

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. _____

A RESOLUTION DENYING THE SWITZER APPEAL AND APPROVING THE SYDRIEL COASTAL DEVELOPMENT PERMIT AND CONDITIONAL USE PERMIT 11401 STATE ROUTE 1, POINT REYES STATION ASSESSOR'S PARCEL: 119-198-03

SECTION I: FINDINGS

1. WHEREAS, the applicant, Matt Donohue, on behalf of property owners Sydriel LP, requests a Coastal Development Permit and Conditional Use Permit approval to convert an existing commercial structure to five residential units while expanding an existing convenience store from a 215-square-foot cashier's stand to a 1,901-square-foot store, which includes a 73-square-foot utility closet. The proposed five units will consist of three two-bedroom units ranging in size from 839 to 854 square feet and two one-bedroom units ranging from 626 to 626 square feet. One of the residential units would be offered as a low-income household to comply with the County's inclusionary requirements enumerated in Marin Development Code Section 20.22.020, Table 3-4a.

The proposed project includes complete interior improvements, including demolition and installation of interior walls, a new foundation with a slab-on-grade system, and other interior remodeling to enable residential use. All proposed interior and exterior improvements would occur entirely within the existing footprint of the building. The project would enclose the existing 150 square feet of covered porched areas to create habitable space, resulting in an increase in floor area from 5,650 to 5,800 square feet and an increase in floor area ratio (FAR) from 22.60 percent to 23.20 percent on the 25,000 square foot developed lot. The existing building height of 25 feet nine inches above grade would remain unchanged.

Proposed exterior alterations include installing a roof-mounted equipment well, removing the existing rear deck, and installing a new sidewalk and a propane-powered backup generator with an automatic transfer switch to power the entire building, including fuel dispensers. The applicant proposes to install a new PG&E transformer with a main electrical distribution panel intended to facilitate the installation of separate meters for each residential unit as well as commercial uses

Various site improvements would also be entailed in the proposed development, including general grading to accommodate the proposed project, the removal of one Monterey Pine tree (six inches diameter breast height), installation of a bike rack, six new water meters, and a 1,000-gallon propane tank to dispense bulk propane to commercial customers.

The property is located at 11401 State Route 1, Point Reyes Station, and is further identified as Assessor's Parcel 119-198-03.

2. WHEREAS, on January 18, 2024, the Marin County Deputy Zoning Administrator held a duly noticed public hearing to take public testimony and continued the hearing to February 1, 2024.

3. **WHEREAS**, on February 1, 2024, the Marin County Deputy Zoning Administrator held a duly noticed public hearing to take public testimony and approved the project.

4. **WHEREAS**, on February 13, 2024, Mark Switzer, on behalf of the Point Reyes Village Associate, submitted a timely appeal of the Sydriel Coastal Development Permit and Conditional Use Permit approval.

5. **WHEREAS**, on April 4, 2024, the Marin County Planning Commission held a duly noticed public hearing to take public testimony and consider the project.

6. **WHEREAS**, the application is submitted under the State Density Bonus Law (Government Code Section 65915). Pursuant to Government Code Section 65589.5(h)(2)(B), the proposed project meets the definition of a housing development project. It consists of residential and nonresidential uses, with at least two-thirds of the square footage designated for residential use. The applicant is proposing to build five residential units and has submitted an affordable housing plan indicating that one (or 20% of the units) would be reserved for low-income households in perpetuity. Therefore, the project is considered a qualifying project under the State Density Bonus Law (Government Code Section 65915) because it would contain five or more residential units and qualifies for two concessions and additional waivers.

7. **WHEREAS**, Government Code Section 65915(f)(5) mandates that the "...granting of a density bonus shall not require, or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval."

8. **WHEREAS**, in addition to the increase in floor area or density, as a qualifying project, the applicant may receive up to two concessions, an unlimited number of waivers and reductions in development standards, and reduced parking ratios regardless of whether additional floor area than would normally be allowed are proposed for the project. In this case, the applicants are requesting the following concessions under Government Code Section 65915(d):

Relief from the requirements of the Local Coastal Program, Implementation Plan Section 20.32.160(A) to increase the allowable commercial floor area from 15 percent (or 873 sq. ft.) to 22 percent (or 1,920 sq. ft.).

In addition to the increase in floor area, the applicants are requesting the following waiver of development standards under Government Code Section 65915(e):

Relief from the Local Coastal Program, Implementation Plan, Section 20.62.080, Table 5-3-c, footnote (3) to allow residential units on the ground floor facing public roads.

9. **WHEREAS**, the bases of appeal are insufficient to overturn the Deputy Zoning Administrator's decision for the reasons discussed below.

A. The appellant asserts the proposed minimart shall be reduced to no more than 15 percent of the building area, as required by LCP, Implementation Plan Section 20.32.160.

Response: In this appeal point, the appellant argues that the project must strictly adhere to the LCP requirements that limit the commercial floor area associated with fuel stations to no greater than 15 percent of the structure's total floor area.

The applicant initially submitted the Coastal Development Permit and the Conditional Use Permit application under Senate Bill (SB) 330 and submitted a rebuttal to the appeal invoking the State's Density Bonus Law. (Government Code Section 65915, et seq.). Pursuant to the State Density Bonus Law, the applicant has requested a concession to waive this requirement from the LCP Implementation Plan Section 20.32.160.

