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MEMO

June 17, 2021

Planning Commission
860 North Bush Street
Ukiah, CA 95482

RE: MS_2019-0003 – Addendum to Transportation Exception Request

Owner: Julia Carson

Site: 45380 Caspar Point Road
Caspar, CA 95420
118-010-27-00

Dear Commissioners,

Thank you for your attention to this project. On behalf of the applicant I present the following addendum to the Transportation Exception Request memo presented on May 6, 2021. Mendocino County Department of Transportation offers procedures for granting an exception to recommended road standards (Attachment A). The following is a discussion regarding how this project meets the findings outlined in **Tab H-Exception Procedures**. As was discussed during the May 6, 2021 Planning Commission hearing, Commissioners have the authority to hear and approve requests to standard county requirements in lieu of an applicant seeking the exceptions with the county agency directly. I look forward to discussing these in greater detail during the Planning Commission hearing on June 17, 2021.

Sincerely,
Tara Jackson, Planner

A handwritten signature in blue ink that reads "Tara Jackson".

Request #1: Exception to 22' Road Width Requirement, cont.:

- 1) *That the strict application of this chapter would create an unnecessary hardship due to special circumstances or conditions affecting said property.*

Due to the unique configuration of the parcel, imposing a twenty-two (22) foot wide road would prevent the applicant from being able to develop a single-family residence on Proposed Parcel 2, thereby negating the purpose of the subdivision application. A twenty-two (22) foot wide road would consume 16% of the lot coverage on Proposed Parcel 2. Pursuant to MCC Sec. 20.376.065, the maximum lot coverage for a two (2) acre parcel in a Rural Residential district is fifteen (15) percent. Therefore, imposing a twenty-two (22) wide road would exceed the maximum lot coverage for the zoning district, preventing any further development (including the road itself).

Attachment B shows the impact five different road widths would have on the amount of buildable area, especially as it pertains to a pending Coastal Development application on Proposed Parcel 2. In summary, the applicant is proposing a modest 1,652 square foot single-family residence, 837 square foot attached garage, and 253 square feet of decks. This development will be impermissible with any road width exceeding ten (10) feet wide.

- 2) *That the exception is consistent with the intent of the requirements of this chapter and does not constitute a grant of special privilege.*

Howard Dashiell, Director of Transportation already supports an exception to the standard road width requirements of Caspar Point Road (CPR). Caspar Point Road currently serves 15 parcels and the extension of CPR across Proposed Parcel 2 will only ever serve two (2) parcels.

- 3) *That the exception would not result in significant increased adverse environmental impacts compared to the strict application of the requirements of this chapter.*

The strict application of this chapter would result in the removal of trees and an alteration of the pervious surface. Although it would be a gravel driveway, it would be compacted thereby prohibiting vegetative land-cover. As stated above, a twenty-two (22) foot wide road would consume 16% of the property which is 7.59% more impact than current nine (9) foot road conditions (Attachment B).

- 4) *That the granting of the exception will not be detrimental to the public health, safety, convenience and general welfare or injurious to other property in the vicinity in which said property is situated.*

On May 11, 2021, Fire Captain Chris Vallerga explained that MCDOT and CalFire have different definitions of a "driveway" and a "road" (Attachment C). According to CalFire regulations:

- *Driveway: A vehicular access that serves up to two (2) parcels with no more than two (2) residential units and any number of non-commercial or industrial buildings on each parcel.*
- *Road: Vehicular access to more than two (2) parcels; more than four (4) residential units; or access to any industrial or commercial occupancy. Includes public and private streets and lanes.*

Because the 597 +/- long “road” across Proposed Parcel 2 will serve two (2) parcels, CalFire provided “driveway” standards as “Conditions of Approval of State Fire Safe Regulations”. Captain Vallerga also explained:

...State Fire Safe Regulations are a minimum standard; they do not supersede any local ordinance or code that are equal to, more restrictive or stringent than the State Fire Safe Regulations. In this instance, the State Fire Safe Regulations and MCDOT requirements are conflicting over the term driveway versus road as it relates to vehicular access to these prospective parcels. In his case, the MCDOT requirements would apply as they are the local Authority Having Jurisdiction with a more stringent requirement than the State Fire Safe Regulations.

