ATTACHMENT 1:

Resolution #54/2017
Environmental Impact Report
(Includes Statement of Findings and Mitigation Monitoring Program)
RESOLUTION NO. 54/2017

ENVIRONMENTAL IMPACT REPORT

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA CERTIFYING AN ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE VILLAGE AT CORTE MADERA RESTORATION HARDWARE EXPANSION PROJECT AND MAKING FINDINGS, INCLUDING ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM, PURSUANT TO CALIFORNIA ENVIRONMENTAL QUALITY REVIEW ACT (CEQA) GUIDELINES SECTIONS 15090 AND 15091

WHEREAS, on June 19, 2015, Corte Madera Village, LLC and Restoration Hardware ("The Applicants") submitted an application for The Village at Corte Madera Restoration Hardware Expansion Project ("The Project") which contained a General Plan Amendment, Rezoning, Preliminary Plan Amendment, Precise Plan Amendment and Design Review to construct a ±52,000 sq. ft. two-story RH Gallery with an open roof top courtyard and improve the Town owned Gravel Lot located on Redwood Highway northeast of the Village at Corte Madera eastern parking lot (APN-024-03-019) (Gravel Lot) to the north east of the Village; and

WHEREAS, on October 6, 2015, the Town Council, during a public business item, approved a contract with the Environmental Consulting Firm of GHD ("GHD") to prepare Phase 1 of the Environmental Impact Report for the Project; and

WHEREAS, on October 20, 2015, the Town Council, during a public business item, approved Resolution 41/2015 giving authorization to proceed with discussions and/or real estate negotiations with Macerich (a property owner at the Village shopping center) regarding potential sale, lease or other disposition of the Gravel Lot and approval of Resolution No. 42/2015 approval of an access agreement to allow Corte Madera Village, LLC access for inspection and testing of the Gravel Lot; and

WHEREAS, on February 2, 2016, the Town Council, during a public business item, approved a contract with GHD to prepare Phase 2 of the Environmental Impact Report and authorized further negotiations with Macerich for the use of the Gravel Lot for shopping center parking; and

WHEREAS, on October 25, 2016, a Notice of Preparation (NOP) for the Project EIR was filed with the State Clearinghouse and the public comment period (October 25, 2016 to November 30,2016) regarding the scope of work for the proposed EIR commenced; this comment period was notice via: the Town’s website, the email list of individuals who had commented on or signed up for notification of this particular project, in the Marin Independent Journal, and to properties within 300 feet of the Project; and
WHEREAS, from October 25, 2016 to November 30, 2016, the Town received public comments regarding the scope of work for the proposed EIR for the Project; and

WHEREAS, on November 17, 2016, a scoping meeting which was noticed via: the Town’s website, the email list of all individuals who have sign up on the Town’s website to be notified of Town meetings, the email list of individuals who have commented on or signed up for notification of this particular project, the Marin Independent Journal, all properties within 300’ of the project and the town reader board was held at the Town Hall to receive input from the public on the scope of work proposed by GHD for the EIR; and

WHEREAS, on December 20, 2016, the applicants revised their application, based on feedback from the community, to include a reduction in the size of the proposed building by approximately 7,000 square feet, a reduction in height by 6 feet, the addition of a café, and changes in the design elements to complement the surrounding views; and

WHEREAS, on March 21, 2017, the Town Council, during a public meeting, endorsed a proposed term sheet for a non-exclusive easement and development agreement to allow for Corte Madera Village, LLC to improve the Town’s Gravel Lot and utilize resulting parking spaces for required parking for the Village at Corte Madera, including a potential Restoration Hardware Expansion project and provided direction and authorization to Town staff to draft the non-exclusive easement and development agreement consistent with the term sheet; and

WHEREAS, on July 12, 2017, a Notice of Completion (NOC) for the Project Draft Environmental Impact Report (DEIR) was filed with the State Clearinghouse and the public comment period (July 12, 2017 to August 25, 2017) regarding the DEIR commenced; this comment period was noticed via: the Town’s website, the email list of individuals who had commented on or signed up for notification of this particular project, in the Marin Independent Journal, and to properties within 300 feet of the Project; and

WHEREAS, on August 8, 2017, the Planning Commission, during a public hearing, which was noticed via: the Town’s website, the email list of all individuals who have sign up on the Town’s website to be notified of Town meetings, the email list of individuals who have commented on or signed up for notification of this particular project, the Marin Independent Journal, hard copy mailings sent to all properties within 300’ of the project, the town reader board and a posting on NextDoor.com, received comments on the DEIR; and

WHEREAS, on October 16, 2017 notices announcing the display of story poles and supplemental information to aid in understanding the physical location and scale of the proposed Project, were posted on the Town’s website and sent to the email list of individuals who have commented on or signed up for notification of this particular project. Additional signage and information regarding the story poles was also made available at the project site; and

WHEREAS, on November 1, 2017, copies of the FEIR were sent to those public agencies who commented on the Draft EIR in accordance with CEQA Guidelines Section 15088; and
WHEREAS, also on November 1, 2017, the public was notified of the availability of the FEIR and the November 14, 2017 Planning Commission public hearing via: the Town’s website, the email list of all individuals who have sign up on the Town’s website to be notified of Town meetings, the email list of individuals who have commented on or signed up for notification of this particular project, hard copy mailings sent to all properties within 300’ of the project, the town reader board and a posting on NextDoor.com; and

WHEREAS, on November 3, 2017, additional notice of the November 14, 2017 Planning Commission public hearing, availability of the FEIR, and extension of story pole viewing period was posted as a News Flash item on the Town’s website; and

WHEREAS, on November 4, 2017, a notice announcing the November 14, 2017 Planning Commission public hearing was posted in the Marin Independent Journal; and

WHEREAS, on November 14, 2017, the Planning Commission held a public hearing on the Environmental Impact Report, the applications for a General Plan Amendment, Rezoning, Preliminary Plan Amendment, Precise Plan Amendment, Design Review, Conditional Use Permit, and a Development Agreement; and

WHEREAS, also on November 14, 2017, the Planning Commission unanimously approved Resolution 17-022, by a vote of 5-0, and thereby forwarded a recommendation to the Town Council to: 1) certify the Environmental Impact Report for the Project, 2) approve the General Plan Amendment to change the land use designation of the Gravel Lot from Wetlands and Marshlands to Mixed-Use Region-Serving Commercial, 3) approve the Rezoning of the Gravel Lot from Parks, Open Space and Natural Habitat to Regional Shopping (C-2), 4) approve the Preliminary Plan Amendment for retail expansion and improvements to the Gravel Lot, 5) approve the Precise Plan Amendment for a new approximately 46,000 square foot retail store and café, modifications to the Village east entry plaza, and modifications to the Gravel Lot, 6) approve the Design Review application for a new approximately 46,000 square foot retail store and café, modifications to the Village east entry plaza, and modifications to the Gravel Lot, 7) approve the Conditional Use Permit for a cafe within the Regional Shopping District (C-2), and 8) approve the Development Agreement between the Town of Corte Madera and Macerich; and

WHEREAS, on November 17, 2017, notices were sent and posted announcing the December 5, 2017 Town Council public hearing; notices were sent via: the Town’s website, the email list of all individuals who have sign up on the Town’s website to be notified of Town meetings, the email list of individuals who have commented on or signed up for notification of this particular project, hard copy mailings sent to all properties within 300’ of the project, the town reader board and a posting on NextDoor.com; and

WHEREAS, on November 25, 2017, a notice announcing the December 5, 2017 public hearing was posted in the Marin Independent Journal; and

WHEREAS, on December 5, 2017, the Town Council held a public hearing on the Environmental Impact Report, the applications for a General Plan Amendment, Rezoning, Preliminary Plan Amendment, Precise Plan Amendment, Design Review, Conditional Use
Permit, and a Development Agreement; and

WHEREAS, a Statement of Findings, Facts Pursuant to the California Environmental Quality Act in Support of Adoption of the Village at Corte Madera Expansion Project Findings of Fact are included in this resolution (Exhibit A); and


NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Town Council of the Town of Corte Madera does hereby find and resolve as follows:

1. **Recitals**

   The foregoing recitals are true and correct and are incorporated into the findings herein.

2. **Record**

   The Record of Proceedings ("Record") upon which the Town Council makes its recommendation includes, but is not limited to: (1) the 2009 General Plan, (2) the FEIR certified for the 2009 General Plan, including the appendices and technical reports cited in and/or relied upon in preparing the FEIR, (3) all staff reports, Town files and records and other documents prepared for and/or submitted to the Town Council relating to the Village at Corte Madera Restoration Expansion Project Application including the EIR prepared to evaluate the environmental effects of the Project (4) the recommendation of the Planning Commission (5) all documentary and oral evidence received at public hearings or submitted to the Town relating to the Project EIR, and (6) all matters of common knowledge to the Town Council and the Town, including, but not limited to, Town, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the Town and its surrounding areas. The location and custodian of the Record is the Planning Director of the Town of Corte Madera, 300 Tamalpais Drive, Corte Madera, CA 94925.

3. **Compliance with the California Environmental Quality Act (CEQA)**

   Pursuant to the California Environmental Quality Act, Public Resources Code Section 21000 et seq. ("CEQA"), 14 California Code of Regulations, and Section 15000 et seq. ("CEQA Guidelines"), the Town Council hereby makes the findings set forth below. These Findings are based on the entire record identified above (#2).
Findings

Based on a review of the entire record, the Council finds that the EIR reflects the independent judgment of the Town as lead agency. The Council has exercised independent judgment in accordance with CEQA Section 21082.1(c)(3) in retaining its own environmental consultant, directing the consultant in preparing the EIR, and reviewing, analyzing, and revising material prepared by the consultant.

A. Findings Required under CEQA

The mandate and principles set forth in Public Resources Code section 21002 are implemented, in part, through the requirement that agencies must adopt findings before approving a project for which an EIR is required. This mandate to adopt findings is found in Public Resources Code section 21081, subdivision (a), and CEQA Guidelines section 15091, subdivision (a). For each significant environmental effect identified in an EIR prepared for a proposed project, the approving agency must issue a written finding reaching one or more of three permissible conclusions. The three possible findings are:

1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the final EIR.

2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by that other agency.

3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

(Pub. Resources Code, § 21081, subd. (a); see also CEQA Guidelines, § 15091, subd. (a).)

"[F]easible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors." (CEQA Guidelines, §15364.)

B. Findings Regarding Impacts that Remain Significant after Mitigation

The EIR did not identify any significant unavoidable impacts. All potentially significant environmental impacts identified will be mitigated to a less-than-significant level with the incorporation of mitigation.

C. Findings and Recommendations Regarding Potentially Significant Impacts that Are Avoided or Reduced to Less-than-Significant by Mitigation

The EIR identified 19 significant impacts that, with mitigation, can be reduced to less-than-significant levels. Table 1, included in Exhibit A, lists the 19 significant impacts, mitigation that reduces each impact, and the findings. Table 1 does not describe the full analysis of each environmental impact contained in the Draft and Final EIR. Instead, Table 1 provides a summary description of each impact, the applicable mitigation measures identified in the Draft and Final EIR, and states the Town’s findings on the significance of each impact after imposition of the adopted mitigation measures. A full explanation of these environmental findings and conclusions are contained in the Draft and Final EIR, and these findings incorporate the discussions and analyses in those documents supporting the Final EIR’s determinations.
regarding mitigation measures and the Projects’ impacts and mitigation measures designed to address those impacts. Each proposed mitigation measure discussed in this section of the findings is assigned a title correlating it with the environmental category used in the Mitigation Monitoring and Reporting Program included in Exhibit B.

This Council finds that all potentially significant impacts of this project listed below can and will be mitigated, reduced, or avoided by implementation of mitigation measures. Specific findings of this Council for each category of such impacts are set forth below in this section.

Here, as set forth below, the Council hereby finds, pursuant to CEQA Section 21081, that the following potential environmental impacts can and will be mitigated to below a level of significance, based upon the implementation of the mitigation measures recommended in the EIR.

In making these Findings, the Town Council ratifies, adopts and incorporates into these findings, the analyses and explanations in the Draft and Final EIR and, ratifies, adopts and incorporates in these findings the determinations and conclusions of those documents relating to the environmental impacts and mitigation measures for the Project.

D. Findings Regarding Alternatives to the Project

CEQA and the CEQA Guidelines require that an EIR “describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project, but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives” (CEQA Guidelines Section 15126.6[a]). In addition, “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects” (CEQA Section 21001).

Based on the impact analysis and adopted mitigation measures, all significant effects of the Project will be mitigated to a less-than-significant level. While CEQA requires the Town Council to consider project alternatives that would reduce any impacts to less-than-significant levels, the proposed Project reduces impacts to less-than-significant levels through the imposition of feasible mitigation measures, and therefore adoption of an alternative is not required. An EIR is not required to evaluate project alternatives that do not meet most of the Project objectives.

The Project objectives are:

1. Expand The Village by 46,000 square feet, consistent with the Town of Corte of Madera General Plan 2009, with a commercial space inclusive of a cafe and roof-top scenery loft.

2. Improve the gravel parking lot across Redwood Highway by paving, landscaping, and lighting the area using low-impact development elements to promote a more convenient and safe use that is consistent with the existing uses of the gravel lot.

3. Build a retail space large enough to operate as a design gallery, rather than a regular retail store.

4. Promote the community's economic development and enhance the Town's tax base by supporting the continued evolution and relevance of The Village to provide a first-class shopping and dining experience.
5. Allow the Town to retain ownership of the gravel lot, while eliminating costs associated with liability, maintenance, security, and potential required future improvements.

The EIR evaluated two alternatives to the Project: the No Project Alternative (Alternative 1) and the Structured Parking Alternative (Alternative 2). The No Project Alternative consists of two possible conditions identified as Option 1a and Option 1b. Under Option 1a, no action would be taken by the Town, and the existing conditions at both The Village and the gravel lot would continue to occur in the future. Option 1b of the No Project Alternative would consist of the reasonably foreseeable condition that would result from buildout of the current plans that is also consistent with available infrastructure and services. Therefore, Option 1b of the No Project Alternative would consist of a 46,000 square-foot retail building, a separate three-story parking structure, and no development at the gravel lot. Under the Structured Parking Alternative (Alternative 2), a 46,000 square-foot retail expansion, including the ancillary improvements such as utilities, storm water, and landscaping, would occur; however, the gravel lot would not be improved.

Option 1a of the No Project Alternative does not meet any of the objectives of the Project, in that it would maintain the existing condition without additions or improvements to either The Village or the gravel lot. Option 1b of the No Project Alternative would fulfill most of the basic Project objectives, although it would not improve the gravel parking lot for increased convenience and safety and would not allow the Town to eliminate costs associated with continued ownership of the gravel lot.

Similar to Option 1b, Alternative 2, the Structured Parking Alternative, would fulfill most of the basic Project objectives, although it would not improve the gravel parking lot for increased convenience and safety and would not allow the Town to eliminate costs associated with continued ownership of the gravel lot.

Option 1a of the No Project Alternative does not meet most of the Project objectives, and, for this reason, is rejected.

The EIR found that the Project, Option 1b of the No Project Alternative, and Alternative 2 would have very similar environmental impacts after mitigation, and none is environmentally superior to the others. As discussed in Chapter 4 of the Draft EIR, the Project would fulfill all of the Project objectives; however, the two alternatives would not improve the gravel lot to increase convenience and safety and would not allow the Town to eliminate costs associated with future maintenance, security, liability, and any future improvements needed at the facility. CEQA Guidelines Section 15021(a)(2) states that a public agency should not approve a project as proposed if there are feasible alternatives or mitigation measures that would substantially lessen any significant effect that a project would have on the environment. The Project incorporates feasible mitigation measures that substantially lessen all environmental effects of the Project.

The Town Council hereby finds that the Option 1a of the No Project Alternative does not meet most of the Project objectives, and that Option 1b of the No Project Alternative and Alternative 2 do not substantially lessen environmental impacts beyond those identified for the Project. The data to support the substantial environmental evidence to support these conclusions is found in the Alternatives Description and Analysis section of the EIR (Chapter 4).
4. **Mitigation Monitoring and Reporting Program (MMRP)**

Further, the Town Council hereby adopts the MMRP, attached hereto as Exhibit B, pursuant to Public Resources Code Section 21081.6, which program is designed to ensure compliance with the mitigation measures imposed to avoid or substantially lessen the significant effects identified in the EIR.

5. **Certification**

Pursuant to CEQA Guidelines Section 15090, the Town Council certifies that:

The EIR was prepared in accordance with the California Environmental Quality Review Act.

1. The Town Council has considered the proposed EIR, together with all public comments received during the public review process and based on the whole record, does not find substantial evidence that the project will have a significant effect on the environment.

2. The EIR reflects the lead agency's independent judgment and analysis.

3. Pursuant to §21081.6(a)(2) of the Public Resources Code, the Corte Madera Planning Department, located at 300 Tamalpais Drive, Corte Madera, CA, is the custodian and location of the documents and other materials that constitute the record of proceedings upon which the Town Council's decision memorialized in this Resolution is based.

**I HEREBY CERTIFY** that the foregoing resolution was duly and regularly adopted by the Town Council of Corte Madera at a regular meeting held on the 5th day of December 2017, by the following vote, to wit:

**AYES:** Councilmembers:

**NOES:** Councilmembers:

**ABSENT:** Councilmembers:
Diane Furst, Mayor

ATTEST:

Rebecca Vaughn, Town Clerk

************

Attachments:
1. Exhibit A: Table 1 Findings of Fact for Impacts Avoided or Reduced with Incorporatin of Mitigation.
2. Exhibit B – Mitigation and Monitoring Program (MMRP).
EXHIBIT A

STATEMENT OF FINDINGS, FACTS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT IN SUPPORT OF ADOPTION OF THE VILLAGE AT CORTE MADERA EXPANSION PROJECT

FINDINGS OF FACT

Pursuant to the California Environmental Quality Act, Public Resources Code Section 21000 et seq. ("CEQA"), 14 California Code of Regulations, and Section 15000 et seq. ("CEQA Guidelines"), the Town Council hereby makes the findings set forth below. These Findings are based on the entire record including the Environmental Impact Report ("EIR") prepared by the Town of Corte Madera ("Town") for the Village at Corte Madera Expansion Project ("Project"). The EIR consists of a Draft EIR (July 2017) and Final EIR - Response to Comments (November 2017). The EIR provides the substantial evidence for these findings and is incorporated by reference. The EIR is available for review at the Town of Corte Madera Planning Department and also on the Town's website at http://www.townofcortemadera.org/5634/Village-Expansion-Project-Restoration-Ha.

INDEPENDENT JUDGMENT

The Town retained the services of GHD, an independent consultant, to prepare the CEQA documents for the project. The EIR was prepared under the supervision and direction of Adam Wolff, current Planning Director and Phil Boyle, Senior Planner.

FINDINGS

Based on a review of the entire record, the Council finds that the EIR reflects the independent judgment of the Town as lead agency. The Council has exercised independent judgment in accordance with CEQA Section 21082.1(c)(3) in retaining its own environmental consultant, directing the consultant in preparing the EIR, and reviewing, analyzing, and revising material prepared by the consultant.

A. Findings Required under CEQA

The mandate and principles set forth in Public Resources Code section 21002 are implemented, in part, through the requirement that agencies must adopt findings before approving a project for which an EIR is required. This mandate to adopt findings is found in Public Resources Code section 21081, subdivision (a), and CEQA Guidelines section 15091, subdivision (a). For each significant environmental effect identified in an EIR prepared for a proposed project, the approving agency must issue a written finding reaching one or more of three permissible conclusions. The three possible findings are:

1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the final EIR.

2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by that other agency.

3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

(Pub. Resources Code, § 21081, subd. (a); see also CEQA Guidelines, § 15091, subd. (a).) "[F]easible" means capable of being accomplished in a successful manner within a reasonable period of time, taking
into account economic, environmental, social, legal, and technological factors.” (CEQA Guidelines, § 15364.)

B. Findings Regarding Impacts that Remain Significant after Mitigation

The EIR did not identify any significant unavoidable impacts. All potentially significant environmental impacts identified will be mitigated to a less-than-significant level with the incorporation of mitigation.

