MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. 22-123
A RESOLUTION APPROVING THE MCSWEENEY COASTAL PERMIT
VACANT LOT ON SUNNYSIDE DRIVE, INVERNESS
ASSessor’S PARCEL: 114-101-08

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SECTION I: FINDINGS

1. WHEREAS, Ernie Selandier, on behalf of the owner, Kevin McSweeney, has submitted a Coastal Permit application to construct a new 1,035 square-foot residence with an approximately 276 square-foot attached carport and an approximately 440 square-foot structure to be used as an Accessory Dwelling Unit (ADU) on a vacant lot in Inverness. The new development would consist of 1,475 square feet of total floor area, resulting in a floor area ratio (FAR) of 1.72 percent on the 85,848 square-foot lot. Various site improvements would also be entailed in the proposed development, including general grading to accommodate the proposed project, the installation of a driveway, and a septic system.

The proposed primary residence would reach a maximum height of 16 feet, six inches above the surrounding grade, and the exterior walls would have the following setbacks: 51 feet, eight inches from the west front property line; 41 feet, ten inches from the south side property line; and over 100 feet from all other property lines.

The proposed ADU would reach a maximum height of 15 feet, 11 inches above the surrounding grade, and the exterior walls would have the following setbacks: 60 feet from the east front property line; and over 100 feet from all other property lines.

The property is located at a vacant lot on Sunnyside Drive, Inverness, and is further identified as Assessor’s Parcel 114-101-08.

2. WHEREAS, on December 1, 2022, the Marin County Deputy Zoning Administrator held a duly noticed public hearing to take public testimony and consider the project.

3. WHEREAS, the project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to 15303, Class 3 (a) of the CEQA Guidelines because the project entails the construction of a single-family residence in a residential zone, and the project will not result in a potentially significant impact on the environment.

4. WHEREAS, the project is consistent with the Marin Countywide Plan (CWP) for the following reasons:

A. The 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. As documented in Biological Site Assessment for the project, prepared by WRA Environmental Consultants, Inc., dated June 2022, and Addendum Biological Site Assessment, dated August 16, 2022, the project site contains a total of 54 trees, including over 20 native and non-native species. As depicted on the site grading plan, the project will remove five dead trees and vegetation. As conditioned herein, the project landscape plan will be modified to provide to provide a minimum of two native trees for each native tree removed. Therefore, construction of the proposed project will not result in the irreplaceable
removal of protected trees because the project proposes replacement trees and protection for remaining trees.

B. The 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.

C. The 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 project is consistent with the CWP stream and wetland conservation policies (BIO-3.1 and CWP BIO-4.1) because the proposed development would not encroach into any Stream Conservation Areas or Wetland Conservation Areas.

E. 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.

F. 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 review of the Building Permit application and the subject property is not constrained by unusual geotechnical problems, such as existing fault traces.

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 review of the Building Permit application.

H. The project is consistent with CWP aesthetic policies and programs (DES-4.1 and DES-4.e) because it would protect scenic quality and views of ridgelines and the natural environment from adverse impacts related to development.

I. The project is consistent with CWP residential design policies and programs (DES-3.b and DES-4.c) because it would fit within the context of the neighborhood, minimize the perception of mass and bulk, and comply with the Single-family Residential Design Guidelines.

5. WHEREAS, the project is consistent with the mandatory findings for Coastal Permit approval (Marin County Local Coastal Program, Implementation Plan Section 22.70.070).

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 22.64.180 (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 consistent with the LUP public coastal access policies (C-PA-3, C-PA-4, C-PA-17, C-PA-21) and this finding because the project site is not near a bluff and would not interfere with or impact coastal access as it is not located on a coastal bluff.

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 22.64.050 (Biological Resources).

The Marin County Land Use Plan includes policies to protect environmentally sensitive habitat areas (ESHAs), including C-BIO-1, which states:

"1. An environmentally sensitive habitat area (ESHA) is any area in which plant or animal life, or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

2. ESHA consists of three general categories: wetlands, streams, and riparian vegetation, and terrestrial ESHAs. Terrestrial ESHA includes non-aquatic habitats that support rare and endangered species; coastal dunes as referenced in C-BIO-7 (Coastal Dunes); roosting and nesting habitats as referenced in C-BIO-10 (Roosting and Nesting Habitats); and riparian vegetation that is not associated with a perennial or intermittent stream. The ESHA policies of C-BIO-2 (ESHA Protection) and C-BIO-3 (ESHA Buffers) apply to all categories of ESHA, except where modified by the more specific policies of the LCP."

A. The applicant provided a Biological Site Assessment for the project, prepared by WRA Environmental Consultants, Inc., dated June 2022, and Addendum Biological Site Assessment, dated August 16, 2022. The assessments identified the presence of one special-status plant species, Marin manzanita (Arctostaphylos virgata), which is classified as a terrestrial ESHA under the Marin County Local Coastal Program. However, the BSA concluded that associated natural communities (e.g., chaparral, coastal prairie) necessary to support the special status plant species are not present on the site.