Since the project would set aside 20 percent of the units for low-income households, it qualifies for a density bonus, two concessions, an unlimited number of waivers and reduced on-site parking requirements. Where a project does not meet all explicitly identified LCP standards, it may invoke available concessions that result in actual and identifiable affordable housing cost reductions and unlimited waivers or reductions of development standards that would physically preclude construction of the project at its proposed and allowed density. (Gov. Code § 65915(d)(2); (e)(1); (f)(1)). In this case, the applicant requests a concession and a waiver from explicit development standards enumerated in the LCP standards. Incentives typically involve financial measures or changes in use intended to achieve identifiable and actual cost reductions, while waivers typically involve reducing site development standards or modifying zoning code or architectural design requirements to accommodate the project.

The proposed project meets LCP standards for allowed uses (residential and commercial), maximum allowable density (the project proposes five units where a maximum of 13 units are permitted), the maximum allowable floor area ratio (the project proposes 23.20 percent where 30 percent is permitted) and meets the County requirements for on-site parking standards (project proposes 18 onsite spaces where 18 spaces are required). However, the project also conflicts with the LCP standard indicating that residential units can only be located on the upper floors or on the lower floors if not located on the road-facing side of the property. (Sec. Table 5-3-e, footnote 3). The project is inconsistent with this standard because it entails residential units on the ground floor of the building facing the street.

The policies of the Coastal Act (and LCPs certified pursuant to the Coastal Act) establish development standards intended to protect coastal resources. Where the State Density Bonus Law allows development projects to exceed these development standards, the Coastal Act and the State Density Bonus law may not always be in complete alignment. The State Density Bonus Law reinforces the fact that the State Density Bonus law does not supersede or lessen the effects and requirements of the Coastal Act.

The State Density Bonus Law is written to attempt to avoid these conflicts and harmonize the Coastal Act and Density Bonus Law through the inclusion of the following provision regarding the Coastal Act:

“This section does not supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). 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 this section and Division 20 (commencing with Section 30000) of the Public Resources Code. (Government Code Section 65915(m)).”

Further, Section 30007 of the Coastal Act reads:

“Nothing in this division shall exempt local governments from meeting the requirements of state and federal law with respect to providing low- and moderate-income housing, replacement housing, relocation benefits, or any other obligation related to housing imposed by existing law or any law hereafter enacted.”

There is no bright-line test to determine whether a particular project adequately balances conformance with both the Coastal Act and the density bonus law; this is a matter of discretion to be determined on a project-by-project basis based on substantial evidence.

The Planning Commission interprets the State Density Bonus Law to allow certain types of projects that provide qualifying amounts of affordable housing to avail themselves of exceptions to LCP objective standards but only where other applicable LCP requirements are met. More specifically, LCP standards protecting sensitive coastal resources, including environmentally sensitive habitat areas and coastal access, should be considered the priority when reviewing density bonus applications, while concessions should be granted in limited circumstances where adverse effects to sensitive coastal resources would not occur.

Although the project is inconsistent with the specific LCP requirement prohibiting ground-floor residential units that face public roads and the project includes commercial retail area greater than the allowed 15 percent, these LCP deviations would not result in significant coastal resource impacts. Therefore, relief from the LCP standards should be allowed through an application of the State Density Bonus Law to the project.

The administrative record does not contain any evidence that would allow the County to find that the requested incentive would not result in identifiable and actual cost reductions to provide for the affordable housing costs per State law. Due to recent amendments to the State Density Bonus law and court cases, the applicant is not required to demonstrate that the requested incentives will lead to cost reductions, and the county bears the burden of proof for the denial of a requested incentive/concession. (Gov. Code § 65915(d)(4)); the incentive is presumed to result in cost reductions, unless the County can prove otherwise. *Bankers Hill 150 v. City of San Diego*, 74 Cal.App.5th 755, 770 (2022).

With respect to the Housing Accountability Act, the Department of Housing and Community Development (HCD) issued a Housing Accountability Act (HAA) Technical Assistance Advisory Memorandum, dated September 15, 2020. In that memorandum, HCD advises that the HAA applies to housing development projects in coastal zones, but projects must still comply the California Coastal Act. In other words, the HAA does not lessen or does not supersede or in any way alter or lessen the effect or application of the California Coastal Act.

The HAA provides that a “[m]ixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use” is considered a housing development. (Gov. Code Section 65589.5(h)(2)). Therefore, the proposed project is within the statute's definition of a housing development project.

The DZA exercised the discretion allowed under the LCP to issue a Coastal Development Permit and Conditional Use Permit, while protecting sensitive coastal resources. The DZA-approved project meets the certified LCP's requirements that establish allowable mass, scale, and bulk intended to protect public views, all of which are important coastal resources. Where the project is inconsistent with the certified LCP's regulations, the applicant has revised the project and is now requesting approval under State laws. Even with the requested concession, the project would still protect important coastal resources, including access to beaches.

B. The appellant asserts the building has local historic value, the open porch contributes to Point Reyes Station's coastal agricultural character, and, therefore, it should be preserved.

Response: In this appeal point, the appellant raises no issues related to the project's conformity with standards outlined in the Coastal Act, the Marin LCP, or the LCP Implementation Plan. Instead, the appellant asserts the proposed modifications are unnecessary and that the exterior modifications should not be permitted, as it would be inconsistent with the community character.