C. Findings and Recommendations Regarding Potentially Significant Impacts that Are Avoided or Reduced to Less-than-Significant by Mitigation

The EIR identified 19 significant impacts that, with mitigation, can be reduced to less-than-significant levels. Table 1, below, lists the 19 significant impacts, mitigation that reduces each impact, and the findings. Table 1 does not describe the full analysis of each environmental impact contained in the Draft and Final EIR. Instead, Table 1 provides a summary description of each impact, the applicable mitigation measures identified in the Draft and Final EIR, and states the Town’s findings on the significance of each impact after imposition of the adopted mitigation measures. A full explanation of these environmental findings and conclusions are contained in the Draft and Final EIR, and these findings hereby incorporate by reference the discussions and analyses in those documents supporting the Final EIR’s determinations regarding mitigation measures and the Projects’ impacts and mitigation measures designed to address those impacts. Each proposed mitigation measure discussed in this section of the findings is assigned a title correlating it with the environmental category used in the Mitigation Monitoring and Reporting Program included in Exhibit B.

This Council finds that all potentially significant impacts of this project listed below can and will be mitigated, reduced, or avoided by implementation of mitigation measures. Specific findings of this Council for each category of such impacts are set forth below in this section.

Here, as set forth below, the Council hereby finds, pursuant to CEQA Section 21081, that the following potential environmental impacts can and will be mitigated to below a level of significance, based upon the implementation of the mitigation measures recommended in the EIR.

In making these Findings, the Town Council ratifies, adopts and incorporates into these findings, the analyses and explanations in the Draft and Final EIR and, ratifies, adopts and incorporates in these findings the determinations and conclusions of those documents relating to the environmental impacts and mitigation measures for the Project.

D. Findings Regarding Alternatives to the Project

CEQA and the CEQA Guidelines require that an EIR “describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project, but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives” (CEQA Guidelines Section 15126.6[a]). In addition, “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects” (CEQA Section 21001).

Based on the impact analysis and adopted mitigation measures, all significant effects of the Project will be mitigated to a less-than-significant level. While CEQA requires the Town Council to consider project alternatives that would reduce any impacts to less-than-significant levels, the proposed Project reduces impacts to less-than-significant levels through the imposition of feasible mitigation measures, and therefore adoption of an alternative is not required. An EIR is not required to evaluate project alternatives that do not meet most of the Project objectives.

The Project objectives are:

1. Expand The Village by 46,000 square feet, consistent with the Town of Corte of Madera General Plan 2009, with a commercial space inclusive of a cafe and roof-top scenery loft.
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3. Build a retail space large enough to operate as a design gallery, rather than a regular retail store.

4. Promote the community's economic development and enhance the Town's tax base by supporting the continued evolution and relevancy of The Village to provide a first-class shopping and dining experience.

5. Allow the Town to retain ownership of the gravel lot, while eliminating costs associated with liability, maintenance, security, and potential required future improvements.

The EIR evaluated two alternatives to the Project: the No Project Alternative (Alternative 1) and the Structured Parking Alternative (Alternative 2). The No Project Alternative consists of two possible conditions identified as Option 1a and Option 1b. Under Option 1a, no action would be taken by the Town, and the existing conditions at both The Village and the gravel lot would continue to occur in the future. Option 1b of the No Project Alternative would consist of the reasonably foreseeable condition that would result from buildout of the current plans that is also consistent with available infrastructure and services. Therefore, Option 1b of the No Project Alternative would consist of a 46,000 square-foot retail building, a separate three-story parking structure, and no development at the gravel lot. Under the Structured Parking Alternative (Alternative 2), a 46,000 square-foot retail expansion, including the ancillary improvements such as utilities, storm water, and landscaping, would occur; however, the gravel lot would not be improved.

Option 1a of the No Project Alternative does not meet any of the objectives of the Project, in that it would maintain the existing condition without additions or improvements to either The Village or the gravel lot. Option 1b of the No Project Alternative would fulfill most of the basic Project objectives, although it would not improve the gravel parking lot for increased convenience and safety and would not allow the Town to eliminate costs associated with continued ownership of the gravel lot.

Similar to Option 1b, Alternative 2, the Structured Parking Alternative, would fulfill most of the basic Project objectives, although it would not improve the gravel parking lot for increased convenience and safety and would not allow the Town to eliminate costs associated with continued ownership of the gravel lot.

Option 1a of the No Project Alternative does not meet most of the Project objectives, and, for this reason, is rejected.

The EIR found that the Project, Option 1b of the No Project Alternative, and Alternative 2 would have very similar environmental impacts after mitigation, and none is environmentally superior to the others. As discussed in Chapter 4 of the Draft EIR, the Project would fulfill all of the Project objectives; however, the two alternatives would not improve the gravel lot to increase convenience and safety and would not allow the Town to eliminate costs associated with future maintenance, security, liability, and any future improvements needed at the facility. CEQA Guidelines Section 15021(a)(2) states that a public agency should not approve a project as proposed if there are feasible alternatives or mitigation measures that would substantially lessen any significant effect that a project would have on the environment. The Project incorporates feasible mitigation measures that substantially lessen all environmental effects of the Project.

The Town Council hereby finds that the Option 1a of the No Project Alternative does not meet most of the Project objectives, and that Option 1b of the No Project Alternative and Alternative 2 do not substantially lessen environmental impacts beyond those identified for the Project. The data to support the substantial evidence to support these conclusions is found in the Alternatives Description and Analysis section of the EIR (Chapter 4).
Table 1: Findings of Fact for Impacts Avoided or Reduced with Incorporation of Mitigation

<table>
<thead>
<tr>
<th>Environmental Impact</th>
<th>Mitigation Measure(s) Reducing Impact to Less than Significant</th>
<th>Findings of Fact</th>
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<tbody>
<tr>
<td>Aesthetics</td>
<td></td>
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<tr>
<td>AES-3: Would the project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?</td>
<td>AES-1: Reduce Nighttime Lighting</td>
<td>The Town Council hereby finds that requiring the applicant to reduce or prevent unnecessary nighttime lighting, and spill of light onto adjacent properties in accordance with the specifications set forth in the Mitigation Measure, is feasible. The Mitigation Measure has been adopted. The Town Council further finds that changes or alterations will be required in, or incorporated into the Project, which would avoid or substantially lessen the significant environment effect, as identified in the EIR. (See Section 3.1 Aesthetics and Visual Resources, of the Draft EIR)</td>
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<td>Air Quality</td>
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<td>AQ-2: Would the project violate an air quality standard or contribute substantially to an existing or projected air quality violation, or result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?</td>
<td>AQ-2: Implement BAAQMD Basic Construction Measures</td>
<td>The Town Council hereby finds that requiring the applicant to implement BAAQMD Basic Construction Measures, where applicable, in accordance with the specifications set forth in the Mitigation Measure, is feasible. The Mitigation Measure has been adopted. The Town Council further finds that changes or alterations will be required in, or incorporated into the Project, which would avoid or substantially lessen the significant environment effect, as identified in the EIR. (See Section 3.2 Air Quality, of the Draft EIR)</td>
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<td>Biological Resources</td>
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<td>BIO-1: Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California</td>
<td>BIO-1a: Protect Salt Marsh Harvest Mouse</td>
<td>The Town Council hereby finds that requiring the applicant to conduct site-specific surveys and incorporate measures to protect special-status species, in accordance with the specifications set forth in the Mitigation Measures, is feasible. The Mitigation Measures have been adopted. The Town Council further finds that changes or alterations will be required in, or incorporated into the Project, which would</td>
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<tr>
<td>Environmental Impact</td>
<td>Mitigation Measure(s) Reducing Impact to Less than Significant</td>
<td>Findings of Fact</td>
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<td>Department of Fish and Wildlife or U.S. Fish and Wildlife Service?</td>
<td>HWQ-3: Implement Post-construction Stormwater Requirements</td>
<td>avoid or substantially lessen the significant environment effect, as identified in the EIR. (See Section 3.3 Biological Resources, of the Draft EIR)</td>
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<tr>
<td>BIO-2: Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?</td>
<td>BIO-1a: Protect Salt Marsh Harvest Mouse AQ-2: Implement BAAQMD Basic Construction Measures HWQ-1: Manage Stormwater during Construction HWQ-2: Manage Construction Dewatering Discharges HWQ-3: Implement Post-construction Stormwater Requirements</td>
<td>The Town Council hereby finds that requiring the applicant to ensure that no net loss of riparian habitat or other sensitive natural community occurs, and incorporate measures into the Project, in accordance with the specifications set forth in the Mitigation Measures, is feasible. The Mitigation Measures have been adopted. The Town Council further finds that changes or alterations will be required in, or incorporated into the Project, which would avoid or substantially lessen the significant environment effect, as identified in the EIR. (See Section 3.3 Biological Resources, of the Draft EIR)</td>
</tr>
<tr>
<td>BIO-3: Would the project have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?</td>
<td>AQ-2: Implement BAAQMD Basic Construction Measures HWQ-1: Manage Stormwater during Construction HWQ-2: Manage Construction Dewatering Discharges HWQ-3: Implement Post-construction Stormwater Requirements</td>
<td>The Town Council hereby finds that requiring the applicant to conduct site-specific jurisdictional delineations and incorporate mitigation measures into individual projects to ensure no net loss of jurisdictional waters or wetlands, in accordance with the specifications set forth in the Mitigation Measures, is feasible. The Mitigation Measures have been adopted. The Town Council further finds that changes or alterations will be required in, or incorporated into the Project, which would avoid or substantially lessen the significant environment effect, as identified in the EIR. (See Section 3.3 Biological Resources, of the Draft EIR)</td>
</tr>
<tr>
<td>BIO-4: Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?</td>
<td>BIO-1b: Protect Nesting Raptors and Migratory Birds</td>
<td>The Town Council hereby finds that requiring the applicant to conduct site-specific surveys and incorporate measures to protect special-status species into the Project, in accordance with the specifications set forth in the Mitigation Measure, is feasible. The Mitigation Measure has been adopted. The Town Council further finds that changes or alterations will be required in, or incorporated into the Project, which would...</td>
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<tr>
<td>Environmental Impact</td>
<td>Mitigation Measure(s) Reducing Impact to Less than Significant</td>
<td>Findings of Fact</td>
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<tr>
<td>BIO-5: Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?</td>
<td>BIO-5a: Comply with General Plan Policies regarding Non-native Species</td>
<td>The Town Council hereby finds that requiring the applicant to comply with Corte Madera General Plan policies regarding non-native species, in accordance with the specifications set forth in the Mitigation Measure, is feasible. The Mitigation Measure has been adopted. The Town Council further finds that changes or alterations will be required in, or incorporated into the Project, which would avoid or substantially lessen the significant environment effect, as identified in the EIR. (See Section 3.3 Biological Resources, of the Draft EIR)</td>
</tr>
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</table>

**Cultural Resources**

<p>| CR-1: Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5? | CR-1: Minimize Impacts to Unknown Archaeological Resources | The Town Council hereby finds that requiring the applicant to adhere to appropriate procedures and protocols for minimizing possible archaeological resource discoveries during construction, in accordance with the specifications set forth in the Mitigation Measure, is feasible. The Mitigation Measure has been adopted. The Town Council further finds that changes or alterations will be required in, or incorporated into the Project, which would avoid or substantially lessen the significant environment effect, as identified in the EIR. (See Section 3.4 Cultural, Paleontological, and Tribal Cultural Resources, of the Draft EIR) |
| CR-2: Would the project disturb any human remains, including those interred outside of formal cemeteries? | CR-2: Procedures for Encountering Human Remains | The Town Council hereby finds that requiring the applicant to protect human remains encountered during construction of the Project, in accordance with the specifications set forth in the Mitigation Measure, is feasible. The Mitigation Measure has been adopted. The Town Council further finds that changes or alterations will be required in, or incorporated into the Project, which would avoid or substantially lessen the significant environment effect, as identified in the EIR. (See Section 3.4 Cultural, Paleontological, and Tribal Cultural Resources, of the Draft EIR) |</p>
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<td>environment effect, as identified in the EIR. (See Section 3.4 Cultural, Paleontological, and Tribal Cultural Resources, of the Draft EIR)</td>
</tr>
<tr>
<td>CR-3: Would the project cause a substantial adverse change in the significance of a tribal cultural resource?</td>
<td>CR-3: Minimize Impacts to Unknown Tribal Cultural Resources</td>
<td>The Town Council hereby finds that requiring the applicant to adhere to appropriate procedures and protocols for minimizing potential impacts to tribal cultural resources encountered during construction, in accordance with the specifications set forth in the Mitigation Measure, is feasible. The Mitigation Measure has been adopted. The Town Council further finds that changes or alterations will be required in, or incorporated into the Project, which would avoid or substantially lessen the significant environment effect, as identified in the EIR. (See Section 3.4 Cultural, Paleontological, and Tribal Cultural Resources, of the Draft EIR)</td>
</tr>
<tr>
<td><strong>Geology and Soils</strong></td>
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</tr>
<tr>
<td>GEO-1: Would the project expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death, involving strong seismic ground shaking?</td>
<td>GEO-1: Reduce Geologic Hazards through Design and Construction Measures</td>
<td>The Town Council hereby finds that requiring the applicant to reduce geologic hazards through design and construction measures, in accordance with the specifications set forth in the Mitigation Measure, is feasible. The Mitigation Measure has been adopted. The Town Council further finds that changes or alterations will be required in, or incorporated into the Project, which would avoid or substantially lessen the significant environment effect, as identified in the EIR. (See Section 3.5 Geology and Soils, of the Draft EIR)</td>
</tr>
<tr>
<td>GEO-2: Would the project expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death, involving seismic-related ground failure, including liquefaction?</td>
<td>GEO-1: Reduce Geologic Hazards through Design and Construction Measures</td>
<td>The Town Council hereby finds that requiring the applicant to reduce geologic hazards through design and construction measures, in accordance with the specifications set forth in the Mitigation Measure, is feasible. The Mitigation Measure has been adopted. The Town Council further finds that changes or alterations will be required in, or incorporated into the Project, which would</td>
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<tr>
<td>GEO-5: Would the project be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?</td>
<td>GEO-1: Reduce Geologic Hazards through Design and Construction Measures</td>
<td>The Town Council hereby finds that requiring the applicant to reduce geologic hazards through design and construction measures, in accordance with the specifications set forth in the Mitigation Measure, is feasible. The Mitigation Measure has been adopted. The Town Council further finds that changes or alterations will be required in, or incorporated into the Project, which would avoid or substantially lessen the significant environment effect, as identified in the EIR. (See Section 3.5 Geology and Soils, of the Draft EIR)</td>
</tr>
<tr>
<td>Greenhouse Gas Emissions</td>
<td>GHG-1: Reduce Greenhouse Gas Emissions</td>
<td>The Town Council hereby finds that requiring the applicant to prepare a greenhouse gas reduction plan in accordance with the specifications set forth in the Mitigation Measure, is feasible. The Mitigation Measure has been adopted. The Town Council further finds that changes or alterations will be required, or incorporated into the Project, which would avoid or substantially lessen the significant environment effect, as identified in the EIR. (See Section 3.6 Greenhouse Gas Emissions, of the Draft EIR)</td>
</tr>
<tr>
<td>Hydrology and Water Quality</td>
<td>HWQ-1: Manage Stormwater during Construction HWQ-2: Manage Construction Dewatering Discharges HWQ-3: Implement Post-construction Stormwater Requirements</td>
<td>The Town Council hereby finds that requiring the applicant to manage stormwater and dewatering discharges during construction and implement post-construction stormwater requirements in accordance with the specifications set forth in the Mitigation Measures, is feasible. The Mitigation Measures have been adopted. The Town Council further finds that changes or alterations will be required in, or incorporated into the Project, which would avoid or substantially lessen the significant environment effect, as identified in the EIR. (See Section 3.5 Geology and Soils, of the Draft EIR)</td>
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<tr>
<td>drainage systems?</td>
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<td>lessen the significant environment effect, as identified in the EIR. (See Section 3.8 Hydrology and Water Quality, of the Draft EIR)</td>
</tr>
<tr>
<td>HWQ-4: Would the project expose people or structures to a significant risk involving flooding, or place within a 100-year flood hazard area structures which would impede or redirect flood flows?</td>
<td>HWQ-4: Provisions for Flood Hazard Reduction</td>
<td>The Town Council hereby finds that requiring the applicant to conform to flood damage prevention provisions of the Corte Madera Municipal Code Chapter and obtain a Floodplain Development Permit, in accordance with the specifications set forth in the Mitigation Measure, is feasible. The Mitigation Measure has been adopted. The Town Council further finds that changes or alterations will be required in, or incorporated into the Project, which would avoid or substantially lessen the significant environment effect, as identified in the EIR. (See Section 3.8 Hydrology and Water Quality, of the Draft EIR)</td>
</tr>
<tr>
<td>Noise</td>
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<tr>
<td>NO-1: Would the project result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?</td>
<td>NO-1: Comply with Corte Madera General Plan Policies</td>
<td>The Town Council hereby finds that requiring the applicant to comply with Corte Madera General Plan policies with regard to construction and demolition work hours, in accordance with the specifications set forth in the Mitigation Measure, is feasible. The Mitigation Measure has been adopted. The Town Council further finds that changes or alterations will be required in, or incorporated into the project, which would avoid or substantially lessen the significant environment effect, as identified in the EIR. (See Section 3.10 Noise, of the Draft EIR)</td>
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<tr>
<td>Transportation and Traffic</td>
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<tr>
<td>TR-3: Would the project substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses?</td>
<td>TR-3a: Reduce Traffic Hazards during Construction TR-3b: Redirect Bay Trail Users during Construction TR-3c: Manage Parking during Construction TR-3d: Improve Pedestrian Safety</td>
<td>The Town Council hereby finds that by requiring the applicant to reduce traffic hazards, redirect Bay Trail users, manage parking during construction, and improve driveway safety at the northern and southern driveways, in accordance with the specifications set forth in the Mitigation Measures, is feasible. The Mitigation Measures have been adopted. The Town Council further finds that changes or alterations will be required in, or</td>
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<td>incorporated into the Project, which would avoid or substantially lessen the significant environment effect, as identified in the EIR. (See Section 3.12 Transportation and Traffic, of the Draft EIR)</td>
</tr>
<tr>
<td>C-TR-1: Would the project result in a cumulatively considerable contribution to a significant cumulative impact related to transportation?</td>
<td>C-TR-1: Fair Share Contribution to Intersection Improvements</td>
<td>The Town Council hereby finds that requiring the applicant to make a fair share contribution for intersection improvements, in accordance with the specifications set forth in the Mitigation Measure, is feasible. The Mitigation Measure has been adopted. The Town Council further finds that changes or alterations will be required in, or incorporated into the Project, which would avoid or substantially lessen the significant environment effect, as identified in the EIR. (See Section 3.12 Transportation and Traffic, of the Draft EIR)</td>
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Attachments:
1. Exhibit B: Mitigation Monitoring and Reporting Program
EXHIBIT B

MITIGATION AND MONITORING REPORT
## MITIGATION AND MONITORING PLAN

### The Village at Corte Madera Expansion Project

<table>
<thead>
<tr>
<th>Mitigation Measure</th>
<th>Monitoring Responsibility</th>
<th>Monitoring/ Reporting Action &amp; Schedule</th>
<th>Monitoring Compliance Record (Name/Date)</th>
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</thead>
<tbody>
<tr>
<td>AES-1: Reduce Nighttime Lighting</td>
<td>Town of Corte Madera</td>
<td>Verify in construction documents prior to issuing building permit.</td>
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<tr>
<td>The Applicant shall ensure that:</td>
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<td>• Skyward-casting lighting shall be prohibited for any new parking lot lighting.</td>
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<tr>
<td>• Over-lighting shall be prevented and full-cut off fixtures shall be used to minimize light pollution and trespass in the parking lots. Lighting within the gravel lot improvements area shall be directed and/or shielded away from Shorebird Marsh and other adjacent land uses (excepting for Redwood Highway).</td>
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<tr>
<td>• Lighting for exterior locations shall be designed primarily for public safety and shall not result in unnecessary glare beyond the project boundary.</td>
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<td>• Whenever possible, lighting for pathways shall be low path lighting.</td>
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<td>• Motion sensors shall be used where possible to lessen unnecessary lighting.</td>
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<td>• Use of separate circuits shall be implemented where feasible to allow peripheral lighting to be turned off.</td>
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<tr>
<td>AQ-2: Implement BAAQMD Basic Construction Measures</td>
<td>Town of Corte Madera</td>
<td>Verify in construction documents prior to issuing building permit and monitor daily during construction.</td>
<td></td>
</tr>
<tr>
<td>The following BAAQMD basic construction measures shall be incorporated into the construction contract specifications for the Project and shall be implemented during construction:</td>
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<tr>
<td>• All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas and unpaved access roads) shall be watered two times per day;</td>
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<td>• All haul trucks transporting soil, sand, or other loose material off-site shall be covered or shall have at least two feet of freeboard;</td>
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<tr>
<td>• All visible mud or dirt tracked-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping shall be prohibited;</td>
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## MITIGATION AND MONITORING PLAN

The Village at Corte Madera Expansion Project

### Mitigation Measure

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<td>• All vehicle speeds on unpaved areas shall be limited to 15 miles per hour;</td>
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<td>• All paving shall be completed as soon as possible after trenching work is finished;</td>
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<tr>
<td>• Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California air-borne toxics control measure Title 13, Section 2485 of California Code of Regulations). Clear signage shall be provided for construction workers at all access points;</td>
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<tr>
<td>• All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation;</td>
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<tr>
<td>• A publicly visible sign shall be posted with the telephone number and person to contact regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District’s phone number shall also be visible to ensure compliance with applicable regulations.</td>
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### BIO-1a: Protect Salt Marsh Harvest Mouse

The Applicant shall implement the following measures prior to and during construction and staging at the gravel lot:

• All non-landscaped, vegetated habitats within the Project area (i.e., coyote brush scrub, salt grass flats, and ruderal grassland) shall be avoided to the maximum extent feasible.