According to C-BIO-3.3, development must maintain a minimum of 50 feet buffer zone for terrestrial ESHA, which may be adjusted on case-by-case basis, but in no case shall be less than 25 feet. Such adjustment may be made on the basis of a biological site assessment based upon specific site conditions.

An Addendum to the Biological Site Assessment, prepared by WRA Environmental Consultants, Inc., dated August 16, 2022, concluded that given the nature of the site, the proposed building placement is the only feasible location for development while still avoiding impacts to ESHA. Other alternative home sites would result in greater environmental impacts, e.g., requiring greater extent of removal of native vegetation, requiring more earth movement, and building on steeper slopes potentially resulting in increased erosion, or would not be feasible due to development code guidelines. The proposed reduced buffer of 25 feet was deemed sufficient to protect the resource because the project is expected to have little to no effect on the terrestrial ESHA feature. The Biological Site Assessment recommends the installation of a split rail fence at the 25-foot buffer to reduce landscaping or human intrusion.
The Biological Site Assessments concluded the following: (1) no other terrestrial or aquatic ESHAs were identified; (2) the site does not contain nesting habitat for the Northern spotted owl as the site does not contain trees that could provide suitable habitat; (3) the site does not contain trees that could potentially be used by monarchs in this manner; (4) No federally or State-listed threatened or endangered species were observed at or near the project site; and (5) No wetlands were observed on or adjacent to the project site. Further, the Addendum to the Biological Site Assessment concluded that the reduction of the terrestrial ESHA buffer zone from 50 feet to 25 feet would not cause adverse impacts on special-status species and alternative building placement on the site would result in direct and adverse impacts to special status species as well as protected plant species because the proposed site plan represents the least intrusive site plan and provides the maximum possible protection to the terrestrial ESHA feature.

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 22.64.060 (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 ongoing 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 22.56.1301.H, 22.56.1301.K, and 22.56.1301.L still apply to environmental hazards and are further discussed in section 1.5 below.

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 22.32.

The project entails installing a septic system and the construction of a single-family residence with an ADU on a residential lot located amongst residential uses. It is located within an area governed by the C-RSP-0.25 (Coastal, Residential Single-Family Planned) zoning district. 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 22.64.080 (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, in a letter dated March 18, 2022, the North Marin Water District has confirmed it has enough capacity to provide water services for domestic consumption for the proposed project. 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 22.64.100 (Community Design).

The subject property is located within a developed residential neighborhood. The surrounding area is gently undulating ridgeline, with residences constructed with varying setbacks and patterns. In general, buildings in the vicinity are nondescript, one-story detached single-family developments. At 16 feet six inches in height, where up to 25 feet is permitted, the proposed project is similar to the existing developments in the area and would be compatible with the surrounding built-in and natural environments. The design of the buildings incorporates board and batten siding in green intended to blend in with the natural environment, composition shingle roof in dark grey, and anodized window trims in dark colors and other materials that are reflective of and complimentary to finish materials found on surrounding buildings. The neutral color palette would be appropriate for the site and would accentuate the architectural features, contributing to a project that is responsive to the site and neighborhood context. Additionally, all proposed exterior lights are shielded and downward facing.

Due to the project's location in a Planned district, the Marin County Local Coastal Program has no minimum setback requirements that apply to the project. Nevertheless, the project provides a minimum of 41 feet, ten inches from the south side property line and over 100 feet from all other property lines, which provides sufficient distances between adjacent properties and buildings. The existing shared driveway would provide vehicular access, which the Department of Public Works has determined meets its standards.

As such, the project is consistent with the Inverness Ridge Plan Area. As required under Marin County Implementation Plan Section 22.66.070, LUP policies related to development in Inverness (Land Use Policy C-INV-1, Land Use Plan Policy C-INV-3 and Land Use Plan Policy C-INV-4), the height, scale, and design of the residence are compatible with the existing pattern of development in the neighborhood. Additionally, all proposed exterior lighting would be shielded and directed downward and there is adequate distance between the project site and adjacent properties to prevent light pollution. Therefore, due to the project's location and orientation on the site, coupled with the distance to other properties surrounding the site, it would not obstruct any views from the surrounding area or affect sun exposure or privacy enjoyed on neighboring properties.

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 Section 22.64.110 (Community Development).

As discussed above, the project site is located within a developed residential neighborhood in Inverness. The project provides a minimum 41 feet ten inches setback from the nearest property line, where no setbacks are required due to the project's location in the Coastal, Residential Single-Family Planned (C-RSP) district. As designed, the proposed project would be integrated with the rest of the surrounding one-story single-family residences while also being adequately separated from surrounding properties. At 16 feet six inches in height, the proposed project would be similar in mass.
and scale to other buildings in the vicinity. The exterior colors and materials would consist of board and batten siding in green intended to blend in with the natural environment, composition shingle roof in dark grey, and anodized window trims in dark colors and other materials that are reflective of and complimentary to finish materials found on surrounding buildings. Further, the window arrangements would enhance the building’s architecture and create relief patterns in the facades. Therefore, the project is consistent with this finding.

