to the west in a Planned Development zoning district, and insofar as the portion of the Tsurai Study Area hydrologically down-gradient of the development site is situated with an Open Space zoning district, the cited requirements for geologic studies for development in SE zones would not apply to the project site.

The certified City of Trinidad LCP does contain provisions that address avoiding and minimizing risks of exposure to geologic instability, notably, LUP Chapter II *Constraints of Development - Unstable Slopes* Policy 3, which reads:

*Structures, septic tank systems, and driveways should not be located on unstable lands. Structures, septic tank systems, and driveways should only be permitted on lands of questionable stability, or within 100 feet upslope of unstable lands or lands of questionable stability, if analysis by a registered geologist indicates that the proposed development will not significantly increase erosion, slope instability or sewage system failure. The area reserved for the backup leach field should be given equal consideration.**

** The areas in the city where studies by a registered geologist are required by this policy are identified on Plate 3. Outside of the city limits the areas where such studies are necessary are identified by a boundary 100 feet upslope of the upland extent of unstable lands and lands of questionable stability as identified on the Geologic Limitations Map in the Environmental Conditions and Constraints Report. [Emphases added.]*

In considering the granting of the permit amendment, the City addressed the required findings described above. The City’s findings on page 2 of their June 18, 2010 Planning Commission staff report, incorporated into the findings for the City Council’s January 23, 2013 approval of the permit condition modifications, note that the bed and breakfast inn is located in a “stable” area, outside of the “unstable,” “questionably stable,” and “clayey soils” areas mapped in the LUP where a geological investigation would be required. This map was developed from background geotechnical studies prepared during development of the LCP, and included assessments of slope stability from a variety of perspectives, taking into account erosional, seismic, material competency, and hydrologic factors. Therefore, there is no requirement that a geological investigation be prepared for development or modifications to authorized development at the subject site.

Notwithstanding this lack of a programmatic requirement for a geologic evaluation, the Commission’s staff geologist has also reviewed the appeal contentions regarding alleged geologic instability impacts that might result from additional groundwater loading and found that the inn’s contributions to subsurface hydrology would not significantly exacerbate the instability already occurring on the bluff face. This determination was based on consideration of the other groundwater inputs from numerous other properties up-gradient in the townsite, and taking into account all other factors of influencing geologic stability (i.e., surface drainage, slope angle, gravitational pull, wind scour, material shear strength, etc.), that might also be causing the observed areas of instability. For example, a number of the unstable areas on the bluff face are located on areas of the bluff face well removed from the contact plain between the marine terrace deposits and the underlying impermeable bedrock strata where the piping of accumulated groundwater out of the bluff would have the greatest destabilizing effect on the overlying unconsolidated sediments. In these other locations, the incidents of shallow, rotational slip landsliding, mass wasting ground failures and bare exposed soil surfaces are reflective of a combination of direct rill erosion instigated by precipitation impact and surface runoff, the overwhelming of soil material cohesion due to over-steepened slopes, windthrow uprooted large

vegetation, aeolian processes, or, in locations closer to the beach front, the effects of storm surge. Moreover, the staff geologist believes the approved substituted permit condition which would quantitatively limit all water use for the development would provide a much more effective method for managing ground water inputs from all sources originating at the inn compared to sustaining a selective ban on laundering onsite.

In conclusion, the Commission finds that with respect to the first contention of the appeal, the extent and scope of the development approved under the permit amendment by the City is limited in that the approved amendment involves changes in permit conditions that better protect coastal resources. . Furthermore, the Commission finds that there is a high degree of factual support for the local government's decision to find that its approval conforms with the criteria for authorizing the amended development. Therefore, the Commission finds that the first contention of the appeal that the approved amended development would result in erosional, landsliding, or other related impacts raises no substantial issue regarding consistency of the approved development with the policies and standards of the certified LCP relating to geologic stability.

2. Impacts to Water Quality

The appellant contends that the approved permit amendment to modify the original permit conditions will result in impacts to the Tsurai Study Area from likely failure of the dated septic system in place at the inn property: The appellant states:

The Trinidad B&B has a substandard septic system that was 'grandfathered' in at the time of approval, subject to the condition not to overburden that system with the additional fluid that would result from a laundry operation at the B&B. The B&B owner has openly admitted that he has been violating this condition...

Despite this condition, or perhaps because it was ignored, the septic system for the B&B failed several years later. When the County Health Department issued its repair permit, the cover letter of 12/15/88 included the following language:

'Please be advised that the repair does not meet current standards for leach field or septic system designs and cannot be expected to have a life span which is adequate to the life of the building with its existing use. In order to make any septic system last as long as possible, the Health Department recommends that you minimize both water usage and solids input into the system ... We recommend further that you take steps to minimize wastewater flows.'...

Approval of the amendment without supporting evidence or the installation of a new updated septic system is in violation of the City's Municipal Code Zoning Ordinance (*sic*) 17.20.103 and the Coastal Act...

Neither the Municipal Code Section cited by the appellant nor the Chapter 3 policies of the Coastal Act are directly applicable to the permit amendment as approved, insofar as: (1) the Chapter 3 policies of the Coastal Act have not been certified as a part of the LCP; and (2) the

cited Municipal Code section addresses requirements for geologic reports for development *within* Special Environment zoning district and not within the Planned Development zoning district where the project site is located.

The certified City of Trinidad LCP does contain provisions addressing the protection of water quality throughout the City, notably, LUP Chapter II *Constraints of Development – Soil Characteristics* Policy 9, which reads:

Areas with soils limitations for septic tanks can be designated for low density development provided adequate site analysis, system installation, and maintenance necessary to prevent degradation of water quality and public health is required by responsible governmental agencies.

Section 7.09 of the City of Trinidad Zoning Ordinance states, in applicable part:

A conditional use permit may be granted for any use listed as a conditional use in the applicable zone if the facts establish and written findings are adopted showing: ...

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.

As stated above, to prevent degradation of water quality related to septic system use and to ensure the amended development will not have a significant adverse environmental impact on water quality as required by CTZO Section 7.09(D), the City replaced the conditions of the original permit prohibiting laundry at the inn and providing for revocation of the permit upon a failure of the septic system with five other conditions to address wastewater effluent discharge from the project site:

1. The property owner shall have the septic system inspected annually during the wet weather season and the results provided to the Department of Health (DEH) and the City each year. This inspection schedule may be modified under implementation of the City's On Site Wastewater Treatment System (OWTS) Management Program with written approval from DEH.
2. The owner recognizes that if the septic system fails, steps will be taken by the City and/or DEH to rectify the situation, which will include suspension of the Use Permit or temporary closure of the business until the system is repaired to the satisfaction of DEH.
3. The next annual inspection, to occur in the upcoming wet season, shall conform to the requirements for a performance inspection under the City's OWTS Management program verifying the function of the entire system, including the leachfield and confirming the

presence or absence of an effluent filter. If an effluent filter is not already installed, one shall be installed at the time of inspection.

4. Water use on the property shall be limited to an average of 2,000 cubic feet per month on an annual basis.
5. Water use data and septic inspection results shall be kept on file in the City and available to the public.

At several places in the appeal, the appellant emphasizes the dated nature of the onsite sewage disposal system at the inn site. In critiquing the continued reliance on the system, the appellant cites comments from the Humboldt County Public Health Department's Environmental Health Division that were provided 25 years ago. More recent consultations with County sanitarians with regard to the subject permit condition modification have occurred.

On July 15, 2010, the City received a response to their referral to the County DEH, stating with respect to the proposed removal of the commercial laundering requirement and permit suspension conditions:

DEH has no objection to the aforementioned modification under the condition that a record of the annual inspection of the septic system is provided to the Divisions of Env. Health.

Additionally, the City staff report indicates that several other consultations were held with DEH staff in its development of the 2,000-cubic-foot, annually averaged, monthly water use limitation. These consultations involved consideration of (1) actual water usage volumes at the bed and breakfast inn compared with other water use rates on properties in the project's vicinity, (2) upgrades made to the septic system since its original 1985 authorization, and (3) changes in the operation of the septic system made since it was originally installed including the application of a 2/3 through-flow capacity factor of safety to compensate for the system's dated design. The Commission's Water Quality Unit staff has also reviewed the approved substitution of a quantitative volumetric limit on water use and concurs with the City's and DEH's perspective that a limit on water use would more effectively mitigate potential cumulative impacts of the inn's contributions to groundwater flow through the adjoining bluff face area. Therefore, the permit amendment as approved with conditions requiring measures to prevent degradation of water quality from septic system use, including a limit on water use, will avoid significant adverse water quality impacts as required by LUP Chapter II Policy 9 and Zoning Code Section 7.09.

In conclusion, the Commission finds that with regard to the second contention of the appeal, the extent and scope of the development approved under the permit amendment by the City is limited in that the approved amended development involves changes in permit conditions that better protect coastal resources. Furthermore, there is adequate factual and legal support within the project record to support the local government's decision. Therefore, for all of the above reasons, the Commission finds that the second contention of the appeal, regarding impacts to water quality does not raise a substantial issue of conformance of the project as approved with the certified LCP.

3. Impacts to Cultural Resources

The appellants allege in their third contention that the approved project will adversely affect cultural resources in the Tsurai Study Area inconsistent with the various protections applied to the TSA:

The Tsurai Study Area, including all of the bluff directly below the Trinidad B&B, is accorded special protection in the City's General Plan and certified LCP. The protections for the Study Area include California Historic Landmark #838. The cultural resources in the Study Area have been accorded special protections in the Tsurai Management Plan, a multi-party agreement to which the City is a signatory party which was completely ignored in the approval of this amendment. The cultural resources of the Study Area are also separately protected pursuant to an easement retained by the California Coastal Conservancy when it transferred the property to the City. It is also protected under the City of Trinidad's General Plan Policy 69 and policy 72 Section 4.02 (C) (5). All of these provisions give this area a special status which should have been observed in this proceeding but which was in fact were ignored...

The Trinidad B&B permit amendment removes a condition intended to protect the quality of water that is discharged from seeps and springs in the bluff directly below the B&B that constitutes the Tsurai Study Area. The Study Area, which is the ancestral home of the Tsurai is used for cultural ceremonies for which fresh water is required...

This additional use of the substandard system causes contaminated overflow discharge into the bluff, and has made the Tsurai Study Area unsanitary and potentially unsafe for cultural ceremonies and other religious practices normally conducted by the lineal decendants (*sic*) of the Tsurai Village...