• Staging areas shall be located in a developed area of the Project site at least 33 feet away from the edge of the developed/barren habitat and transitional habitats (coyote brush scrub and ruderal grassland). If it is not practical to locate the staging area at least 33 feet from the nearest non-landscaped vegetation, the area shall be surrounded by a temporary exclusion fence. The fence type and installation

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<tr>
<td>Town of Corte Madera</td>
<td>Verify in construction documents prior to issuing building permit. Conduct training prior to start of construction. Monitor as necessary during construction.</td>
<td></td>
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</tbody>
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EXHIBIT B

MITIGATION AND MONITORING PLAN
The Village at Corte Madera Expansion Project

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<td>shall follow the same specifications for the work area, as outlined in the next bullet.</td>
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<tr>
<td>• The work area shall be separated from the surrounding natural vegetation by a temporary exclusion fence made of or covered with smooth, heavy plastic sheeting that is at least three feet in height and 12 inches higher than the tallest adjacent vegetation (a maximum fence height of four feet is appropriate). The fence bottom shall be buried at least four inches deep into the ground with no gaps. Stakes shall be located on the inside of the exclusion fence (to deter mice from climbing stakes).</td>
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<tr>
<td>• All construction personnel and onsite staff shall participate in an endangered species training program to be given by the biological monitor (see below). The training shall provide information about salt marsh harvest mouse, measures being implemented to avoid impacts to these species, and procedures to follow should a salt marsh harvest mouse be encountered during work. Training shall cover the sensitive resources located in the area, how to avoid sensitive resources, environmental rules and regulations, and the importance of protecting environmental resources.</td>
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<tr>
<td>• Vegetation within 2 feet of the exclusion fencing shall be trimmed as follows to prevent saltmarsh harvest mouse individuals from climbing on the vegetation as a pathway over the fencing. Trim upland grasses and weeds to less than 6&quot;; trim coyote brush that is touching the exclusion fencing so that it cannot provide a pathway over the fencing for the mouse. Vegetation shall be trimmed by hand beginning at lesser quality habitat and moving toward better quality habitat. The vegetation trimming shall be maintained for the duration of construction.</td>
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<tr>
<td>• A qualified biological monitor shall be present during vegetation trimming and salt marsh harvest mouse exclusion fence installation.</td>
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<tr>
<td>• Construction activities shall only occur during daylight at the gravel lot between 30 minutes after sunrise and 30 minutes</td>
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<td>before sunset (this condition does not apply to construction within The Village site).</td>
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<td>• No lighting shall be used in construction areas overnight at the gravel lot, except for those on motion detectors, affixed downward (minimal up light and spill), and necessary for safety.</td>
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<tr>
<td>• Standard Best Management Practices (BMP) shall be implemented to reduce noise, fugitive dust, and other general disturbance to the area (General Plan Implementation Program RCS-10.3.c Construction Dust Control, RCS-10.3.e Construction Equipment Control, and PSH-5.7.b Muffler Requirements).</td>
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<tr>
<td>• Dust abatement involving water shall limit spraying to prohibit the forming of pools on paved areas that might attract birds to the construction area.</td>
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<td>• Roosting and landing deterrent (i.e., bird control spikes) shall be permanently installed on the top of new lighting structures at the gravel lot to deter avian predators.</td>
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<tr>
<td><strong>BIO-1b: Protect Nesting Raptors and Migratory Birds</strong>&lt;br&gt;The Applicant shall implement the following measures:</td>
<td>Town of Corte Madera</td>
<td>Verify in construction documents prior to issuing building permit.&lt;br&gt;Conduct pre-construction surveys within one week prior to start of construction, if necessary.&lt;br&gt;Verify installation of fencing prior to start of construction, monitor as necessary during construction.</td>
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<tr>
<td>• Grading or removal of any vegetation, including landscaping, shall be conducted outside the nesting season (defined as February 1st through August 31st), if feasible. No survey is required for work conducted between September 1st and January 31st. However, if an active nest is encountered, since a few species breed year-round, a qualified biologist shall be contacted and work in the immediate vicinity of the nest shall cease until corrective measures can be implemented (i.e. avoidance of the nest until the young have fledged).</td>
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<tr>
<td>• If grading or vegetation removal between September 1st and January 31st is infeasible and work must occur within the breeding season, a pre-construction nesting bird survey (for both passerines and raptors) of the Project area shall be performed by a qualified biologist within 7 days of breaking ground. If no nesting birds are observed, no further action is</td>
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<tr>
<td>required and work shall begin within one week of the survey to prevent &quot;take&quot; of individual birds that could begin nesting after the survey. If the onset of work is delayed or there is a break in construction lasting longer than 7 days during the breeding season, then the original survey is presumed invalid and an additional survey shall be conducted.</td>
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<tr>
<td>• If bird nests (either passerine and/or raptor species that are protected under the MBTA or California Fish and Game Code) are observed during the pre-construction survey, a disturbance-free (or exclusion) buffer zone shall be established around the nest tree(s)/area until the young have fledged, as determined by a qualified biologist. The radius of the required buffer zone can vary depending on the species, (i.e., 75 to 100 feet for passerines and 200 to 300 feet for raptors); the dimensions of any required buffer zones shall be determined by a qualified biologist in consultation with USFWS or CDFW.</td>
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<tr>
<td>• Before construction begins, orange construction fencing shall be placed at the specified radius from the base of the nest tree/area to delineate the exclusion buffer zone from construction areas. No machinery or workers shall intrude into the established buffer zone. Grading and construction activities would not be restricted (in regard to nesting birds) outside the prescribed buffer zone.</td>
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## MITIGATION AND MONITORING PLAN

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<td>BIO-5a: Comply with General Plan Policies regarding Non-native Species</td>
<td>Town of Corte Madera</td>
<td>Review and verify landscape plans comply with City Policy prior to issuing building permit.</td>
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<tr>
<td>CR-1: Minimize Impacts to Unknown Archaeological Resources</td>
<td>Town of Corte Madera</td>
<td>Verify in construction documents prior to issuing building permit.</td>
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**The Village at Corte Madera Expansion Project**

November 2017
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**The Village at Corte Madera Expansion Project**

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<tr>
<td>recovered shall be, as necessary and at the discretion of the consulting archaeologist, subject to scientific analysis, professional museum curation, and documentation according to current professional standards. In considering any suggested measures proposed by the consulting archaeologist in order to mitigate impacts to historical resources or unique archaeological resources, the Town shall determine whether avoidance is necessary and feasible in light of factors such as the nature of the find, Project design, costs, and other considerations. If avoidance is infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the Project while mitigation for unique archaeological resources is being carried out.</td>
<td>Town of Corte Madera</td>
<td>Verify in construction documents prior to issuing building permit. Halt work and follow evaluation procedures, if necessary.</td>
<td></td>
</tr>
</tbody>
</table>

**CR-2: Procedures for Encountering Human Remains**

California Health and Safety Code Section 7050.5 states that it is a misdemeanor to knowingly disturb a human grave. If human remains are encountered, the Town shall halt work in the vicinity and notify the County Coroner. At the same time, the Town shall retain a qualified archaeologist to evaluate the situation. If human remains are of Native American origin, the Marin County Coroner shall notify the Native American Heritage Commission within 24 hours of identification, pursuant to Public Resources Code 5097.98, which would appoint a Most Likely Descendant (MLD). A qualified archaeologist, the Town, and the MLD shall make all reasonable efforts to develop an agreement for the treatment, with appropriate dignity, of any human remains and associated or un-associated funerary objects (CEQA Guidelines Section 15064.5[d]). The agreement shall take into consideration the appropriate excavation, removal, recodination, analysis, custodianship, and final disposition of the human remains and associated or un-associated funerary objects. The Public Resources Code allows 48 hours to reach agreement on these matters. If the MLD and the other parties could not agree on the reburial method, the Town shall follow Section 5097.98(b) of the Public Resources Code, which states that “the landowner or his or her authorized representative shall reinter the human remains and items associated with Native American burials with...
<table>
<thead>
<tr>
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<td>appropriate dignity on the property in a location not subject to further subsurface disturbance.*</td>
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</tr>
<tr>
<td>CR-3: Minimize Impacts to Unknown Tribal Cultural Resources</td>
<td>Town of Corte Madera</td>
<td>Verify in construction documents prior to issuing building permit. Halt work and follow evaluation procedures, if necessary.</td>
<td></td>
</tr>
<tr>
<td>If potential tribal cultural resources are uncovered, the Town shall halt work, and workers shall avoid altering the materials and their context. Project personnel shall not collect cultural materials. The Town shall notify The Federated Indians of Graton Rancheria (FIGR). The Town, in coordination with FIGR, shall determine if the resource qualifies as a tribal cultural resource under CEQA. If it does, then all work must remain stopped in the immediate vicinity to allow evaluation of any materials. The Town shall ensure that qualified resources are avoided or protected in place, in accordance with the requests of FIGR, to the extent feasible. Work may proceed on other parts of the Project while mitigation for tribal cultural resources is being carried out.</td>
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<tr>
<td>GEO-1: Reduce Geologic Hazards through Design and Construction Measures</td>
<td>Town of Corte Madera</td>
<td>Verify in construction documents prior to issuing building permit.</td>
<td></td>
</tr>
<tr>
<td>The Applicant shall design and construct the Project in conformance with the specific recommendations contained in the geotechnical reports Geotechnical Investigation Report Restoration Hardware Building and Southern Parking Structure (Kleinfelder 2015), Geotechnical Study North Parking Lot (Kleinfelder 2017), and any subsequent design-level geotechnical reports. Specifically, the design and construction shall be consistent with the geotechnical recommendations for seismic design, flexible joints for underground utilities, foundation system for the building, earthwork, and excavation. Professional inspection of foundation work, excavation, earthwork and other aspects of site development shall be performed during construction to ensure compliance with the recommendations.</td>
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<tr>
<td>GHG-1: Reduce Greenhouse Gas Emissions</td>
<td>Town of Corte Madera</td>
<td>Review and approve GGRP prior to issuing grading permit.</td>
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</tbody>
</table>
### MITIGATION AND MONITORING PLAN

**The Village at Corte Madera Expansion Project**

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<tr>
<td>and actions to be implemented by the Project, and quantify the emission reductions associated with those features and actions. The GGRP shall demonstrate achievement of a project emissions inventory that is less than the Bay Area Air Quality Management District’s (BAAQMD) threshold of 1,100 metric tons of carbon dioxide equivalent (CO2e) per year. The GGRP shall be submitted to the Town for approval prior to the issuance of grading permits. Specific measures may include:</td>
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<tr>
<td>- Subscribe to Marin Clean Energy’s (MCE) “Deep Green” or “Local Soi” energy options, which would reduce the energy intensity of provided energy to 5 pounds of carbon dioxide per megawatt hour (CO2e/MWh) (MCE 2014).</td>
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<td>- Implement a voluntary trip reduction program for all employees</td>
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<td>- Provide shower and locker facilities to support employees bicycling to work.</td>
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<tr>
<td>- Provide a Commute Trip Reduction subsidy for employees consistent with the California Air Pollution Control Officer’s Association’s Greenhouse Gas Measure TRT-4 (CAPCOA 2010).</td>
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<td>- Utilize high pressure sodium cutoff lights in outdoor lighted areas</td>
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<td>- Exceed 2013 Title 24 requirements by 15 percent</td>
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<td>- Use Energy Star energy efficient fans and refrigerators</td>
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<td>- Use a recycling and composting service</td>
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<td>- Use low-flow for all interior water fixtures (toilets, kitchen and bathroom sink faucets)</td>
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<td>These actions are provided as a guide and can be substituted with other actions when shown to achieve the same result of reducing annual emissions below 1,100 MT CO2e per year.</td>
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<tr>
<td><strong>HWQ-1: Manage Stormwater during Construction</strong></td>
<td>Town of Corte Madera</td>
<td>Review and approve SWPPP prior to issuing grading permit. Confirm SWPPP</td>
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### MITIGATION AND MONITORING PLAN

#### The Village at Corte Madera Expansion Project

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| Associated with Construction and Land Disturbance Activities, as amended by Order No. 2012-0006. The Applicant shall submit permit registration documents (notice of intent, risk assessment, site maps, SWPPP, annual fee, and certifications) to the State Water Resources Control Board. The SWPPP shall address pollutant sources, non-storm water discharges, best management practices, and other requirements specified in the above-mentioned Order. The SWPPP shall also include dust control practices to prevent wind erosion, sediment tracking, dust generation by construction equipment, management of concrete slurry, asphalt, pavement cutting, and other street and road activities to avoid discharge to storm drains from such work. A Qualified Storm Water Pollution Prevention Plan Practitioner shall oversee implementation of the Plan, including visual inspections, sampling and analysis, and ensure overall compliance. The Applicant shall also obtain an Erosion Control Permit from the Town of Corte Madera. This shall include development of an Erosion and Sediment Control Plan. The SWPPP required by the General Construction Permit may be submitted to the Town in lieu of the Erosion and Sediment Control Plan provided it meets the requirements of the ESCP, which include:  
1. Description of the proposed Project and soil disturbing activity;  
2. Site specific construction-phase best management practices;  
3. Rationale for selecting the best management practices; and  
4. List of applicable outside agency permits associated with the soil disturbing activity. | meets State Board requirements. Review and approve Erosion and Sediment Control Plan prior to issuing grading permit, if necessary. | |
## EXHIBIT B

### MITIGATION AND MONITORING PLAN

#### The Village at Corte Madera Expansion Project

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<tbody>
<tr>
<td>HWQ-2: Manage Construction Dewatering Discharges</td>
<td>Town of Corte Madera</td>
<td>Verify means of discharge prior to issuance of grading permit. Confirm receipt of Central Main Sanitation Agency Groundwater Discharge Permit, if necessary, prior to issuing grading permit.</td>
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<tr>
<td>HWQ-3: Implement Post-construction Stormwater Requirements</td>
<td>Town of Corte Madera</td>
<td>Verify in construction documents prior to issuing building permit.</td>
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**The Village at Corte Madera Expansion Project**

November 2017
## MITIGATION AND MONITORING PLAN
The Village at Corte Madera Expansion Project

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<tr>
<td>Mitigation Measure: in Marin, Sonoma, Napa, and Solano Counties. The Post-Construction Requirements are an enforceable part of the Town’s municipal storm water permit. The Applicant shall prepare a Stormwater Control Plan and Stormwater Facilities Operation and Maintenance Plan for Town review and approval. The Plans shall include the following elements: Storm Water Control Plan.</td>
<td>Town of Corte Madera</td>
<td>Review and approve Floodplain Development Permit prior to issuing grading permit. Inspect during construction, as needed.</td>
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<tr>
<td>Storm Water Control Plan.</td>
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<tr>
<td>• Project information;</td>
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<tr>
<td>• Opportunities and constraints;</td>
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<tr>
<td>• Conceptual site design;</td>
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<tr>
<td>• Calculations and documentation;</td>
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<td>• Design details;</td>
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<td>• Source controls;</td>
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<td>• Maintenance;</td>
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<tr>
<td>• Construction checklist; and</td>
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<tr>
<td>• Certification.</td>
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<tr>
<td>Stormwater Facilities Operation and Maintenance Plan</td>
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<tr>
<td>• Designation of responsible individuals;</td>
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<tr>
<td>• Description of facilities;</td>
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<tr>
<td>• Documentation of the facilities &quot;as built&quot;; and</td>
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<tr>
<td>• Scheduling of maintenance activities.</td>
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<tr>
<td>All stormwater management facilities shall be maintained according to the approved Operation and Maintenance Plan. The Plan shall require that stormwater management facilities be inspected by those responsible for maintenance at least annually.</td>
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<tr>
<td>HWQ-4: Provisions for Flood Hazard Reduction</td>
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<tr>
<td>The Town shall ensure that the Project conforms to the flood damage prevention provisions of Corte Madera Municipal Code Chapter 16.10. The Applicant shall be required to obtain a Floodplain Development Permit before construction or development begins. The application for a Floodplain</td>
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</table>
## MITIGATION AND MONITORING PLAN
The Village at Corte Madera Expansion Project

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<tr>
<td>Development Permit shall include, but not necessarily be limited to, the following elements:</td>
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<tr>
<td>• Plans drawn to scale showing the nature, location, dimensions and elevation of the Project area, including existing and proposed structures, fill, material storage areas, and drainage facilities;</td>
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<tr>
<td>• Foundation design details;</td>
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<tr>
<td>• Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed;</td>
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<td>• All appropriate certifications that the Project satisfies the flood hazard reduction provisions; and</td>
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<tr>
<td>• Description of the extent to which any watercourse will be altered or relocated as a result of the Project.</td>
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<tr>
<td>In accordance with the provisions of Municipal Code Chapter 16.10, flood hazard reduction provisions shall include, but would not necessarily be limited to, the following:</td>
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<tr>
<td>• Anchoring new construction and improvements to prevent flotation, collapse or lateral movement of a structure resulting from hydrodynamic and hydrostatic loads;</td>
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<tr>
<td>• Use of flood-resistant materials, utility equipment resistant to flood damage, and other methods and practices that minimize flood damage;</td>
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<tr>
<td>• Raising of the elevation of the lowest floor, including basement, to a height equal to or exceeding one foot above the BFE specified on the FEMA Flood Insurance Rate Map, or floodproofing the building below one foot above the BFE, such that the structure:</td>
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<tr>
<td>o Is watertight with walls substantially impermeable to the passage of water;</td>
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<tr>
<td>o Has structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and</td>
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<tr>
<td>o Is certified by a registered professional engineer or architect that the standards of Section 16.10.080 of the Municipal Code are satisfied.</td>
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</table>
## MITIGATION AND MONITORING PLAN
### The Village at Corte Madera Expansion Project