As described in detail in Section 11 below, the proposed project is consistent with the mandatory findings for Coastal Development Permit approval and would not adversely impact any coastal resources, including Historical and Archaeological Resources. The LCP, Implementation Plan Sections 20.32.160(B)(5) and (6) regulate the demolition, alteration or additions to structures of special character built prior to 1930. Available County records indicate that the structure was placed at this location in 1958 and has been modified over the years to accommodate different commercial tenants and their needs. The appellant's own historical analysis, prepared by D.S. Livingston, dated February 13, 2024, concludes that the structure was constructed in 1932 and moved to the current site in 1942. Further, the project is not listed in the California Register of Historical Resources nor the National Register of Historic Places or local historical designations.

The DZA approved the Coastal Permit application because it met the legal requirements and findings for approving such a permit. The DZA purview does not include a determination of whether a project is necessary. Instead, as discussed above, the standard of review is confined to the project's consistency with all applicable regulations. Based on the substantial evidence on record, including project plans and environmental studies, the project meets all the required findings for approval.

C. The appellant asserts that the environmental impact on the new housing shall be mitigated by enforcing applicable State and Local Codes.

Response: In this appeal point, the appellant argues that the DZA failed to consider the existing environmental conditions on the proposed housing units and future occupants.

Under the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 et seq.) and the CEQA Guidelines contained in Title 14 of the California Code of Regulations (Cal. Code Regs. Tit. 14, Section 15000), CEQA is intended to inform government decision-makers and the public about the potential environmental effects of proposed activities and to prevent significant, avoidable environmental damage. The

purpose of CEQA is not to investigate impacts that may be caused by the existing environmental conditions on a future project.

A project that is statutorily or categorically exempt is subject to no further environmental review under CEQA. A categorical exemption reflects a determination by the Secretary of the Natural Resources Agency that a particular class of projects has no significant effect on the environment. (Pub. Res. Code 21084(a); CEQA Guidelines 15300). Categorical exemptions are subject to certain exceptions. An activity that may have a significant effect on the environment cannot be categorically exempt. However, the appellant has not provided sufficient evidence to overturn the CEQA determination.

With respect to future residential units, as discussed in Section 12(G) below, the Marin County Building and Safety Division will ensure that the project design incorporates the recommendations in the geotechnical report and that the construction of the units complies with the current California Building Standards Code, which includes detailed structural, ventilation and design requirements.

D. The appellant asserts that the proposed propane refill tanks should be eliminated from the project.

Response: In this appeal point, the appellant objects to the inclusion of a 1,000-gallon propane tank, which will be used to dispense propane to convenience store customers, on the basis of (1) where it is proposed to occur on the site and (2) that it could potentially generate additional traffic and increase onsite parking demand.

A transportation analysis was prepared for this project by W-Trans, dated January 24, 2024, using the methodology of Vehicle Miles Traveled (VMT) to study any potential impact that the project may have on the traffic infrastructure and any possible congestion resulting from the entirety of the project. The Department of Public Works Land Development Land and Traffic Divisions reviewed the site plan and the traffic memorandum and recommended project approval with conditions of approval related to the installation of pedestrian striping along Mesa Road and A Street. In response to the appeal, the applicant also submitted an updated trip generation study prepared by W-Trans, dated February 27, 2024. The Department of Public Works Land Development Land and Traffic Divisions reviewed the updated traffic memorandum and found no traffic or circulation-related concerns with the proposed project. The Department of Public Works continues to recommend approval, subject to the recommended conditions of approval.

Per the Marin County Code, the project is required to provide 18 parking spaces. Under the Density Bonus Law, the project is required to provide 17 spaces, and the project may also reduce further the required onsite parking spaces through waivers or concessions under the State Density Bonus Law. Yet, the project proposes 18 parking spaces where a maximum of 17 spaces are required. The project be required to provide more parking stalls than required by the Marin County Code or California Density Bonus Law.

The appellant has provided no valid basis for this appeal point. The DZA approved this project based on the substantial evidence on record, including project plans and traffic study; the DZA determined the project met the required findings for approval.

10. **WHEREAS**, the project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) under Section 15061(b)(3) because the proposed conversion would occur primarily within an existing building, and minimal additional site disturbance will occur. Therefore, the project qualifies for an exemption under Section 15061(b)(3). Further, the project is also exempt under Section 15303 Class 3 of the CEQA Guidelines because the proposed conversion from a commercial to a mixed-use building and the installation of small utility systems which are specifically exempt from CEQA under this section. Therefore, the project is exempt from CEQA because it will not have any impact on the environment.

11. **WHEREAS**, the project is consistent with the goals and policies of the Marin Countywide Plan for the following reasons:

- A. The project site was previously developed as a gasoline service station and multi-tenant commercial building. Onsite vegetation is limited to non-native ornamental plants, except for one Monterey tree. The tree was planted directly above existing septic mains, and its roots have caused the septic system to fail. No other vegetation is proposed for removal. Therefore, the proposed infill project is consistent with the CWP woodland preservation policy (BIO-1.3) because the project would not entail the irreplaceable removal of a substantial number of mature, native trees.
- B. The project site is developed as a gasoline service station and with other commercial uses. The project is consistent with the CWP special-status species protection policy (BIO-2.2) because the subject property does not provide a habitat for special-status species of plants or animals. Since the project will occur entirely within the property boundaries and on previously improved grounds, the project would not affect special-status species. Therefore, the proposed infill project is consistent with the CWP special-status species protection policy (BIO-2.2) because the subject property does not provide habitat for special-status species of plants or animals, and no offsite impacts are anticipated due to the project.
- C. The infill project would occur on a site developed as a gasoline service station and a multi-tenant commercial building, and site disturbance would be limited to the site. Therefore, the proposed infill project is consistent with the CWP natural transition and connection policies (BIO 2.3 and BIO 2.4) because the project would not substantially alter the margins along riparian corridors, wetlands, Baylands, or woodlands.
- D. The applicant has provided a Storm Water Pollution and Prevention Plan (SWPPP) for the project prepared in accordance with the Bay Area Storm Water Management Agency Association (BASMAA) requirements. The project is consistent with CWP water quality policies and would not result in substantial soil erosion or discharge of sediments or pollutants into surface runoff (WR-1.3, WR-2.2, WR-2.3) because the grading and drainage improvements would comply with the Marin County standards and best management practices required by the Department of Public Works.
- E. The applicant has provided a geotechnical report prepared by PJC & Associates Inc., dated April 11, 2023. The geotechnical investigation states no active faults traverse the project site. The report also indicates that a large earthquake centered on any of the active faults in the region, including the San Andreas Fault (approximately 650 feet), could impact the project site. The geotechnical report includes recommendations for site preparation and grading, placement and compaction of engineered fill, foundation design, parameters for slabs-on-grade and concrete flatwork, drainage, and more. Adherence to

the recommendations of the geotechnical reports will be verified during the review of the Building Permit application.

- F. The Marin County Building and Safety Division will ensure that the project design incorporates the recommendations in the geotechnical report and that it complies with the current California Building Standards Code, which includes detailed structural design requirements intended to provide adequate structural integrity to withstand the maximum credible earthquake and the associated ground motion acceleration. Compliance with the applicable building codes will maximize the structural stability of the proposed building and minimize the potential for damage and injury during an intense seismic event. As such, the project is consistent with CWP seismic hazard policies (CWP Policies EH-2.1, EH-2.3, and CD-2.8) because it would be constructed in conformance with County earthquake standards, as verified during the review of the Building Permit application.
- G. The project is consistent with CWP fire hazard management policies (EH-4.1, EH-4.2, EH-4.5) because it would meet all fire safety requirements, as verified by the local fire protection district during the review of the Building Permit application.

12. **WHEREAS**, the project is consistent with the goals and policies of the Point Reyes Station Community Plan for the following reasons:

- A. **Community character.** The project is located in downtown Point Reyes Station along Shoreline Highway between Mesa Road and A Street. The project site is surrounded by commercial developments in the west, east, and south, while the area to the north is developed with single-family residences. The Point Reyes Station Community Plan's vision for this area is to maintain a commercial core (Objective CL-1.0) while encouraging the construction of affordable housing development.

The developed project site is an underutilized lot in downtown Point Reyes Station. The proposed project would encourage more efficient use of the property by repurposing the site as a high-density mixed-use development with five residential units, including one below-market rate unit, and 1,930 square feet of commercial space with exterior modifications that will largely retain the site's existing architecture. The residential units would be located in close proximity to commercial and employment resources, thereby furthering Objective CL-1.0 of the Point Reyes Station Community Plan.

Additionally, the proposed project would further the County's goal of creating a range of housing types to meet the diverse needs of the community by adding five residential units to the Point Reyes Station's overall housing inventory. The unit mix would comprise three two-bedroom units ranging in size from 802 to 843 square feet and two one-bedroom units ranging from 591 to 593 square feet. Therefore, the project complies with Objective CL-1.0 as it represents a mixed-use infill development in the heart of downtown, where such uses are encouraged by the Point Reyes Station Plan.

- B. **New residential development in Point Reyes station.** The proposed project would not alter the existing building height, bulk, and mass. All the residential units will be created within the existing building shell, and all exterior modifications will be indiscernible and limited to the minimum required to comply with egress and ingress requirements of the California Building and Fire codes. All reasonable design efforts have been made to maintain the existing design of the building while respecting and maintaining the eclectic architectural heritage of the surrounding neighborhood. As conditioned, the project is

compatible with the scale, style, and colors of the existing surrounding development and incorporates design elements that respect the existing surroundings and developments in the immediate area. Therefore, the proposed project would be consistent with Land Use Plan Policy C-PRS-5.

- C. Lighting.** All proposed exterior lights will be required to be shielded and downward facing, thereby complying with Land Use Plan Policy C-PRS-6 (Lighting).

13. **WHEREAS**, the project is consistent with the mandatory findings Coastal Development Permit (Marin County Local Coastal Program Implementation Plan Section 20.70.070) for the following reasons:

- A. Coastal Access.** The proposed project, as conditioned, is consistent with the applicable policies contained in the Public Coastal Access section of the Marin County Land Use Plan and the applicable standards contained in Section 20.64.180 (Public Coastal Access). Where the project is located between the nearest public road and the sea, a specific finding must be made that the proposed project, as conditioned, is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act (commencing with Section 30200 of the Public Resources Code)

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 LUP public coastal access policies (C-PA-3, C-PA-4, C PA-17, C-PA-21).

- B. Biological Resources.** The proposed project, as conditioned, is consistent with the applicable policies contained in the Biological Resources section of the Marin County Land Use Plan and the applicable standards contained in Section 20.64.050 (Biological Resources).

A review of the California Natural Diversity Data Base, prepared by the State Department of Fish and Wildlife, indicates no riparian corridors, wetlands, Baylands or woodlands present on the project site. Further, since the project will occur within the area of the lot that was previously graded, potential effects to biological species are not anticipated with the project.