This appeal contention again references LUP Policies 69 and 72, ZOCT Section 4.02.C.5, and the Tsurai Management Plan as the basis for the concluded inconsistency of the approved permit amendment. As discussed in the analysis of the preceding appellate contentions, Policies 69 and 72 are presented in the LUP as being intended for limiting public recreation related onsite development and uses *within* the Tsurai Study Area and the southerly bluff face. Similarly, ZOTC section 4.02.C.5 establishes geologic investigation requirements for development occurring *within* Open Space zoning districts. As the development is occurring outside of these areas in an adjoining Planned Development zoning district, these cited provisions would not be applicable to the subject permit condition modifications. With regard to the Tsurai Management Plan, notwithstanding the multi-party management basis of the plan wherein direct involvement of the City is identified, the management plan has not been certified as a part of the LCP. Consequently, the inconsistency with any of the provisions of the management plan would not provide a valid basis on which to base an appeal contention.

Moreover, even if the appellant has provided specific information to establish that the effluent originating from the bed and breakfast inn site has any impacts on the Tsurai Study Area, there is no evidence that direct adverse impacts to water quality at the beach seep locations would be caused by or made worse by the onsite wastewater treatment system in place at the *Trinidad Bay*

Bed and Breakfast. The Commission's Water Quality Unit has reviewed the bacteriological water samples taken in 2008 through 2012 in the Trinidad area as part of the Clean Beaches Initiative and Proposition 50 grant programs. These samples revealed the presence of pathogens exceeding state standards of exposure for recreational activities at the creek outlets well to the east of the inn, with far lower levels measured near the seeps within the Tsurai Study Area, indicating no strong up-gradient coliform source. Therefore, the Water Quality Unit staff believes, that given (1) the relatively low levels of detected coliform bacteria in the beach seep areas down gradient of the inn, and the numerous possible alternative soil and overland biological sources from which the measured bacteria might originate, there is no evidence that direct adverse impacts to water quality at the beach seep locations would be caused by or made worse by the onsite wastewater treatment system in place at the *Trinidad Bay Bed and Breakfast*.

In conclusion, the Commission finds that the third contention of the appeal, that the project will negatively impact cultural resources does not have a factual basis. Therefore, the Commission finds that the appeal does not raise a substantial issue of conformance of the project as approved with coastal development review criteria of the certified LCP.

4. Inadmissibility of Permit Amendment

The appellant alleges in their fourth contention that the approved project will lessen or avoid the original permit's intent to reduce water discharges from the inn use by eliminating onsite laundering:

Under the Commission regulations regarding permit amendments (CCR 13166(a)), this amendment request would not even have been filed.

The appellant cites a section of the Commission's regulations which directs that any permit amendment that would have the effect of lessening or avoiding the intent of the original permit be rejected by the Executive Director. However, the cited section appearing in the Commission's administrative regulations addresses the processing of coastal development permit amendments. The Appellant does not allege an inconsistency of the approved amended development with the certified LCP. Therefore, the appellant's contention is not valid grounds for an appeal as set forth in Coastal Act Section 30603(b).

D. CONCLUSION

For the reasons stated above, the Commission finds that there is adequate factual and legal evidence in the record to support the City's approval of a CDP amendment for this project when it found that the project is consistent with the relevant LCP policies. In addition, the extent and scope of the development approved under the permit amendment by the City is limited in that the approved development involves changes in permit conditions that better protect coastal resources. . The Commission therefore finds that the appeal raises no substantial issue with respect to the grounds on which it was filed.

APPENDIX A

COMMISSION'S APPEAL JURISDICTION OVER THE PROJECT

On January 23, 2013, the City of Trinidad's City Council approved Coastal Development Permit Modification No. 2010-06 that authorized the removal of two conditions to Coastal Development / Conditional Use Permit No. 85-2, and the imposition of five alternative conditions, for use of an existing two-story, five bedroom residence as a bed and breakfast inn, at 560 Edwards Street, Trinidad, Humboldt County (APN 042-101-07).

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits (Coastal Act Section 30603). Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea, or within 300 feet of the inland extent of any beach, or of the mean high tide line of the sea where there is no beach, or within 100 feet of any wetland or stream, or within 300 feet of the top of the seaward face of any coastal bluff, or those located in a sensitive coastal resource area. Finally, developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by the local government. The grounds for an appeal are limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program and, if the development is located between the first public road and the sea, the public access policies set forth in the Coastal Act.

The subject development is appealable to the Commission pursuant to Section 30603 of the Coastal Act because the approved development is located within 300 feet of the top of the seaward face of a coastal bluff. The project site is a bluff-top parcel, and the approved development is located more than 40 feet but less than 300 feet from the bluff edge. Therefore, the subject development is appealable to the Commission pursuant to Section 30603(a)(1) of the Coastal Act. Coastal Act Section 30603(b) limits the grounds for any such appeal to a project so situated to allegations that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in the Coastal Act.

The City issued a Notice of Final Action, which was received at the Commission's North Coast District Office on January 28, 2013 (Exhibit No. 6). Section 13573 of the Commission's regulations allows for appeals of local approvals to be made directly to the Commission without first having exhausted all local appeals when, as here, the local jurisdiction charges an appeal fee for the filing and processing of local appeals.

One appeal was filed with the Commission's North Coast District Office on February 11, 2013 from the Tsurai Ancestral Society (Exhibit No. 5). The appeal was filed in a timely manner, within 10 working days of receipt by the Commission of the City's Notice of Final Action.

APPENDIX B

**COASTAL ACT AND CITY OF TRINIDAD LOCAL COASTAL PROGRAM POLICIES
CITED OR IMPLIED IN THE APPEAL
AND IN THE SUBSTANTIAL ISSUE ANALYSIS**

1. CITED COASTAL ACT ADMINISTRATIVE REGULATIONS PROVISIONS (TITLE 14: NATURAL RESOURCES, DIVISION 5.5, CALIFORNIA CODE OF REGULATIONS)

§ 13166. Amendments to Permits Other Than Administrative Permits.

(a) The executive director shall reject an application for an amendment to an approved permit if he or she determines that the proposed amendment would lessen or avoid the intended effect of an approved or conditionally approved permit unless the applicant presents newly discovered material information, which he could not, with reasonable diligence, have discovered and produced before the permit was granted.

(1) An applicant may appeal the executive director's determination to the commission. The appeal must be submitted in writing and must set forth the basis for appeal. The appeal must be submitted within 10 working days after the executive director's rejection of the amendment application. If timely submitted, the executive director shall schedule the appeal for the next commission hearing or as soon thereafter as practicable and shall provide notice of the hearing to all persons the executive director has reason to know may be interested in the application.

(2) If the commission overturns the executive director's determination, the application shall be accepted for processing in accordance with subsection (c) below.

(b) For those applications accepted, if the executive director determines that a proposed amendment has the potential for adverse impacts, either individually or cumulatively, on coastal resources or public access to and along the shoreline, the amendment shall be deemed a material amendment to the permit. Material amendments shall be processed in accordance with subsection (c) below. If the executive director determines that the proposed amendment is immaterial, notice of such determination including a summary of the procedures set forth in this section shall be posted at the project site and mailed to all persons the executive director has reason to know may be interested in the application.

(1) If no written objection to a notice of immaterial amendment is received at the commission office within ten (10) working days of mailing notice, the determination of immateriality shall be conclusive and the amendment shall be approved.

(2) If a written objection to notice of an immaterial amendment is received within ten (10) working days of mailing notice, and the executive director determines that the objection does not raise an issue of conformity with the Coastal Act or certified local coastal program if applicable, the immaterial amendment shall not be effective until the amendment and objection are reported

to the commission at its next regularly scheduled meeting. The executive director shall include a copy of the letter(s) of objection to the commission with the report. If any three (3) commissioners object to the executive director's designation of immateriality, the amendment application shall be referred to the commission for action as set forth in subsection (c) below. Otherwise, the immaterial amendment shall become effective.

(3) If a written objection to notice of an immaterial amendment is received within ten (10) working days of mailing notice, and the executive director determines that the objection does raise an issue of conformity with the Coastal Act or a certified local coastal program if applicable, the immaterial amendment application shall be referred to the commission for action as set forth in subsection (c) below.

(c) If the executive director determines that the proposed amendment is material, the application shall be referred to the commission in accordance with the procedures of Subchapter 1. The commission shall approve the amendment if it finds, by a majority vote of the membership present, that the development as amended conforms with the policies of Chapter 3 of the Coastal Act or with a certified local coastal program if applicable. The commission may approve the amendment subject to reasonable conditions. The decision shall be accompanied by findings in accordance with Section 13096.

(d) The procedures specified in this section shall apply to amendments of permits which were previously approved on the consent calendar unless the commission adopts expedited procedures for amendments to such permits.

(e) The procedures specified in this section shall apply to applications for amendments of permits issued under the California Coastal Zone Conservation Act of 1972, except as specified in Public Resources Code section 30609.

2. CITED LCP POLICIES AND STANDARDS

A. Land Use Plan Policies

Chapter III Development Options and Preferences...

Public Recreation...

69. Within the Tsurai Study Area, shown on Plate IB , the State Historic Preservation Officer, in cooperation with the lineal descendants of Tsurai and the Northwest Indian Cemetery Protective Association, shall investigate and establish definitive boundaries around Tsurai. There shall be no disturbance, vegetative removal or construction, except for a protective fence around the burial ground, on lands designated as Open Space within the Tsurai Study Area without the approval of the lineal descendants of Tsurai, Trinidad Rancheria, City of Trinidad, and the State Historic Preservation Officer. Lands designated as Special Environment within the Study Area may be developed as provided in the Special Environment regulations provided the State Historic Preservation Officer is

consulted and reasonable measures are required to mitigate any adverse impacts on this cultural resource.

72. The beaches and sea cliffs which border the southern and western sides of the city (identified as Open Space) shall be preserved from further development and allowed to remain in their present, essentially natural, state.

B. Implementation Plan Standards

Zoning Ordinance of the City of Trinidad Provisions

Sec. 4.02. Open Space or OS Zone

The open space zone is intended to be applied to areas designated open space in the Trinidad General Plan. 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 regulations of development in areas affected by geologic instability, steep slopes, tsunami and flood hazards. The following regulations shall apply in all open space zones:...

C. Other Regulations...

5. Cultural resources: Within the portion of the Tsurai Study Area zoned Open Space, any soil disturbance, removal of vegetation, placement of temporary or permanent structures, or establishment of a use identified in Subsection A1 shall require a use permit. Except for a fence to protect burial grounds, no soil disturbance, removal of vegetation, structural improvements or use shall be permitted unless it has been approved by the Trinidad City Council, the State Historic Preservation Officer, the Trinidad Rancheria and the lineal descendants of Tsurai...

