

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. 20-105

**A RESOLUTION APPROVING THE OLEMA HOUSE COASTAL PERMIT AND DESIGN
REVIEW APPLICATION**

**10005 State Route 1, Olema
ASSESSOR'S PARCEL: 166-201-14**

SECTION I: FINDINGS

1. **WHEREAS**, Kevin Provance, on behalf of the owners, Olema House LP, has submitted a Coastal Permit and Design Review application to install a 200-square-foot equipment and transformer enclosure, demolish an existing trash enclosure, and construct a new refuse enclosure and concrete pad in the south east corner of a lot located in Olema.

The proposed enclosures would reach a maximum height of 6 feet above surrounding grade. Exterior walls of the enclosures would have the following setbacks: 25 feet from the southern side property line; 94 feet from the northern side property line; and more than 100 feet from all other property lines.

Other site improvements entailed in the proposed development include removal of vegetation to accommodate equipment enclosures, installation of a light pole, restriping of the parking lot, and instillation of new landscape to camouflage equipment enclosures.

The property is located at 10005 State Route 1, Olema and is further identified as Assessor's Parcel 166-201-14.

2. **WHEREAS**, on February 13, 2020, 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 Section 15303, Class 3 of the CEQA Guidelines because it does not result in potentially significant impacts to the environment.

4. **WHEREAS**, the project, as conditioned, is consistent with the goals and policies of the Marin Countywide Plan 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.
- 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 wetland conservation policies (BIO-3.1) because the proposed development would not encroach into any or Wetland Conservation Areas.
- E. Proposed improvements are located within the required Stream Conservation Area (SCA). SCAs are established to protect streams and their associated resources. Because the property falls between 2 and 0.5 acres in size, a minimum 50-foot development setback from the edge of riparian canopy is required.

There are limited exceptions to compliance with the SCA requirements as outlined in Policy BIO-4.1 of the Countywide Plan:

Exceptions to full compliance with all SCA criteria and standards may only be allowed if the following is true:

- 1. The parcel falls entirely within the SCA; or*
- 2. Development on the parcel entirely outside the SCA is either infeasible or would have greater impacts on water quality, wildlife habitat, other sensitive biological resources, or other environmental constraints than development within the SCA.*

As the parcel does not fall entirely within the SCA, the equipment transformer, light pole, and trash enclosure can be installed without encroachments into the SCA. As a condition of approval, the project components must be located outside the SCA buffer.

Additionally, existing permitted or legal nonconforming structures or improvements, their repair, and their retrofit within the existing footprint are permitted within the SCA buffer. As a result, should the existing trash enclosure be repaired in its current location, it can remain within the required SCA buffer.

- F. 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.
- G. 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.
- H. 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.
- I. 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.

- J. The project is consistent with CWP residential design policies and programs (DES-3.b and DES-4c) 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 Code Section 22.56.130I).

A. Water Supply.

The developed property is adequately served. No increase in water use is anticipated to install the accessory structures. This criterion is met.

B. Septic System Standards.

The scope of work does not impact the existing septic system. This criterion is met.

C. Grading and Excavation.

Improvements are located within previously disturbed areas. Additionally, these areas are relatively flat. As a result, grading and excavation is kept to a minimum and will not significantly alter the existing site.

Due to the proximity of both the Olema and Cheno Field Creeks, extra care is required to ensure that the project does not impact environmental resources. A construction staging plan is incorporated in the project application. This staging plan requires the installation of tree protection measures, the installation of a silt fence and construction fence lined with straw wattles around the work/staging area. This criterion is met.

D. Archaeological Resources.

A review of the Marin County Archaeological Sites Inventory Maps on file in the Planning Division indicates that the subject property is located in an area of high archaeological sensitivity. As required by the Marin County Code, in the event archeological resources are uncovered during construction, all work shall immediately cease, and the services of a qualified consulting archaeologist be engaged to assess the value of the resource and to develop appropriate mitigation measures. This criterion is met.

E. Coastal Access.

The project does not impact coastal access as it is located inland from the shore. This criterion is met.

F. Housing.

The removal of existing structures that provide housing opportunities for persons of low and moderate income is not included in the scope of work. This criterion is met.

G. Stream and Wetland Resource Protection.

There are no wetlands on the subject property. As a result, the project will not result in adverse impacts to wetland resources.

The project does not entail modifications to the existing stream or stream bank. However, the project entails development adjacent to the Olema and Cheno Field Creeks. The creek supports a riparian canopy, which is mapped on the project plans. As outlined in Section 22.56.130I.G.3, a minimum 50-foot riparian buffer area is required from the outer edge of riparian vegetation and continues to note that development is also subject to a 100-foot stream buffer area.

Similar to the SCA, improvements are only permitted within the required buffer area when the parcel is located entirely within a stream buffer area.

The subject site is not entirely located within the 100-foot stream buffer area. Therefore, the project must be modified. A condition of approval is imposed on the project that will require the relocation of improvements outside of the 100-foot stream buffer area. As conditioned, this criterion is met.

H. Dune Protection.

Dunes are not present in the project vicinity. This criterion is met.