While we understand that CalFire standards do not supersede local codes and requirements, it can be inferred that a ten (10) foot wide road which serves two (2) parcels is a sufficient width for the purposes of providing access for emergency vehicles, as well as sufficient ingress and egress for vehicles utilizing the two (2) parcels. We can make this inference based upon CalFire applying this standard when reviewing the accessway as a “driveway”.

Additionally, there already exists a cul-de-sac at the current terminus of Caspar Point Road to the southeast of Proposed Parcel 2. Therefore, someone traveling down Caspar Point Road would not need to access the roadway extension on Proposed Parcel 2 for turnaround purposes, thereby highlighting that this roadway will only be utilized for two (2) parcels.

Summary:

We respectfully request that the Planning Commissioners vote to grant an exception to the currently recommended twenty-two (22) foot road width requirement, and instead approve the project with a ten (10) foot wide road from Caspar Point Road to the terminus of Proposed Parcel 2. We make this request based upon:

- A twenty-two (22) foot wide road would prohibit development on Proposed Parcel 2 due to Maximum Lot Coverage requirements in the Mendocino County Coastal Zoning Code;
- MCDOT already supports an exception to the standard road width requirements for Caspar Point Road which serves 15 parcels, whereas the road on Proposed Parcel 2 will only every serve two (2) parcels;
- A twenty-two (22) foot wide road consumes vegetative land cover and a ten (10) foot wide road will not be more injurious to the environment; and
- Ten (10) feet is wide enough to accommodate emergency vehicles and traffic from two parcels.

Tab H – Exception Procedures

H.1. Applicability.....H-1

H.2. Compliance with Specified Road Standards.....H-1

H.3. Exceptions.....H-1

H.4. Exclusions.....H-1

H.5. Action on Requests for Exceptions.....H-1

H.6. Findings for Approval of Requests for Exceptions.....H-2

 H.6.A) Relief.....H-2

 H.6.B) Alternate Approach.....H-2

H.7. Appeals.....H-2

Tab H – Exception Procedures

H.1. Applicability. Permit or approval processes affected by the Road Standards include the following:

- H.1.A) *Subdivisions*
- H.1.B) *Lot line adjustment*
- H.1.C) *Certificate of compliance (to correct subdivision violation)*
- H.1.D) *Coastal Development Permit or Coastal Development Permit in conjunction with other permit*
- H.1.E) *Use permit*
- H.1.F) *Variance*
- H.1.G) *Building permit*
- H.1.H) *Grading permit*
- H.1.I) *Encroachment permit*
- H.1.J) *Any other land use entitlement where access on roadways may be regulated*

H.2. Compliance with Specified Road Standards. No permit or request for approval shall be issued or granted until the specified Road Standards have been met or will be met as a condition of such issuance or grant of approval, or unless the project is relieved of the requirement or an alternate method for meeting the requirement is approved through the exceptions process.

H.3. Exceptions. An applicant desiring to be relieved of a specific requirement or standard or proposing an alternate to the standard for a specific requirement shall submit a written "Request for Exception" with the application for a permit or grant of approval. Such request shall clearly set forth the grounds upon which the applicant finds that the relief or alternative is justified.

H.4. Exclusions. Based on the independent judgement of the Civil Engineer in responsible charge of the work or other responsible professional, minor variations in design or methods specified in the Road Standards, meeting the intent of the Road Standards, may be excluded from the exception process at the discretion of the DOT Director.

H.5. Action on Requests for Exceptions. Requests for exceptions shall be acted upon as an element of the permit or request for approval. The authority to approve, approve with conditions or deny requests for exceptions shall lie with the Approval Authority empowered to act upon the permit or request. The exception process shall not be used to circumvent or contradict previous approvals. If a request for exception is by level of detail appropriate to a previous approval, then it shall be referred for action by the authority making the original approval.

H.6. Findings for Approval of Requests for Exception. The approval of requests for exceptions shall be supported by the following findings:

H.6.A) *Relief.* For exceptions granting relief from a specified requirement or standard:

- 1) That the strict application of this chapter would create an unnecessary hardship due to special circumstances or conditions affecting said property;
- 2) That the exception is consistent with the intent of the requirements of this chapter and does not constitute a grant of special privilege;
- 3) That the exception would not result in significant increased adverse environmental impacts compared to the strict application of the requirements of this chapter; and
- 4) That the granting of the exception will not be detrimental to the public health, safety, convenience and general welfare or injurious to other property in the vicinity in which said property is situated.