3. INFERRED LCP POLICIES AND STANDARDS

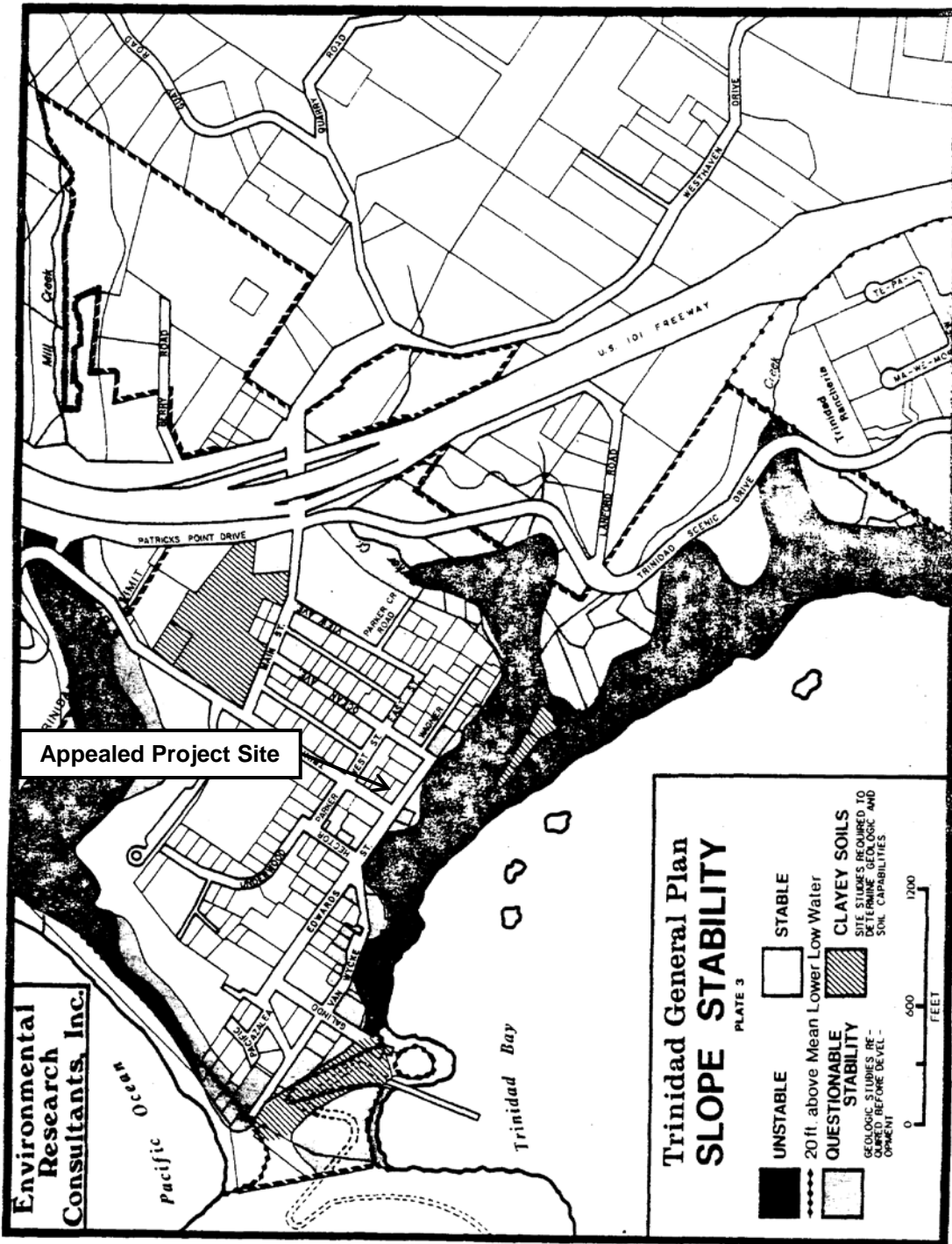
A. LUP Policies

Chapter II *Constraints of Development ...*

Unstable Slopes...

3. Structures, septic tank systems, and driveways should not be located on unstable lands. Structures, septic tank systems, and driveways should only be permitted on lands of questionable stability, or within 100 feet upslope of unstable lands or lands of questionable stability, if analysis by a registered geologist indicates that the proposed development will not significantly increase erosion, slope instability or sewage system failure. The area reserved for the backup leach field should be given equal consideration.*

* The areas in the city where studies by a registered geologist are required by this policy are identified on Plate 3. Outside of the city limits the areas where such studies are necessary are identified by a boundary 100 feet upslope of the upland extent of unstable lands and lands of questionable stability as identified on the Geologic Limitations Map in the Environmental Conditions and Constraints Report.



Soil Characteristics

9. Areas with soils limitations for septic tanks can be designated for low density development provided adequate site analysis, system installation, and maintenance necessary to prevent degradation of water quality and public health is required by responsible governmental agencies.

Chapter III *Development Options and Preferences...*

Public Recreation...

Activities available to local residents include recreational and educational programs at the elementary school, fraternal organization activities, sport fishing, beachcombing, and so on. Fishing is the primary reason visitors come to Trinidad. Visitors who do not fish enjoy sightseeing, berry picking eating out, beachcombing, hiking, picnicking, visiting the marine lab, and just relaxing at their lodgings or camp sites. Publically owned recreation areas include the school and its playground areas, the City Hall (which is used for social and fraternal functions), the adjacent tennis court, and Trinidad Beach State Park, Luffenholtz Beach County Park and Clam Beach County Park are located just south of the planning area. Patricks Point State Park is located seven miles north of the city.

In addition to public access to the beaches available in State Parks, there is public access to the harbor and nearby beaches via Edwards Street and an informal trail system down Galindo Street and along Parker Creek. The coastal bluffs behind the beaches are generally unstable and provide a scenic backdrop for the beachfront environment. Except for a few residences located on small benches or behind the bluff tops, these beachfront areas have been preserved in a natural state by the owners. The portion of Tsurai village that was last inhabited, and its associated burial ground, are generally located in the area south of Edwards Street between Hector Street and Ocean Avenue. The descendants desire to have the village and associated burial ground defined and protected.

Protection of open space areas and retention of scenic and natural characteristics along the Trinidad shoreline is a matter of continuing public concern. With few exceptions these lands are unstable bluffs and are unsuitable for intensive park development or intensive public recreational use. Government ownership is the most restrictive means for protecting these natural hazard and scenic beachfront areas, and places the entire burden of management and maintenance on the public. There are other effective means of gaining the desired protection, such as open space easements, which would reduce public costs, and eliminate the potential for inappropriate intensive public use.

B. *Zoning Ordinance of the City of Trinidad Provisions*

Sec. 4.03. Special Environment or SE Zone

The Special Environment zone is intended to be applied to areas designated as special environment in the Trinidad General Plan. The purpose of this zone is to maximize preservation

of the natural and scenic character of these areas through minimizing alteration of natural land forms and vegetation and limiting the extent of development in areas affected by geologic instability, steep slopes, tsunami and flood hazards on the basis of on-site investigations. It is intended that development not be visible from public viewpoints more than necessary and that it have a natural appearance. The following regulations shall apply in all special environment zones:

C. Other Regulations...

8. Requirements in Tsurai Study Area: Within the Tsurai Study Area as defined in the Trinidad General Plan, development shall be sited and designed and reasonable mitigation measures shall be required to minimize adverse impacts on this cultural resource. The State Historic Preservation Officer shall be afforded the opportunity to identify the archeological and paleontological resources within the Tsurai Study Area and to suggest mitigation measures prior to approval of any development in the Study Area...

10. Determination of development feasibility: A report by a registered geologist or professional civil engineer with expertise in soils or foundation engineering, or by a certified engineering geologist shall be provided at the applicant's expense as part of an application for a permanent structure, septic disposal system, driveway, parking area, or other use permitted in the SE zone within the unstable and questionable stability areas shown on Plate 3 of the general plan. Before the planning commission approves a development, it shall determine that the proposed development will not significantly increase erosion and slope instability and that any potential adverse impacts have been mitigated to the maximum extent feasible.
 - a) The report shall be based on an on-site inspection in addition to a review of the general character of the area using a currently acceptable engineering stability analysis method. The report shall take into consideration all potential impacts, including but not limited to impacts from construction activities such as grading, drainage (from septic leach fields, on-site water use, increased runoff from impervious surfaces), roadways, and vegetation disturbance.
 - b) The report shall contain a professional opinion stating the following:
 1. The area covered in the report is sufficient to demonstrate the geotechnical hazards of the site consistent with the geologic, seismic, hydrologic and soil conditions at the site;
 2. The extent of potential damage that might be incurred by the development during all foreseeable normal and unusual conditions, including ground saturation and shaking caused by the maximum credible earthquake;
 3. The effect the project could have on the stability of the bluff;
 4. How the project can be designed or located so that it will neither be subject to nor contribute to significant geologic instability through the lifespan of the project;

5. A description of the degree of uncertainty of analytical results due to assumptions and unknowns.

Sec. 4.07. Planned Development or PD Zone

The planned development zone is intended to be used in areas designated as planned development in the General Plan. These areas are either residential areas where limited commercial activity may be appropriate uses to the site and to surrounding uses. Limited commercial uses, including visitor accommodations, visitor services, recreational uses, offices, gift shops and personal services may be appropriate...

A. Uses permitted with a use permit...

2. Motels, inns, gift shops, restaurants (not drive-in), personal services, professional offices, retail sales and visitor services...

B. Other regulations...

2. Maximum density: The number of dwelling units permitted shall be determined by dividing the net development area by 8,000 square feet. Net development area shall be determined by subtracting the area devoted to commercial uses including yards, open space, parking and access roads serving commercial uses, and areas over 30% slope. If septic tanks are the intended means of wastewater disposal, density shall be based on soil suitability and the requirements of the city's wastewater disposal regulations...

6. Application procedure: The applicant shall submit three copies of the following information to the city clerk:

A. A map to scale showing:

1. Division of the land for the sale of individual lots, if any;
2. Existing contours at intervals of not less than five feet and location of trees and other significant natural features;
3. Proposed automobile and pedestrian accessways;
4. Areas proposed to be reserved for common open space;
5. Location of commercial uses, dwellings, related off-street parking and any other proposed uses with dimensions showing building size, setbacks and yard areas;
6. Proposed landscaping, fencing and screening;
7. Provision for drainage of surface waters;

B. A tabulation of total number of acres and percent thereof designated for various uses, the number of dwelling units proposed by type, and the estimated population by type of dwelling;

C. A statement setting forth a program for installation and maintenance of parking areas, lighting, courts, public and private grounds, landscaping, streets, utilities,

- community buildings and common open space including copies of legal documents;
- D. Building elevations to scale, and a statement of design principles for structures and streetscapes;
 - E. Such additional information as may be required by the planning commission;
 - F. An initial environmental study which satisfies the requirement of the California Environmental Quality Act and city regulations adopted pursuant thereto.

