

# REUBEN, JUNIUS & ROSE, LLP

March 4, 2024

Immanuel Bereket  
Marin County Planning Division  
3501 Civic Center Drive, Suite 308  
San Rafael, CA 94903

**Re: 11401 State Route 1, Point Reyes Station  
State Density Bonus Analysis & Affordable Housing Plan  
APN: 119-198-03**

Dear Mr. Bereket:

Our office represents Redwood Oil Company, the project sponsor (“**Project Sponsor**”) of a proposed mixed-use housing project at 11401 State Route 1 in Point Reyes Station (the “**Project**” and the “**Property**”). The purpose of this letter is to: (1) confirm filing of an SB-330 preliminary application for the Project, (2) submit an Affordable Housing Plan as required by Marin County Code Section 22.22.030; and (3) request and justify the density bonus, waivers and incentives/concessions proposed as part of the Project under California Government Code, Section 65915.

**The Project proposes to dedicate 1 out of 5 (20%) of its proposed dwelling units as affordable to Low-Income households in order to qualify for a State Density Bonus,<sup>1</sup> and is seeking one concession and one waiver, and is eligible for a required parking reduction, under the State Density Bonus Law.**

## **1. Project Description**

The Property is 0.57-acre lot that currently houses a fuel station with three fuel dispensers 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 existing building to 5,825 sq. ft. by enclosing a porch area and reconfigure it to expand the existing convenience store to 1,920 sq. ft. and redevelop the remainder of the building to provide for five (5) rental units, with two (2) 1-bedroom units and three (3) 2-bedroom units. One (1) of the 1-bedroom units would be designated as affordable for Low-Income households to qualify for the State Density Bonus Law and to satisfy the County’s Affordable Housing Regulations.

The renovation of the convenience store would add two (2) unisex restrooms, a walk-in cooler, a freezer, a small food-prep area for pre-cooked food, and an open-air display fridge for prepared salads, sandwiches, and other foods.

San Francisco Office  
One Bush Street, Suite 600, San Francisco, CA 94104  
tel: 415-567-9000 | fax: 415-399-9480

Oakland Office  
456 8th Street, 2<sup>nd</sup> Floor, Oakland, CA 94607  
tel: 510-257-5589

[www.reubenlaw.com](http://www.reubenlaw.com)

The Project also proposes: the installation of a new septic system that will accommodate 1,500 gpd with three (3) dispersal zones and 100% reserve; the addition of a 1,000-gallon propane tank, which will be used to dispense propane to convenience store customers; and the installation of a 100kW propane-powered generator, which will power the dwelling units, convenience store, and fuel station in the event of a power outage.

Finally, the Project will include several minor improvements and utilities work, including a new transformer and main electrical distribution panel with separate meters for each tenant, six new water meters, and a bicycle rack. One Monterey Pine tree of six-foot diameter breast height will be removed, and a hedge will be installed along A Street. The building would be modified to be slab on grade, with minimal changes to the exterior façade. The deck at the rear will be removed, and a 6-foot-wide sidewalk will be added at the rear of the building to provide access to the new dwelling units. The current siding, finishes, and colors will remain the same. There will be no changes to the three existing fuel dispensers, canopy, or underground tanks and piping. EV charging is not proposed.

The Project is seeking the following approvals and authorizations:

- Affordable Housing Plan<sup>2</sup>
- State Density Bonus with Concessions and Waivers
- Use Permit for Convenience Store to exceed 15% of total floor area<sup>3</sup>
- Coastal Development Permit

## 2. **SB-330 Preliminary Application**

In conjunction with this letter, the Project Sponsor is filing an SB 330 preliminary application to apply the protections of the Housing Crisis Act of 2019. The Project is also seeking waivers and incentives/concessions under the Density Bonus Law, and such exceptions from local zoning requirements are still considered consistent with any “plan, program, policy, ordinance, standard, requirement, or other similar provision,” as required by SB 330.<sup>4</sup> The Project is considered a “housing development project,” eligible for the protections of the Housing Accountability Act, since it is a mixed-used development with at least two-thirds dedicated to residential use (1,920 square foot convenience store in a 5,825 square feet Project does not exceed one-third of the total floor area ( $1,920/5,825 = 32.9\%$ )).

## 3. **Affordable Housing Plan**

The Project includes affordable housing in compliance with the State Density Bonus Law and the County’s Affordable Housing Regulations under Marin County Code Chapter 22.22. Pursuant to Marin County Code, Section 22.22.030, Project Sponsor submits this Affordable Housing Plan for the Project, as follows:

- The Project contains five (5) dwelling units. All dwelling units will be rented.

