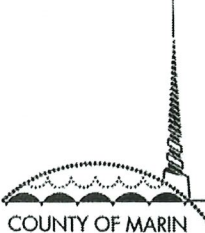


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APR 17 2024

COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

COUNTY OF MARIN
COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION
PETITION FOR APPEAL

TO: THE MARIN COUNTY _____ Board of Supervisors
3501 Civic Center Drive (Planning Commission or Board of Supervisors)
San Rafael, CA 94903-4157

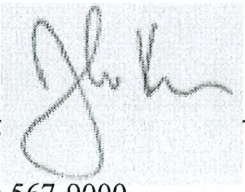
1. The undersigned, John Kevlin, attorney for applicant and owner, hereby files an appeal
(Appellant/Petitioner)
of the decision issued by the _____ Planning Commission
(Director, or Deputy Zoning Administrator, or Planning Commission)
regarding the mixed-use residential project (coastal development and conditional use permits)
relating to property described and located as follows:

- a) Assessor's Parcel Number _____ 119-198-03
- b) Street Address _____ 11401 State Route 1, Point Reyes Station

2. The basis of this appeal is:
See attached letter for a detailed description of the bases for appeal.

(The pertinent facts and the basis for the appeal shall be provided to the Agency at the time the appeal is filed, but no later than the last date established for the appeal period – usually 10 days following the date of the decision. If more space is needed, please attach additional pages setting forth the bases for appeal.)

FROM John Kevlin, Esq.
(Print Name)
1 Bush Street, Suite 600
(Address)
94104
(City/State/Zip Code)


(S)
(415) 567-9000
(Telephone)
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REUBEN, JUNIUS & ROSE, LLP

April 17, 2024

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APR 17 2024

Delivered by Hand

Marin County Board of Supervisors
3501 Civic Center Drive, Suite 329
San Rafael, CA 94903

COUNTY OF MARIN
COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

Submitted to:

Marin County Community Development Agency, Planning Division
3501 Civic Center Drive, Suite 308
San Rafael, CA 94903

Re: 11401 State Route 1, Point Reyes Station - Petition for Appeal
Our File No.: 12947.01

Dear Supervisors,

Our law firm represents the owner of the property at 11401 State Route 1 in Point Reyes Station (the "Property") and submits this petition to appeal three aspects of the Marin County Planning Commission's resolution (the "Commission Resolution") modifying several features of a mixed-use residential project at the Property (the "Project").

As further detailed below, the Commission improperly denied a concession pursuant to California Government Code § 65915, commonly known as the "Density Bonus Law," and modified the Project in a way that was not necessary to protect any coastal resources or coastal access or satisfactory to meet the relevant standard of review. We request the Board of Supervisors approve the concession and make corresponding findings permitting the expansion of a mini-mart into a porch area. We also ask the Board to approve a propane tank for emergency power generator use only, instead of the Project's original proposal for a retail propane tank.

A. Project Description, Introduction to Project Sponsor, and Project Benefits

1. Project Description

The Property is 0.60-acre lot that currently houses a fuel station with three fuel dispenser and a single 5,560 sq. ft. building. The building contains a small convenience store, a studio apartment, a one-bedroom apartment, and three commercial tenant spaces.

The Project sponsor is proposing to expand the existing building to 5,800 sq. ft. by enclosing a porch area, expand an existing convenience store, and redevelop the remainder of the building to provide five (5) rental units, including two (2) 1-bedroom units and three (3) 2-bedroom units. One (1) of the units would be designated as affordable for Low-Income households. No height increase is proposed. The Project will result in a total retail footprint at the Property of 1,930

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square feet (2,003 square feet including a utility room), roughly half of the approximately 4,000 square feet of retail that currently exists at the Property.

The Project provides 5 units of desperately-needed housing in a West Marin community with very little new housing development, and does so by converting an existing building so as not to impact the existing community character. It also results in a reduction of retail space at the Property by approximately half, in exchange for a net addition of three rental residential units.

2. Project Sponsor

Julie Van Alyea is a Marin native, born and raised in central Marin. After attending UC Berkeley and spending some time living in San Francisco, she decided to move back to Marin in 2005. Her twins were born in 2010 and her youngest was born in 2014. She currently resides in Kentfield. She spends much of her free time mountain biking and hiking all over Marin.

She purchased the subject property in 2018 and has been an excellent steward of the facility and its occupants. Since then, she has spent significant resources to clean up this badly neglected property. When she bought the property, the backyard was littered with metal storage containers, multiple cars, a boat, massive spools of wires and cabling and lots of debris. The Property has been significantly cleaned and maintained since then.