Within 30 days of submittal, the applicant, interested staff and the planning commission shall meet to discuss the proposed development. A letter shall be transmitted by the city clerk within five working days after the meeting to the applicant indicating whether or not the proposal conforms with the general plan, zoning and subdivision titles and other applicable city regulations. If the applicant wishes to proceed, a use permit application shall be submitted to the city clerk. The application shall include seven copies of the information required above and a legal description of the property. If, after following the procedures in Chapters 17.60 through 17.68 TMC regarding consideration of use permit applications, the planning commission approves, or approves subject to conditions, the plan and any conditions shall be forwarded to the city council for consideration and the use permit shall not become effective until 10 days following approval by the city council. Unless changes are approved by the city council after receiving a recommendation from the planning commission, all aspects of the planned development shall conform to the approved development plan, which shall be made a part of the use permit. Use permits may specify a development completion period of not more than three years at which time the use permit shall expire unless the applicant obtains the one-year extension.

Article 6. General Provisions and Exceptions.

Sec. 6.19 Design review and view preservation regulations

The following regulations shall apply in all zones:...

- D. View protection criteria. The design assistance committee shall be guided by the following criteria when evaluating the impact of new development in Area A [portion of the City west of Highway 101] on public and private vistas of important scenic attractions...
 - 5. The Tsurai Village site, the Trinidad Cemetery, Holy Trinity Church and the Memorial Lighthouse are important historic resources. Any landform alteration or structural construction within 100 feet of the Tsurai Study Area as defined in the Trinidad General Plan or within 100 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.

Article 7. Procedures and Administration.

Sec. 7.09. Conditional use permit findings

A conditional use permit may be granted for any use listed as a conditional use in the applicable zone if the facts establish and written findings are adopted showing:

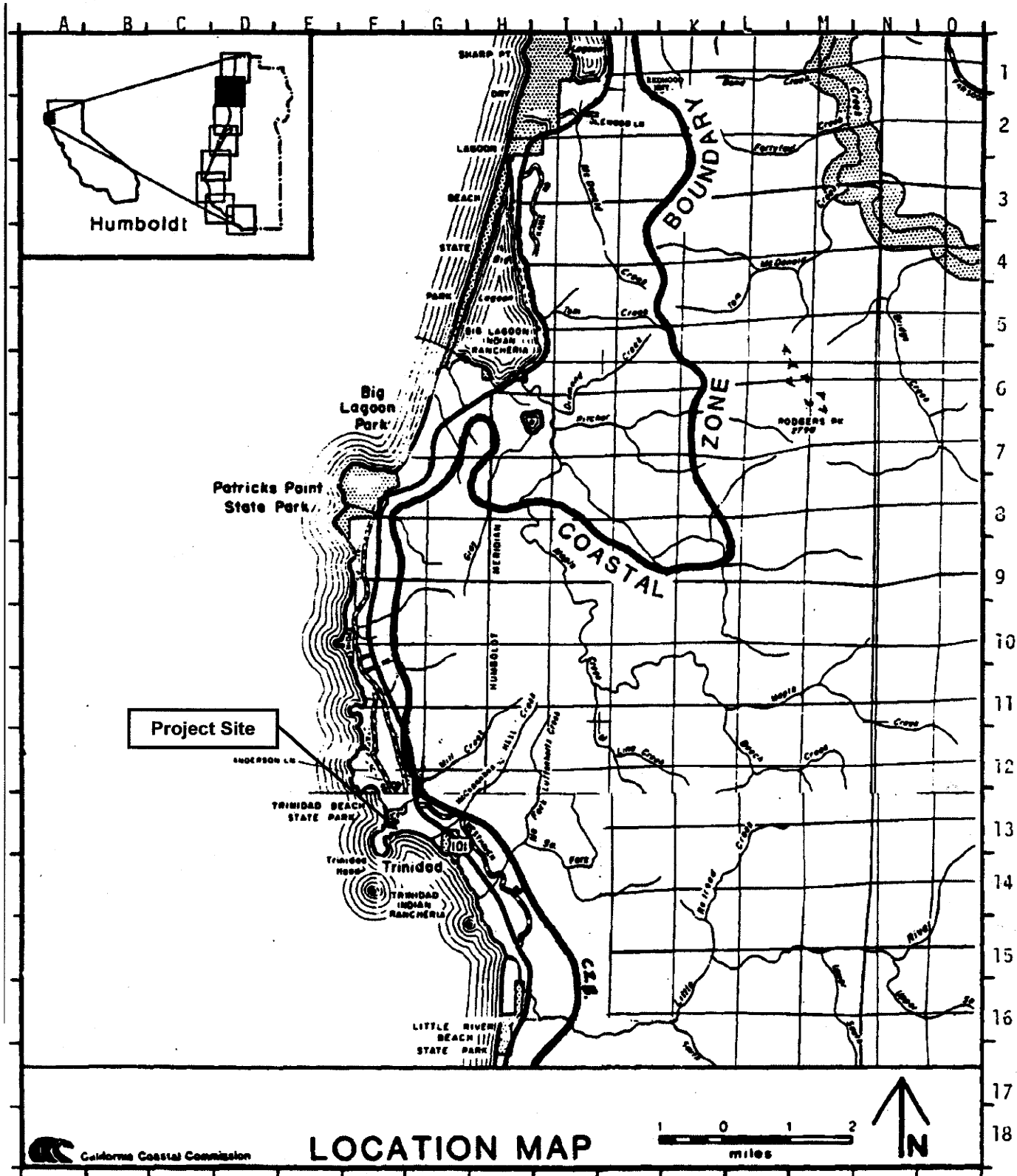
- A. That the proposed use at the size and intensity contemplated, and at the proposed location, will provide a development that is necessary or desirable (*sic*) for, and compatible with, the neighborhood or the community; or:
- B. That such use as proposed will not be detrimental to the health, safety, 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;
 - 2. The accessibility and traffic pattern for persons and vehicles, and the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;
 - 3. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;
 - 4. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs; and
- C. That such use or feature as proposed will comply with the applicable provisions of this ordinance, 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.
- 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.
- E. When the subject property is located between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline where there is no beach, whichever is the greater, that:
 - 1. The development provides adequate physical access or public or private commercial use and does not interfere with such uses.
 - 2. The development adequately protects public views from any public road or from a recreational area to, and along, the coast.
 - 3. The development is compatible with the established physical scale of the area.
 - 4. The development does not significantly alter existing natural landform.
 - 5. The development complies with shoreline erosion and geologic setback requirements.

Sec. 7.12 Coastal development permits.

- A. In conformance with Public Resources Code Section 30600, in addition to any other approval or permit required under this title, and except as otherwise required under this

ordinance, and except as otherwise required by the Trinidad Subdivision Ordinance Sec. 4.14, Grading Ordinance Sec. 2.3 or Building Regulation Ordinance Sec. 302 (e) or as specifically excluded in subpart (b) below, a coastal development permit shall be required for any proposed use, building or other development as defined in California Public Resources Code Section 30106. Upon approval of all required variances, conditional use permits or design review for any proposed use or building, a coastal development permit shall be deemed approved and shall take effect 10 working days after the Coastal Commission receives notification unless within that time the approval is appealed to the city council.

If a coastal development permit is appealed to the city council, notice as prescribed in Section 7.07 for a conditional use permit shall be provided by the city clerk to all interested persons and the Coastal Commission. Approval of coastal development permit by the city council on appeal shall become effective 10 working days after notice of approval and adoption of findings are received by the Coastal Commission. If a valid appeal is filed with the Coastal Commission within that time, the city approval shall be of no force and effect until the appeal has been decided by the Coastal Commission. Within five working days of receipt of notice from the Coastal Commission of the filing of a valid appeal, the city clerk shall deliver to the Commission staff all relevant documents and materials used by the planning commission and city council in their deliberations. Appeal of a coastal development permit to the Coastal Commission shall be deemed valid if the appellant has exhausted all appeals as provided herein.