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<tr>
<td>• All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from systems into floodwaters. The Town's Public Works Department shall ensure compliance with the permit. Inspections shall be performed at key points during the construction process, and at Project completion.</td>
<td>Town of Corte Madera</td>
<td>Verify in construction documents prior to issuing building permit.</td>
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<tr>
<td><strong>NOI-1: Comply with Corte Madera General Plan Policies</strong></td>
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<tr>
<td>Construction and demolition work shall be limited to the following times: Monday through Friday from 7:00 a.m. to 5:00 p.m.; and Saturdays and Sundays from 10:00 a.m. to 5:00 p.m. unless an exemption is first obtained from the Town in response to special circumstances. For all construction activities, the following noise reduction measures shall be implemented: 1. All powered construction equipment must be equipped with intake and exhaust mufflers recommended by the manufacturers. 2. Pavement breakers and jackhammers shall be equipped with acoustical attenuating shields or shrouds recommended by the manufacturers. 3. In lieu of or in the absence of manufacturer's recommendations, the town engineer shall have the authority to prescribe such means of accomplishing maximum noise attenuation as they deem to be in the public interest, considering the available technology and economic feasibility.</td>
<td>Town of Corte Madera</td>
<td>Verify in construction documents prior to issuing building permit.</td>
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</tr>
<tr>
<td><strong>TR-3a: Reduce Traffic Hazards during Construction</strong></td>
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<tr>
<td>The Applicant shall prepare a detailed Construction Traffic Control Plan and submit it for review and approval to the Town Department of Public Works, as part of the design review process. The Applicant and the Town shall consult with Marin Transit and local emergency service providers for their input prior to</td>
<td>Town of Corte Madera</td>
<td>Verify in construction documents prior to issuing building permit.</td>
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<td>to approving the Plan. The plan shall ensure that acceptable operating conditions on local bicycle and pedestrian facilities, local roadways, and freeway facilities are maintained during construction. At a minimum, the plan shall include:</td>
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<tr>
<td>• Number of daily truck trips during each construction phase</td>
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<tr>
<td>• Time of day of arrival and departure of trucks, and identification of a staging area that is adequate to accommodate all waiting trucks without impacting traffic on local streets</td>
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<td>• Any limitations on the size and type of trucks</td>
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<td>• Truck circulation routes</td>
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<tr>
<td>• Days and times of any planned street or lane closures</td>
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<tr>
<td>• Location of advance warning signage for any street or lane closures</td>
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<tr>
<td>• For any street or lane closures, show safe and efficient access routes for emergency vehicles</td>
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<tr>
<td>• Driveway access plan that provides safe vehicular, pedestrian, and bicycle movements (e.g., steel plates, minimum distances of open trenches, and provide vehicle pick up and drop off areas)</td>
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<tr>
<td>• Days, times, and locations for any manual traffic control</td>
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<tr>
<td>• Provisions for pedestrian safety</td>
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<tr>
<td>• Number of construction employees by phase</td>
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<tr>
<td>• Location of employee parking by phase</td>
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<tr>
<td>TR-3b: Redirect Bay Trail Users during Construction</td>
<td>Town of Corte Madera</td>
<td>Verify in construction documents prior to issuing building permit.</td>
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## MITIGATION AND MONITORING PLAN

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<tr>
<td>Mitigation Measure shall be phased to minimize closure of the Bay Trail to the fewest number of days that is feasible. If construction causes any damage to the existing Bay Trail path, as determined by the Town Department of Public Works, it shall be reconstructed and/or repaired during the final construction phase.</td>
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<tr>
<td><strong>TR-3c: Manage Parking during Construction</strong></td>
<td>Town of Corte Madera</td>
<td>Review and approve parking management plan prior to issuance of building permit.</td>
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<tr>
<td>The Applicant shall prepare and implement a detailed parking management plan acceptable to the Public Works Director that specifies when and by how many spaces the parking supply at The Village would be reduced during construction activities (both in the existing lot and in the improved gravel lot, when completed). If the parking supply during the specified construction periods would be less than the parking demand during the same time period (assuming a 90 percent occupancy factor), the applicant shall implement travel and/or parking management strategies to address any parking shortfall for the duration of the shortfall such as (a) valet parking, (b) an off-site parking area with a sufficient number of parking spaces to meet the deficit in supply and shuttle service between the off-site parking area and The Village, (c) incentives to reduce vehicle travel by employees, and/or (d) special shopper shuttle buses. These travel and/or parking demand strategies shall be sufficient to maintain safe vehicular, pedestrian, and bicycle travel in the vicinity of The Village.</td>
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<tr>
<td><strong>TR-3d: Improve Pedestrian Safety</strong></td>
<td>Town of Corte Madera</td>
<td>Verify in construction documents prior to issuing building permit.</td>
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<tr>
<td>Northern Driveway to Improved Gravel Lot</td>
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<tr>
<td>Modify the proposed improvement plans for the gravel lot to provide for low speed vehicular entry and exit at the northern driveway. An extended driveway &quot;throat&quot; length that eliminates the intersection with the north-south vehicular cross aisle, and provides direct, visible pedestrian paths that are separated from vehicular traffic to link the parking lot interior with the adjacent signalized crosswalk.</td>
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**EXHIBIT B**

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<tbody>
<tr>
<td>Southern Driveway to Improved Gravel Lot</td>
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<tr>
<td>Restrict driveway access to right-in, right-out movements and eliminate the southbound left turn lane by extending the existing median to the northwest. Provide fencing, or another type of barrier such as a hedge, inside the curb line of the median to prevent pedestrians from crossing at this location. The barrier should extend from the northwestern extent of the new median (at the location of the beginning of the median taper for the westbound Redwood Highway left turn lane at the north Village entrance) and continue south for approximately 50 feet past the driveway entrance. Provide signage both within the improved gravel lot and at the southern driveway to direct pedestrians to cross Redwood Highway at the traffic signal at the northern driveway to the improved gravel lot. Provide striping across the driveway and signage adjacent to the driveway to enhance the crossing’s visibility to both drivers and Bay Trail users.</td>
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<tr>
<td>C-TR-1: Fair Share Contribution to Intersection Improvements</td>
<td>Town of Corte Madera</td>
<td>Fair share contribution payment shall be made prior to issuance of a building permit.</td>
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<td>additional 475 PM peak hour trips. The Project is expected to generate 108 PM peak hour trips, which represents 23 percent of the total. Therefore, the Applicant’s fair share contribution is 23 percent of the cost. To determine the dollar amount of the fair share contribution, the Applicant shall fund the preparation of an engineer’s estimate for construction of the mitigation measures, as directed and approved by the Public Works Director for the Town of Corte Madera.</td>
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The Village at Corte Madera Expansion Project
November 2017
ATTACHMENT 2

Resolution #55/2017
General Plan Amendment
RESOLUTION NO. 55/2017

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA AMENDING THE TOWN OF CORTE MADERA GENERAL PLAN BY AMENDING THE LAND USE DIAGRAM OF THE LAND USE ELEMENT, CHANGING THE LAND USE DESIGNATION FOR THE GRAVEL LOT (APN 024-032-19) FROM WETLANDS AND MARSHLANDS TO MIXED-USE REGIONAL SERVING COMMERCIAL

WHEREAS, on June 19, 2015, Corte Madera Village, LLC and Restoration Hardware ("The Applicants") submitted an application for The Village at Corte Madera Restoration Hardware Expansion Project ("The Project") which contained a General Plan Amendment, Rezoning, Preliminary Plan Amendment, Precise Plan Amendment and Design Review to construct a ±52,000 sq. ft. two-story RH Gallery with an open roof top courtyard and improve the Town owned Gravel Lot located on Redwood Highway northeast of the Village at Corte Madera eastern parking lot (APN-024-03-019) (Gravel Lot) to the north east of the Village; and

WHEREAS, on October 6, 2015, the Town Council, during a public business item, approved a contract with the Environmental Consulting Firm of GHD ("GHD") to prepare Phase 1 of the Environmental Impact Report ("EIR") for the Project; and

WHEREAS, on October 20, 2015, the Town Council, during a public business item, approved Resolution 41/2015 giving authorization to proceed with discussions and/or real estate negotiations with Macerich (a property owner at the Village shopping center) regarding potential sale, lease or other disposition of the Gravel Lot and approval of Resolution No. 42/2015 approval of an access agreement to allow Corte Madera Village, LLC access for inspection and testing of the Gravel Lot; and

WHEREAS, on February 2, 2016, the Town Council, during a public business item, approved a contract with GHD to prepare Phase 2 of the Environmental Impact Report and authorized further negotiations with Macerich for the use of the Gravel Lot for shopping center parking; and

WHEREAS, on October 25, 2016, a Notice of Preparation (NOP) for the Project EIR was filed with the State Clearinghouse and the public comment period (October 25, 2016 to November 30, 2016) regarding the scope of work for the proposed EIR commenced; this comment period was notice via: the Town’s website, the email list of individuals who had commented on or signed up for notification of this particular project, in the Marin Independent Journal, and to properties within 300 feet of the Project; and

WHEREAS, from October 25, 2016 to November 30, 2016, the Town received public comments regarding the scope of work for the proposed EIR for the Project; and

WHEREAS, on November 17, 2016, a scoping meeting which was noticed via:
WHEREAS, on December 20, 2016, the applicants revised their application, based on feedback from the community, to include a reduction in the size of the proposed building by approximately 7,000 square feet, a reduction in height by 6 feet, the addition of a café, and changes in the design elements to complement the surrounding views; and

WHEREAS, on March 21, 2017, the Town Council, during a public meeting, endorsed a proposed term sheet for a non-exclusive easement and development agreement to allow for Corte Madera Village, LLC to improve the Town’s Gravel Lot and utilize resulting parking spaces for required parking for the Village at Corte Madera, including a potential Restoration Hardware Expansion project and provided direction and authorization to Town staff to draft the non-exclusive easement and development agreement consistent with the term sheet; and

WHEREAS, on July 12, 2017, a Notice of Completion (NOC) for the Project Draft Environmental Impact Report (DEIR) was filed with the State Clearinghouse and the public comment period (July 12, 2017 to August 25, 2017) regarding the DEIR commenced; this comment period was noticed via: the Town’s website, the email list of individuals who had commented on or signed up for notification of this particular project, in the Marin Independent Journal, and to properties within 300 feet of the Project; and

WHEREAS, on August 8, 2017, the Planning Commission, during a public hearing, which was noticed via: the Town’s website, the email list of all individuals who have sign up on the Town’s website to be notified of Town meetings, the email list of individuals who have commented on or signed up for notification of this particular project, the Marin Independent Journal, hard copy mailings sent to all properties within 300’ of the project, the town reader board and a posting on NextDoor.com, received comments on the DEIR; and

WHEREAS, on October 16, 2017 notices announcing the display of story poles and supplemental information to aid in understanding the physical location and scale of the proposed Project, were posted on the Town’s website and sent to the email list of individuals who have commented on or signed up for notification of this particular project. Additional signage and information regarding the story poles was also made available at the project site; and

WHEREAS, on November 1, 2017, copies of the FEIR were sent to those public agencies who commented on the Draft EIR in accordance with CEQA Guidelines Section 15088; and

WHEREAS, also on November 1, 2017, the public was notified of the availability of the
WHEREAS, on November 3, 2017, additional notice of the November 14, 2017 Planning Commission public hearing, availability of the FEIR, and extension of story pole viewing period was posted as a News Flash item on the Town’s website; and

WHEREAS, on November 4, 2017, a notice announcing the November 14, 2017 Planning Commission public hearing was posted in the Marin Independent Journal; and

WHEREAS, on November 14, 2017, the Planning Commission held a public hearing on the Environmental Impact Report, the applications for a General Plan Amendment, Rezoning, Preliminary Plan Amendment, Precise Plan Amendment, Design Review, Conditional Use Permit, and a Development Agreement; and

WHEREAS, also on November 14, 2017, the Planning Commission unanimously approved Resolution 17-022, by a vote of 5-0, and thereby forwarded a recommendation to the Town Council to: 1) certify the Environmental Impact Report for the Project, 2) approve the General Plan Amendment to change the land use designation of the Gravel Lot from Wetlands and Marshlands to Mixed-Use Region-Serving Commercial, 3) approve the Rezoning of the Gravel Lot from Parks, Open Space and Natural Habitat to Regional Shopping (C-2), 4) approve the Preliminary Plan Amendment for retail expansion and improvements to the Gravel Lot, 5) approve the Precise Plan Amendment for a new approximately 46,000 square foot retail store and café, modifications to the Village east entry plaza, and modifications to the Gravel Lot, 6) approve the Design Review application for a new approximately 46,000 square foot retail store and café, modifications to the Village east entry plaza, and modifications to the Gravel Lot, 7) approve the CUP for a cafe within the Regional Shopping District (C-2), and 8) approve the Development Agreement between the Town of Corte Madera and Macerich; and

WHEREAS, on November 17, 2017, notices were sent and posted announcing the December 5, 2017 Town Council public hearing; notices were sent via: the Town’s website, the email list of all individuals who have sign up on the Town’s website to be notified of Town meetings, the email list of individuals who have commented on or signed up for notification of this particular project, hard copy mailings sent to all properties within 300’ of the project, the town reader board and a posting on NextDoor.com; and

WHEREAS, on November 25, 2017, a notice announcing the December 5, 2017 public hearing was posted in the Marin Independent Journal; and

WHEREAS, on December 5, 2017, the Town Council held a public hearing on the
Environmental Impact Report, the applications for a General Plan Amendment, Rezoning, Preliminary Plan Amendment, Precise Plan Amendment, Design Review, Conditional Use Permit, and a Development Agreement; and

**WHEREAS**, on December 5, 2017, the Town Council of the Town of Corte Madera held a public hearing on the Project, including the EIR, and considered all oral and written testimony submitted to the Town regarding the Project prior to taking its actions on the Project, including the proposed General Plan amendment; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Council of the Town of Corte Madera does hereby find and resolve as follows:

Section 1. Recitals

The foregoing recitals are true and correct and are incorporated into the findings herein.

Section 2. Record

The Record of Proceedings ("Record") upon which the Town Council bases its decision includes, but is not limited to: (1) the 2009 Corte Madera General Plan, (2) all staff reports, Town files and records and other documents, including the Environmental Impact Report prepared for and/or submitted to the Town Council relating to the General Plan Amendment and other related land use applications, (3) all documentary and oral comments received at public hearings or submitted to the Town relating the General Plan Amendment, (4) all matters of common knowledge to the Town Council and the Town, including, but not limited to, Town, State, and federal laws, policies, rules and regulations, reports, records and projections related to development in the Town and surrounding areas.

The location of the custodian of the Record is the Planning Director of the Town of Corte Madera, 300 Tamalpais Drive, Corte Madera, CA 94925.

Section 3. Compliance with the California Environmental Quality Act (CEQA)

Based on the facts, evidence, analysis, comments, and findings contained in Town Council Resolution 54/2017, the adoption of Resolution 55/2017 will not have a significant effect on the environment.

Section 4. General Plan Amendment

The Town Council of the Town of Corte Madera hereby finds that the proposed General Plan amendment to the Land Use Element changing the land use designation of the Gravel Lot from Wetlands and Marshlands to Mixed-Use Regional Serving Commercial, as described in Exhibit A, attached hereto, is in the best interest of the Town because the Mixed-Use Regional Serving Commercial designation would: 1) explicitly allow for public parking, including parking for commercial uses located at the Village shopping
center, consistent with existing land use requirements pursuant to the 1995 agreement made between the Town and the Village owners; 2) more accurately reflect the Town's past entitlement and permit history; and 3) better represent the functional relationship between the Village and the Gravel Lot that has existed for decades and which is intended to continue with approval of the Development Agreement Ordinance. The current General Plan land use designation of Wetlands and Marshlands does not allow for public parking.

The Town Council further notes that the proposed development agreement, which would replace of the 1995 agreement, would continue to restrict the use of the Gravel Lot to public parking, would recognize for the first time community-oriented events as a permitted use, and require that the owners of the Village to improve the Gravel Lot consistent with General Plan policies intended to improve stormwater filtration, pedestrian safety, and habitat protection. Furthermore, the development agreement would shift maintenance, security, and liability costs associated with the Gravel Lot to the Village and require an annual payment to the Town. The Town Council notes that no land uses, other than those explicitly allowed in the Development Agreement, would be permitted on the Gravel Lot, for the duration that such Agreement is in effect.

In addition to the reasons mentioned above, the Town Council recognizes that the 2009 General Plan allows for additional expansion at the Village and such additional floor area will necessarily require that additional parking spaces be constructed pursuant to the Corte Madera Municipal Code. Therefore, it is important to consider where and how additional parking should be constructed at the Village. The Town Council believes it is preferable to allow new required parking to be constructed at the Gravel Lot, a lot that is already required to be a parking lot, and remain so, pursuant to the 1995 agreement, rather than in other locations, such as in a parking garage structure on the Village shopping center property itself, like that described in Alternative 2 of the DEIR. Although the General Plan anticipates the development of a parking garage structure at some point, it is preferable to avoid having to consider adding more structures and mass to the Village (and likely more significant construction impacts) given the parking resource that currently exists at the Gravel Lot.

Finally, allowing the Gravel Lot to be used as required parking for uses at the Village, and amending the Gravel Lot’s General Plan land use designation to do so, would facilitate the applicant’s Project, which would be consistent with several land use policies intended to further the Town’s economic development goals.

In summary, the General Plan Amendment is appropriate because the proposed new designation, combined with the proposed Development Agreement, more accurately reflect historical use of the site, allow the Gravel Lot to be improved and developed as a parking resource for the Village instead of the development of a parking garage structure, and would facilitate a project otherwise consistent with the General Plan, one that would substantially further the Town’s economic development goals.

The Town Council finds that based on the above, the General Plan Amendment, changing the land use designation of the Gravel Lot from Wetlands and Marshlands to Mixed-Use
Regional Serving Commercial would not create any internal inconsistencies in the Corte Madera General Plan and, by facilitating the proposed Project, would be consistent with the specific policies and programs listed below.

**Policy LU-4.3**

Apply flexible development standards to The Village shopping center in order to promote the community's economic development, protect and enhance the Town's tax base, and to encourage mixed-use development, including housing.

**Implementation Program LU-4.3.a: Expansion of The Village Shopping Center**

Allow expansion of The Village regional shopping center consistent with Town goals for establishing a mix of land uses. Encourage construction of high-density residential units (including affordable housing) on-site.

The established Floor Area Ratio for the shopping center shall be 0.47. Increased floor area may be accommodated through construction of upper stories, or through expanded building footprints when combined with construction of parking garages.

Modify the Zoning Ordinance to allow for building height bonuses of 15 feet beyond the based zone standard and/or reduce parking standards if proposed development includes affordable housing. Such increases in height shall minimize view impacts to properties with views of San Francisco Bay through thoughtful building design and placement.

**Policy LU-3.1**

Provide for infill development in core Town areas.

**Implementation Program LU-3.1.a: Infill Locations**

The General Plan Land Use Element includes policies calling for preparation of Community Plans for several key areas, and encourages redevelopment of other lands in and around commercial and office core areas of the Town. In doing so, the General Plan purposefully creates greater potential for more intensive infill development of sites that may be underutilized. Infill development can help create areas that are more compact with a diverse mixture of land uses, improve connectivity between neighborhoods and uses, reduce traffic congestion and provide a greater range of community amenities. In keeping with stated goals, infill development in core areas should also provide for transit oriented development.

Infill development may occur within the Town's four Community Plan areas, and in the Mixed Use Commercial, Commercial Services, Region-Serving Commercial and Office land use designations. Additionally, redevelopment of older apartment complexes, in areas generally designated for Medium Density or High Density Residential, are acceptable infill developments if retaining or increasing the number of rental units, consistent with density criteria of the General Plan and state density bonus regulations.
Goal RCS – 9

Protect, restore and enhance the quality of surface and groundwater resources to meet the needs of all beneficial uses.

Policy RCS – 9.1
Continue to comply with local, state, and federal standards for water quality.

Implementation Program RCS - 9.1.a: Countywide Stormwater Program

Continue to participate in the Marin County Stormwater Pollution Prevention Program and comply with its performance standards. Continue to control pollutant discharges from municipal maintenance activities through the implementation of Municipal Stormwater Ordinance 9.33 and in compliance with MCSTOPPP.

Implementation Program RCS - 9.1.b: Stormwater Runoff Measures

Continue to incorporate measures for stormwater runoff control and management in construction sites.

Policy RCS – 9.2
Continue to address non-point source pollution and protect receiving waters from pollutants discharged into the storm drain system by requiring Best Management Practices.

Implementation Program RCS - 9.2.c: Natural Filters

Where feasible, use vegetation to absorb and filter fertilizers, pesticides, and other pollutants.