H.6.B) *Alternate Approach.* For exceptions which permit the specified requirement to be met by alternates to the specified standard:

- 1) That the design, material, method or work proposed is, for the purpose intended, equivalent or superior to the standards prescribed by this chapter;
- 2) That the exception is consistent with the intent of the requirements of this chapter and does not constitute a grant of special privilege;
- 3) That the exception would not result in increased adverse environmental impacts compared to the strict application of the requirements of this chapter; and
- 4) That the granting of the exception will not be injurious or detrimental to the public health, safety, convenience and general welfare or injurious to other property in the vicinity in which said property is situated.

H.7. Appeals. An appeal to the decision on a request for exception shall be made in accordance with the process for an appeal on the permit or request for approval. Final appeal authority shall rest with the Board of Supervisors.

Lot Coverage:			
Road Width	Lot Coverage with Hammer Head "T"	Remaining Lot Coverage with Road & Hammer Head "T"	Remaining Lot Coverage with Road, Hammer Head "T" & Proposed Development*
9'	7,322.95 sf / 8.41%	5,745.05 sf	3,003.05 sf
10'	7,902.74 sf / 9.07%	5,165.26 sf	2,423.26 sf
15'	10,802.14 sf / 12.40%	2,265.86 sf	-476.14 sf
19'	13,121.92 sf / 15.06%	0 sf	0 sf
22'	14,860.63 sf / 17.06%	0 sf	0 sf

* CDP_2021-0002 proposed lot coverage = 2,742 sf
 Single Family Residence 1,652
 Attached Garage 837 sf
 Covered Decks 253 sf



DEPARTMENT OF FORESTRY AND FIRE PROTECTION

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May 11th, 2021

Juliana Cherry
Mendocino County Planning and
Building Services
120 Fir Street
Fort Bragg, CA 95437

Subject: CDP_2019-0027 & CDP_2021-0002
45380 Caspar Point Road
APN:118-010-27
State Fire Safe Regulations- CAL FIRE #90-19 & 137-20

Ms. Cherry,

This letter is a follow up from the joint meeting held on May 7th, 2021 with representatives from the Mendocino County Department of Transportation (MCDOT), Mendocino County Planning and Building Department and CAL FIRE Mendocino Unit participating.

The focal point of the meeting was the prospective projects at 45380 Caspar Point Road in Caspar, California (APN: 118-010-27). At issue was the need for clarification on the Mendocino Unit's part of what constitutes a road and a driveway. Additionally, there was clarification as to the application of the State Fire Safe Regulations when conflicting with local ordinances and codes.

First, the State Fire Safe Regulations define "driveway" and "road" separately, they are not one in the same, nor are the definitions interchangeable. These definitions can be found in Title 14 of the California Code of Regulations, Division 1.5, Chapter 7, Subchapter 2, Article 1, §1271.00 (Hereafter known as 14 CCR, or State Fire Safe Regulations).

14 CCR makes the definitions as follows:

- Driveway: A vehicular access that serves up to two (2) parcels with no more than two (2) residential units and any number of non-commercial or industrial buildings on each parcel.
- Road: Vehicular access to more than two (2) parcels; more than four (4) residential units; or access to any industrial or commercial occupancy. Includes public and private streets and lanes.

"The Department of Forestry and Fire Protection serves and safeguards the people and protects the property and resources of California."


When applying these definitions to these two projects, Caspar Point Road falls under the category of being a "road." Conversely, the existing vehicle access to 45380 Caspar Point Road would constitute a "driveway" per §1271.00.

This brings up the last point of contention, the State Fire Safe Regulations versus local codes and ordinances. As stated in the meeting, the State Fire Safe Regulations are a minimum standard; they do not supersede any local ordinance or code that are equal to, more restrictive or stringent than the State Fire Safe Regulations.

In this instance, the State Fire Safe Regulations and MCDOT requirements are conflicting over the term driveway versus road as it relates to vehicular access to these prospective parcels. In this case, the MCDOT requirements would apply as they are the local Authority Having Jurisdiction with a more stringent requirement than the State Fire Safe Regulations.

With this clarification, it is hoped that the correspondence to Ms. Carson dated February 3rd, 2021 and May 5th, 2021 can be put into better context.

If there are any other questions, please feel free to contact me at (707) 459-7423.



Chris A. Vallerga
Fire Captain/ Pre-Fire Planning
Mendocino Unit

Cc: MEU PRC 4290 File
Julianna Cherry, Mendocino County Planning and Building Department