- C. Environmental Hazards.** The proposed project, as conditioned, is consistent with the applicable policies contained in the Environmental Hazards section of the Marin County Land Use Plan and the applicable standards contained in Section 20.64.060 (Environmental Hazards).

On July 13, 2021, the Board of Supervisors voted to activate the certified Local Coastal Program (LCP) Amendments. All portions of Marin's LCP Amendments have been approved by the Board of Supervisors and certified by the Coastal Commission with the exception of chapters related to environmental hazards, which remain the subject of on-going work and public input. As a result, those sections of the original versions of the LCP, certified by the Coastal Commission in 1980 (Unit I) in 1981 (Unit II) and the Marin County Interim Code Sections 22.56.130I.H, 22.56.130I.K, and 22.56.130I.L still apply to environmental hazards and are further discussed in the Interim Code section of this report.

- D. Agriculture and Mariculture. The proposed project, as conditioned, is consistent with the applicable policies contained in the Agriculture and Mariculture sections of the Marin County Land Use Plan and the applicable agricultural and maricultural standards contained in Chapter 20.32.**

The proposed infill project entails installing a septic system and the conversion of an existing commercial space to a mix of commercial and residential use. It is located within an area governed by the C-VCR-B2 (Coastal, Village Commercial Residential combined) district, which allows a mix of residential and commercial uses. As the site does not entail agricultural or maricultural uses, this finding does not apply.

- E. Water Resources. The proposed project, as conditioned, is consistent with the applicable policies contained in the Water Resources section of the Marin County Land Use Plan and the applicable standards contained in Section 20.64.080 (Water Resources).**

Grading and drainage improvements for the approved project would comply with the Marin County standards and best management practices required by the Department of Public Works. Additionally, water services are provided by the North Marin Water District (NMWD). Therefore, the project is consistent with the LUP water quality policies and would not result in substantial soil erosion or discharge of sediments or pollutants into surface runoff that would adversely affect the quality of coastal waters (C-WR-1, C-WR-2, C-WR-3, C-WR-6).

- F. Community Design. The proposed project, as conditioned, is consistent with the applicable policies contained in the Community Design section of the Marin County Land Use Plan and the applicable standards contained in Section 20.64.100 (Community Design).**

The subject property is located within the downtown Point Reyes area, developed with a mix of commercial structures and residential uses scattered throughout. The surrounding area is generally flat, with structures constructed with varying development patterns, heights, and architectural styles. The proposed project would occur entirely within the existing building footprint with indiscernible exterior modifications primarily intended to comply with the California Building Code.

Because of the flat terrain of the location, there are no up-slope and down-slope views or coastal views. There are no designated scenic vistas in the area, although there is a brief vista from State Route 1 with an overview of the mountain range to the west. This view would be unaffected by the project because no exterior modification is proposed that would impair or otherwise degrade available views.

As such, the project is consistent with the Point Reyes Station Community Standards under Marin County Implementation Plan Section 20.66.070, LUP policies related to development in Point Reyes (Land Use Plan Policy C-PRS-5) because the height, scale, and design of the project are compatible with the existing pattern of development in the neighborhood. The proposed project is also consistent with Land Use Plan Policy C-PRS-1, which encourages the maintenance of the existing mix of residential and small-scale historic community character in Point Reyes Station. The proposed exterior modifications would largely retain the existing architecture of the building. The proposed updates and

modifications are necessary to comply with the Building and Fire Codes currently in effect.

G. Community Development. The proposed project, as conditioned, is consistent with the applicable policies contained in the Community Development section of the Marin County Land Use Plan and the applicable standards contained in Chapter 20.66 (Community Development).

The project site is located within the downtown area of Point Reyes Station, which is developed with a mix of residential and small-scale commercial development. As proposed, the project would further the small-scale, historic community character in Point Reyes Station as the proposed exterior modifications are indiscernible and limited to comply with the California Building and Fire codes currently in effect. Further, the project entails the conversion of a commercial building to a mixed-use building in an area where such developments are encouraged by the underlying zoning district as well as the applicable community plan. Therefore, the project is consistent with this finding.

The proposed project would further the commercial and mixed-use composition of the downtown area. The project would locate residential units and a convenience store in the heart of downtown. By providing five residential rental units, including one unit restricted to low-income households, the proposed infill project would provide public benefit and would be consistent with the policies of the Countywide Plan for infill development near existing roads and public transportation routes. Further, the project is consistent with the intent of the Point Reyes Station standards and represents a development that is sensitive to the existing built environment and will result in a mixed-use project that provides an appropriate mix of commercial and four market-rate units, one unit dedicated for low-income families within the core downtown area.

H. Energy. The proposed project, as conditioned, is consistent with the applicable policies contained in the Energy section of the Marin County Land Use Plan and the applicable standards contained in Section 20.64.120 (Energy).

The project would be required to satisfy all energy-saving standards as required by the County's Building and Safety Division prior to the issuance of a building permit. Therefore, the project is consistent with the LUP energy policies (LUP Policies EH-2.1, EH-2.3, and CD-2.8) and this finding because it would be constructed in conformance with County energy efficiency standards, as verified during the review of the Building Permit application.

I. Housing. The proposed project, as conditioned, is consistent with the applicable policies contained in the Housing section of the Marin County Land Use Plan and the applicable standards contained in Section 20.64.130 (Housing).