Julie has demonstrated her commitment to being part of the Point Reyes community. The Point Reyes State Village Association has reached out to Julie numerous times in the last 6 years requesting various changes to her property. One example of this is that Julie agreed to install particular exterior lighting in order to further locals' Dark Sky Community efforts. This shows Julie's dedication to maintaining her property's alignment with community values and standards.

Fuel gallon sales have dropped 17% from 2016 to 2023, primarily driven by increased competition of electric vehicles in this area. This downward trend is expected to continue, and the proposed apartments and convenience store expansion will help keep her business in operation in the coming years. Julie has also received reports from her tenants that the porch has been an attraction for loitering after hours and has caused a nuisance to those tenants and other neighbors. The Project will eliminate this attractive nuisance during non-business hours.

3. Project Benefits

The Project will have many benefits for the community and visitors, including:

- **Increased rental housing in West Marin.** The Project will add five (5) new units or rental housing, in a West Marin community with both very little housing stock or appropriate locations for new multifamily housing. Three of those units will have two bedrooms that could be attractive to families. Also, at less than 1,000 square feet in size, the units will rent for less than most new housing in Marin, making even the market rate units comparatively affordable to a wider swath of potential residents.

- **Mostly a renovation project.** The Project creates these five units and renovates and expands an existing convenience store with minimal impacts. Instead of proposing demolition and new construction, the Project proposes no vertical additions and no expansions outside of enclosing the porch—not extending past the existing building envelope. This is an ideal way to add new housing and repurpose the Property’s retail offerings, particularly in a community such as Point Reyes. It also helps the County achieve its RHNA housing goals.
- **Overall reduction in commercial space.** The Property currently has three retail spaces totaling approximately 4,000 square feet. The Project would convert approximately half of that retail space to housing, with the remainder being used for an expanded convenience store. The larger store will allow it to offer more items for the convenience of the community and visitors, and also provide a much-needed source of income to offset the costs of the renovation and creation of five new rental units.

B. State Law Requires the Concession to Increase the Size of the Convenience Store to be Granted

California’s density bonus law (“DBL”; Government Code § 65915) was originally enacted into law in 1979, with the aim to incentivize the construction of mixed-income housing with on-site affordable units. It incentivizes the construction of mixed-income housing projects by allowing development to increase beyond otherwise-permitted residential density limits, secure “concessions” from development controls when such a concession makes the project easier to build and waives from controls that preclude the project at its guaranteed residential density, and also to seek relief from minimum parking requirements, in exchange for on-site affordable units.¹

Relevant to the appeal, concessions are meant to assist in lowering the cost to build a project that includes affordable housing. It permits an applicant to achieve a “reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards...that results in identifiable and actual cost reductions.”² Importantly, the presumption is that an applicant’s requested concession will result in cost reductions, and a local jurisdiction has the burden of proof to prove otherwise in order to deny a concession.³ This was made clear in a 2022 technical assistance letter issued by the California Department of Housing and Community Development to the City of Larkspur, which stated:

While early versions of SDBL required an applicant to prove that the incentives or concessions would result in identifiable cost reductions, AB 2501 (Bloom, Chapter 758, Statutes of 2018) reversed that burden by establishing a presumption that incentives and concessions inherently provide cost reductions, and that by providing cost reductions, they contribute to the development of affordable housing. A municipality has the burden of proof of demonstrating that a concession or incentive would not generate cost savings. Accordingly, SDBL, Government Code section 65915, subdivision (d)(1), requires cities to approve concessions, incentives and waivers unless specified written findings based on substantial evidence are made.⁴

In its denial of the concession to allow the larger convenience store for the Project, the Planning Commission made no finding on the record based on substantial evidence that allowing the larger convenience store would not provide “identifiable and actual cost reductions,” and therefore did not meet its burden of proof to deny the concession.

The DBL does provide “very limited exceptions” to its requirements, and again the burden is on the local jurisdiction to demonstrate with substantial evidence that an exception applies and to deny a requested concession or incentive.⁵ The DBL is required to be “interpreted liberally in favor of producing the maximum number of total housing units.”⁶ Relevant to this appeal, and discussed in greater detail below, the Planning Commission determined that one of these limited exceptions applied in this case, namely that the Project was “contrary to state or federal law” – specifically, that the Project was inconsistent with the Coastal Act and Marin’s Local Coastal Program (“LCP”).⁷

C. The Project is Consistent with the Coastal Act

1. “Harmonizing” DBL and Coastal Act: *Kalnel Gardens* and Assembly Bill 2797

The DBL has always expressly recognized that it can be used within the Coastal Zone. In 2018, the legislature specifically amended the DBL to clarify that the Coastal Act and its policies do not automatically supersede the DBL, and to the extent they conflict the Coastal Act should be used in two scenarios only: when a density bonus project would cause damage to (1) coastal access, or (2) coastal resources. To the extent a density bonus project does not affect coastal access or coastal resources, the DBL applies, and the Coastal Act cannot be used to reduce a Project’s size or deny a concession.