Implementation Program RCS - 9.2.f: System Improvements

Continue to improve storm drainage performance by constructing new system improvements to minimize the introduction of pollutants into natural systems. Evaluate stormwater volumes when replacing undersized or otherwise inadequate lines with larger or parallel lines.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Town Council of the Town of Corte Madera hereby adopts the General Plan Amendment, attached hereto as “Exhibit A.”

* * * * * * * * * *

I HEREBY CERTIFY that the foregoing resolution was duly and regularly adopted by the Town Council of Corte Madera at a regular meeting held on the 5th day of December,
2017, by the following vote, to wit:

AYES:  Councilmembers:

NOES:  Councilmembers:

ABSENT:  Councilmembers:

______________
Diane Furst, Mayor

ATTEST:

______________
Rebecca Vaughn, Town Clerk
AMENDMENT TO GENERAL PLAN LAND USE DIAGRAM

EXISTING LAND USE DIAGRAM

PROPOSED LAND USE DIAGRAM
ATTACHMENT 3

Resolution #56/2017
Preliminary Plan Amendment, Precise Plan Amendment, Design Review
RESOLUTION NO. 56/2017

PRELIMINARY AND PRECISE PLAN AMENDMENTS AND DESIGN REVIEW

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CORTE MADIERA
AMENDING THE VILLAGE AT CORTE MADIERA PRELIMINARY AND PRECISE PLANS
AND APPROVING THE DESIGN REVIEW APPLICATION FOR THE VILLAGE AT
CORTE MADIERA RESTORATION HARDWARE EXPANSION PROJECT

WHEREAS, on June 19, 2015, Corte Madera Village, LLC and Restoration Hardware ("The Applicants") submitted an application for The Village at Corte Madera Restoration Hardware Expansion Project ("The Project") which contained a General Plan Amendment, Rezoning, Preliminary Plan Amendment, Precise Plan Amendment and Design Review to construct a \( \pm 52,000 \) sq. ft. two-story RH Gallery with an open roof top courtyard and improve the Town owned Gravel Lot located on Redwood Highway northeast of the Village at Corte Madera eastern parking lot (APN-024-03-019) (Gravel Lot) to the north east of the Village; and

WHEREAS, on October 6, 2015, the Town Council, during a public business item, approved a contract with the Environmental Consulting Firm of GHD ("GHD") to prepare Phase 1 of the Environmental Impact Report for the Project; and

WHEREAS, on October 20, 2015, the Town Council, during a public business item, approved Resolution 41/2015 giving authorization to proceed with discussions and/or real estate negotiations with Macerich (a property owner at the Village shopping center) regarding potential sale, lease or other disposition of the Gravel Lot and approval of Resolution No. 42/2015 approval of an access agreement to allow Corte Madera Village, LLC access for inspection and testing of the Gravel Lot; and

WHEREAS, on February 2, 2016, the Town Council, during a public business item, approved a contract with GHD to prepare Phase 2 of the Environmental Impact Report and authorized further negotiations with Macerich for the use of the Gravel Lot for shopping center parking; and

WHEREAS, on October 25, 2016, a Notice of Preparation (NOP) for the Project EIR was filed with the State Clearinghouse and the public comment period (October 25, 2016 to November 30,2016) regarding the scope of work for the proposed EIR commenced; this comment period was notice via: the Town's website, the email list of individuals who had commented on or signed up for notification of this particular project, in the Marin Independent Journal, and to properties within 300 feet of the Project; and

WHEREAS, from October 25, 2016 to November 30, 2016, the Town received public comments regarding the scope of work for the proposed EIR for the Project; and

WHEREAS, on November 17, 2016, a scoping meeting which was noticed via: the Town's website,
the email list of all individuals who have sign up on the Town’s website to be notified of Town meetings, the email list of individuals who have commented on or signed up for notification of this particular project, the Marin Independent Journal, all properties within 300’ of the project and the town reader board was held at the Town Hall to receive input from the public on the scope of work proposed by GHD for the EIR; and

WHEREAS, on December 20, 2016, the applicants revised their application, based on feedback from the community, to include a reduction in the size of the proposed building by approximately 7,000 square feet, a reduction in height by 6 feet, the addition of a café, and changes in the design elements to complement the surrounding views; and

WHEREAS, on March 21, 2017, the Town Council, during a public meeting, endorsed a proposed term sheet for a non-exclusive easement and development agreement to allow for Corte Madera Village, LLC to improve the Town’s Gravel Lot and utilize resulting parking spaces for required parking for the Village at Corte Madera, including a potential Restoration Hardware Expansion project and provided direction and authorization to Town staff to draft the non-exclusive easement and development agreement consistent with the term sheet; and

WHEREAS, on July 12, 2017, a Notice of Completion (NOC) for the Project Draft Environmental Impact Report (DEIR) was filed with the State Clearinghouse and the public comment period (July 12, 2017 to August 25, 2017) regarding the DEIR commenced; this comment period was noticed via: the Town’s website, the email list of individuals who had commented on or signed up for notification of this particular project, in the Marin Independent Journal, and to properties within 300 feet of the Project; and

WHEREAS, on August 8, 2017, the Planning Commission, during a public hearing, which was noticed via: the Town’s website, the email list of all individuals who have sign up on the Town’s website to be notified of Town meetings, the email list of individuals who have commented on or signed up for notification of this particular project, the Marin Independent Journal, hard copy mailings sent to all properties within 300’ of the project, the town reader board and a posting on NextDoor.com, received comments on the DEIR; and

WHEREAS, on October 16, 2017 notices announcing the display of story poles and supplemental information to aid in understanding the physical location and scale of the proposed Project, were posted on the Town’s website and sent to the email list of individuals who have commented on or signed up for notification of this particular project. Additional signage and information regarding the story poles was also made available at the project site; and

WHEREAS, on November 1, 2017, copies of the FEIR were sent to those public agencies who commented on the Draft EIR in accordance with CEQA Guidelines Section 15088; and

WHEREAS, also on November 1, 2017, the public was notified of the availability of the FEIR and the November 14, 2017 Planning Commission public hearing via: the Town’s website, the email list of all individuals who have sign up on the Town’s website to be notified of Town meetings, the email list of individuals who have commented on or signed up for notification of this particular project, hard copy mailings sent to all properties within 300’ of the project, the town reader board and a posting on NextDoor.com; and
WHEREAS, on November 3, 2017, additional notice of the November 14, 2017 Planning Commission public hearing, availability of the FEIR, and extension of story pole viewing period was posted as a News Flash item on the Town’s website; and

WHEREAS, on November 4, 2017, a notice announcing the November 14, 2017 Planning Commission public hearing was posted in the Marin Independent Journal; and

WHEREAS, on November 14, 2017, the Planning Commission held a public hearing on the Environmental Impact Report, the applications for a General Plan Amendment, Rezoning, Preliminary Plan Amendment, Precise Plan Amendment, Design Review, Conditional Use Permit, and a Development Agreement; and

WHEREAS, also on November 14, 2017, the Planning Commission unanimously approved Resolution 17-022, by a vote of 5-0, and thereby forwarded a recommendation to the Town Council to: 1) certify the Environmental Impact Report for the Project, 2) approve the General Plan Amendment to change the land use designation of the Gravel Lot from Wetlands and Marshlands to Mixed-Use Region-Serving Commercial, 3) approve the Rezoning of the Gravel Lot from Parks, Open Space and Natural Habitat to Regional Shopping (C-2), 4) approve the Preliminary Plan Amendment for retail expansion and improvements to the Gravel Lot, 5) approve the Precise Plan Amendment for a new approximately 46,000 square foot retail store and café, modifications to the Village east entry plaza, and modifications to the Gravel Lot, 6) approve the Design Review application for a new approximately 46,000 square foot retail store and café, modifications to the Village east entry plaza, and modifications to the Gravel Lot, 7 ) approve the CUP for a cafe within the Regional Shopping District (C-2), and 8) approve the Development Agreement between the Town of Corte Madera and Macerich; and

WHEREAS, on November 17, 2017, notices were sent and posted announcing the December 5, 2017 Town Council public hearing; notices were sent via: the Town’s website, the email list of all individuals who have sign up on the Town’s website to be notified of Town meetings, the email list of individuals who have commented on or signed up for notification of this particular project, hard copy mailings sent to all properties within 300’ of the project, the town reader board and a posting on NextDoor.com; and

WHEREAS, on November 25, 2017, a notice announcing the December 5, 2017 public hearing was posted in the Marin Independent Journal ;and

WHEREAS, on December 5, 2017, the Town Council held a public hearing on the proposed Amendments to the Village at Corte Madera 2012 Preliminary and Precise Plans and the Design Review Application for the Village at Corte Madera Restoration Hardware Expansion Project and the applications for a General Plan Amendment, Rezoning, Conditional Use Permit, and a Development Agreement; and

NOW, THEREFORE, BE IT RESOLVED, that the Town Council of the Town of Corte Madera does hereby make the following findings for the Amendments to the Village at Corte Madera Preliminary and Precise Plans and the Design Review Application:
PRELIMINARY PLAN AMENDMENT FINDINGS

The Town Council adopted Resolution No. 2021 approving the original Preliminary Plan for The Village on May 4, 1981. The Council subsequently amended Resolution No. 2021 in January and May of 1983 and again in January of 1984 when it approved Preliminary Plan Application No. 83-51. The Preliminary Plan was last updated with the approval of Resolution 3685 which was adopted in 2012 in relation to the Nordstrom and Macy’s expansions and the creation of additional parking on the Village main lot.

The current application seeks to amend the Preliminary Plan for an approximately 46,000 sq. ft. retail expansion at the Village shopping center and for modifications of the Gravel Lot for parking purposes, including parking associated with commercial uses at the Village.

Finding - Preliminary Plan #1

Explain how the proposed development, or a major phase thereof, can be substantially completed within four years.

Findings of Fact - Preliminary Plan #1:

The proposed development consists of construction of a ±46,000 square foot building, the resurfacing of a portion of an existing parking and modifications of the Gravel Lot including paving, striping, lights and landscaping. The applicant has prepared a detailed construction timeline that estimates two different construction scenarios. If the Gravel Lot and Restoration Hardware building is constructed simultaneously, the proposed development could be completed in 11.5 months. This would be the fastest scenario. If the Gravel Lot and Restoration Hardware building is constructed consecutively, the proposed development would be completed in 22 months. This would be the lengthiest construction scenario. In either case, the proposed development would be completed well within four years.

Finding - Preliminary Plan #2

Explain how each individual phase of development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability, and how the proposed uses will be harmonious with present uses in the vicinity.

Findings of Fact - Preliminary Plan #2:

The Project is proposed in two phases, with the improvements to the Gravel Lot preceding or occurring simultaneously with the development of the retail expansion. The Development Agreement associated with the Project and existing zoning requirements would require that the Gravel Lot be completed prior to the completion of the Restoration Hardware Building in order to provide sufficient parking spaces for the new store. As such, there is no circumstance where the Restoration Hardware building would be completed without the completion of the Gravel Lot. Once constructed, the new store will function as part of the existing shopping center. It
will not operate wholly independent of the rest of the shopping center, but will add to the overall experience and vibrancy at the Village. The Gravel Lot is currently utilized by shoppers at the Village for overflow parking and the Gravel Lot would continue to be used for such purposes in the future, albeit with additional safety and water quality improvements.

**Finding - Preliminary Plan #3**

**Explain why the proposed density of development will not exceed the capacity of the land to sustain it, and why traffic generated by the development will not exceed the capacity of the local street system, including its intersections:**

**Findings of Fact - Preliminary Plan #3**

The new retail building is within the allowable development area, approved as a part of the 2009 General Plan. The Project proposes approximately 46,000 square feet, while the EIR prepared for the General Plan, and certified by the Town Council, studied an expansion of 185,000 square feet of additional retail uses (of which only approximately 17,431 SF had been constructed prior to submittal of the original applications in August of 2015). If the project is constructed the total FAR for the Village would be 0.38 while the maximum allowable FAR is 0.47. Furthermore, the EIR for the Village at Corte Madera Expansion Project EIR concluded that the Project would not have a significant traffic impact with implementation of the required mitigations measures.

**Finding - Preliminary Plan #4**

**Explain how the Project will continue the development pattern of adjacent residential neighborhoods without abrupt changes, and why it will not significantly affect traffic patterns, views and land use in those neighborhoods:**

**Findings of Fact - Preliminary Plan #4**

The Project does not include any residential development and is not immediately adjacent or near any residential development. See discussion of Preliminary Plan Finding #3 above regarding traffic. The EIR that the Town prepared for its General Plan studied aesthetic impacts of an expansion of 185,000 square feet at The Village (of which only 17,431 SF has been constructed). The current Project proposes only approximately 46,000 square feet, well within the development already determined acceptable. See Plan Sheets A18 and A19, which illustrate view of the Project site as seen from the surrounding hillsides. Furthermore the DEIR for the project analyzed the visual impacts including visual simulations of the proposed building and The Gravel Lot and determined that the project would not have a significant impact, section DEIR Section 3.1.
Explain why existing or proposed utility services are adequate to serve the proposed development, and how adequate fire protection can be provided.

Project Findings of Fact - Preliminary Plan #5

A new electrical service transformer will be installed as part of the shopping center component of the Project. There are no other major proposed changes to existing utility services onsite. Existing fire service is adequate. Section 3.13 of the DEIR address utility service capacity and determine that it was adequate.

Finding - Preliminary Plan #6

Explain how the proposed development conforms with the purposes of the overlay district in which the site is located, and conforms to the General Plan and Zoning Ordinance.

Project Findings of Fact - Preliminary Plan #6

The modifications to the Gravel Lot are consistent with the purpose and objectives of the BRNH Overly District by improving the stormwater entering the bay, by not encroaching into the marshland. Currently rainwater and any contaminants on the Gravel Lot flow into several existing drain inlets and then into the Bay, without any treatment. With the proposed design of modified Gravel Lot, all surface water will first be filtered through a bio-retention system and then soak into the soil or with heavy or repeated rain flow into the Bay. Rain water that drains toward the RH Gallery will also be treated via flow through planters surrounding the building before it flows into the storm water system. Water quality, geology and flooding impacts were also addressed in the DEIR and if necessary, mitigation measures were identified and required as part of the project.

Both the Gravel Lot modifications and the RH Gallery are consistent with General Plan Land Use Goal LU-4 which advocates “Strong and vibrant commercial and office centers that serve local and regional needs”. The project is consistent with this goal and specifically Policy LU-4.3 and implementation measure LU-4.3a which aim to expand the Village through the allowance of additional floor area and the use of flexible development standards to protect and enhance the Town’s tax base.

The Project will also promote and implement General Plan Goal LU-3, to encourage infill development that achieves a more livable, sustainable community. The Project meets the infill objectives stated in General Plan Implementation Program LU-3.2.a to produce jobs for Town residents, provide convenient access to shopping destinations, create community amenities, use existing infrastructure, embody environmentally sensitive design and construction principles, and provide for more efficient use of Corte Madera’s limited land supply. The project will also facilitate the implementation of Policies LU-3.5 and LU-4.5, to require that infill development include high quality design and site planning techniques, and ensure that the appearance of non-residential development contributes positively to the community’s image.

Several more examples of the project consistency with the Community Development Element of the General Plan are discussed in Design Review Finding #1 below.
BRNH OVERLAY DISTRICT FINDINGS (CMMC 18.18.220)

Prior to approval of any development in the BRNH Overlay District, the following findings shall be made:

Finding - BRNH #1:
The project protects and preserves saltwater and freshwater wetlands and related habitats, and protects and preserves the water quality of wetlands;

Findings of Fact BRNH - #1:

The report prepared by WRA, which is one of the appendices of the DEIRfor The Project ensures compliance with this standard. There are wetlands to the north, east and southeast of the Gravel Lot, but The Project would not involve any removal, filling, hydrological interruption, or any other activity in wetlands. Surface runoff from the Project site drains to Shorebird Marsh to the north and the canal to the east. The National Pollutant Discharge Elimination System (NPDES) construction stormwater permitting program and the State Construction General Permit (CGP) assures development and implementation of a Stormwater Pollution Prevention Plan (SWPPP) and the use of appropriate best management practices (BMPs) for erosion control and spill prevention during construction, and permanent post-construction stormwater management measures. These requirements ensure an adequate level of protection and preservation. In addition, the Project proposes no substantial increase in offsite runoff or change in drainage patterns, and any stormwater leaving the site will be regulated by current laws and regulations that ensure a higher degree of water quality than exists before this Project is developed. The site is gently sloping and largely impervious. The Project proposes to maintain the direction of surface runoff to existing facilities that discharge to the surrounding waterbodies. New landscaping and stormwater treatment areas will be added. Therefore, the Project will replace existing circumstances, where water drains directly into the marsh, with an improved condition where runoff will be treated in bioswales and detention basins prior to being discharged into the marsh. The Project would use the existing stormwater outfall, and does not propose any new outfalls in the wetlands to the north. Based on these facts, the Project would protect existing wetlands and preserve the water quality of wetlands that surround the Gravel Lot.

Finding - BRNH #2:

The project provides an acceptable level of risk related to possible damage to structures and improvements, including underground utilities, resulting from subsidence, differential settlement, seismic event or other failure and flood hazard

Findings of Fact BRNH - #2:

A geotechnical study was prepared for the shopping center that investigated the potential for problems. It notes that strong seismic ground shaking could occur, especially due to the presence of Bay mud at the Project site. The report concludes that, although the liquefaction potential at the site is low, liquefaction could occur during an earthquake, which could result in some ground surface
disruption, such as sand boils and ground fissures. Therefore, the geologists recommended that new underground utilities be constructed using flexible joints, and the Project will comply. If ground surface disruptions were to occur during an earthquake, the applicant would also repair pavements and flatwork as necessary.

The Project is located within a FEMA-designated Special Flood Hazard Area. The Town of Corte Madera Municipal Code requires new structures and "substantial improvements" built within a FEMA-designated Special Flood Hazard Area to meet requirements set forth in Municipal Code Title 16, Protection of Flood Hazard Areas. These requirements will be met, as applicable at the time of Project approval and/or permit issuances. See Project Compliance with Development Standard #3, above, regarding details related to flood-proofing. These actions would reduce the risk of flood hazard to an acceptable level.

PRECISE PLAN AMENDMENT AND DESIGN REVIEW FINDINGS

The current application seeks to amend the Precise Plan to for construction of a new approximately 46,000 sq. ft. retail gallery and café for Restoration Hardware, modifications to the center's east entry plaza and existing parking lot, and modifications to the Gravel Lot for the development of an improved parking lot with up to 455 spaces. The Town's Zoning Ordinance requires that the Planning Commission make all of the Design Review Findings (CMMC Chapter 18.30) and show that the Precise Plan Amendments is in substantial conformance with the approved Preliminary Plan.

The Precise Plan Amendment is in substantial conformance with the approved Preliminary Plan because all proposed improvements are within footprint of the Village, the project will utilize the existing roadway network and it will be within the allowed density of the Village. The modifications to the Gravel Lot will not expand the parking area and no natural vegetation will be altered. Lastly the proposed use for the retail store is permitted in the C-2 District and the use of parking at the Gravel Lot is also permitted in the C-2 District.

The following required findings must be made in order for the Town to grant approval of a Design Review application. These findings also must be made for the Town to approve a Precise Plan Amendment

Finding – DESIGN REVIEW #1

   Explain how the project conforms to the General Plan; any applicable specific plan; master sign program; and all provisions of the Zoning Ordinance.

Findings of Fact – DESIGN REVIEW #1

The proposed RH Gallery and the Gravel Lot are consistent with many of the Goals, Policies and Implementation Programs in the General Plan particularly within the Community Design Element such as:

POLICY CD-1.2 Require residential, non-residential and infrastructure design that respects natural areas and ecosystems within Corte Madera.
The location of the RH Gallery is designed to be integrated into the existing center and not encroach into the natural environment. By placing the building in close proximity to the existing building of the Village the visual impact to the shoreline is minimized. If the building was placed at the eastern edge of the parking lot it will be much more noticeable to user of the Bay Trail and Shorebird Marsh and would also have a great impact on the view of Mt. Tamalpais from the Bay Trail.

The building is designed so that it steps inward as it increases in height to provide interest, variety and reduce bulk. The natural materials proposed for the building’s exterior blend with the surrounding environment and provide visual interest. The use of glass and vegetation at many levels blends with the surroundings.