LOCATION MAP

County of Humboldt

EXHIBIT NO. 1
 APPEAL NO.
 A-1-TRN-13-007
 MORGAN
 LOCATION MAP

P A C I F I C O C E A N

EXHIBIT NO. 2
APPEAL NO.
A-1-TRN-13-007
MORGAN
VICINITY MAP



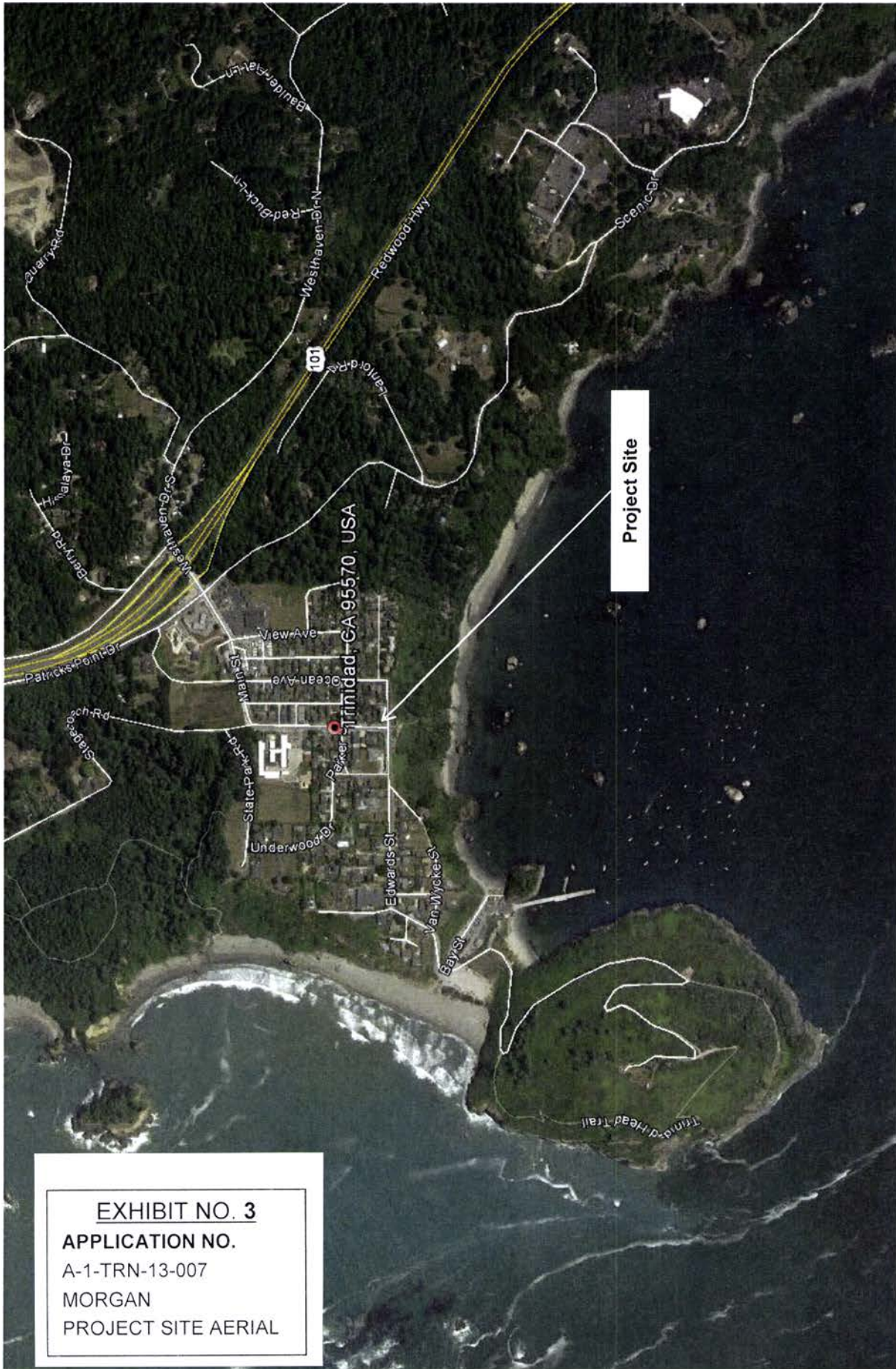
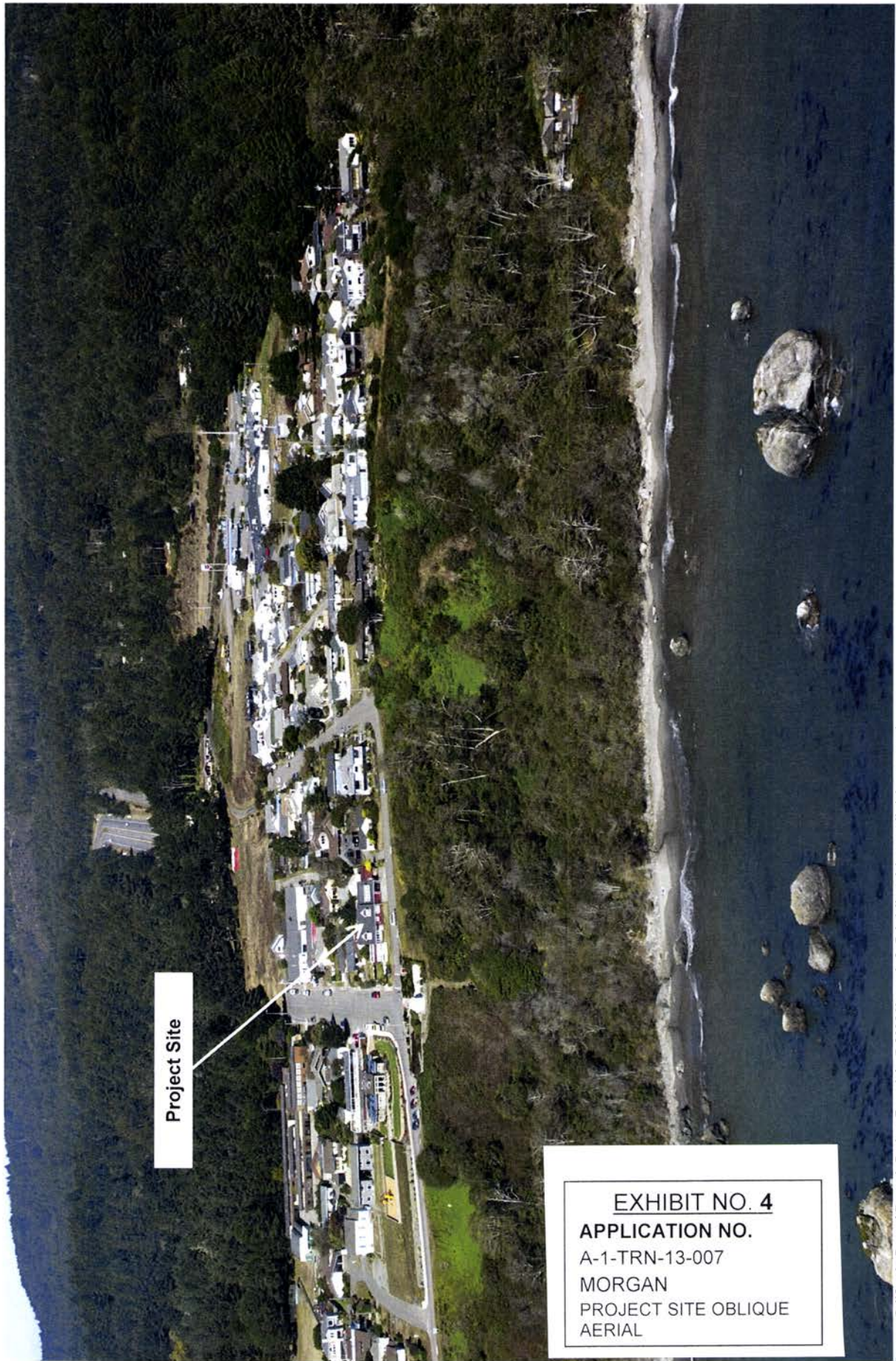


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Project Site

EXHIBIT NO. 4
APPLICATION NO.
A-1-TRN-13-007
MORGAN
PROJECT SITE OBLIQUE
AERIAL

Image: California Coastal Records Project Copyright © 2005 Kenneth & Gabrielle Adelman. All rights reserved.

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE

710 E STREET, SUITE 200

EUREKA, CA 95501

VOICE (707) 445-7833 FAX (707) 445-7877



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Tsurai Ancestral Society

Mailing Address: [Redacted]

City: Trinidad, CA

Zip Code: 95570

Phone: 707-845-3790

SECTION II. Decision Being Appealed

1. Name of local/port government:

Trinidad City Council

2. Brief description of development being appealed:

Modification of an existing conditional use permit for the Trinidad Bay Bed and Breakfast to remove two conditions previously placed on the original project approved in 1982 that (1) a commercial lunch service must be used, and (2) that the use permit will be suspended if the septic system were to fail. The Trinidad City Council removed the current two conditions in favor of four conditions as outlined in the staff report written by City Planner Trevor Parker.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Michael Morgan 560 Edwards Street Trinidad, CA 95570. Parcel # 042-101-07.

4. Description of decision being appealed (check one):

- Approval; no special conditions
Approved with special conditions
Denial

RECEIVED FEB 11 2013 CALIFORNIA COASTAL COMMISSION

EXHIBIT NO. 5 APPLICATION NO. A-1-TRN-13-007 MORGAN FILED APPEAL (1 of 5)

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION: APPEAL NO: A-1-TRN-13-007 DATE FILED: 2/11/13 DISTRICT: North Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
 City Council/Board of Supervisors
 Planning Commission
 Other

6. Date of local government's decision: January 23, 2013

7. Local government's file number (if any): 2010-06 (application number)

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Michael Morgan, Trinidad Bay Bed and Breakfast 560 Edwards Street Trinidad, CA 95570.

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Kim Tays 487 Vicw Avenuc Trinidad, CA 95570

(2) Pat Morales 864 Edwards Street Trinidad, CA 95570

(3) Ralph Faust 2727 Graham Road Arcata, CA 95524

(4)

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

REASONS SUPPORTING APPEAL

1) The Trinidad B&B permit amendment removes a condition intended to protect the geologic stability of the bluff directly below the B&B that constitutes the Tsurai Study Area. At least three separate geologic investigations by three separate consultants have confirmed this instability, and the danger caused by hydrologic overloading of the bluff. The purpose of the original condition was to prevent the operation of the laundry component of the B&B from contributing to this potentially catastrophic problem, and there is no evidence in the record, either from the applicant or from anyone else, to suggest that these conditions have changed since the permit was issued or that the problem no longer exists. Under the Commission regulations regarding permit amendments (CCR 13166 (a)), this amendment request would not even have been filed. Despite this condition, or perhaps because it was ignored, the septic system for the B&B failed several years later. When the County Health Department issued its repair permit, the cover letter of 12/15/88 included the following language:

“Please be advised that the repair does not meet current standards for leach field or septic system designs and cannot be expected to have a life span which is adequate to the life of the building with its existing use. In order to make any septic system last as long as possible, the Health Department recommends that you minimize both water usage and solids input into the system... We recommend further that you take steps to minimize wastewater flows.”

Approval of the amendment without supporting evidence regarding changes in the geologic conditions is in violation of the City's Municipal Code Zoning Ordinance 17.20.103, the Coastal Act and City of Trinidad's General Plan Policy 72 Section 4.02 (C) (5), as well as General Plan Policy 69.

2) The Trinidad B&B permit amendment removes a condition intended to protect the quality of water that is discharged from seeps and springs in the bluff directly below the B&B that constitutes the Tsurai Study Area. The Study Area, which is the ancestral home of the Tsurai, is used for cultural ceremonies for which fresh water is required. The Trinidad B&B has a substandard septic system that was “grandfathered” in at the time of approval, subject to the condition not to overburden that system with the additional fluid that would result from a laundry operation at the B&B. The B&B owner has openly admitted that he has been violating this condition. This additional use of the substandard septic system causes contaminated overflow discharge into the bluff, and has made the Tsurai Study Area unsanitary and potentially unsafe for cultural ceremonies and other religious practices normally conducted by the lineal descendants of the Tsurai Village. Approval of the amendment without

3 of 5

supporting evidence or the installation of a new updated septic system is in violation of the City's Municipal Code Zoning Ordinance 17.20.103 and the Coastal Act.