In 2016, in *Kalnel Gardens, LLC v. City of Los Angeles* (2016) 3 Cal.App.5th 927, the California Court of Appeal’s Second District affirmed that the DBL can be used in the Coastal Zone but that it is “subordinate” to the California Coastal Act.⁸ This determination was based on the text of the DBL subdivision (m) in effect at the time, which stated: “[the DBL] does not supersede or in any way alter or lessen the effect of the application of the [Coastal Act].”⁹

In the following legislative session, the California Legislature amended the DBL to further expand and clarify the use of the DBL in the Coastal Zone. Assembly Bill No. 2797 added the following language to subdivision (m): “Any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which the applicant is entitled under this section shall be permitted in a manner that is consistent with [the DBL and the Coastal Act.]”¹⁰

AB 2797 introductory language stated that the purpose of the bill was to “address the holding and dicta” in *Kalnel Gardens*, continuing that “the Legislature’s intent is that the two statutes be harmonized so as to achieve the goal of increasing the supply of affordable housing in the coastal zone while also protecting coastal resources and coastal access.”¹¹ This express reference to “protecting coastal resources and coastal access” applies a limit to the Coastal Act’s reach, narrowing its applicability to protecting these two things. As such, California law now

requires that the DBL and Coastal Act be “harmonized” when there is a conflict to (1) encourage the production of housing with on-site affordability in the coastal zone, while also (2) protecting coastal resources and coastal access.

This new legal standard was applied by the California Coastal Commission’s October 2023 decision on a development project in Long Beach.¹² The project, a 592,000, 6-story mixed-use building with 281 dwelling units and 3,100 square feet of commercial, used the DBL and requested a concession to increase floor-area above what was allowed in the City’s LCP, as well as waivers for height and tandem vehicular parking. Appellants argued the City improperly approved the exceptions for building size, height, and floor-area ratio.

The Commission acknowledged that DBL projects that use concessions “are still required to be consistent with relevant resource protection policies of the LCP.”¹³ But in rejecting the appeal, the Coastal Commission determined that the exceedances “are not expected to result in any actual, significant impacts to views, public access, or other coastal resource policies.”¹⁴ The Commission determined that even though that project did not meet all of the numerical controls of the relevant development standard policies, “there is no substantial coastal resource impact associated with the Project’s additional height, density, and FAR ...”¹⁵

Thus, when a DBL project does not adversely impact coastal resources or coastal access, the Coastal Act cannot be used as an exception to deny a concession on the grounds that it does not “comply with state law.”

2. The Project Does Not Impact Coastal Resources or Coastal Access

As detailed below, because the Project does not impact coastal resources or coastal access, its noncompliance with the principally permitted 15% retail store size found in the Local Coastal Program is not grounds to deny a concession request protected under the DBL or reduce the size of the Project in a way that’s similarly protected under the HAA.

The Planning Commission’s rationale for denying the Project’s concession request does not relate to coastal access or coastal resources. Specifically, the Commission denied the request because “it would adversely affect the character of downtown Point Reyes Station, which is a special community that is a significant visitor destination.”¹⁶ The Commission cites to no provision of the Coastal Act, Local Coastal Program, or aspect of the Point Reyes Community Plan in support of using this exception to the DBL to deny a density bonus concession request, much less explain how it relates to coastal access or coastal resources. The Commission’s rationale is subjective and not based on objective and identifiable criteria.

Even in the Coastal Zone, community character cannot be used as the basis to deny or reduce the size of a housing project or a mixed-use project with housing unless the Project implicates one of the two exceptions identified by the Legislature—coastal access and coastal resources.

In fact, the Planning Commission's approval findings prove that the Project does not impact coastal resources or coastal access and is consistent with relevant policies relating to those two topics. Notable findings demonstrating compliance with the LCP are as follows:

- Regarding coastal access, the Planning Commission found that “the project is located more than four miles inland of the Pacific Ocean and more than one and one-half miles from Tomales Bay at an elevation of approximately 37 feet above sea level. Therefore, the proposed infill project is consistent with the LCP public coastal access policies (C-PA-3, C-PA-4, C-PA-17, C-PA-21).”¹⁷ This is further supported by two transportation studies which demonstrate that the Project will not cause a significant impact on traffic in the area, particularly now that the Project no longer includes a retail propane tank.
- Regarding coastal vistas and views, the Planning Commission determined that because of the flat terrain of the location, there are no up-slope or down-slope views or coastal views, and there are no designated scenic vistas in the area, and the brief vista from State Route 1 with an overview of the mountain range to the west would be unaffected by the Project.¹⁸ We submit it would remain unaffected even with the porch infilled.
- Regarding coastal biological resources, the Planning Commission similarly found that the project “is consistent with the applicable policies” of the biological resources section of the County's land use plan, and applicable standards. There are no riparian corridors, wetlands, Baylands, or woodlands present on the project site. And because the project occurs in an area that was previously graded, the Commission determined the project is not anticipated to have any potential impacts to biological species.¹⁹
- The Commission also determined that the project would not create an environmental hazard. It does not involve shoreline protection work, will not restrict navigation, mariculture, or other coastal use, and will not create a hazard in the area where it is built. It also will comply with all relevant seismic regulations.²⁰
- The Commission similarly found the Project consistent with water resource policies and would not result in substantial soil erosion or discharge of sediments or pollutants into surface runoff in a way that would adversely affect the quality of coastal waters (C-WR-1, C-WR-2, C-WR-3, C-WR-6).²¹

Here, the Planning Commission's use of a subjective standard without any findings about adverse impacts to coastal access and coastal resources is flawed. The Commission's own findings demonstrate the Project has no impact on access or coastal resources, and therefore must be approved. And as detailed in **Appendix A**, the Project is actually on balance consistent with a wide range of policies and goals of the Local Coastal Program and the Point Reyes Community Plan.

3. No Basis for Identifying the Porch as Historic

Related to the appeal of the Commission's decision to deny the concession, the Commission also improperly determined that the Local Coastal Program's policies regarding preservation of old structures require modifying the Project to prevent any expansion of the convenience store into the footprint of the existing porch.

First, the Commission's determination is not consistent with the relevant objective requirements of the Local Coastal Program ("LCP") and the Point Reyes Community Plan's ("Community Plan") objectives, policies, and programs relating to historic resource protection. The LCP establishes heightened review for projects (1) are located within the boundaries of those areas designated as having special character and visitor appeal, including historic areas, and (2) involve pre-1930 buildings several policies that apply substantive limitations on alterations or additions to structures built before the 1930s, and not afterward.²² It also applies guidelines to new development.²³ The Community Plan contains similar objective policies that apply to buildings identified as historically significant, new construction, and alterations, additions, and demolition of pre-1930 structures.²⁴

The evidence in the record indicates that the existing structure at the Property was built after the 1930 cutoff in the LCP, and moved to the Property sometime in the 1940s and 1950s. As the Planning Commission conceded, the structure was modified over the years to accommodate different commercial tenants and their needs and photos of the original structure indicate it did not include the porch. The building is not listed in either the California or National Register.²⁵ Furthermore, the report submitted by the appellants does not contain either an analysis of the Project against relevant preservation standards, nor does it take a position on whether the existing structure still retains integrity of place, setting, architecture, or other features. As a result, it is not sufficient and of itself to support the Planning Commission's statement that the front porch needs to be preserved.

While the Property is located within an area designated as having special character and visitor appeal, the applicable review guidelines in Appendix 4 of the LCP say nothing specific about preserving porches. While the guidelines do discuss preserving or replicating historic features, its been widely accepted that the existing porch at the Property is not original and has been modified over the years.

Because the Planning Commission's determination to preserve the porch or add a new period-appropriate porch is not supported by substantial evidence or objective preservation criteria, the Board of Supervisors should permit the minor expansion of the convenience store into this space as a component of granting the Project's concession request.

D. Retention of Propane Tank for Emergency Power and Not Retail Use

The Planning Commission eliminated the Project's proposal for a retail propane tank, on the ground that it would conflict with residential circulation and traffic along A Street, and the

operating characteristics of a retail propane station would be incompatible with adjacent residential uses. The Project sponsor has decided not to appeal the retail component of the propane tank, and accepts that condition. However, the sponsor requests that the Board of Supervisors allow the propane tank to operate as a source of power for the backup emergency generator use only.

According to testimony at the Planning Commission, this alternative and non-retail sales use of the propane tank for backup power generation is common in Point Reyes Station. It also would not involve visitors or members of the community driving to or double-parking any vehicles along A Street or lead to additional trips to the Property to fill up a propane tank. Thus, non-retail use would not raise any of the concerns cited by neighbors and identified by the Planning Commission in its approval resolution. At the same time, it would allow the Property to benefit from a source of backup emergency power in a way similar to other properties in Point Reyes.