The project is consistent with the LUP housing policies to address low- and moderate-income housing needs in the Coastal Zone (LUP Policies C-HS-1) because the project would not remove housing subject to a recorded covenant, ordinance, or law that restricts rents to levels of affordable to persons and families of lower or very low income or subject to any other form of rent or price control. Instead, the project would create five new dwellings, including one dwelling unit that would be deed-restricted to a low-income household to comply with the County's inclusionary requirements enumerated in Marin Development Code Section 20.22.020, Table 3-4a.

Additionally, as stated above, the project site contains two unpermitted dwelling units that are currently occupied. In order to protect the tenants from displacement, a condition of approval requires that the applicant enters into a regulatory agreement in order to provide limited tenant protections that include relocation assistance and the first right of refusal.

Further, the Regional Housing Needs Assessment (RHNA) for the Sixth Housing Element Cycle (2023-2021) estimates that the unincorporated County will experience demand for 3,561 new dwelling units, including 1,734 for extremely- and very-low income, 512 for moderate-income, and 1,323 for above moderate-income households. By contributing five rental dwelling units to the County's housing stock, including one reserved for lower-income households, the proposed project would help to meet the County's projected housing demand.

J. Public Facilities and Services. The proposed project, as conditioned, is consistent with the applicable policies contained in the Public Facilities and Services section of the Marin County Land Use Plan and the applicable standards contained in Section 20.64.140 (Public Facilities and Services).

The North Marin Water District (NMWD) currently provides water to the project site, and the NMWD will continue to provide water to the site once it is constructed. Additionally, on November 13, 2023, the Environmental Health Division (EHS) conditionally approved the applicant's new septic system. Therefore, the project is consistent with the LUP public facilities and services policies (C-PFS-1 and C-PFS-7), and this finding because the project would be adequately served by existing public water service and the proposed an onsite sewage disposal system located on the existing residential lot that would be adequately sized to meet the needs of the development, as verified during the review of the Building Permit application.

K. Transportation. The proposed project, as conditioned, is consistent with the applicable policies contained in the Transportation section of the Marin County Land Use Plan and the applicable standards contained in Section 20.64.150 (Transportation).

The project is located in downtown Pt. Reyes Station along Shoreline Highway between Mesa Road and A Street. Access to the residential units would be provided from A Street, while commercial uses would continue to be accessed from Shoreline Highway between Mesa Road. Therefore, the project is consistent with the LUP transportation policies (C-TR-1 and C-TR-2) and this finding because the project would not entail any alterations to existing roadway facilities or adversely impact the scenic quality of Highway One.

L. Historical and Archaeological Resources. The proposed project, as conditioned, is consistent with the applicable policies contained in the Historical and Archaeological Resources section of the Marin County Land Use Plan and the applicable standards contained in Section 20.64.160 (Historical and Archaeological Resources).

Although the project site is within the historic downtown Point Reyes Station, the project site is not listed in the California Register of Historical Resources nor the National Register of Historic Places. The subject commercial structure was built in 1958 and has been modified over the years to accommodate different commercial tenants and their needs. Therefore, the project is consistent with the LUP historical and archaeological

resources policies (C-HAR-2, C-HAR-8) and this finding because the project would not impact historic district boundaries and would not affect historical, archaeological, or paleontological resources.

M. Parks, Recreation, and Visitor-Serving Uses. The proposed project, as conditioned, is consistent with the applicable policies contained in the Parks, Recreation, and Visitor-Serving Uses section of the Marin County Land Use Plan and the applicable standards contained in Section 20.64.170 (Parks, Recreation, and Visitor-Serving Uses).

The project site is not located adjacent to any public park or open space, and the project does not entail any construction or development that would encroach into existing public access points to and from surrounding public parks, recreation, or visitor-serving uses. Therefore, the project is consistent with the LUP policies for parks, recreation, and visitor-serving uses (C-PK-1 and C-PK-3), and this finding because the project is proposed entirely within an existing building footprint and does not entail any construction of development that would encroach into existing public access points to and from surrounding public parks, recreation, or visitor-serving uses.

Mandatory findings for Coastal Development Permit approval pursuant to Marin County Code Section 20.64.060.

A. Dune Protection (Marin County Interim Code Section 20.64.060.A)

The project site is not located in a dune protection area as identified by the Natural Resources Map for Unit I of the Local Coastal Program. Therefore, the project is consistent with this finding because no dunes are located on the site.

B. Shoreline Protection (Marin County Interim Code Section 20.64.060.B)

The project site is not located adjacent to the shoreline or within a bluff erosion zone. The proposed project does not involve shoreline protection work, will not restrict navigation, mariculture, or other coastal use, and will not create a hazard in the area in which it is built. Therefore, this criterion is met.

C. Geologic Hazards (Marin County Interim Code Section 20.64.060.C)

Although the project site is not located near a Fault Zone, it would be subjected to strong ground shaking during a proximate seismic event. The Marin County Community Development Agency, Building, and Safety Division will require seismic compliance with the California Building Code prior to issuance of a project building permit.

14. **WHEREAS**, the project is consistent with the mandatory findings for Conditional Use Permit (Marin County Code Section 22.48.040) for the following reasons:

A. The proposed use is allowed, as a conditional use, within the subject zoning district and complies with all of the applicable provisions of this Chapter.

The proposed project is located in the C-VCR-B2 (Village Commercial Residential, combined) zoning district. Under the LCP, Implementation Plan Section 20.32.160, a Use Permit is required to authorize commercial retail floor area greater than 15 percent of the

structure's total floor area. Under the LCP Implementation Plan, Section 20.62.080.D, Table 5-3-c, the creation or construction of multi-family housing development is designated as a conditionally permitted use. Additionally, the Marin County Local Coastal Program, Implementation Plan Section 20.62.080.D, Table 5-3-e requires approval of a conditional use permit for the installation of a public utility facility (PG&E) transformer on private property.