The Tsurai Study Area, including all of the bluff directly below the Trinidad B&B, is accorded special protection in the City's General Plan and certified LCP. The protections for the Study Area include California Historic Landmark #838. The cultural resources in the Study Area have been accorded special protections in the Tsurai Management Plan, a multi-party agreement to which the City is a signatory party, which was completely ignored in the approval of this amendment. The cultural resources of the Study Area are also separately protected pursuant to an easement retained by the California Coastal Conservancy when it transferred the property to the City. It is also protected under the City of Trinidad's General Plan Policy 69 and policy 72 Section 4.02 (C) (5). All of these provisions give this area a special status which should have been observed in this proceeding but which was in fact ignored.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

So Signature on File

Signature of Appellant(s) or Authorized Agent

Date: 02/11/2013

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

595

FROM: CITY OF TRINIDAD, PO BOX 390, TRINIDAD, CA 95570

TO: COASTAL COMMISSION
DIVISION OF ENVIRONMENTAL HEALTH
APPLICANT

RECEIVED

JAN 28 2013

CALIFORNIA
COASTAL COMMISSION

NOTICE OF ACTION TAKEN

LOCAL PERMIT # 2010-06
APPLICANT: Michael Morgan
 P.O. Box 1115, Trinidad, CA 95970
AGENT: NA
AP # 042-101-07
PROJECT LOCATION: 560 Edwards St., Trinidad, CA 95570

THE CITY COUNCIL TOOK FINAL ACTION FOR THE FOLLOWING PROJECT AT THEIR SPECIALLY SCHEDULED MEETING OF JANUARY 23, 2013:

Morgan 2010-06: Reconsideration of the modification of an existing Conditional Use Permit for the Trinidad Bay Bed and Breakfast to remove two previous conditions placed on the original project approval in 1985 that (1) a commercial linen service must be used and (2) that the use permit will be suspended if the septic system were to fail.

THE CITY _____ APPROVED
 _____ **X** **CONDITIONALLY APPROVED**
 _____ DISAPPROVED

The final staff report, required findings, maps and any conditions placed on the project approval are attached as needed.

Planning Commission action on a Coastal Development Permit, Design Review, Conditional Use Permit or a Variance will become final 10 working days after the date that the Coastal Commission receives this "Notice of Action Taken" from the City, unless an appeal to the City Council Coastal Commission is filed within that time.

Furthermore, this project is X / is not _____ appealable to the Coastal Commission per the City's certified LCP, and may be appealable per the requirements of Section 30603 of the Coastal Act.

TREVER PARKER
PLANNER, CITY OF TRINIDAD
DATE: January 24, 2013

EXHIBIT NO. 6
APPLICATION NO.
A-1-TRN-13-007
MORGAN
NOTICE OF FINAL LOCAL
ACTION (1 of 18)

DISCUSSION AGENDA

Date: January 23, 2013

Item: Continued (from November 2012) Consideration of Request to Remove Existing Conditions and Place New Conditions on Trinidad Bay Bed and Breakfast

Background: The matter of removing conditions on the Trinidad Bay Bed and Breakfast was considered and approved by the Planning Commission in July 2010 as a recommendation to the City Council based on the fact that the proposed conditions would provide a better protection against the failure of the septic system than the existing conditions. The matter was then considered by the City Council in August 2010 with a resulting action "to deny Morgan's request to have the conditions removed, and maintain the current requirements and conditions as placed on the B&B in 1985. However, if future water quality testing on the bluff yields negative septic impacts then the city may reconsider the request. Conditions will be enforced based on trust and good faith that the owner will comply. "

Mr. Morgan has requested reconsideration of the modification of the previously approved use permit to remove / alter the conditions of approval. This issue was discussed at the November Council meeting at a noticed public hearing. At that meeting, limitations on water use were being considered, including limiting monthly use and / or requiring installation of low-flow fixtures. It appears that most agree that the proposed conditions provide better protection and oversight of the septic system than the existing conditions, but that water use (and its relationship to bluff stability) has not been adequately addressed in the proposed conditions. Though it does not appear that this was an issue that was of concern in 1985 when the use permit was originally granted, it is of concern today.

With regard to the current two conditions, Planner Parker's July 2010 staff report advised as follows:

Condition (1): The condition to use a commercial linen service was not based on any real data or professional recommendation. The condition was intended to reduce the amount of water going into the system in order to reduce the workload on the system; however, there is no restriction to the property owner simply taking the laundry to his adjacent property and doing the wash there or somewhere else nearby. This does not reduce the amount of water going into the ground in general. As worded, this condition is difficult to enforce. It also does not reduce the amount or type of water or other waste going into the system from other discharges in the bed and breakfast; therefore minimal protection of the system is provided by this condition.

Condition (2): The condition to cease business if the septic system fails is covered by other laws / regulations, and the Department of Health has no issue with removal of this condition.

The Planning Commission (with concurrence from the County Health Department), determined that there are better ways to protect the system than requiring a commercial linen service. For that reason, even though the two original conditions were recommended for removal, additional conditions were recommended to be put into place. Those three conditions were:

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1. The property owner shall have the septic system inspected annually during the wet weather season and the results provided to the Department of Health (DEH) and the City each year. This inspection schedule may be modified under implementation of the City's On Site Wastewater Treatment System (OWTS) Management Program with written approval from DEH.
2. The owner recognizes that if the septic system fails, steps will be taken by the City and/or DEH to rectify the situation, which will include suspension of the Use Permit or temporary closure of the business until the system is repaired to the satisfaction of DEH.
3. The next annual inspection, to occur in the upcoming wet season, shall conform to the requirements for a performance inspection under the City's OWTS Management program verifying the function of the entire system, including the leachfield and confirming the presence or absence of an effluent filter. If an effluent filter is not already installed, one shall be installed at the time of inspection.

Staff feels, with concurrence from DEH, that the above three conditions provide better protection and assurance against failure of the septic system than the existing conditions. The above three conditions are also easier to enforce. However, they do not address actual water use.

Groundwater saturation has been identified by various geologic reports and studies as a major factor in bluff stability around the City. That concern has been brought up as an issue for this business in relation to its water use. The relationship and patterns between the importation of water through septic systems and the lack of infiltration of rainwater and runoff from impervious surfaces are not fully understood. Domestic water use, particularly by any one business, has not been shown to be a direct threat to slope stability, but could be a consideration in this case. At the last meeting, the Council asked staff to work with the applicant to develop a mutually agreeable solution to limit water use at the bed and breakfast in order to address this issue.

One basis for limiting water use would be to consider the design of the septic system. Septic systems are sized and designed based on soil conditions and the type of use or number of bedrooms for residences. When sizing a residential system, DEH relies on an assumed daily water use of 150 gallons per day per bedroom. A 5-bedroom system would have to be designed to accommodate an average of 22,813 gallons per month, or 3,062 cubic feet. However, even though the system was approved for a 5-bedroom residence and for use as a bed and breakfast, it does not meet current standards for new construction, and the leach lines in particular may not long enough to provide adequate treatment for that volume of water. Therefore, that number should be considered too high.

Between July 2011 and June 2012, the bed and breakfast utilized an average of 1,915 cubic feet of water per month. This equates to approximately 2/3 of the design capacity of the septic system, which seems reasonable given its age. This is also comparable to other nearby structures: Eatery - 3,295 cu. ft.; apartments - 1,660 cu. ft.; 570 Trinity - 3,040 cu. ft.; 475 Wagner - 1,423 cu. ft.; 584 Ocean - 589 cu. ft.; 565 Trinity - 1,524 cu. ft.; 730 Edwards - 1,133 cu. ft.; 586 Hector - 291 cu. ft. Note many of the nearby residences and business have relatively high water use. Overall, the average residential water use in the City is approximately 530 cu. ft. per month.

Proposed Action: Remove the current two conditions in favor of three conditions as outlined in the July 8, 2010 staff report from Planner Parker and as restated above. Also, based on the current water use, surrounding water use and the septic system capabilities, add a fourth condition that water use on the property be limited to an average of 2,000 cubic feet per month on an annual basis.

Attachments:

August 11, 2010 Council agenda report with the following attachments:

- July 8, 2010 staff report from Trever Parker
- July 5, 2010 Application Referral Form from County Health Department indicating no objection to removal of the off site laundry requirement condition.
- Proof of work done on septic system.

Final Action:

The City Council accepted staff's recommendation with a unanimous vote (4-0) with the added condition that water use data and septic inspection results be kept on file in the City and available to the public.

Final Conditions:

1. The property owner shall have the septic system inspected annually during the wet weather season and the results provided to the Department of Health (DEH) and the City each year. This inspection schedule may be modified under implementation of the City's On Site Wastewater Treatment System (OWTS) Management Program with written approval from DEH.
2. The owner recognizes that if the septic system fails, steps will be taken by the City and/or DEH to rectify the situation, which will include suspension of the Use Permit or temporary closure of the business until the system is repaired to the satisfaction of DEH.
3. The next annual inspection, to occur in the upcoming wet season, shall conform to the requirements for a performance inspection under the City's OWTS Management program verifying the function of the entire system, including the leachfield and confirming the presence or absence of an effluent filter. If an effluent filter is not already installed, one shall be installed at the time of inspection.
4. Water use on the property shall be limited to an average of 2,000 cubic feet per month on an annual basis.
5. Water use data and septic inspection results shall be kept on file in the City and available to the public.

DISCUSSION/ACTION AGENDA ITEM X.1

Date: August 11, 2010

Item: PLANNING APPLICATION 2010-06 REGARDING THE REQUESTED REMOVAL OF CONDITIONS ON THE TRINIDAD BAY BED AND BREAKFAST

Background: In 1985, the Trinidad Planning Commission and the City Council approved a request to establish a bed and breakfast inn at the residence at 560 Edwards Street. The approval included two conditions, and the current owner has filed an application requesting that those conditions be removed.

During the public review at the Planning Commission at its July, 2010 meeting, it was pointed out that, since the original approval and conditions were placed by the City Council, it would be appropriate for the current City Council to either remove, modify, or confirm the conditions that were placed in 1985.

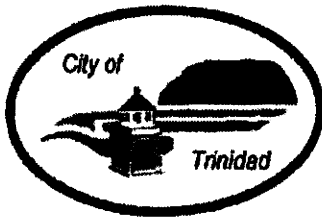
The Planning Commission did complete its discussion of the item and agreed with the applicant to remove the conditions placed in 1985. In their place, the Commission recommended three new conditions that are included on page 6 of the attached report.

The applicant will be present to express his opinions as to these new conditions.

Staff Recommendation: Approve the applicant's request to remove the 1985 conditions, and add three new conditions as recommended by the Trinidad Planning Commission.

Attachments: Staff Report dated July 8, 2010, from Trevor Parker;
Response email from the County Health Department regarding its acceptance of removal of the 1985 conditions; and
Proof of work done on the septic system at the Trinidad Bay Bed and Breakfast since the Planning Commission meeting on 7/21/10.