E. Conclusion

The Project will be a positive addition to the Point Reyes Station community, providing five new units of desperately needed housing and enhancing the existing gas station and convenience store via a modest alteration to the existing building. It is consistent with the relevant aspects of the Coastal Act that apply to Density Bonus Law projects, and supported by substantial evidence. We ask this Board to reverse the aspects of the Planning Commission's decision that are not consistent with relevant standards and that undermine the ability of the Project to be actually constructed.

Sincerely,

REUBEN, JUNIUS & ROSE, LLP



John Kevlin, Esq.

¹ Bankers Hill 150 v. City of San Diego (2022) 74 Cal.App.5th 755, 769-770.

² Id. at 770; Cal. Gov. Code §§ 65915(d)(1); 65915(k)(1).

³ Cal. Gov. Code § 65915(d)(1)(A).

⁴ <https://www.hcd.ca.gov/community-development/housing-element/docs/marLarkspur-TA-051222.pdf>

⁵ Cal. Gov. Code § 65915(d)(4); Bankers Hill 74 Cal.App.5th 755 at 770-771.

⁶ Cal. Gov. Code § 65915(r).

⁷ Id.; Marin County Planning Commission Resolution No. _____, A resolution denying the Switzer appeal in part and in part approving the Sydriel Coastal Development Permit and Conditional Use Permit, 11401 State Route 1, Point Reyes Station (the "Resolution"). As of the date of this writing, our office has not received a version of the Resolution with the number. We have assumed that the electronic version of the Resolution provided to the applicant by County staff is accurate, and reserve all rights to the extent County staff modify the resolution subsequent to providing the applicant with an electronic copy.

⁸ Kalnel Gardens, LLC v. City of Los Angeles (2016) 3 Cal.App.5th 927, 943-944.

⁹ Id.

¹⁰ Cal. Gov. Code § 65915(m).

¹¹ California Assembly Bill No. 2797, Chapter 904, an act to amend Section 65915 of the Government Code, relating to housing.

¹² California Coastal Commission, 6700 East Pacific Coast Highway, Long Beach, Appeal No. A-5-LOB-23-0032.

¹³ Id. at pg. 4.

¹⁴ Id. at pg. 3.

¹⁵ Id. at pg. 17.

¹⁶ Resolution, Section 8A.

¹⁷ Resolution, Section 13A.

¹⁸ Resolution, Section 13F.

¹⁹ Resolution, Section 13B.

²⁰ Resolution, Section 13C.

²¹ Resolution, Section 13E.

²² Marin County Local Coastal Program Land Use Plan, 2018, pg. 107, Policies C-HAR-5.

²³ Marin County Local Coastal Program Land Use Plan, 2018, pg. 107, Policies C-HAR-4 to C-HAR-8.

²⁴ Point Reyes Station Community Plan, 2001, pg. 44.

²⁵ Resolution, Section 8B.

REUBEN, JUNIUS & ROSE, LLP

Project Conformance with Coastal Act-Related Documents

1. Point Reyes Station Community Plan

Objective PA-2.0: To enhance the downtown area.

The Project is located within Point Reyes' Downtown Area. The proposed project is an infill development that will add valuable housing to the community while modestly expanding an active commercial use at the property. The project's commercial use will provide Point Reyes Station residents and visitors with additional choices while maintaining the convenience store presently at the site.

Policy PA-2.2: Downtown Commercial Core. Commercial development and uses, alongside light industrial, public and residential uses, shall remain centered in the Downtown Area, for the dual purpose of enhancing the town's vitality as a commercial and civic center and to prevent commercial strip or sprawl development along Highway 1.

The Project will provide both residential and commercial uses in Point Reyes' downtown, providing residents with easy access to a convenience store. By expanding the property's commercial use, the project will enhance the town's economy while avoiding sprawl and further development along Highway 1.

Objective PA-3.0 To preserve the rural character of the community.

The project will preserve the community's rural character by redeveloping a currently developed lot with a commercial use to modestly expand that use and add residential housing. The resulting project will be in keeping with the community's rural character and will not result in loss of rural space in the community through redevelopment at another location.

Policy PA-3.2: Mixed Land Uses in Downtown Area. Preserve and encourage the existing mixed land use pattern of residential, commercial, light industrial and public uses in the Downtown Area. Additional residential land use in this area is encouraged; conversion of residential to commercial use is discouraged.

This project will add residential housing to the downtown area while preserving the property's commercial use, creating a mix of uses at the property where previously only a commercial use existed.

Policy PA-3.5: Diversity in Lot Sizes and Building Densities. Encourage diversity in lot sizes and building densities in the Planning Area as a whole and within each zoning district (subject to the district's minimum lot size requirements).