I. Wildlife Habitat Protection.

The Biological Site Assessment (BSA), prepared by Zander Associates, dated June 17, 2019, indicates that there several special status species within the project vicinity. These include the California freshwater shrimp (*Syncaris pacifica*), Central California coast steelhead (*Oncorhynchus mykiss irideus*), Central California coast Coho salmon (*Oncorhynchus kisutch*), California red-legged frog (*Rana draytonii*), Western pond turtle (*Emys marmorata*), Townsend's big-eared bat (*Corynorhinus townsendii*), pallid bat (*Antrozous pallidus*), and migratory birds.

Due to the characteristics of the Olema and Cheno Field Creeks, it is unlikely that there is suitable habitat for steelhead, Coho salmon, and Western pond turtle populations.

The BSA notes that California freshwater shrimp are known to occur in the Olema and Cheno Field Creek, and the California Natural Diversity Database (CNDDDB) indicates that there is a recorded occurrence half a mile from the Lagunitas Creek confluence, which is south of Point Reyes station. Additionally, the BSA concludes that it is possible that the California red-legged frog inhabit Olema Creek and Cheno Field Creek and use the adjacent upland areas.

Improvements are located within previously disturbed areas, with the exception of a proposed 131 square foot concrete pad which would not encroach closer to the creek than existing improvements. As a result, the BSA concludes that it is very unlikely that the project would result in direct impacts to special status species. Further, all projects are required to comply with the Marin County Code's standards associated with outdoor construction activities related to roosting birds and bats.

The Marin County Community Development Agency's Environmental Division evaluated the project in relation to impacts to special status species and determined, that due to the scope of work and the recommended conditions of approval, additional site evaluation is not required. This criterion is met.

J. Protection of Native Plant Communities.

The BSA indicates that there are only three plant species with documented occurrences in the vicinity of the project site. These include showy Indian clover (*Trifolium amenoem*), Sonoma Alopecurus – *Alopecurus aequail var sonomensis*, and Bolander's water hemlock (*Cicuta maculate var. bolanderi*). Based on field observations, there is no showy Indian clover on the project site. The other two species would be found within wet areas associated with the creeks.

As no work is to be performed within the wetted areas of the creek, there is no potential to impact the special status species. Further, creek protection is incorporated into the project scope to prevent impacts to the watercourse. The project does not entail the installation of invasive plant species and introduced plantings will be native, drought tolerant vegetation. This criterion is met.

K. Shoreline Protection.

The proposed project is not located adjacent to the shoreline or within a bluff erosion zone. This criterion is met.

L. Geologic Hazards.

The project site is not located within the Unit 1 Local Coastal Program geologic hazards map. The Army Corps of Engineers has not identified a 100-year floodplain in the area. As such, the property is not subject to the prohibition of developing permanent structures and other significant improvements. This criterion is met.

M. Public Works Projects.

The proposed project will not affect any existing or proposed public works projects in the area. This criterion is met.

N. Land Division Standards.

No Land Division or Lot Line Adjustment is proposed as part of this project. This criterion is met.

O. Visual Resources and Community Character.

The proposed improvements reach a maximum height of six feet above grade. There are no coastal views near the property. The installation of a new trash enclosure and transformer/equipment cabinet is compatible with the existing commercial use at the site and shall be appropriately screened with native plantings. Utilities required to accommodate the installation of the transformer/equipment cabinet will be placed underground. As a result, the improvements will not adversely impact visual resources nor community character. This criterion is met.

P. Recreational/Commercial/Visitor Facilities.

No residential housing is proposed as part of the project. The existing use is consistent with the VCR zoning classification. This criterion is met.

Q. Historic Resource Preservation.

The subject property is located within a mapped historic area. However, the improvements do not impact existing structures. Due to the scale of the improvements, the scope of work is inconsistent with the overall community character. This criterion is met.

6. **WHEREAS**, the project, as conditioned, is consistent with the mandatory findings for Design Review approval (Marin County Code Section 22.82.040I).

Mandatory Findings for Design Review (Marin County Code Section 22.82.040I)

A. It is consistent with the Countywide Plan and any applicable community plan and local coastal program;

As discussed above, the project is inconsistent with the SCA policies outlined in the Countywide Plan and standards outlined in the Local Coastal Program (LCP) related to the preservation of stream resources. The SCA policies require a 50-foot buffer from the edge of the riparian canopy and the LCP standards require a 100-foot buffer from the top of bank. No development is allowed within these noted buffers. As a result, the improvements must be located outside the 100-foot buffer from top of bank.

A condition of approval is imposed on the project that requires all improvements, subject to discretionary review, to be located a minimum of 100-feet from top of bank. As conditioned, this criterion is met.

B. It will properly and adequately perform or satisfy its functional requirements without being unsightly or creating substantial disharmony with its locale and surroundings;

The proposed improvements are minor in nature and measure a maximum height of six feet above grade. Native plantings are proposed to effectively screen the new structures. As a result, the project will not create substantial disharmony with its locale and natural surroundings. This criterion is met.