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Filed: July 8, 2010
Staff: Trever Parker
Staff Report: July 9, 2010
PC Hearing Date: July 21, 2010
Commission Action: Rcmd Cond'l Approval
CC Hearing Date: August 11, 2010
City Council Action:

STAFF REPORT: CITY OF TRINIDAD

APPLICATION NO: 2010-06
APPLICANT (S): Michael Morgan
AGENT: NA
PROJECT LOCATION: 560 Edwards Street
PROJECT DESCRIPTION: Modification of an existing Conditional Use Permit for the Trinidad Bed and Breakfast to remove two conditions previously placed on the original project approval in 1985 that (1) a commercial linen service must be used, and (2) that the use permit will be suspended if the septic system were to fail.
ASSESSOR'S PARCEL NUMBER: 042-101-07
ZONING: PD – Planned Development
GENERAL PLAN DESIGNATION: PD – Planned Development
ENVIRONMENTAL REVIEW: Categorically Exempt from CEQA per § 15305 of the CEQA Guidelines exempting minor alterations in land use limitations.
APPEAL STATUS:

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

STAFF COMMENTS:

Because of the nature of this request, most of the staff report discussion items do not apply, and so this is an abbreviated form of a staff report.

Background

The Bed and Breakfast was originally converted from a single-family residence in 1985 by previous owners of the property. According to file information, the project was rather controversial at the time, and residents were adverse to the idea of a commercial establishment in this location. Conditional Use Permits do not expire (unless written as such) and run with the land, meaning they transfer to new property owners. Only two conditions were placed on the original issuance of the Use Permit: (1) that "a commercial linen service must be used;" and (2) that "if the septic system fails, this permit shall be discontinued until the system is brought up to standards or replaced; a compliance check shall be made by the City Building Inspector." The applicant is requesting that both conditions be removed at this time. A discussion from staff's perspective is included below under 'sewage disposal.' Also see the letter submitted by the applicant for additional reasoning and support.

SITE CHARACTERISTICS:

The subject property is located on the corner of Trinity and Edwards Street. It is developed with a large, 5-bedroom residence and outbuildings that have previously been approved for use as a bed and breakfast. The site is generally flat, and access is from Edwards Street. The project will not result in any changes to the physical characteristics of the site.

ZONING ORDINANCE/GENERAL PLAN CONSISTENCY

A bed and breakfast is an allowable use with the granting of a use permit in the PD zone (§17.36.020). A use permit to run a 5-bedroom bed and breakfast was granted by the City in accordance with the certified Local Coastal Plan (LCP) in 1985. Within the PD Zone, all uses require a use permit (even a single-family home) and all use permits in the PD Zone must be approved by the City Council after a recommendation by the Planning Commission. The proposed project will not change any structures or the use of the property that would affect zoning, setbacks, etc.). This request could be considered a change in the intensity of the use, but still meets the requirements of the LCP. The Use Permit findings are included below, but they should be considered just in terms of removing the conditions, not the existing use as a bed and breakfast.

SLOPE STABILITY:

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

SEWAGE DISPOSAL:

Condition 1

When looking at all the facts surrounding the situation, this condition could be considered somewhat unreasonable. I can find no evidence that this condition was based on any real data or professional recommendation. There was quite a bit of involvement in this project from the County Division of Environmental Health (DEH), and they never had any objections (though they did have concerns) with the project, and this condition was not a recommendation of DEH. The septic system was upgraded in 1989 to add a larger tank and additional leachlines. However, it still does not meet current standards were a new system for a new business to be installed today, but is still better than it was in 1985. The system is being well maintained according to documentation submitted by the applicant showing pumping records from Steve's Septic Service. The current owner has the system pumped annually in order to protect it. The property does not appear to use significantly more water than neighboring properties. In addition, the condition was intended to reduce the amount of water going into the system, so there should be no restriction on the property owner taking the laundry to his adjacent property and doing the wash there. There would also be no restriction on the owner paying some other nearby resident to do the laundry, which would not reduce the amount of water going into the ground in general.

Although DEH did have some concerns since the system is undersized for the use, they determined that they had no objections to the removal of the condition to use a commercial laundry service as long as a record of an annual wet weather season inspection of the system is provided to DEH. In addition, the Planning Commission noted that the City's OWTS Management Program, that should be implemented some time this year, is designed to protect such systems as this, and will require its own rigorous inspection and maintenance schedule. The Planning Commission also included a condition to require that an effluent filter be installed if not already to protect the leachfield from keeping solids out of it.

Condition 2

The second condition placed on the project that the business must cease if the septic system fails is covered by other laws. If the system were to fail the County Division of Environmental Health (DEH) would take immediate enforcement action. This situation is also covered by the City's recent OWTS Management Program ordinance. I don't see how the condition adds any more protection or enforcement ability since other mechanism are already in place. However, this condition was a recommendation of the DEH as part of the referral process for the use permit processing in 1985. Conditions may have been different then and the County did not have as many options for enforcement. But at this point, the DEH has no issue with removing this condition.

LANDSCAPING AND FENCING:

There is no landscaping or fencing associated with this project.

DESIGN REVIEW / VIEW PROTECTION FINDINGS:

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:

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

- A. *The proposed use at the site and intensity contemplated and the proposed location will provide a development that is necessary or desirable for and compatible with the neighborhood or the community.* Response: The use of the site as a bed and breakfast has already been established. The removal of the conditions relating to the septic system will not alter the use.

- 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: There is no evidence that utilizing the existing septic system for laundry will adversely affect the function of the system.

 - 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 project will not affect traffic or parking.

 - 3. *The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;* Response: The proposed project will not involve any emissions. Other legal safeguards are already in place to protect public health and the environment should the OWTS fail or malfunction.

 - 4. *Treatment given, as appropriate, to such aspects as landscaping, screening, open space, parking and loading areas, service areas, lighting and signs;* Response: The proposed removal of conditions will not affect any of these 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*

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and will assist in carrying out and be in conformity with the Trinidad coastal program. Response: As discussed above, under the Zoning Ordinance / General Plan Consistency section, the proposed project can be found to be consistent with the City's Zoning Ordinance, General Plan and Local Coastal Program.

- D. *That the proposed use or feature will have no significant adverse environmental impact or there are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available which would substantially lessen any significant adverse impact that the actions allowed by the conditional use permit may have on the environment.* Response: Removal of conditions is exempt from CEQA per § 15305 of the CEQA Guidelines exempting minor alterations to land use limitations.
- 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 not located between the sea and the first public road, therefore the following findings are not applicable.
1. *The development provides adequate physical access or public or private commercial use and does not interfere with such uses.*
 2. *The development adequately protects public views from any public road or from a recreational area to, and along, the coast.*
 3. *The development is compatible with the established physical scale of the area.*
 4. *The development does not significantly alter existing natural landforms.*
 5. *The development complies with shoreline erosion and geologic setback requirements.*

PLANNING COMMISSION RECOMMENDATION:

Based on the above analysis, the project is 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. The Planning Commission agreed with staff's recommendation and found that the Use Permit Findings could be made, and recommended conditional approval of the project with the following motion:

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 findings in this staff report and recommend that the City Council approve the project as conditioned herein.

CONDITIONS OF APPROVAL

1. The property owner shall have the septic system inspected annually during the wet weather season and the results provided to DEH each year. This inspection schedule may be modified under implementation of the City's OWTS Management Program with written approval from DEH.
2. The owner recognizes that if the septic system fails, steps will be taken by the City and / or DEH to rectify the situation, which may include suspension of the Use Permit or temporary closure of the business until the system is repaired to the satisfaction of DEH.
3. The next annual inspection, to occur in the upcoming wet season, shall conform to the requirements for a performance inspection under the City's OWTS Management program verifying the function of the entire system, including the leachfield and confirming the presence of absence of an effluent filter. If an effluent filter is not already installed, one shall be installed at the time of inspection.

11/2/18

Attention - Pat Morales

APN: 042-101-07
DATE: July 5, 2010
APPL # 2010-06

APPLICATION REFERRAL FORM

FROM: Trever Parker, City Planner
Phone: (707) 822-5785; FAX: (707) 822-5786; email: trever@streamlineplanning.net

TO: City Engineer Building Inspector
 Co. Health Department CA Coastal Commission
 CA Department of Fish and Game U.S. Army Corps of Engineers

RE: Design Review Variance
 Use Permit Minor/Major Subdivision
 Other _____

DATE NEEDED BY: July 14, 2010 (Please call if comments cannot be prepared by this time.
Otherwise it will be assumed that you recommend approval. Please send comments to Trever Parker, City
Planner at: STREAMLINE Planning Consultants, 1062 G St, Suite I, Arcata, CA 95521)

APPLICANT: Mike Morgan

PROJECT LOCATION: 560 Edwards Street, Trinidad, CA

PROJECT DESCRIPTION: Modification of an existing Conditional Use Permit for the Trinidad Bay
Bed and Breakfast to remove a previous condition placed on the original project approval in 1985 that all
laundry must be done off-site.

**COPY
FYI**

CEQA STATUS: EXEMPT NEGATIVE DECLARATION EIR

APPEALABLE TO THE COASTAL COMMISSION? YES NO

TO BE COMPLETED BY RECIPIENT

CHECKLIST OF ITEMS NEEDING TO BE ADDRESSED: NONE

- | | | |
|--|--|--|
| 1. <input type="checkbox"/> ZONING | 7. <input type="checkbox"/> SETBACKS | 13. <input type="checkbox"/> CREEKS, WETLAND |
| 2. <input type="checkbox"/> WATER | 8. <input type="checkbox"/> SIDEWALKS | 14. <input type="checkbox"/> SURVEYS |
| 3. <input type="checkbox"/> SEPTIC | 9. <input type="checkbox"/> GRADING | 15. <input type="checkbox"/> ST. LIGHTING |
| 4. <input type="checkbox"/> ELECTRIC | 10. <input type="checkbox"/> DRAINAGE | 16. <input type="checkbox"/> HAZ MATERIALS |
| 5. <input type="checkbox"/> ACCESS | 11. <input type="checkbox"/> ENCROACHMENT | 17. <input type="checkbox"/> PUBLIC SAFETY |
| 6. <input type="checkbox"/> EASEMENTS | 12. <input type="checkbox"/> VEG. CLEARING | 18. <input type="checkbox"/> POLICE CONCERNS |
| 19. <input type="checkbox"/> OTHER _____ | | |

PROPOSED CONDITIONS OF APPROVAL, COMMENTS & RECOMMENDATIONS:

7/15/10 DEH HAS NO OBJECTION TO THE AFOREMENTIONED MODIFICATION
UNDER THE CONDITION THAT A RECORD OF AN ANNUAL INSPECTION
OF THE SEPTIC SYSTEM IS PROVIDED TO THE DIVISION OF ENV. HEALTH

COMMENTS CONTINUED: ON REVERSE SIDE ATTACHED NONE

D. Se

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#1 IN THE #2 BUSINESS!