The project will provide higher density, multi-family housing in the Point Reyes Station planning area.

Policy PA-3.7: Compatible Design. New commercial or residential construction shall be compatible in scale (bulk and height), style and social character with the existing visual character of the community.

The project proposes a modest expansion of the existing structure at the property with minimal changes to the exterior façade. Although the porch area will be removed to accommodate the expanded convenience store, the current siding, finishes, and colors will remain the same.

Objective CL-1.0: To maintain the downtown area as the commercial and community core of Point Reyes Station, and to avoid commercial strip or sprawl development.

As previously stated, the project will expand a current commercial use in the Point Reyes Station downtown area, therefore avoiding new development along Route 1.

Policy CL-1.1: Concentrate Development. Concentrate commercial development in the Downtown Area.

As previously stated, because it is an infill project located in the downtown core, the project will continue to concentrate commercial development in the Point Reyes Station downtown core.

Policy CL-1.2: Mixed Land Use in the Downtown Area. Maintain the existing mixed land use pattern (rather than strictly commercial) within the Downtown Area, consisting of residential, commercial, light industrial and public uses, as this pattern is an integral part of the village's fabric.

The project will maintain and expand the present mix of residential and commercial uses in the downtown core by adding additional residential units and commercial square footage to the property.

Objective CL-2.0 To provide commercial uses in the downtown area which preserve the rural character of Point Reyes Station and sustain a locally based economy.

The project will expand one of the property's current commercial uses without substantially expanding the size of the built structure, helping preserve Point Reyes Station's rural character by avoiding new development at a different location. The project's expanded convenience store will help sustain the local economy by providing goods to residents.

Policy CL-2.1 Resident Serving Uses. Encourage commercial uses which principally serve the residents of Point Reyes Station and the surrounding region. Examples of resident serving uses include, but are not limited to, medical, dental, and veterinary facilities, legal, accounting and other professional services, drug stores, grocery stores, bakeries, restaurants, barber and beauty shops, shoe repair, auto repair, and bookstores.

The project's provision of an expanded convenience store will serve residents by giving them greater access to goods in their community.

Policy CL-2.3 Visitor-Serving Uses. Encourage limited visitor serving uses, especially those that draw upon foods and other goods produced locally and use local services. These uses would include restaurants, small lodging facilities, and outdoor recreation-related uses such as bike and boat rentals, horse back riding, and trail guides. Visitor-oriented developments intended as destinations in their own right such as theme parks, discount outlets and shopping centers are strongly discouraged.

The project's expanded convenience store will also serve visitors by giving them access to goods in Point Reyes Station. The convenience store is not intended to be a destination in its own right, particularly given the retention of the gas service station.

Policy CL-4.1 Criteria for Commercial Development. Commercial development proposals for new uses or structures shall be evaluated against the following criteria:

- (a) Location. Commercial uses and buildings shall be located within the Downtown Area in order to protect the vitality of the town center, preserve coastal views from Highway 1 and prevent strip commercial development.

The project is located within the Downtown Area and therefore satisfies this requirement.

- (b) Type of Commercial Use. Commercial uses and buildings serving the residents
The project's provision of an expanded convenience store will serve residents by giving them greater access to goods in their community.

Objective RL-1.0 To preserve the physical integrity of the village and maximize areas devoted to agriculture, conservation of the natural environment and open space.

As previously stated, because this is an infill project, the project will not result in any loss of open space or present any significant impacts on the local natural environment.

Policy RL-1.1 Location of Various Densities. Concentrate moderate and high residential densities in defined areas in and around the built-up village core. Permit low density residential development in the area bounded by Tomasini Creek to the south, the former railroad right-of-way to the west, the former Martinelli Ranch to the north, and Highway 1 to the east. Permit very low density residential development in the northeastern portion of the Planning Area lying east of Highway 1.

Policy RL-1.3 Long-term Rentals. Residential housing units should be maintained for the purpose of long term residential use.

When complete, the project will add five new residential rental units to the Point Reyes Station community.

Objective RL-2.0 To foster and promote opportunities for affordable housing (to rent or own) within the planning area in order to diminish the degree of in-commuting and to maximize community diversity.

The project's provision of on-site affordable housing will help maximize socio-economic diversity in Point Reyes Station while reducing the amount of in-commuting by workers who will now be able to live at the project.

Policy RL-2.1 Encourage Affordable Housing. Encourage the development of affordable housing projects that:

- (1) Are reasonable in scale compared to the size of the existing community;
The project will not increase the existing building's height or substantially alter the property's appearance, both of which are already part of the existing community. Therefore the project will be reasonable in scale because it does not substantially depart from the existing building on the property.