The development of the Gravel Lot has been kept to a minimum with no structures proposed and minimal lighting for safety and security. All existing native vegetation will remain and the option fence will be as low as possible the deter dogs and humans from entering the marsh area. All proposed landscape along the lots perimeter and with the bio-detention areas will be native and drought tolerant to screen the cars as much as possible with looking artificial.

POLICY CD-1.3 Encourage the use of building design and materials that conserve energy and material resources.

The RH Gallery building will incorporate a variety of green building techniques such as:

- Water use reduction through low flow plumbing fixture selection
- Waste water reduction through water conserving fixture selection
- Construction waste reduction through recycling or reuse
- Maximize building systems performance through independent commissioning plan, testing and end user training
- Air quality through the selection of low VOC, formaldehyde materials including sealants, paints carpets, composite wood products and resilient flooring
- Green roof system including water harvesting to reduce irrigation system demands

Addition design features and materials for both the RH Gallery and the Gravel Lot are listed below under Design Review Finding #5.

POLICY CD-1.5 Preserve the value of the community’s night sky and avoid unnecessary light and glare from signage, building and landscape illumination, or other sources of outdoor lighting.

Both the RH Gallery and the Gravel Lot will have night sky compliant fixtures for all exterior lighting. Dimmers, timers and motion sensors will be install where appropriate to minimize light pollution but still provide safety and security.

POLICY CD-4.4 Discourage the use of corporate architecture that is incompatible with the
design character of the project site or area...

The RH Gallery is a unique building and is not corporate architecture. It is designed to be a stand-alone building and at the same time not conflict or detract from the other buildings on the east side of the Village.

POLICY CD-4.5 Floor area ratios for non-residential development shall adhere to Town design policy.

The size of the RH Gallery is consistent with the floor area ratio of the Village and with the addition area of the RH Gallery the Village is under the allowable FAR of 0.47.

POLICY CD-4.6 Control the extent of non-residential visual bulk in new construction.

The proposed building is within the height limit of the previously approval Preliminary Plan and incorporates many different features to reduce the buildings bulk, such as details and variety on each of the four elevations, extensive articulation with the use of step backs, balconies, roof elements and landscaping.

POLICY CD-5.1 Ensure that non-residential development provides amenities that promote pedestrian activity and community gathering.

The RH Gallery will provide pedestrian and community amenities on the third level loft, and public café on the ground level of the store as well the enhanced east entry of the Village.

The proposed RH Gallery and the Gravel Lot are also consistent with purpose and regulations of the Regional Serving Shopping District (C-2)

Purpose of the C-2 District is to create and enhance areas where a wide range of retail goods and services are permitted, serving customers from a wide geographic area, and particular areas with good freeway access to create regional shopping complexes where the retail uses and services are mutually benefitted and enhanced by their close proximity. The Village and the Town Center are the two areas in Town with a C-2 designation.

The Project will support the continued development and enhancement of the Village. The RH Gallery will attract customers from a wide geographic area and will not impact the freeway access to the Village. The products proposed for the RH Gallery appear to compliment other retailers in the Village.

Finding - DESIGN REVIEW #2.
Explain how the project will not unnecessarily remove trees and natural vegetation; will preserve natural landforms and, whenever possible, avoid development within fifty vertical feet of ridgelines; does not include excessive or unsightly grading of hillsides; and otherwise will not adversely affect the natural beauty of the Town.

Findings of Fact – DESIGN REVIEW #2

Existing vegetation and non-native trees will be removed to the extent required by construction operations. The landscape plan replaces removed vegetation and trees with plantings which are native and drought tolerant and appropriate to climate and in harmony with the building design and Village Shopping Center. Plan sheets RH-L1 through RH-L7 depict landscape changes associated with construction of the RH Gallery. Construction will require 35 trees to be removed from the shopping center parking lot where the new RH Gallery building will be located, which will be replaced with 16 trees around the new building. The improvements to the existing parking lot will require removal of 29 trees, which will be replaced with 21 trees in the parking lot. Six trees will be removed and replaced to the extent required for remodeling the East Entry Plaza (the exact number of replacement trees will be included in the final design plans to be submitted at a later time). There is no hillside grading.

Finding – DESIGN REVIEW #3

Explain how the project will not significantly and adversely affect the views, sunlight, or privacy of any nearby residences; will provide adequate buffering between residential and nonresidential uses; and otherwise is in the best interest of the public health, safety and general welfare.

Findings of Fact – DESIGN REVIEW #3

The Project will not adversely affect the views, sunlight, or privacy of any nearby residences, provides adequate buffering between residential and non-residential uses, and otherwise is in the best interest of the public health, safety, and general welfare. The nearest residential community is approximately 1,200 feet across U.S. 101 from the proposed RH Galley and approximately 800 feet across U.S. 101 from the Gravel Lot It is located in close proximity to other commercial structures at the Village of similar scale, and is located in a commercial zone, and therefore, does not adversely impact nearby residences. The Project is well-designed and in compliance with Town’s Design Review requirements Plan Sheets A2 – A4, A18 and A19. See Finding of Fact GPA-#1 above regarding the Project’s benefit to public welfare.

Finding – DESIGN REVIEW #4

Explain how the structure, site plan and landscaping are in scale and harmonious with existing and future development adjacent to the site and in the vicinity; with the landforms and vegetation in the vicinity of the site; and that any landscaping will be based on water conservation designs.
The Project includes construction of a new store on an existing surface parking lot in an existing regional shopping center, and resurfacing and the addition of new landscaping in an existing parking lot. The store architecture will be of high quality and in keeping with the look and feel of the surrounding regional center. See Sheets A2 - A17. No new uses will be introduced, and compatibility with surrounding development, vegetation and habitat will not be affected. The Project’s landscaping designs incorporate water-saving designs and plants. See Plan Sheets RH-L1 – RH-L6, which illustrates the landscaping enhancements at grade, the second floor terraces and the roof-top plaza.

The building is designed so that it steps inward as it increases in height to provide interest, variety and reduce bulk. The maximum height of the building is similar to the existing larger building at the Village (i.e. Nordstroms), however, the various elements on each level make it appear in scale with both the multi-story and single story buildings nearby, such as The Gap. The natural materials proposed for the building’s exterior blend with the surrounding environment and provide visual interest. The use of glass and vegetation at many levels blends with the surroundings.

The integration of the main entrance of the RH Gallery to the east entry of the Village will create a pedestrian element and gathering place at this part of the center. What is currently just an entrance to the center and a drop-off and pick-up area will become an added focal point to the Village.

Finding – DESIGN REVIEW #5

Explain how the development materials and techniques will result in durable high-quality structures and landscaping.

Findings of Fact – DESIGN REVIEW #5

The RH Gallery will feature high-quality architectural design and materials. The exterior building envelope will be finished in 6 coat hand-applied Venetian plaster with an expanse of 12-foot glass and steel French door assemblies. Other architectural elements include a European entry courtyard that directs visitors to the light filled interior retail space and to the expansive café courtyard covered by a pyramid skylight. Upstairs, the second floor will showcase garden terraces accented by a Mediterranean planting palate and Juliet balconies and the rooftop will feature a covered steel and glass scenery loft and heritage olive tree. The building’s architectural details and gardens will be artfully illuminated at night, with shielded lanterns on the exterior sides of the building and other lighting that will not create glare or light pollution impacts to off-site areas.

Sustainability elements of the Project include:

- Storm water pollution prevention system / filtration
- Short and long term bicycle parking
- Light pollution reduction through outdoor lighting fixture selection
- Water use reduction through low flow plumbing fixture selection
- Waste water reduction through water conserving fixture selection
Finding - DESIGN REVIEW #6.

Explain how the structures, site plan and landscaping will create a sense of order; provide a visually pleasing setting for occupants, visitors, and the general community; are appropriate to the function of the site; and provide safe, convenient access to the property for pedestrians, cyclists and vehicles.

Finding of Fact - DESIGN REVIEW #6:

The Project includes pedestrian crosswalks and curb ramps (creating an accessible path of travel) between the accessible parking stalls and the sidewalk at the new store perimeter, and ultimately the new store entry. Another pedestrian crosswalk with enhanced paving provides an accessible path of travel between the shopping center courtyard and the western entry of the new store. The new RH Gallery store will frame and enhance the existing east entry to the center of the Village and provide a central vehicular drop-off area that will allow for a prominent arrival area for visitors. The redesign of the east entry plaza will create more seating opportunities extend the pleasant interior amenities of the Village out toward the vehicular circulation area and the RH store. Additional bicycle parking in this area will also allow for convenient access to the Village for bicyclists. The RH store itself will provide and elegant and pleasing setting for visitors and the general community by creating a public atrium, café, and several outdoor seating areas on the structure’s rooftops, with views of Mt. Tam and the Bay.

There is an existing signalized intersection, with existing crosswalks, that will allow safe pedestrian passage across Redwood Highway from the new store to the parking lot component.

- Outdoor water use through the use of a separate irrigation water meter and irrigation controller and sensors
- Water resistance and moisture management through building material selection and detailing
- Construction waste reduction through recycling or reuse
- Maximize building systems performance through independent commissioning plan, testing and end user training
- Interior air quality through protection / sealing of HVAC ducting during the construction period
- Air quality through the selection of low VOC, formaldehyde materials including sealants, paints carpets, composite wood products and resilient flooring systems
- Interior air quality through the use of enhanced performance filters at outside air and return air systems
- Outdoor air quality through the use of HVAC and fire suppression systems that are Chlorofluorocarbons (CFC) and Halon free
- Green roof system including water harvesting to reduce irrigation system demands

The Gravel Lot will incorporate native plantings within the rain gardens to filter stormwater and improve water quality in the surrounding marshlands, it will include energy efficient lighting, and a surface water treatment system that will better withstand vehicles and weather. The proposed project will result in high quality, durable structures and well-maintained, native landscaping.
of the Project. Also, as part of the improvements to the Lot, the roadway median is proposed to be extended to eliminate the ability to make left turns in and out of the eastern access point of the lot. This median extension will include a 4 foot hedge with will discourage pedestrians from crossing Redwood Highway at this point.

Finding - DESIGN REVIEW #7.

Explain how to the maximum extent feasible, the project includes the maintenance, rehabilitation and improvement of existing sites, structures and landscaping; and will correct any violations of the Zoning Ordinance, Municipal Code, or Building Code that exist on the site.

Findings of Fact - DESIGN REVIEW #7:

The improvements to the Lot will have positive benefits to the quality of the stormwater entering marsh adjacent to the lot. The low-impact development elements will include use of permeable pavement if feasible and recommended by the geotechnical engineer and creation of rain garden bioretention areas. Bioretention areas will encompass approximately 4% of the paved area, with the total landscaped area comprising approximately 11% of the site. All stormwater will flow through water quality treatment facilities prior to discharge. The new low impact development features will tie into existing outfall structures, with no changes to the outfall configuration.

There are no known violations of the Zoning Ordinance, Municipal Code or Building Code at the Village today.

Finding – DESIGN REVIEW #8.

Explain how the design and location of any proposed signs are consistent with the character and scale of the buildings to which they are attached or which are located on the same site; are visually harmonious with surrounding development; and that there are no existing illegal signs on the site.

Findings of Fact - DESIGN REVIEW #8:

No signage has been submitted as part of the present application. The sign application will be submitted later.
Plan Amendments and the Design Review Application. These conditions of approval are also listed in the Conditional Use Permit Resolution 57/2017.

CONDITIONS OF APPROVAL

PLANNING DEPARTMENT

PLANS

1) Consistency with Approved Plans - The proposed Project shall be constructed substantially in accordance with:
   a. The plan set titled Restoration Hardware Gallery stamped “Official Exhibit” with a received stamp of November 29, 2017 and,
   b. The color and materials board titled Corte Madera Planning Commission stamped “Official Exhibit” with a received stamp of October 24, 2017, except as amended by these conditions of approval.
   c. Any signage shown in the Approved Plans are for illustrative purposes only and a subsequent application shall be submitted for any proposed signage.

2) Conditions of Approval - Plans submitted for building permit application shall include the following on one or more of the plan sheets:
   a. These conditions of approval;
   b. The Mitigation Monitoring Program (MMP) and;
   c. Traffic Control Plan and Site Logistic Plan dated October 24, 2017
   d. Construction Management Plan

3) Changes to Plans - No changes shall be made to the approved plans without written approval from the Corte Madera Planning Department. If the applicant proposes changes that require Planning Department review to determine conformance with the approved plans, the Planning Director may require a $500 deposit for a Permit Amendment, pursuant to the Corte Madera Fee Schedule. The Planning Director may also refer proposed changes of the approved plans to the Planning Commission for review.

4) Owner and Contractor Statement - The applicant shall provide with the building permit application submittal a signed “Owner and Contractor Statement”. This signed document acknowledges that the owner and contractor have read, understand and accept the responsibility to implement the conditions of approval.

MITIGATION MEASURES REQUIRE PURSUANT TO THE VILLAGE AT CORTE MADERA EXPANSION PROJECT EIR

5) Compliance with Approved Mitigation Measures – All mitigations measures listed in the Mitigation Monitoring Program (Attachment 6 of November 14, 2017 Planning Commission Staff Report) shall be implement along with these conditions of approval.
6) Café – The café service shall be limited to the 5,800 square feet on the first floor. Items can be purchased to go or be taken to other parts of the RH Gallery. Café staff may provide busing services to other parts of the gallery beyond the 5,800 square feet café area.

CONSTRUCTION

7) Preconstruction Meeting – Prior to submitting a building permit for the RH Gallery and the Gravel Lot, a preconstruction meeting shall take place with all appropriate representatives of the Project construction team, Town representatives and any other agencies. The meeting shall address items such as the construction management and parking plan, required permits, traffic and parking management, work schedule, delivery schedule, contact person(s), neighborhood notification, insurance, damage deposits, etc.

8) Hours of Construction - Hours of construction shall be limited to 7:00 a.m. to 5:00 p.m., Monday through Friday, and 10:00 a.m. to 5:00 p.m. on Saturday and Sunday; and provided that, if any reasonable and credible work-related complaints are received by the Town about construction during any weekday or weekend, the Planning Director is vested with the authority to impose reasonable conditions to address the issues that gave rise to the complaint. Whether or not a complaint about construction is reasonable and credible shall be left to the sole and sound judgment of the Planning Director. In order to mitigate any potential adverse impacts the applicant’s construction activities have on neighboring property owners and renters, the Planning Director shall be vested with the authority to impose reasonable conditions on the applicant’s hours of construction and/or the applicant’s construction activities. No workers shall be on the site except during these hours. Without limiting the generality of the foregoing, no preparatory work or staging shall be allowed to occur on the site or on adjacent properties except during the hours specified above. No work shall be performed on a legal holiday as defined and approval shall be at the sole discretion of the Planning & Building Director or his/her designee. Requests for modifications to these construction hours can be submitted to the Town for review.

LANDSCAPE PLANS

9) All landscaped areas shall be installed prior to Certificate of Occupancy in compliance with landscape plans referenced above. If all the required landscaping is not completed prior to the Certificate of Occupancy, the applicant shall post a cash deposit or letter of credit for 125 percent of the total cost of the landscaping, based on a written estimate of such cost. All landscaping shall be completed within six months of the Certificate of Occupancy.

10) Any landscaped area provided in compliance with this title shall feature water-conserving landscape designs and shall be permanently maintained by the property owner, including automatic watering, weeding, pruning, fertilizing, spraying, or other form of insect control, replacement of plant materials as needed, and any other operations needed to ensure proper maintenance. Failure to meet these requirements shall be cause for the issuance of a citation, an
order of compliance, nuisance abatement action, and/or the revocation of any land use approval for which the landscape requirements were made a condition of approval. If the respondent refuses to comply with the provisions of the citation and order, legal proceedings may be initiated by the town attorney to obtain compliance when such proceedings are authorized by the town council.

OTHER PERMITS OR OTHER REQUIREMENTS

11) Permits From Other Agencies – Prior to submitting an application for a building permit, grading permit or significant tree removal, the applicant shall provide any required approvals and/or permits from any local, state or federal agencies with jurisdiction over any resource on the site. It shall be the responsibility of the applicant to determine whether approvals and/or permits are required.

12) Affordable Housing Fee – Pursuant to Section 3.48 of the CMMC an affordable housing fee will be required and such fee shall be paid prior to the application of a building permit.

13) School District Mitigation Fees - Applicant is responsible for ascertaining whether School District mitigation fees will be required by the Larkspur-Corte Madera School District for this project. If fees are required, the district will require that these fees be paid prior to the applicant receiving a building permit for this project.

14) Graywater Requirements - If this project requires a new water service or a larger water meter then prior to submitting an application for a building permit with the Town of Corte Madera, the applicant shall provide written documentation that the Project complies with the Graywater provisions of Title 13 of the Marin Municipal Water District (MMWD) Code (Ordinance 429). MMWD Graywater information is available at marinwater.org/155/Graywater or 415-945-1530.

15) Traffic Mitigation Fee: Pursuant to Section 3.32 of the CMMC the applicant shall pay the required traffic mitigation fee.

LIGHTING

16) Exterior Lighting Dark Sky Compliant - All exterior lighting must be dark sky compliant and not create a glare or hazard on adjoining streets, properties or residential areas. Lighting must be designed and installed so that the filaments, light sources or lenses are shielded with opaque material in such a way that they will not be visible at property lines. Exterior lights shall have a color temperature of 3000 Kelvin or lower (warm not cool). Any changes to proposed lighting must be approved by the Planning Department.

17) Exterior Lighting – Dimmers, Timers and Motion Sensors – The lighting plans submitted for building permits for both the GH Gallery and the Gravel Lot shall indicate the exterior lights which are connected to dimmers, timers and/or motion sensors. These lighting plans shall be reviewed by staff and if necessary a lighting professional, paid for by the applicant, to assure that night time lighting is night sky compliant, does not significantly impact neighboring
properties and the public and provides adequate lighting for security and safety. After installation, the applicant shall reduce the lighting levels up to the minimum required by code for public safety purposes if directed by staff. As discussed at the November 14, 2017 Planning Commission public hearing, the applicants shall work with staff to have as many parking lot lights as possible at the Gravel Lot on motion sensors to minimize night time light why still providing adequate lighting for security and safety.

18) **Interior Lighting** - Interior lighting shall be turned off or dimmed at 11pm or at the close of business whichever is earlier to minimize light impacts to adjacent properties and the public while still providing enough lighting for security and safety. Motion-activated lighting, otherwise complying with these conditions of approval, may be utilized without time restrictions.

**INSPECTIONS AND VERIFICATIONS**

19) **Height Verification of the RH Gallery** – After installation of the roof truss, initial roof framing or highest point or points of the building, the applicant shall provide confirmation in writing to the Town from a licensed surveyor or engineer that the heights of the RH Gallery are consistent with the approved building permit plans.

20) **Property Line and Setback Verification** - Upon issuance of a Building Permit, the property line and setback location(s) at areas of construction must be identified on site by a licensed land surveyor or registered civil engineer. The licensed land surveyor or registered civil engineer shall submit a written confirmation to the Building Department that the staking of the property lines has been properly completed.

21) **Final Planning Inspection** - Prior to a final Building Division inspection of this project, the applicants shall contact the Planning Department to schedule an inspection of the finished project to ensure compliance with all of the required conditions of approval per the resolution approving the Project.

22) **Access for Inspections** - The applicant and subject property owner shall permit the Planning Department or its representative(s) or designee(s) to make inspections at any reasonable time deemed necessary to assure that the construction being performed under the authority of this approval is in accordance with the terms and conditions described herein.

23) **Permit Expiration** – Pursuant to Section 18.18.050(e) of the CMMC this approval shall remain valid for a period of two years from the approval day, after which the approval shall lapse and become null and void. The issuance of a building permit shall constitute an extension of the approval which shall then remain valid during the same time period the building permit is active. If a building permit has not been issued before expiration of the approval, an extension may be requested as prescribed in Section 18.18.050(e) (Design Review) of the Town Zoning Ordinance. Such requests must be made before expiration of the approval. If the building permit(s) expire before completion of the Project, the Planning Director may at his/her discretion, permit an extension of the approval.
INDEMNIFICATION AGREEMENT

24) The applicant shall - Defend, indemnify, and hold harmless the Town of Corte Madera and its agents, officers, attorneys, or employees from any claim, action or proceeding (collectively referred to as “proceeding”) brought against the Town or its agents, officers, attorneys, or employees to attack, set aside, void, or annul this approval, which proceeding is brought within the applicable statute of limitations. The indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the Town, if any, and the cost of suit, attorney’s fees, and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the applicant, the Town, and/or the parties initiating or bringing such proceeding.