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 22.64.120 (Energy).

The project would be required to satisfy all energy-saving standards required by the County's Building and Safety Division before issuing 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 22.64.130 (Housing).

The proposed project would not result in the removal or demolition of low and/or moderate-income housing. Therefore, 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 does not entail the demolition of existing deed-restricted affordable housing and would not affect the available housing stock in the surrounding community.

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 22.64.140 (Public Facilities and Services).

The North Marin Water District provides water to the project site. On March 18, 2022, the North Marin Water District approved the applicant's petition for limited water use. Additionally, the project site will be served by a new septic system, which was reviewed and preliminarily approved by Environmental Health Services on July 5, 2022. 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 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 22.64.150 (Transportation).

The project is currently accessed from Sunnyside Drive and would not entail any alterations or impacts to existing roadway facilities or public parking facilities. 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 22.64.160 (Historical and Archaeological Resources).

The project site is not located within any designated historic district boundaries, as identified in the Marin County Historic Study for the Local Coastal Program. 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 site is not located within any mapped 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 22.64.170 (Parks, Recreation, and Visitor-Serving Uses).

The project site is not located adjacent to any public park or open space. 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. The project would occur entirely on a private property within a residential zoning district. 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 on an existing residential property that is not located within a mixed-use coastal village commercial/residential zone 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.

6. WHEREAS, the project is consistent with the mandatory findings for Coastal Permit approval pursuant to Marin County Interim Code Sections 22.56.130.I.H, 22.56.130.I.K, and 22.56.130.I.L.

A. Dune Protection (Marin County Interim Code Section 22.56.130.I.H)

While there are dunes in waterfront properties in Inverness, there are no dunes on the project site. Therefore, the project is consistent with this finding because no dunes are located on the site, and the project has been sited landward from the sandy beach to the greatest extent possible.

B. Shoreline Protection (Marin County Interim Code Section 22.56.130.I.K)

The proposed project is not located within a bluff erosion zone and does not impact coastal access.
C. Geologic Hazards (Marin County Interim Code Section 22.56.130I.L)

The project entails the construction of a single-family residence with an onsite sewage treatment and disposal system. The proposed project would be constructed in accordance with the applicable requirements. As the project is potentially subject to geologic hazards, a condition of approval shall be placed on the project stating, "The applicant shall record a Waiver of Public Liability holding the County of Marin, other governmental agencies, and the public harmless related to losses experienced due to geologic and hydrologic conditions and other natural hazards."

SECTION II: ACTION

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

This planning permit is an entitlement to apply for construction permits, not a guarantee that they can be obtained, and it does not establish any vested rights. 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 Deputy Zoning Administrator hereby approves the McSweeney Coastal Permit, subject to the conditions as specified below:

CDA-Planning Division

1. This Coastal Permit approval authorizes the construction of a new 1,035 square-foot residence with an approximately 276 square-foot attached carport and an approximately 404 square foot structure to be used as an Accessory Dwelling Unit (ADU) on a vacant lot in Inverness. The new development would consist of 1,475 square feet of total floor area, resulting in a floor area ratio (FAR) of 1.72 percent on the 85,848 square-foot lot. Various site improvements would also be entailed in the proposed development, including general grading to accommodate the proposed project, the installation of a driveway, and a septic system.

   The proposed primary residence shall reach a maximum height of 16 feet, six inches above the surrounding grade, and the exterior walls shall have the following setbacks: 51 feet, eight inches from the west front property line; 41 feet, ten inches from the south side property line; and over 100 feet from all other property lines.

   The proposed ADU shall reach a maximum height of 15 feet, 11 inches above the surrounding grade, and the exterior walls shall have the following setbacks: 60 feet from the east front property line; and over 100 feet from all other property lines.

2. Plans submitted for a Building Permit shall substantially conform to plans identified as Exhibit A, entitled "Land of McSweeney Sunnyside Drive," consisting of 14 sheets prepared
by Earnie Selander Architects, received in final form on September 14, 2022, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.

a. The landscape plan shall be modified to provide a minimum of two native trees for each native tree removed.

b. The applicant shall install a fence at the 25-foot buffer to reduce landscaping or human intrusion into the ESHA buffer zone.

3. Unless a public emergency services provider recommends otherwise or unique circumstances necessitate a change, the street address for the primary residence shall be 21 Sunnyside Dr., Inverness, CA 94937.

4. Unless a public emergency services provider recommends otherwise or unique circumstances necessitate a change, the street address for the Accessory Dwelling Unit shall be 19 Sunnyside Dr., Inverness, CA 94937.

5. The project shall conform to the Planning Division's "Uniformly Applied Standards 2022" with respect to all of the standard conditions of approval.

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 Planning Commission. 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.
SECTION VI: ADOPTION

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 1st day of December 2022.

Michelle Levenson
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

Michelle Reed
DZA Recording Secretary