- (2) Meet the needs of persons employed locally rather than drawing new residents with jobs elsewhere;
The project is in Point Reyes Station's downtown near local employers. Adding housing at this location will benefit workers already employed in downtown Point Reyes Station much more than non-Point Reyes Station workers who will not enjoy the same commuting benefits.

- (3) Do not overburden local public services;

The project only proposes a modest addition of five residential units on a parcel already developed with residential uses. Additionally, the project also proposes the installation of new septic systems and a generator, further diminishing the project's reliance on local public services.

- (4) Include at least 25% rentals; and

The project will provide a total of five residential units, all of which will be available to rent.

(5) Are designed to provide age and occupational diversity to the Pont Reyes Station community. *The project's provision of housing in Point Reyes Station's downtown will contribute to occupational diversity by allowing more employees who work in Point Reyes Station to live there than do currently.*

2. LCP

C-DES-1 Compatible Design. Ensure that the siting, height, scale, and design (including materials and color) of new structures are compatible with the character of the surrounding natural and built environment. Structures shall be designed to follow the natural contour of the land and shall limit reflectivity of glass and other surfaces.

As previously discussed, the project proposes a modest expansion of the existing structure at the property with minimal changes to the exterior façade. Although the porch area will be removed to accommodate the expanded convenience store, the current siding, finishes, and colors will remain the same.

C-DES-8 Protection of Trees. Site structures and roads to avoid removal of trees that contribute to the area's scenic and visual resources, except where required to maintain defensible space for structures or eliminate diseased trees that threaten surrounding structures or vegetation and where removal is otherwise consistent with LCP policies. Dead trees may serve as valuable habitat for some species, so avoid complete removal where appropriate.

Although the project does propose removal of a tree currently on the property, the tree does not contribute to the area's scenic and visual resources, and therefore this project complies with this policy.

C-CD-1 Location of New Development, Locate new development within, next to, or in close proximity to existing developed areas with adequate public services and where it will not have significant adverse impacts, either individually or cumulatively, on environmental and natural resources, including coastal resources.

The project is an infill project, as previously discussed, and therefore will not have any significant adverse impacts on environmental and natural resources. Because the project is in the heart of downtown Point Reyes Station, the property is already in close proximity to existing development.

C-CD-2 Appropriate New Development. Ensure the type and intensity of new development, including land divisions, conform to the land use categories and density provisions of the LCP and Land Use Policy Maps. Allowable densities are stated as maximums and do not establish an entitlement to buildout potential. In addition, land divisions outside village limit boundaries shall only be permitted where 50 percent of the usable parcels in the area have been developed and created parcels would be no smaller than average size of surrounding parcels. Land divisions shall be prohibited if the resulting lots cannot be developed consistent with the LCP.

The property is in a Coastal Neighborhood Commercial/Mixed Use (C-NC) district with a maximum allowable density of 1.2 units per acre and a maximum FAR of between 0.3 and 0.5. The project seeks an

increased FAR from 0.226 to 0.232, which is still within the limits imposed by the LCP. The project proposes five new dwelling units on a 0.6 acre parcel.

C-CD-14 Residential Character in Villages. Consistent with the limitations outlined in C-PK-3 (Mixed Uses in the Coastal Village Commercial/Residential Zone), discourage the conversion of residential to commercial uses in coastal villages. If conversion of a residence to commercial uses is allowed under applicable zoning code provisions, the architectural style of the home should be preserved.

As previously discussed, the project will not result in the conversion of residential uses to commercial uses.

C-PRS-5 Criteria for New Development in Point Reyes Station. New residential development in Point Reyes Station shall meet the following criteria:

- (1) Building Height. The height limit for residential structures shall be regulated as follows: in areas other than ridgeline lots, no part of a primary building shall exceed 25 feet above natural grade and no part of an accessory building shall exceed 15 feet above natural grade. New development near ridgelines shall be sited and designed so that rooflines are below the visual plane of ridges when viewed from Point Reyes-Petaluma Road or Highway One. Where a ridge lot is too flat to allow placement of new construction below the visual plane of the ridge, up to a maximum of 18 feet above natural grade shall be imposed.

The existing building's current height is 25'9" above grade at its highest. The proposed project is not mostly a renovation and not new development, and will not modify the existing height and therefore should be considered compliant.