C. It will not impair, or interfere with, the development, use, or enjoyment of other property in the vicinity, or the orderly and pleasing development of the neighborhood as a whole, including public lands and rights-of-way;

The project is located entirely on public property and will not impair, or interfere with, the development, use, or enjoyment of other properties within the vicinity. As conditioned, the structures must be located a minimum of 100 feet from the top of bank. The relocation of the structures will not result in negative impacts to the sight and will not inhibit orderly and pleasing development of the neighborhood as a whole. This criterion is met.

- D. It will not directly, or in a cumulative fashion, impair, inhibit or limit further investment or improvements in the vicinity, on the same or other properties, including public lands and rights-of-way;**

As noted above, the project is entirely on private property. Therefore, it will not impact the ability for investment and improvements on properties within the project vicinity. No impacts to public lands or rights-of-way are anticipated. This criterion is met.

- E. It will be properly and adequately landscaped with maximum retention of trees and other natural material;**

No trees are proposed for removal. The improvements must be located outside the stream buffer area, resulting in limited impacts to other natural materials onsite. Improvements are to be screened with native plantings (California bay laurels and oatgrass). This criterion is met.

- F. It will minimize or eliminate adverse physical or visual effects which might otherwise result from unplanned or inappropriate development, design or juxtaposition. Adverse effects may include, but are not limited to, those produced by the design and location characteristics of:**

- 1. The scale, mass, height, area and materials of buildings and structures,**

The project entails installation of accessory structures that are well below the maximum permitted height of 15 feet. The 200 square foot equipment/transformer cabinet is to be screened with landscaping to blend with the site and the trash enclosure is in keeping with the scale of the existing trash enclosure. This criterion is met.

- 2. Drainage systems and appurtenant structures,**

The drainage plans were reviewed by the Department of Public Works and found to be acceptable. An engineered drainage plan and erosion control plan would be submitted in accordance with the standards outlined by the Department of Public Works during the building permit review process. This criterion is met.

- 3. Cut and fill or the reforming of the natural terrain, and structures appurtenant thereto such as retaining walls and bulkheads,**

No retaining walls or bulkheads are proposed as part of the application. Limited earthwork is required to accommodate the project, which respects the existing natural terrain. This criterion is met.

- 4. Areas, paths and rights-of-way for the containment, movement or general circulation of persons, animals, vehicles, conveyances and watercraft,**

The improvements impact the existing parking lot. However, the project area is limited to the edge of the parking lot, including parking stalls, and does not inhibit the circulation of vehicles. This criterion is met.

5. Other developments or improvements which may result in a diminution or elimination of sun and light exposure, views, vistas and privacy;

Due to the overall height and size of the improvements, there are no impacts to the enjoyment of sun and light exposure, views, vistas, and privacy on the subject property nor adjacent properties. This criterion is met.

G. It may contain roof overhang, roofing material, and siding material that are compatible both with the principles of energy-conserving design and with the prevailing architectural style in the neighborhood.

There are no roof overhangs, roofing, or siding materials proposed. The equipment and transformer cabinet is proposed to support electric vehicle charging stations (which are exempt from discretionary review per State Law), and support the general initiative to encourage energy efficient practices. The selected materials will not detract from the prevailing architectural styles in the vicinity. This criterion is met.

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 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 Olema House Coastal Permit and Design Review application subject to the conditions as specified below:

CDA-Planning Division

1. This Coastal Permit and Design Review approval authorizes the installation of a 200-square-foot equipment and transformer enclosure, demolition of an existing trash enclosure, and construction of a new refuse enclosure and concrete pad in the south east corner of a lot located in Olema.

The enclosures would reach a maximum height of 6 feet above surrounding grade. Exterior walls of the enclosures would have the following setbacks: 25 feet from the southern side property line; 94 feet from the northern side property line; and more than 100 feet from all other property lines.

Other site improvements entailed in the development include removal of vegetation to accommodate equipment enclosures, installation of a light pole, restriping of the parking lot, and instillation of new landscape to camouflage equipment enclosures.

2. Plans submitted for a Building Permit shall substantially conform to plans identified as Exhibit A, entitled "Tesla Supercharging Station," consisting of 29 sheets prepared by Tesla Motors, Inc. and Black & Veatch, received in final form on December 9, 2019, 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 200-square-foot equipment and transformer enclosure, trash enclosure, and light pole must be located a minimum of 100 feet from the top of bank.
3. The project shall conform to the Planning Division's "Uniformly Applied Conditions 2020" with respect to all of the standard conditions of approval and the following special conditions: 6 and 7 (Tree Protection), 8 and 9 (Stream Conservation Area Protection).

SECTION IV: VESTING

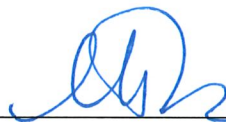
NOW THEREFORE, BE IT RESOLVED that unless conditions of approval establish a different time limit or an extension to vest has been granted, any permit or entitlement not vested within two years of the date of the approval shall expire and become void. The permit shall not be deemed vested until the permit 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 five business days from the date of this decision (February 21, 2020).

SECTION VI: ADOPTION

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 13 day of February 2020.



Michelle Levenson
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:



Michelle Reed
DZA Recording Secretary