- The Project will satisfy the Affordable Rental Housing Requirements by complying with Option 2 for a Project Size of 10 or fewer units. It will provide 15% of units (1 unit) as affordable for Low-Income households (80% AMI).<sup>5</sup>
- The affordable unit will be offered at a rent not exceeding 30% of the gross monthly income of Low-Income households (80% AMI), adjusted for household size.<sup>6</sup>
- The affordable unit will be appropriately disbursed in the development, containing, on average, the same number of bedrooms as market-rate units, and it will be designed to be of a compatible design, and use similar materials, with respect to its interior and exterior appearance, amenities, and finishes.<sup>7</sup>
- Construction of the affordable unit will occur concurrently with the construction of the market-rate units, convenience store, and other improvements.
- After approval of the Affordable Housing Plan, the Project Sponsor will enter into a regulatory agreement recorded against the Property to restrict the affordable unit, place rules and regulations on the operation of the affordable unit, and restrict the rental of the affordable unit at an affordable rental level.<sup>8</sup>
- Upon completion of the Project, the Project Sponsor agrees to advertise the available affordable housing unit, screen applicants, and perform annual income certification for the affordable unit, or to retain a qualified entity to perform these functions. The Project Sponsor or subsequent owner will retain final discretion in selecting an eligible tenant, provided that the same rental terms and conditions are applied to the affordable unit as to the market-rate units, except as to rent levels, household income, and other requirements necessary to provide for affordable housing.<sup>9</sup>
- The Project Sponsor will provide tenant income qualification reports for the affordable unit to the County on an annual or biennial basis, as determined by the County.<sup>10</sup>

Please note that the final three items are post-approval implementation requirements, and the provision of additional detail for them is not required at the time of submittal. That being said, the Project Sponsor will provide all reasonable and relevant information at the request of the County in order to further the processing and approval of this Affordable Housing Plan and the Project.

#### **4. State Density Bonus**

##### *a. Base Density*

The Property is located in the Coastal, Village Commercial/Residential (C-VCR-B2) zoning district and has a General Plan land use designation of Coastal-Neighborhood Commercial (C-NC). This designation provides for a maximum residential density of 20 dwelling units per acre and a maximum floor area ratio (FAR) of 0.5:1.

*With a lot area of 0.57 acres (25,000 sq. ft.), the site has a maximum allowable residential density of 12 units and a maximum allowable floor area of 12,500 sq. ft.*

*b. Proposed Project Residential Density – State Density Bonus*

The Density Bonus Law allows a project to build at increased density beyond what is otherwise permitted if it provides a minimum percentage of below-market-rate dwelling units.<sup>11</sup> The extent of the “density bonus” depends on both the percentage of below-market-rate units provided and the extent of their affordability. If a project provides between 10% and 24% of its base density dwelling units affordable to low-income households, the Density Bonus Law requires the city to grant a density bonus of 20% to 50% beyond what is allowed under the existing zoning.<sup>12</sup> The Density Bonus Law may also be utilized when no increase in density is sought.<sup>13</sup>

*The Project proposes five (5) dwelling units in a 5,825 sq. ft. mixed-use building. Since the maximum base density is 12 units, the Project does not seek additional density bonus beyond the base density. Further, the Project’s FAR is 0.28, which is compliant with the applicable FAR limit. The 1,920 sq. ft. convenience store will occupy approximately 32.9% of the building.*

**5. State Density Bonus – Waivers**

The Density Bonus Law prohibits a local agency from applying development standards that physically preclude construction of a project at the densities, or with the concessions and incentives, allowed by the Density Bonus Law.<sup>14</sup> If such standards physically preclude the project, the agency must waive those standards unless the project has a significant, unavoidable impact on the environment or an historic resource, or such waiver would be inconsistent with state or federal law.<sup>15</sup> A “development standard” includes “a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.”<sup>16</sup> There is no restriction on the number of waivers a project may receive.

*a. Waiver 1 – Ground Floor Residential*

Under Local Coastal Program, Implementation Plan, Section 20.62.080, Table 5-3-c, footnote (3), Residential uses are a Permitted Use on upper floors and non-road-facing sides of lower floors. Residential uses on road-facing lower floors are only allowed if they maintain or enhance the established character of the village commercial core area.