- (2) Building Size. The maximum floor area allowed on any lot located in the planning area shall be 4,000 square feet. For purposes of this community-specific policy, "floor area" includes the sum of the gross horizontal areas of all floors of the building or buildings measured from exterior faces of exterior walls excluding only unenclosed horizontal surfaces, such as balconies, courts, decks, porches, and terraces. To clarify the intent of the two preceding sentences, "floor area" is defined to include the total floor area of any detached structures and the total floor area of any garage. It is not the intention of this program to make any existing building, which complied with building regulations at the time of its construction, nonconforming with respect to floor area limitations (see Chapter 20.130 (Coastal Zone Code Definitions) of the Coastal Zoning Code for definitions of "floor area" and "building area" applicable outside of the Point Reyes Station Community Area.)

The existing building's current gross floor area is 5,650 square feet. The proposed project will modestly increase the building's gross floor area to 5,800 square feet by enclosing an existing porch. Because no substantial changes are proposed for the property's exterior except for the porch enclosure, the project should be considered compliant because it is not entirely a new development.

- (3) Building Size Exceptions. Exceptions to maximum permitted floor area may be permitted upon a determination by the Community Development Agency Director, in consultation with the Point Reyes Station Community, that the proposed development:

- a. Maintains adequate setbacks from property lines and surrounding development;

The project will be built entirely within the existing building's footprint and currently has sufficient setbacks from property lines.

- b. Is located on a parcel which is large enough (generally greater than one acre) to accommodate the additional floor area while maintaining consistence with the surrounding built environment with respect to height, mass, and bulk;

As previously mentioned, because the project is building entirely within the footprint of a currently existing building at the property, the project will be able to accommodate the increased floor area. The increased floor area will be consistent with the built environment because the project will maintain the property's current façade and materials.

- c. Is adequately screened by existing and proposed vegetation;

The property is not currently screened. Because the floor area of the project will not substantially differ from that of the property as currently built, imposing a screening requirement is unnecessary.

- d. Is adequately screened by the topography of the property or of surrounding properties; and

See c. above.

- e. Would not significantly limit or reduce sun and light exposure to adjacent properties.

Because the project will be built within the envelope of the existing building located at the property, the project will not further limit or reduce sun and light exposure for adjacent properties.

- f. Protects significant public views and is compatible with the natural and built environment, including through siting and design.

Because the project will be built within the envelope of the existing building located at the property, the project will not further limit or reduce public views. Similarly, the project will also be compatible with the surrounding natural and built environments.

- (4) Landscaping. Require landscape and irrigation plans for all new developments or major modifications to existing buildings. Where applicable, preservation of natural habitats and installation of additional plants native to the Point Reyes Station area is encouraged. Proposed trees and shrubs, when mature, should not deprive adjoining properties of views or sunlight. Weedy and/or invasive plants such as Eucalyptus, Acacia, Monterey Pine and Pampas Grass are discouraged. The choice of plants shall be native and non-invasive species generally similar to native species in the area. Non-native trees and shrubs which traditionally have been grown in developed portions of Point Reyes Station are allowed. By incorporating these plants in new landscaping plans, owners can achieve a pleasing community with the existing landscape pattern of the community.

The project proposes removal of an existing Monterey Pine and planting of Foxtail Ferns at the property's easterly corner and Morning Lights along a walkway surrounding the building. These plants are discrete and when mature will not impact neighboring properties access to views or sunlight.

C-HS-3 Affordable Housing Requirement. Require residential developments in the Coastal Zone consisting of 2 or more units to provide 20 percent of the total number of units to be affordable by households of very low or low income or a proportional "in-lieu" fee to increase affordable housing construction.

The project will create a total of five units, of which one unit will be affordable to low income households.

C-HS-9 Density Bonuses. Provide density bonuses for affordable housing in the Coastal Zone consistent with Government Code Section 65915 and Coastal Act Section 30604 (f), to the extent that such increases in density are consistent with the provisions of the LCP.

Because it will be creating an affordable unit, the project has sought a density bonus pursuant to the state's density bonus law to the extent permissible by the LCP and the Coastal Act.

COMMUNITY DEVELOPMENT AGENCY
Planning Department

3501 Civic Center Drive
 San Rafael, CA 94903

415-473-6269 T 415-473-7880 F

marincounty.org/depts/cd/divisions/planning

Receipt

April 17, 2024

PROJECT# P4480

Applicant: LP SYDRIEL Project: APPEAL BOS Parcel: 119-198-03

Payment #67056 Payment Amt: \$ 1,450.00 Payment Method: CHECK Pay Date: 4/17/24 Recept. By: dsanchezroda

| Line Items | Fee Amount | Charge Date | Payer Name | Amount Paid |
|---|-------------|-------------|------------|-------------|
| Appeal - Appeal to the Board of Supervisors | \$ 1,450.00 | 4/17/24 | SYDRIEL LP | \$ 1,450.00 |

Grand Total Payments: \$ 1,450.00