The proposed project is allowed subject to the approval of a conditional use permit and, as conditioned herein, the project is consistent with the Countywide Plan, the Point Reyes Station Community Plan, and the C-VCR-B2 zoning district. As required in Section 20.32.160, the proposed retail space will be subordinate to the primary motor vehicle service station use. As proposed, the proposed retail space is limited to the sale of prepackaged items commonly associated with convenience stores. The approved septic system, for example, would not permit a full-service restaurant. Additionally, staff does not anticipate that the size, extent, and operation of retail sales will conflict with the predominant character of the area surrounding the service station.

Finally, as stated above, the applicant submitted a transportation analysis, by W-Trans, dated January 24, 2024, and February 27, 2024, using the methodology of Vehicle Miles Traveled (VMT) to study any potential impact that the project may have on the traffic infrastructure and any possible congestion resulting from the entirety of the project. The Department of Public Works (DPW) Land Development Land and Traffic Divisions reviewed the site plan and the traffic memorandum and determined that the size, extent, and operation of retail sales shall not cause a significant increase in traffic and noise in the area surrounding the service station. The DPW also recommended conditions of approval requiring the applicant to install pedestrian striping along Mesa Road and A Street and to investigate whether Caltrans would allow such pedestrian striping to be installed in their facilities. In the event Caltrans declines, the condition for approval requires the applicant to pay an in-lieu fee, which would be used to enhance pedestrian safety in the downtown area of Pt. Reyes.

Therefore, the project, as conditioned herein, would be consistent with the LCP and would protect coastal resources.

B. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity.

In general, buildings in the vicinity are nondescript, one- to two-story commercial and single-family residential structures. The proposed infill project consists of the renovation and conversion of an exclusively commercial building to a mix of residential and commercial uses in a district where such uses are encouraged by the underlying zoning district, the Local Coastal Program, the Countywide Plan, and the community plan. The project would retain the overall existing exterior color and material palette, with the commercial portions of the building having a color and material palette that distinctly differs from and complements the residential portion of the building. The project proposes new window and door openings, awning covers over all new windows, and proposes to refinish the entire exterior to match the existing colors and material palette that consists of a combination of wood siding in dark green, corrugated metal in yellow colors, and stucco finish in yellow colors.

The proposed new window placement, coupled with the application of said materials, results in an overall building design that is sensitive to and complementary to the surrounding neighborhood ambiance and architecture. Each facade is modulated in various ways with projected awnings, a variety of finishes, and consistent fenestration placement patterns that further enhance building articulation and increase visual interest. The yellow and green color palette would be appropriate for a mixed-use project in an area developed with eclectic architectural styles, resulting in a project that is responsive to the site and neighborhood context.

Further, exterior light will be required to be shielded and downward facing. The project would be required to comply with County Code Section 24.04.410, which mandates the use of shielded lighting fixtures so as not to produce an obtrusive glare on the public right-of-way or adjoining properties.

C. That granting the Conditional Use Permit will not be detrimental to the public interest, health, safety, convenience, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the real property is located.

The proposed project fills a rental housing need in the immediate neighborhood. The location for this use is well suited, as it is well-served by appropriate roads, parking, and transit stops. Therefore, the project is consistent with this finding.

SECTION II: ACTION

NOW THEREFORE, BE IT RESOLVED that the project described in condition of approval 1 is authorized by the Marin County Planning Commission and is subject to the conditions of project approval.

This decision certifies the proposed project's conformance with the requirements of the Marin County Development Code and in no way affects the requirements of any other County, State, Federal, or local agency that regulates development. In addition to a Building Permit, additional permits and/or approvals may be required from the Department of Public Works, the appropriate Fire Protection Agency, the Environmental Health Services Division, water and sewer providers, Federal and State agencies.

SECTION III: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Planning Commission hereby denies the Switzer appeal and approves the Sydriel Coastal Permit and Conditional Use Permit, subject to the conditions as specified below:

CDA-Planning Division

1. This Coastal Development Permit and Conditional Use Permit approval authorizes the conversion of an existing commercial structure to five residential units while expanding an existing convenience store from a 215-square-foot cashier's stand to a 1,901-square-foot store, which includes a 73-square-foot utility closet. The proposed five units shall consist of three two-bedroom units ranging in size from 839 to 854 square feet and two one-bedroom units ranging from 626 to 626 square feet. One of the residential units shall be deed-

restricted for a low-income household in perpetuity, as required by the County's inclusionary requirements enumerated in Marin Development Code Section 20.22.020, Table 3-4a.

All proposed interior and exterior renovations of the building shall occur within the existing footprint of the building. The enclosure of the existing 150 square feet of covered porched areas to create habitable space shall increase in floor area from 5,650 to 5,800 square feet and an increase in floor area ratio (FAR) from 22.60 percent to 23.20 percent on the 25,000 square foot developed lot. The existing building height of 25 feet nine inches above grade shall remain unchanged.

All proposed exterior alterations shall be limited to: (1) the installation of a roof-mounted equipment well, removing the existing rear deck, (2) the installation of a new at grade sidewalk, (3) the installation of a propane-powered backup generator with an automatic transfer switch to power the entire building, including fuel dispensers, and (4) the installation of a new PG&E transformer with a main electrical distribution panel intended to facilitate the installation of separate meters for each residential unit as well as commercial uses.