1810 Murray Road
McKinleyville, CA 95519

Invoice

Date	Invoice #
6/1/2010	9154

Bill To
Trinidad Bed & Breakfast P.O. Box 849 Trinidad, CA 95570-0849

P.O. No.	Terms	Due Date	Location
	Net 15	6/16/2010	

Serviced	Item	Description	Qty	Rate	Amount
6/1/2010	Pump Septic-C	Pump 1500 gallons from septic tank		600.00	600.00
6/1/2010	Discounts			-25.00	-25.00

TERMS: A Finance Charge of 1.5% per month (18% per annum) will be charged on past due accounts

Total	\$575.00
Payments/Credits	\$0.00
Balance Due	\$575.00

Phone #	Fax #	E-mail
(707) 839-2270	(707) 839-2112	ssslc2112@sbcglobal.net

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#1 IN THE #2 BUSINESS!

1810 Murray Road
McKinleyville, CA 95519

Invoice

Date	Invoice #
8/3/2010	8996

Bill To
Trinidad Bed & Breakfast P.O. Box 849 Trinidad, CA 95570-0849

P.O. No.	Terms	Due Date	Location
	Net 30	9/2/2010	560 Edwards Street Trinidad

Serviced	Item	Description	Qty	Rate	Amount
8/3/2010	20" Lid-Plastic	20" Round Riser Lid	4	20.00	80.00T
8/3/2010	Riser-6x20	6" High x 20" Diameter Riser	4	20.00	80.00T
8/3/2010	4" Effluent Filter	4" Effluent Filter w/ T-Baffle Housing	1	45.00	45.00T
8/3/2010	Couple PVC S&D 4...	Couple PVC S&D 4" HxH	1	25.00	25.00T
8/3/2010	Misc. Fittings	Bags of Hydraulic cement	5	20.00	100.00T
8/3/2010	Materials-Septic NIP	Quick Concrete	2	10.00	20.00T
8/3/2010	Labor	Repair outlet pipe to install filter		145.00	145.00
8/3/2010	Labor	Water test; repaired crack on gray water tank		180.00	180.00
		Sales Tax		8.25%	28.88

TERMS: A Finance Charge of 1.5% per month (18% per annum) will be charged on past due accounts

Total	\$703.88
Payments/Credits	\$0.00
Balance Due	\$703.88

Phone #	Fax #	E-mail
(707) 839-2270	(707) 839-2112	ssslc2112@sbcglobal.net

8/16/10



#1 IN THE #2 BUSINESS!

1810 Murray Road, McKinleyville, CA 95519
(707) 839-2270 / Fax: (707) 839-2112
E-mail: sssllc2112@sbcglobal.net

Onsite Wastewater Treatment System Inspection Report

Season: Summer

Ordered by Whom: Trinidad Bed & Breakfast Date/Time Scheduled: 8/3/10 9am

Send Copy to: Same

Fax to: _____

Site Address: 560 Edwards Street
Trinidad

Billing Address: P.O. Box
849
Trinidad

Phone: 845-9040

Phone: 477-0840

A. General Information: (Obtain as much as possible when inspection ordered)

- 1.) Age of wastewater treatment system: ? years.
 Was a Homeowner Questionnaire completed? Yes No
 Water softener Garbage disposal Whirlpool bath Cleaning service
 In-Home Business: type _____
 Flow Meter: _____
- 2.) Number of people occupying dwelling: Currently: _____ Anticipated: _____
 If currently unoccupied, for how long has it been vacant? _____ months
- 3.) Number of bedrooms in dwelling: _____
 Design: _____ Listing: _____
- 4.) Has there ever been a backup in the house? Yes No
- 5.) List any known repairs made to the system: _____
- 6.) Has the system recently been inspected by others? Yes No
- 7.) Is there a service contract for system components? Yes No
 Company: _____
- 8.) Date the treatment tank last pumped: _____ Never to my knowledge
 At what frequency?: _____ Company: _____

The above information is true to the best of my knowledge.

Owner _____

Date _____

National Association of Wastewater Transporters, Inc.

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B. System Type

1.) Components of Wastewater Treatment System (complete as necessary)

Pretreatment Unit 1: _____ [1200] [gallons or gpd]
 Pump-Pump Tank 1: _____ / _____ gpm/tdh [_____] [gallons]

Pretreatment Unit 2: _____ [800] [gallons or gpd]
 Pump-Pump Tank 2: _____ / _____ gpm/tdh [_____] [gallons]

Grey Water

Soil Treatment Unit: leach [?] [square feet]

Additional Components:

3.) Gray-water run-off or drainage system?

None Surface Subsurface Discharge

Comments: Pasted water TEST OK!

C. Evaluation Procedures: (Check the appropriate boxes)

Locate, access and open the septic tank cover Yes No
 If at grade, is the cover "secure?" Yes No
 Can surface water infiltrate into the tank? Yes No
 Any indicators of previous failure? Yes No
 Inspect lid, inspect level, measure sludge and scum, check effluent screen Yes No
 Run an operation test Yes No

Gallons added in the test 300 gallons Both Tanks

If applicable, pump out primary treatment tank Yes No

Listen and observe for backflow into the tank from the outlet pipe

Comments: Sealed + repaired + Installed biosand filter

Caution: Do not pump treatment tank if there is evidence of a malfunction in any portion of the system.

Inspect the condition of the primary treatment tank repaired Yes No
 (i.e. cracks, infiltration, deterioration or damage) CRACK IN GREY WATER TANK.

Inspect the integrity of the inlet and outlet baffles Yes No
 (i.e. deterioration or damage)

Does the system contain a dosing or pump tank, ejector or grinder pump? Yes No

If so, did you check integrity of the tank (cracks, infiltration, etc?) Yes No

Is the pump elevated off the bottom of the chamber? Yes No

Does the pump work? Yes No

If there is a check valve, is a purge hole present? Yes No

Is there a high water alarm? Yes No

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Does the alarm work? Yes No
 Do electrical connections appear satisfactory? Yes No
 Did you clean the pump tank? Yes No

Probe the soil treatment area Yes No
 check for excessive moisture, odor and/or effluent

Type of Distribution: Gravity Pressure

Is There:

Any indication of a previous failure? Yes No
 Seepage visible on the lawn? Yes No
 Lush vegetation present? Yes No
 Ponding water in the distribution media? Yes No
 Even distribution of effluent in the field? Yes No

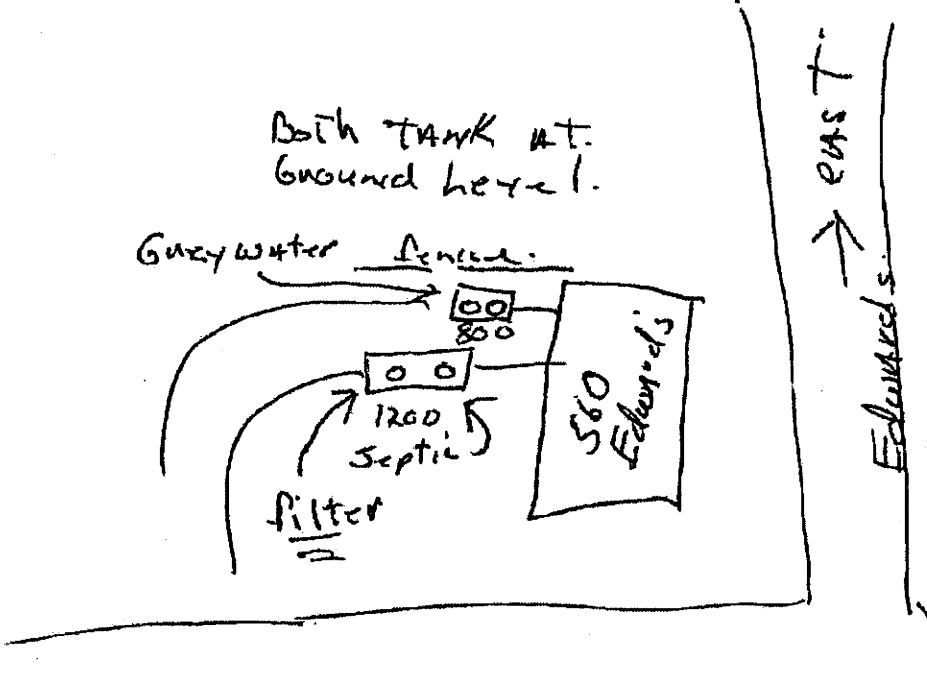
Determine approximate distance between water well and soil treatment area.
 Approximate distance is 60m. water feet.

Explain answers as necessary:

Both are old systems but working good!
 Filter on 1200 TANK NEED CLEANING ONCE A YEAR!

D. Sketch of System

For reproducible results, show dimensions from structures that will not change, such as corners or the house. Show details, such as the rod, in relation to the house to get the correct orientation. Show all located components.



170918

E. Checklist Summary

- 1.) Pretreatment Unit 1 is in Acceptable Unacceptable condition.
Pretreatment Unit 2 is in Acceptable Unacceptable condition.
Comments:
- 2.) Soil Treatment area is in Acceptable Unacceptable condition.
Comments:
- 3.) ~~Pump and pump tank~~ is in Acceptable Unacceptable condition.
~~*Comments:*~~

F. Disclaimer

Based on what we were able to observe and our experience with onsite wastewater technology, we submit this Onsite Wastewater Treatment System Inspection report based on the present condition of the onsite wastewater treatment system. Steve's Septic Service has not been retained to warrant, guarantee, or certify the proper functioning of the system for any period of time in the future. Because of the numerous factors (usage, soil characteristics, previous failures, etc.) which may effect the proper operation of a wastewater treatment system, this report shall not be construed as a warranty by our company that the system will function properly for any particular buyer. Steve's Septic Service **DISCLAIMS ANY WARRANTY**, either expressed or implied, arising from the inspection of the wastewater treatment system or this report. We are also not ascertaining the impact the system is having on the environment.

**STEVE'S
SEPTIC
SERVICE**

#1 IN THE #2 BUSINESS!

1810 Murray Road, McKinleyville, CA 95519

(707) 839-2270 / Fax: (707) 839-2112

E-mail: sssllc2112@sbcglobal.net

Signature on File


Signature


Print Name

National Association of Wastewater Transporters, Inc.

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