25) The applicant shall - Defend, indemnify, and hold harmless the Town, its agents, officers, attorneys, or employees for all costs incurred in additional investigation or study of, or for supplementing, redrafting, revising, or amending any document, if made necessary by said proceeding and if applicant desires to pursue securing such approvals, after initiation of such proceeding, which are conditioned on the approval of such documents.

26) The applicant shall - In the event that a proceeding is brought, the Town shall promptly notify the applicant of the existence of the proceeding and the Town will cooperate fully in the defense of such proceeding. In the event that the applicant is required to defend the Town in connection with any said proceeding, the Town shall retain the right to (1) approve the counsel to defend the Town, (2) approve all significant decisions concerning the matter in which the defense is conducted, and (3) approve any and all settlements, which approval shall not be unreasonably withheld. The Town shall also have the right not to participate in said defense, except that the Town agrees to cooperate with the applicant in the defense of said proceeding. If the Town chooses to have counsel of its own defend any proceeding where the applicant has already retained counsel to defend the Town in such matters, the fees and expenses of the counsel selected by the Town shall be paid by the Town. Notwithstanding the immediately preceding sentence, if the Town attorney’s office participates in the defense, all Town attorney fees and costs shall be paid by the applicant.

APPEAL PERIOD

27) The decision by the Town Council regarding this application is final and it cannot be appealed.

STOP WORK ORDER - RED TAG ORDINANCE

28) Per Section 15.70.010 of the Municipal Code, whenever any construction or other work that is subject to any provision of the Code has been, or is being, done in any manner that is contrary to any of the provisions of the Code, any ordinance of the Town, or any condition of a permit, approval, or other entitlement granted by the Town, the Town Manager or his/her designee may order that all construction or work on the property be stopped immediately by notice in writing mailed to any person engaged in doing or causing such work to be done and the owner of the property, and by posting on the property where the violation has occurred, or is presently occurring, a notice to stop such construction or work. Such person shall forthwith stop such
work until authorized by the Town to proceed.

PUBLIC WORKS DEPARTMENT

Grading and Drainage

1. In accordance with section 15.20.030 of the Municipal Code, the applicant may be required to obtain a Grading and Drainage Permit from the Public Works Department prior to issuance of a Building Permit. The application for this permit shall include, but not be limited to, a site grading plan/drainage plan showing topographic information prepared by a licensed civil engineer or landscape architect. If a geotechnical report is required, the Project’s geotechnical/soils engineer shall review and approve the grading/drainage plan for conformance to the report prepared for the Project.

2. Grading within this area may be subject to the requirements of Section 15.20.220 “Supervised Grading” of the Municipal Code. A determination will be made by the Public Works Department at the time of the Grading and Drainage Permit.

3. No earthwork shall take place during the rainy season between October 15th and April 15th without special written authorization from the Director of Public Works. Unless specifically exempted, earthwork operations will require an Erosion and Sediment Control Permit from the Public Works Department per Municipal Code Section 15.20.285. The permit will require the installation and maintenance of appropriate erosion and sedimentation control measures for the proposed work. The applicant will be required to obtain the permit prior to the issuance of Building Permit.

4. Per Municipal Code Section 15.20.285, the applicant may be required to post a security (cash deposit) to guarantee the timely installation of erosion control measures whenever the contractor fails to perform the required erosion control work or to perform it in a timely manner. Applicability of the security, which is based on the square footage of earthwork, will be determined at the time of Erosion and Sediment Control Permit.

5. As of July 1, 2015 new projects must comply with NPDES Phase II permit storm water discharge requirements. Show how this project will comply with the new requirements and fill out required forms. This requirement will be prepared by an Engineer familiar with NPDES Phase II permit storm water discharge requirements. Prior to issuance of a building permit the applicant shall provide a copy of the Notice of Intent to obtain coverage under and to comply with the State Water Resources Control Board National Pollutant Discharge Elimination System (NPDES) General Construction Permit (General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities).

6. A hydrology study shall be prepared by a licensed civil engineer or landscape architect, documenting the impacts and mitigations of any increase in surface runoff rates due to the proposed development. This study shall be submitted to the Public Works Department for review and approval prior to obtaining a Building Permit.

7. Where possible, drainage facilities shall be installed to collect roof drainage and surface water runoff from driveways, walkways, and other paved surfaces. Drainage shall be conveyed and disposed in a manner that avoids concentrated flows and minimizes impacts to adjoining properties. Drainage collection systems shall be designed to Town standards and the flow shall be conveyed to a publicly maintained or natural storm drain system. Runoff shall not be diverted from one drainage area to another. The subsurface drainage system of the foundation
or the retaining wall shall remain separate from the surface drainage system.

8. Construction activity resulting in a land disturbance of one acre or more, or less than one acre but part of a larger common plan of development, must obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit) from the California State Water Resources Control Board. This permit will require the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP) for the Project.

9. Prior to issuance of a building permit, a construction management plan shall be submitted by the applicant for approval. The plan shall show in detail how the work will progress in order to mitigate access impacts. This shall include, but not be limited to, a detailed schedule of the work, the designation of stockpile areas for grading and construction materials, the size and type of trucks and equipment to be used for the work, and an indication of how construction deliveries and workers will park and access the site.

10. Prior to issuance of a Building Permit, the Public Works/Engineering Department will make a determination as to whether the proposed improvements will interfere with the free flow of any watercourse affected by the Project. The construction of any improvement within a watercourse will require a Watercourse Alteration/Relocation Permit from the Public Works Department per Municipal Code Section 9.32.060.

**Traffic**

11. Prior to issuance of any permit, the applicant shall submit any applicable pedestrian or traffic detour plans, to the satisfaction of the Town Engineer, for any lane or sidewalk closures. The detour plan shall comply with the State of California Manual of Traffic Controls for Construction and Maintenance Work Zones, and with standard construction practices.

**Work In Public Right-of-Way**

12. Per Town Resolution No. 3314, a project over $10,000.00 is subject to the Street Impact Fee equal to 1% of the project valuation. Applicability of this fee will be determined at the time of Building Permit.

13. At the time of Building Permit, the Public Works/Engineering Department will inspect encroachments, vegetation, sidewalks, and drainage at the property for compliance with the Town Municipal Code. The applicant shall bring the property into compliance with the Municipal Code in accordance with Town standards and to the satisfaction of the Public Works Director/Town Engineer prior to final acceptance of the Project.

14. Per Municipal Code Section 12.04.040, an Encroachment Permit from the Public Works Department will be required for any activities within, or use of, the public right-of-way such as placement of debris boxes, staging of equipment in the street, traffic control activities, or street closures, subject to the review and approval of the Public Works Department.

15. The applicant may be required to prepare and submit a Construction Management Plan to the Public Works/Engineering Department prior to the issuance of the Building Permit. The Plan shall provide a general overview of the construction process as it affects the public right-of-way and surrounding neighbors. At a minimum, the plan should outline the schedule of construction, the locations for staging of equipment and materials, and the truck routes that will be used for deliveries.

16. Prior to the issuance of the Building Permit, the applicant may be required to provide a
Construction Parking Plan to Public Works. The Plan shall propose a system to minimize the effect of construction worker parking in the neighborhood, include an estimate of the number of workers and vehicles that will be present on the site during various phases of construction, and indicate where sufficient off-street parking will be provided.

Permits From Other Agencies

17. The applicant shall be responsible for determining if permits will be required from the Bay Conservation and Development Commission, Army Corps of Engineers, California Department of Fish and Game, or any other regulatory agency having jurisdiction over the Project. If any of these permits are required, they must be obtained by the applicant before a Building Permit will be issued.

Sanitary Sewer

18. The existing sewer lateral serving the property shall be pressure tested or inspected by in-line video equipment from the building foundation to the main in accordance with Sanitary District No. 2 standards. Should the lateral fail this test, the applicant shall obtain a Sanitary Sewer Permit for the repair or replacement of the lateral in accordance with District standards prior to final acceptance of the Project.

19. Prior to issuance of a building permit, the applicant shall submit a sanitary sewer drawing showing a plan and profile of the existing and proposed sewer mains and laterals. All work shall comply with Sanitary District No. 2 Standard Specifications and Drawings, latest edition, and any other special requirements, including additional sewer main replacement.

20. Sanitary District No. 2 requires that individual buildings have separate side sewers. Part B, Section 4-03(S) of the District's Standards allows an exception for this requirement only on specific approval from the District, and Part B, Section 4-03(B) would require a six (6) inch side sewer from the property to the sewer main if more than one building sewer were to be connected.

21. The applicant may be required to obtain a Sanitary Sewer Permit to be issued by Sanitary District No. 2 for all work associated with the sanitary sewer mains or laterals serving this property, including the installation of a backflow preventer device. An application for this permit shall be made to the District prior to beginning any work on the sanitary sewer system.

Construction Operations

22. Prior to the issuance of a Building Permit, it may be required that a cash deposit up to a maximum amount of $10,000 be posted for bonding purposes to ensure repair of any damage to roadways, landscaping, and other public improvements in the Town right-of-way caused by the applicant's construction-related activities. The amount of the cash deposit shall be determined at the time of the Building Permit. Said cash deposit shall not be released until the Project, including all landscaping, is completed and all required repairs have been made.

23. Prior to the issuance of Building Permit, a video or photographic inspection of the existing conditions of the roadways and other public improvements adjoining the Project may be required of the applicant. The inspection results shall be submitted to the Public Works Department.

24. Any damage to the street caused by heavy equipment or because of project construction activities shall be repaired, at the applicant's expense, prior to issuance of the Certificate of
Occupancy. All hazardous damage shall be repaired immediately. Any heavy equipment brought to the construction site shall be transported by truck.

25. Per Municipal Code Section 9.33.100, the applicant shall employ best management practices (BMPs) as appropriate from the California Stormwater Best Management Practice Handbook for Construction Activity, latest edition, or from the Erosion and Sedimentation Control Field Manual published by the California Regional Water Quality Control Board, to control and prevent the discharge of sediment, debris and other construction related wastes to the storm drainage system or waterways, including, but not limited to, general construction, concrete and mortar application, heavy equipment operation, road work and paving, and earth-moving activities.

CENTRAL MARIN FIRE DEPARTMENT CONDITIONS OF APPROVAL:

26. Fire Protection Requirements. A fire sprinkler system shall be installed throughout the entire building, which complies with the requirements of the National Fire Protection Association (NFPA) 13 and local standards. A separate deferred permit shall be required for this system. Plans and specifications for the system shall be submitted by an individual or firm licensed to design and/or design-build sprinkler systems.

A fire alarm system shall be installed throughout the entire building, which complies with the requirements of the National Fire Protection Association (NFPA) 72 and local standards. A separate deferred permit shall be required for this system. Plans for the system shall be submitted by an individual or firm licensed to design and install the fire alarm system.

27. Fire Hydrant Requirements. A minimum of 2 new fire hydrants able to supply a minimum of 1,500 gallons per minute will need to be installed.

28. Fire Department Access Requirements. A 20-foot fire department access road shall be provided and maintained. All fire lanes shall be maintained and kept clear of construction traffic at all times.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Town Council of the Town of Corte Madera does hereby find and resolve as follows:

1. Recitals

The foregoing recitals are true and correct and are incorporated into the findings herein.

2. Record

The Record of Proceedings ("Record") upon which the Town Council makes its recommendation includes, but is not limited to: (1) the 2009 General Plan, (2) the FEIR certified for the 2009 General Plan, including the appendices and technical reports cited in and/or relied upon in preparing the FEIR, (3) all staff reports, Town files and records and other documents prepared for and/or submitted to the Town Council relating to the Village at Corte
Madera Restoration Expansion Project Application including the EIR prepared to evaluate the environmental effects of the Project (4) the recommendation of the Planning Commission (5) all documentary and oral evidence received at public hearings or submitted to the Town relating to the Project EIR, and (6) all matters of common knowledge to the Town Council and the Town, including, but not limited to, Town, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the Town and its surrounding areas. The location and custodian of the Record is the Planning Director of the Town of Corte Madera, 300 Tamalpais Drive, Corte Madera, CA 94925.

3. **Compliance with the California Environmental Quality Act (CEQA)**

The Town Council of the Town of Corte Madera has reviewed the Environmental Impact Report (EIR) for the Project and based on its independent judgement and analysis determines that the EIR was prepared in accordance with the CEQA and that based on the whole record, including public comments received during the public review process, there is not substantial evidence that the project will have a significant effect on the environment. The resolution certifying the EIR (54/2017) is attached to the December 5, 2017 Staff Report.

**I HEREBY CERTIFY** that the foregoing resolution was duly and regularly adopted by the Town Council of Corte Madera at a regular meeting held on the 5th day of December 2017, by the following vote, to wit:

**AYES:** Councilmembers:

**NOES:** Councilmembers:

**ABSENT:** Councilmembers:

Diane Furst, Mayor

ATTEST:

Rebecca Vaughn, Town Clerk

O:\Planning\Department\02 PLANNING APPLICATIONS AND PROPERTY FILES\P-REDWOOD HWY (VILLAGE)\1618 Redwood Hwy VCM_RH\PACKETS\TC 120517\Resolutions\PP2_DR_Resos3_PPP2_DR_VCM_RH_Reso_Final.docx

24
Resolution #57/2017
Conditional Use Permit
RESOLUTION NO. 57/2017

CONDITIONAL USE PERMIT

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA
APPROVING THE CONDITIONAL USE PERMIT APPLICATION FOR A CAFÉ WITH A
5,800 SQUARE FOOT SERVING AREA WITHIN THE PROPOSED 46,000 SQUARE FOOT
RH GALLERY BUILDING AT 1618 REDWOOD HIGHWAY AS PART OF THE VILLAGE
AT CORTE MADERA RESTORATION HARDWARE EXPANSION PROJECT.

WHEREAS, the purpose of a Conditional Use Permit (CUP) is to allow for uses within a zoning
district which, by the conditions, are made compatible with the primary uses of the Regional Serving
Commercial District (C-2); and

WHEREAS, the purpose of a CUP is also to give the use regulations the flexibility necessary to
achieve the objectives of this title and to account for the widely varying needs of some uses; and

WHEREAS, conditional uses include various types of public and private structures and uses which do
not precisely fit into the zoning district classifications. Because of their unusual characteristics,
conditional uses require special consideration so that they may be located properly with respect to the
objectives of the Corte Madera Municipal Code (CMMC) and with respect to their effects on
surrounding properties; and

WHEREAS, the Planning Commission is empowered to forward a recommendation to the Town
Council; and

WHEREAS, the Town Council is empowered to grant or to deny applications for use permits and to
impose reasonable conditions upon the granting of use permits; and

WHEREAS, on June 19, 2015, Corte Madera Village, L.L.C and Restoration Hardware (“The
Applicants”) submitted an application for The Village at Corte Madera Restoration Hardware
Expansion Project (“The Project”) which contained a General Plan Amendment, Rezoning,
Preliminary Plan Amendment, Precise Plan Amendment and Design Review to construct a ±52,000 sq.
ft. two-story RH Gallery with an open roof top courtyard and improve the Town owned Gravel Lot
located on Redwood Highway northeast of the Village at Corte Madera eastern parking lot (APN-024-
03-019) (Gravel Lot) to the north east of the Village; and

WHEREAS, on October 6, 2015, the Town Council, during a public business item, approved a
contract with the Environmental Consulting Firm of GHD (“GHD”) to prepare Phase 1 of the
Environmental Impact Report for the Project; and

WHEREAS, on October 20, 2015, the Town Council, during a public business item, approved Resolution 41/2015 giving authorization to proceed with discussions and/or real estate negotiations
with Macerich (a property owner at the Village shopping center) regarding potential sale, lease or other
disposition of the Gravel Lot and approval of Resolution No. 42/2015 approval of an access agreement
to allow Corte Madera Village, LLC access for inspection and testing of the Gravel Lot; and

WHEREAS, on February 2, 2016, the Town Council, during a public business item, approved a contract with GHD to prepare Phase 2 of the Environmental Impact Report and authorized further negotiations with Macerich for the use of the Gravel Lot for shopping center parking; and

WHEREAS, on October 25, 2016, a Notice of Preparation (NOP) for the Project EIR was filed with the State Clearinghouse and the public comment period (October 25, 2016 to November 30, 2016) regarding the scope of work for the proposed EIR commenced; this comment period was notice via: the Town’s website, the email list of individuals who had commented on or signed up for notification of this particular project, in the Marin Independent Journal, and to properties within 300 feet of the Project; and

WHEREAS, from October 25, 2016 to November 30, 2016, the Town received public comments regarding the scope of work for the proposed EIR for the Project; and

WHEREAS, on November 17, 2016, a scoping meeting which was noticed via: the Town’s website, the email list of all individuals who have sign up on the Town’s website to be notified of Town meetings, the email list of individuals who have commented on or signed up for notification of this particular project, the Marin Independent Journal, all properties within 300’ of the project and the town reader board was held at the Town Hall to receive input from the public on the scope of work proposed by GHD for the EIR; and

WHEREAS, on December 20, 2016, the applicants revised their application, based on feedback from the community, to include a reduction in the size of the proposed building by approximately 7,000 square feet, a reduction in height by 6 feet, the addition of a café, and changes in the design elements to complement the surrounding views; and

WHEREAS, on March 21, 2017, the Town Council, during a public meeting, endorsed a proposed term sheet for a non-exclusive easement and development agreement to allow for Corte Madera Village, LLC to improve the Town’s Gravel Lot and utilize resulting parking spaces for required parking for the Village at Corte Madera, including a potential Restoration Hardware Expansion project and provided direction and authorization to Town staff to draft the non-exclusive easement and development agreement consistent with the term sheet; and

WHEREAS, on July 12, 2017, a Notice of Completion (NOC) for the Project Draft Environmental Impact Report (DEIR) was filed with the State Clearinghouse and the public comment period (July 12, 2017 to August 25, 2017) regarding the DEIR commenced; this comment period was noticed via: the Town’s website, the email list of individuals who had commented on or signed up for notification of this particular project, in the Marin Independent Journal, and to properties within 300 feet of the Project; and

WHEREAS, on August 8, 2017, the Planning Commission, during a public hearing, which was noticed via: the Town’s website, the email list of all individuals who have sign up on the Town’s website to be notified of Town meetings, the email list of individuals who have commented on or signed up for notification of this particular project, the Marin Independent Journal, hard copy mailings sent to all properties within 300’ of the project, the town reader board and a posting on NextDoor.com, received comments on the DEIR; and
WHEREAS, on October 16, 2017 notices announcing the display of story poles and supplemental information to aid in understanding the physical location and scale of the proposed Project, were posted on the Town’s website and sent to the email list of individuals who have commented on or signed up for notification of this particular project. Additional signage and information regarding the story poles was also made available at the project site; and

WHEREAS, on November 1, 2017, copies of the FEIR were sent to those public agencies who commented on the Draft EIR in accordance with CEQA Guidelines Section 15088; and

WHEREAS, also on November 1, 2017, the public was notified of the availability of the FEIR and the November 14, 2017 Planning Commission public hearing via: the Town’s website, the email list of all individuals who have sign up on the Town’s website to be notified of Town meetings, the email list of individuals who have commented on or signed up for notification of this particular project, hard copy mailings sent to all properties within 300’ of the project, the town reader board and a posting on NextDoor.com; and

WHEREAS, on November 3, 2017, additional notice of the November 14, 2017 Planning Commission public hearing, availability of the FEIR, and extension of story pole viewing period was posted as a News Flash item on the Town’s website; and

WHEREAS, on November 4, 2017, a notice announcing the November 14, 2017 Planning Commission public hearing was posted in the Marin Independent Journal; and

WHEREAS, on November 14, 2017, the Planning Commission held a public hearing on the Environmental Impact Report, the applications for a General Plan Amendment, Rezoning, Preliminary Plan Amendment, Precise Plan Amendment, Design Review, Conditional Use Permit, and a Development Agreement; and

WHEREAS, also on November 14, 2017, the Planning Commission unanimously approved Resolution 17-022, by a vote of 5-0, and thereby forwarded a recommendation to the Town Council to: 1) certify the Environmental Impact Report for the Project, 2) approve the General Plan Amendment to change the land use designation of the Gravel Lot from Wetlands and Marshlands to Mixed-Use Region-Serving Commercial, 3) approve the Rezoning of the Gravel Lot from Parks, Open Space and Natural Habitat to Regional Shopping (C-2), 4) approve the Preliminary Plan Amendment for retail expansion and improvements to the Gravel Lot, 5) approve the Precise Plan Amendment for a new approximately 46,000 square foot retail store and café, modifications to the Village east entry plaza, and modifications to the Gravel Lot, 6) approve the Design Review application for a new approximately 46,000 square foot retail store and café, modifications to the Village east entry plaza, and modifications to the Gravel Lot, 7) approve the CUP for a café within the Regional Shopping District (C-2), and 8) approve the Development Agreement between the Town of Corte Madera and Macerich; and

WHEREAS, on November 17, 2017, notices were sent and posted announcing the December 5, 2017 Town Council public hearing; notices were sent via: the Town’s website, the email list of all individuals who have sign up on the Town’s website to be notified of Town meetings, the email list of individuals who have commented on or signed up for notification of this particular project, hard copy mailings sent to all properties within 300’ of the project, the town reader board and a posting on
WHEREAS, on November 25, 2017, a notice announcing the December 5, 2017 public hearing was posted in the Marin Independent Journal; and

WHEREAS, on December 5, 2017, the Town Council of the Town of Corte Madera held a noticed public hearing to discuss and possibly take action on The Village at Corte Madera Restoration Expansion Project which included a CUP for a café with a 5,800 square foot serving area within the proposed 46,000 square foot RH Gallery Building as part of the Village at Corte Madera Restoration Hardware Expansion Project as well as many other entitlements under separate resolutions or ordinances based on the findings discussed below and subject to the following conditions of approval.