*The Property has street frontage on three of its four sides, subjecting almost the entire building to this standard. While the Project maintains and enhances the commercial core area, as it is simply a renovation of an existing building, and a restriction prohibiting three dwelling units on road-facing lower floors would physically preclude construction of the Project. For that reason, the Project seeks a waiver from this section.*

*b. Reservation for other Waivers*

*The Project is not seeking any other waivers at this time. Project Sponsor reserves the right to request additional waivers in the future.*

**6. State Density Bonus - Incentives/Concessions**

The Density Bonus Law also allows a development project to take advantage of a certain number of incentives or concessions from various Zoning Code requirements, including a reduction in development standards or a modification of requirements, that would result in “identifiable and actual cost reductions, to provide for affordable housing costs...or for rents for the targeted units” to the project.<sup>17</sup> The Project will provide at least 20% of its base dwelling units (1 unit) as affordable to low-income households, which qualifies it for **two incentives/concessions**.<sup>18</sup>

*a. Incentive/Concession 1 – Convenience Store Floor Area*

The size of the Service Station Convenience Store is limited to 15% of the total floor area of the building pursuant to Local Coastal Program, Implementation Plan § 20.32.160(A). With a building area of 5,825 sq. ft., the proposed convenience store would be limited to an area of 873 sq. ft.

*The Project is seeking a modification of this standard to allow for the approximately 1,920 sq. ft. proposed convenience store. The proposed size will allow the convenience store to install two new restrooms, refrigerators, a freezer, and a prepared food area. These are extremely common service station features and would primarily serve travelers on the adjacent state highway, as well as local residents and pedestrians. Modifying this standard would allow the convenience store to modernize its service and attract more business, which will reduce the cost of renovating the building to provide affordable housing on site. The proposed convenience store will not exceed 33% of the total Project floor area, qualifying it for protection under the Housing Accountability Act.*

**7. State Density Bonus Parking Reduction**

Under Marin County Code, Section 24.04.340, the Project is subject to a minimum parking requirement of 18 parking spaces, broken down as follows:

- Two (2) 1-bedroom units at 1.25 spaces/unit: 2.5 spaces;
- Three (3) 2-bedroom units at 1.5 spaces/unit: 4.5 spaces;
- Guest Parking (for 5 units) at 0.2 spaces/unit: 1 space;
- Convenience Store of 1,920 sq. ft. at 1 space/200 sq. ft.: 9.5 spaces.
- Total Parking Requirement: 18 spaces

*The Density Bonus Law restricts local jurisdictions from requiring certain levels of minimum parking for eligible projects, including the restriction that 1-bedroom units cannot have a parking*

*requirement above 1 parking space per 1 dwelling units.<sup>19</sup> Accordingly, the parking requirement for the Project is reduced to 17 spaces per the Density Bonus Law. The Project will provide 18 parking spaces and therefore complies with this requirement.*

**8. Local Coastal Program Compliance – Density Bonus Law**

Per the State Density Bonus Law, the approval of a density bonus and any incentives shall not require a local coastal plan amendment, general plan amendment, zoning change, or other discretionary approval.<sup>20</sup> That is, the approval of a density bonus project and any incentives should be considered consistent with applicable planning and zoning documents, including the local coastal program.

The proposed Project meets all of the other requirements of the Marin County Code and Local Coastal Program. Please do not hesitate to contact me if you have any questions.

Very truly yours,

**REUBEN, JUNIUS & ROSE, LLP**



John Kevlin

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<sup>1</sup> Cal. Gov. Code § 65915(b)(1)(A).

<sup>2</sup> Marin County Code, Chapter 22.22.

<sup>3</sup> Local Coastal Program, Implementation Plan § 20.32.160(A).

<sup>4</sup> Cal. Gov. Code § 65589.5(j)(3); 65905.5(c)(1).

<sup>5</sup> Marin County Code § 22.22.090(A), Table 3-4c.

<sup>6</sup> Marin County Code § 22.22.080(D).

<sup>7</sup> Marin County Code § 22.22.080(E) & (F).

<sup>8</sup> Marin County Code § 22.22.080(A) & § 22.22.120(C)(2).

<sup>9</sup> Marin County Code § 22.22.120(C)(1).

<sup>10</sup> Marin County Code § 22.22.120(C)(3).

<sup>11</sup> Cal. Gov. Code § 65915(b).

<sup>12</sup> Cal. Gov. Code § 65915 (f)(1); Campbell Marin County Code § 21.02.050(A), citing Cal. Gov. Code § 65915.

<sup>13</sup> Cal. Gov. Code § 65915(f).

<sup>14</sup> Cal. Gov. Code § 65915(e)(1).

<sup>15</sup> Cal. Gov. Code § 65915(e).

<sup>16</sup> Cal. Gov. Code § 65915(o)(2).

<sup>17</sup> Cal. Civ. Code § 65915(k).

<sup>18</sup> Cal. Gov. Code § 65915(d)(2)(C).

<sup>19</sup> Cal. Gov. Code § 65915(p)(1)(A).

<sup>20</sup> Cal. Gov. Code § 65915(f)(5) & (j)(1).