Various site improvements would also be entailed in the proposed development, including general grading to accommodate the proposed project, the removal of one Monterey Pine tree (six inches diameter breast height), installation of a bike rack, six new water meters, and a 1,000-gallon propane tank to dispense bulk propane to commercial customers.

2. Plans submitted for a Building Permit shall substantially conform to plans identified as Exhibit A, entitled "Point Reyes Station coastal Permit and Use Permit," consisting of 28 sheets prepared by Matthew E. Donohue, received in final form on January 30, 2024, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.

BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall modify the project to conform to the following requirements:

- a. The landscape plan shall be modified to include a minimum of 50 percent of plantings that are native to Marin County, as identified by the Marin Chapter of the California Native Plant Society.
 - b. The commercial component of the project shall not exceed 1,901 square feet in floor area.
3. Unless a public emergency services provider recommends otherwise or unique circumstances necessitate a change, the street address for the commercial unit shall remain 11401 State Route 1, Point Reyes Station, and the residential units shall be 11401 State Route 1, Unit #1 through Unit #5, Point Reyes Station.
 4. The project shall conform to the Planning Division's "Uniformly Applied Standards 2024" with respect to all of the standard conditions of approval and the following special conditions: 3 and 4.

CDA-Housing Division

5. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall enter into a Regulatory Agreement with an Affirmative Marketing Plan, as prepared by the County, and paid for by

the applicant. The Agreement shall comply with applicable requirements in Chapter 22.22 of the Marin County Code. The Agreement shall acknowledge that the project includes one rental unit that is income-restricted in perpetuity. The unit shall be offered at an affordable rent not exceeding 30 percent of the gross income of households earning at most 60 percent of Area Median Income, adjusted for household sizes. The rental prices shall be established by the County or its designee and shall be based on the number of bedrooms. See Marin County Development Code Article VIII for definitions of Affordable Rent and Area Median Income.

The Agreement shall specify provisions for income certification and screening of potential renters of units, and specify resale control mechanisms, including the financing of ongoing administrative and monitoring costs, and comply with the requirements of Marin County Code Section 22.22.120.C. In addition, the following provisions shall apply:

- a. Maximum rent shall be adjusted for the family size appropriate for the unit pursuant to California Health & Safety Code Section 50052.5 (h);
 - b. Rent shall include a reasonable allowance for utilities, as published and updated by the Housing Authority, including garbage collection, sewer, water, electricity, gas, and other heating, cooking, and refrigeration fuels. Such allowance shall consider the cost of an adequate level of service. Utilities do not include telephone service. Rent also includes any separately charged fees or service charges assessed by the lessor, which are required of all tenants, other than security deposits; and
 - c. The income restrictions shall run with the land.
 - d. Any residential tenant evicted or required to vacate any existing lawful or unlawful residential unit as a result of this approval shall be: (1) provided with relocation assistance and (2) given the right of first refusal to reoccupy a residential unit on the site.
 - e. The developer shall provide tenant notification, via written communication in the language of the executed lease, that each dwelling is subject to Marin County's Just Cause for Eviction, Rental Housing Dispute Resolution (Mandatory Mediation), and Source of Income ordinances.
6. The developer shall provide tenant notification, via a lease or deed covenant, that each dwelling unit is located in a mixed-use area that includes commercial, food service and entertainment uses, and that each occupant shall not seek to impede their lawful operation.

Department of Public Works, Land Development Division

7. Prior to issuance of a Building Permit, the applicant shall apply for an encroachment permit from Caltrans for the installation of the following improvements:
- A. Pedestrian ramps located at the southeast corner of Mesa Street/State Route One and the southwest corner of A-Street/State Route One.
 - B. Crosswalk striping across the northside of the Mesa Street intersection and across the A-Street intersection with State Route One and associated crosswalk signage.

C. Additional pedestrian/bicycle-related striping as recommended by the Department of Public Works (DPW) and approved by Caltrans.

If Caltrans does not grant approval prior to occupancy, the applicant shall enter into an In Lieu Agreement with the County of Marin, in the amount of the approved Engineer's Estimate by DPW for the above improvements. The agreement shall provide funds to the County of Marin, which shall be used for future Safe Routes to School improvements at this location or other locations in Point Reyes Station subject to the recommendation of the Safe Routes to School committee.

SECTION IV: VESTING

NOW THEREFORE, BE IT RESOLVED that unless conditions of approval establish a different time limit or an extension to vest has been granted, any permit or entitlement not vested within three years of the date of the approval shall expire and become void. The permit shall not be deemed vested until the permit holder has actually obtained any required Building Permit or other construction permit and has substantially completed improvements in accordance with the approved permits, or has actually commenced the allowed use on the subject property, in compliance with the conditions of approval.

SECTION V: APPEAL RIGHTS

NOW, THEREFORE, BE IT RESOLVED that this decision is final unless appealed to the Marin County Board of Supervisors. A Petition for Appeal and the required fee must be submitted in the Community Development Agency, Planning Division, Room 308, Civic Center, San Rafael, no later than ten business days from the date of this decision (April 18, 2024)

SECTION VI: VOTE

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin held on this 4th day of April, 2024 by the following vote:

AYES: COMMISSIONERS

NOES:

ABSENT:

REBECCA LIND, CHAIR
MARIN COUNTY PLANNING COMMISSION

Attest:

Sindy Palencia
Planning Commission Recording Secretary