CONDITIONAL USE PERMIT FINDINGS

Conditional Permits are granted for uses within a zoning district which, by the conditions, are made compatible with the primary uses of the district. Certain conditional uses are permitted in each district subject to the granting of a CUP. Conditional uses include various types of public and private structures and uses which do not precisely fit into the zoning district classifications. Because of their unusual characteristics, conditional uses require special consideration so that they may be located properly with respect to the objectives of this title and with respect to their effects on surrounding properties. To achieve these purposes, the Town Council is empowered to grant or to deny applications for use permits and to impose reasonable conditions upon the granting of use permits.

The Town Council may grant an application for a CUP as it was applied for or in modified form, if, on the basis of the application and the evidence submitted, the Town Council makes all of the following findings:

Finding – CUP#1

The proposed location of the conditional use is in accord with the stated objectives of the Town’s Zoning Ordinance (Section 18.02.030) and the purpose of the zoning district in which the site is located.

Findings of Fact – CUP#1

A CUP is being applied for so that a café, with a serving area 5,800 square feet including food preparation area and café seating, can be located within the RH Gallery at the Village. The proposed location of the conditional use is consistent with the objectives of Section 18.02.030 of the Town’s Zoning Ordinance. The RH Gallery is within the Regional Shopping District (C-2), which is intended to create and enhance areas where a wide range of retail goods and services are permitted, serving customers from a wide geographic area. The proposed use is entirely consistent with the existing uses, such as restaurants and retail, present at the Village shopping center where the proposed conditional use will be located. Because the proposed conditional use will be located within the RH Gallery, there will be minimal visible impact and because the café will operate during the same or very similar hours as the RH Galley the use
will not significantly affect the character of the neighborhood or surrounding area. The proposed conditional use promotes the stability of other uses within the Village by creating a healthy balance of retail and dining options and generally enhancing the dining and shopping experience at the Village. Because the proposed conditional use will be within the RH Gallery, which is located within the Village, the proposed conditional use as a café, is appropriate. The café will have a limited menu and will operate during the same hours as the RH Gallery (though RH may allow those who entered immediately prior to closing to finish any meal).

The café is proposed within the 46,000 sq. ft. RH Gallery which is consistent the 2009 General Plan and the current Zoning Ordinance and therefore will not impact population densities or exceed the maximum FAR allowed. Similarly, because the café will only occupy a small area inside the RH Gallery, it will have a minimal impact on traffic circulation or safety, as described in the Transportation Section of the EIR. Because the café is an ancillary use to the retail store, it is not anticipated to generate a significant amount of trips on its own and therefore not create an impact on the parking supply. The café will strengthen the Town’s economic based by enhancing the shopping and dining experience at the Village. The RH Gallery, within which the café will be located, is well harmonized with the Village and surrounding areas.

All utilities required for the conditional use will already be provided to the RH Gallery. The café will not significantly increase the demand on utilities already provided to the RH Gallery.

Finding – CUP#2

*Explain how the proposed location of the conditional use and the proposed conditions under which the use would be operated or maintained will not be detrimental to the public health, safety or welfare.*

Findings of Fact – CUP#2

The proposed location of the conditional use is within the RH Gallery located at the Village, which is within the C-2 District. The café will have a serving area of approximately 5,800 square feet including food preparation area and café seating. The café will have no visual impact outside the RH Gallery. The proposed use is entirely consistent with the existing uses at the Village, such as restaurants and retail. Moreover, the proposed use will enhance the retail and dining experience at the Village. The café will utilize all of the RH Gallery’s sustainability attributes including water use reduction, waste water reduction, and improved interior air quality. The café will be open similar hours to the RH Gallery and if alcohol is served, the applicant must meet all Town of Corte Madera and Alcohol Beverage Control requirements.

Finding – CUP#3

*Explain how the proposed conditional use will comply with the General Plan and with each of the applicable provisions in the Town’s Zoning Ordinance.*

Findings of Fact – CUP#3

5
The proposed conditional use will be located at the Village, which the General Plan designates as Mixed Use Region-Serving Commercial, which includes retail uses capable of attracting patrons from a wide geographic range. The General Plan sets the policy of applying flexible development standards to the Village in order to promote the community’s economic development, protect and enhance the Town’s tax base. The proposed conditional use falls squarely within the Region-Serving Commercial designation (retail use capable of attracting patrons), as evidenced by the existing uses at the Village (and any successful shopping center), including restaurants and retail. The proposed use will enhance the retail and dining experience at the Village, which will in turn promote the community’s economic development, protect and enhance the Town’s tax base.

Conditional Use Permit Findings b-1 to b-4 and Finding c, d and e are not applicable.
CONDITIONS OF APPROVAL
PLANNING DEPARTMENT

PLANS

1) **Consistency with Approved Plans** - The proposed Project shall be constructed substantially in accordance with:
   a. The plan set titled Restoration Hardware Gallery stamped “Official Exhibit” with a received stamp of November 29, 2017 and,
   b. The color and materials board titled *Corte Madera Planning Commission* stamped “Official Exhibit” with a received stamp of October 24, 2017, except as amended by these conditions of approval.
   c. Any signage shown in the Approved Plans are for illustrative purposes only and a subsequent application shall be submitted for any proposed signage.

2) **Conditions of Approval** - Plans submitted for building permit application shall include the following on one or more of the plan sheets:
   a. These conditions of approval;
   b. The Mitigation Monitoring Program (MMP) and;
   c. Traffic Control Plan and Site Logistic Plan dated October 24, 2017
   d. Construction Management Plan

3) **Changes to Plans** - No changes shall be made to the approved plans without written approval from the Corte Madera Planning Department. If the applicant proposes changes that require Planning Department review to determine conformance with the approved plans, the Planning Director may require a $500 deposit for a Permit Amendment, pursuant to the Corte Madera Fee Schedule. The Planning Director may also refer proposed changes of the approved plans to the Planning Commission for review.

4) **Owner and Contractor Statement** - The applicant shall provide with the building permit application submittal a signed “Owner and Contractor Statement”. This signed document acknowledges that the owner and contractor have read, understand and accept the responsibility to implement the conditions of approval.

MITIGATION MEASURES REQUIRE PURSUANT TO THE VILLAGE AT CORTE MADERA EXPANSION PROJECT EIR

5) **Compliance with Approved Mitigation Measures** – All mitigations measures listed in the Mitigation Monitoring Program (Attachment 6 of November 14, 2017 Planning Commission Staff Report) shall be implement along with these conditions of approval.

6) **Café’** – The café service shall be limited to the 5,800 square feet on the first floor. Items can be purchased to go or be taken to other parts of the RH Gallery. Café staff may provide busing services to other parts of the gallery beyond the 5,800 square feet café area.
CONSTRUCTION

7) Preconstruction Meeting – Prior to submitting a building permit for the RH Gallery and the Gravel Lot, a preconstruction meeting shall take place with all appropriate representatives of the Project construction team, Town representatives and any other agencies. The meeting shall address items such as the construction management and parking plan, required permits, traffic and parking management, work schedule, delivery schedule, contact person(s), neighborhood notification, insurance, damage deposits, etc.

8) Hours of Construction - Hours of construction shall be limited to 7:00 a.m. to 5:00 p.m., Monday through Friday, and 10:00 a.m. to 5:00 p.m. on Saturday and Sunday; and provided that, if any reasonable and credible work-related complaints are received by the Town about construction during any weekday or weekend, the Planning Director is vested with the authority to impose reasonable conditions to address the issues that gave rise to the complaint. Whether or not a complaint about construction is reasonable and credible shall be left to the sole and sound judgment of the Planning Director. In order to mitigate any potential adverse impacts the applicant’s construction activities have on neighboring property owners and renters, the Planning Director shall be vested with the authority to impose reasonable conditions on the applicant’s hours of construction and/or the applicant’s construction activities. No workers shall be on the site except during these hours. Without limiting the generality of the foregoing, no preparatory work or staging shall be allowed to occur on the site or on adjacent properties except during the hours specified above. No work shall be performed on a legal holiday as defined and approval shall be at the sole discretion of the Planning & Building Director or his/her designee. Requests for modifications to these construction hours can be submitted to the Town for review.

LANDSCAPE PLANS

9) All landscaped areas shall be installed prior to Certificate of Occupancy in compliance with landscape plans referenced above. If all the required landscaping is not completed prior to the Certificate of Occupancy, the applicant shall post a cash deposit or letter of credit for 125 percent of the total cost of the landscaping, based on a written estimate of such cost. All landscaping shall be completed within six months of the Certificate of Occupancy.

10) Any landscaped area provided in compliance with this title shall feature water-conserving landscape designs and shall be permanently maintained by the property owner, including automatic watering, weeding, pruning, fertilizing, spraying, or other form of insect control, replacement of plant materials as needed, and any other operations needed to ensure proper maintenance. Failure to meet these requirements shall be cause for the issuance of a citation, an order of compliance, nuisance abatement action, and/or the revocation of any land use approval for which the landscape requirements were made a condition of approval. If the respondent refuses to comply with the provisions of the citation and order, legal proceedings may be initiated by the town attorney to obtain compliance when such proceedings are authorized by the town council.

OTHER PERMITS OR OTHER REQUIREMENTS
11) **Permits From Other Agencies** – Prior to submitting an application for a building permit, grading permit or significant tree removal, the applicant shall provide any required approvals and/or permits from any local, state or federal agencies with jurisdiction over any resource on the site. It shall be the responsibility of the applicant to determine whether approvals and/or permits are required.

12) **Affordable Housing Fee** – Pursuant to Section 3.48 of the CMMC an affordable housing fee will be required and such fee shall be paid prior to the application of a building permit.

13) **School District Mitigation Fees** - Applicant is responsible for ascertaining whether School District mitigation fees will be required by the Larkspur-Corte Madera School District for this project. If fees are required, the district will require that these fees be paid prior to the applicant receiving a building permit for this project.

14) **Graywater Requirements** - If this project requires a new water service or a larger water meter then prior to submitting an application for a building permit with the Town of Corte Madera, the applicant shall provide written documentation that the Project complies with the Graywater provisions of Title 13 of the Marin Municipal Water District (MMWD) Code (Ordinance 429). MMWD Graywater information is available at marinwater.org/155/Graywater or 415-945-1530.

15) **Traffic Mitigation Fee**: Pursuant to Section 3.32 of the CMMC the applicant shall pay the required traffic mitigation fee.

**LIGHTING**

16) **Exterior Lighting Dark Sky Compliant** - All exterior lighting must be dark sky compliant and not create a glare or hazard on adjoining streets, properties or residential areas. Lighting must be designed and installed so that the filaments, light sources or lenses are shielded with opaque material in such a way that they will not be visible at property lines. Exterior lights shall have a color temperature of 3000 Kelvin or lower (warm not cool). Any changes to proposed lighting must be approved by the Planning Department.

17) **Exterior Lighting – Dimmers, Timers and Motion Sensors** – The lighting plans submitted for building permits for both the GH Gallery and the Gravel Lot shall indicate the exterior lights which are connected to dimmers, timers and/or motion sensors. These lighting plans shall be reviewed by staff and if necessary a lighting professional, paid for by the applicant, to assure that night time lighting is dark sky compliant, does not significantly impact neighboring properties and the public and provides adequate lighting for security and safety. After installation, the applicant shall reduce the lighting levels up to the minimum required by code for public safety purposes if directed by staff. As discussed at the November 14, 2017 Planning Commission public hearing, the applicants shall work with staff to have as many parking lot lights as possible at the Gravel Lot on motion sensors to minimize night time light why still providing adequate lighting for security and safety.

18) **Interior Lighting** - Interior lighting shall be turned off or dimmed at 11pm or at the close of business whichever is earlier to minimize light impacts to adjacent properties and the public
while still providing enough lighting for security and safety. Motion-activated lighting, otherwise complying with these conditions of approval, may be utilized without time restrictions.

INSPECTIONS AND VERIFICATIONS

19) **Height Verification of the RH Gallery** – After installation of the roof truss, initial roof framing or highest point or points of the building, the applicant shall provide confirmation in writing to the Town from a licensed surveyor or engineer that the heights of the RH Gallery are consistent with the approved building permit plans.

20) **Property Line and Setback Verification** – Prior to issuance of a Building Permit, the building corners of the RH Gallery and edge of pavement for the Gravel Lot must be identified on site by a licensed land surveyor or registered civil engineer. The licensed land surveyor or registered civil engineer shall submit a written confirmation to the Building Department that the staking of the property lines has been properly completed.

21) **Final Planning Inspection** - Prior to a final Building Division inspection of this project, the applicants shall contact the Planning Department to schedule an inspection of the finished project to ensure compliance with all of the required conditions of approval per the resolution approving the Project.

22) **Access for Inspections** - The applicant and subject property owner shall permit the Planning Department or its representative(s) or designee(s) to make inspections at any reasonable time deemed necessary to assure that the construction being performed under the authority of this approval is in accordance with the terms and conditions described herein.

23) **Permit Expiration** – Pursuant to Section 18.18.050(e) of the CMMC this approval shall remain valid for a period of two years from the approval day, after which the approval shall lapse and become null and void. The issuance of a building permit shall constitute an extension of the approval which shall then remain valid during the same time period the building permit is active. If a building permit has not been issued before expiration of the approval, an extension may be requested as prescribed in Section 18.18.050(e) (Design Review) of the Town Zoning Ordinance. Such requests must be made before expiration of the approval. If the building permit(s) expire before completion of the Project, the Planning Director may at his/her discretion, permit an extension of the approval.

INDEMNIFICATION AGREEMENT

24) The applicant shall - Defend, indemnify, and hold harmless the Town of Corte Madera and its agents, officers, attorneys, or employees from any claim, action or proceeding (collectively referred to as “proceeding”) brought against the Town or its agents, officers, attorneys, or employees to attack, set aside, void, or annul this approval, which proceeding is brought within the applicable statute of limitations. The indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the Town, if any, and the cost of suit, attorney’s fees, and other costs, liabilities and expenses incurred in connection with such proceeding.
whether incurred by the applicant, the Town, and/or the parties initiating or bringing such proceeding.

25) The applicant shall - Defend, indemnify, and hold harmless the Town, its agents, officers, attorneys, or employees for all costs incurred in additional investigation or study of, or for supplementing, redrafting, revising, or amending any document, if made necessary by said proceeding and if applicant desires to pursue securing such approvals, after initiation of such proceeding, which are conditioned on the approval of such documents.

26) The applicant shall - In the event that a proceeding is brought, the Town shall promptly notify the applicant of the existence of the proceeding and the Town will cooperate fully in the defense of such proceeding. In the event that the applicant is required to defend the Town in connection with any said proceeding, the Town shall retain the right to (1) approve the counsel to defend the Town, (2) approve all significant decisions concerning the matter in which the defense is conducted, and (3) approve any and all settlements, which approval shall not be unreasonably withheld. The Town shall also have the right not to participate in said defense, except that the Town agrees to cooperate with the applicant in the defense of said proceeding. If the Town chooses to have counsel of its own defend any proceeding where the applicant has already retained counsel to defend the Town in such matters, the fees and expenses of the counsel selected by the Town shall be paid by the Town. Notwithstanding the immediately preceding sentence, if the Town attorney’s office participates in the defense, all Town attorney fees and costs shall be paid by the applicant.

APPEAL PERIOD

27) The decision by the Town Council regarding this application is final and it cannot be appealed.

STOP WORK ORDER - RED TAG ORDINANCE

28) Per Section 15.70.010 of the Municipal Code, whenever any construction or other work that is subject to any provision of the Code has been, or is being, done in any manner that is contrary to any of the provisions of the Code, any ordinance of the Town, or any condition of a permit, approval, or other entitlement granted by the Town, the Town Manager or his/her designee may order that all construction or work on the property be stopped immediately by notice in writing mailed to any person engaged in doing or causing such work to be done and the owner of the property, and by posting on the property where the violation has occurred, or is presently occurring, a notice to stop such construction or work. Such person shall forthwith stop such work until authorized by the Town to proceed.
Grading and Drainage

1. In accordance with section 15.20.030 of the Municipal Code, the applicant may be required to obtain a **Grading and Drainage Permit** from the Public Works Department prior to issuance of a Building Permit. The application for this permit shall include, but not be limited to, a site grading plan/drainage plan showing topographic information prepared by a licensed civil engineer or landscape architect. If a geotechnical report is required, the Project’s geotechnical/soils engineer shall review and approve the grading/drainage plan for conformance to the report prepared for the Project.

2. Grading within this area may be subject to the requirements of Section 15.20.220 “Supervised Grading” of the Municipal Code. A determination will be made by the Public Works Department at the time of the Grading and Drainage Permit.

3. No earthwork shall take place during the rainy season between October 15th and April 15th without special written authorization from the Director of Public Works. Unless specifically exempted, earthwork operations will require an **Erosion and Sediment Control Permit** from the Public Works Department per Municipal Code Section 15.20.285. The permit will require the installation and maintenance of appropriate erosion and sedimentation control measures for the proposed work. The applicant will be required to obtain the permit prior to the issuance of Building Permit.

4. Per Municipal Code Section 15.20.285, the applicant may be required to post a security (cash deposit) to guarantee the timely installation of erosion control measures whenever the contractor fails to perform the required erosion control work or to perform it in a timely manner. Applicability of the security, which is based on the square footage of earthwork, will be determined at the time of Erosion and Sediment Control Permit.

5. As of July 1, 2015 new projects must comply with NPDES Phase II permit storm water discharge requirements. Show how this project will comply with the new requirements and fill out required forms. This requirement will be prepared by an Engineer familiar with NPDES Phase II permit storm water discharge requirements. Prior to issuance of a building permit the applicant shall provide a copy of the Notice of Intent to obtain coverage under and to comply with the State Water Resources Control Board National Pollutant Discharge Elimination System (NPDES) General Construction Permit (General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities).

6. A hydrology study shall be prepared by a licensed civil engineer or landscape architect, documenting the impacts and mitigations of any increase in surface runoff rates due to the proposed development. This study shall be submitted to the Public Works Department for review and approval prior to obtaining a Building Permit.

7. Where possible, drainage facilities shall be installed to collect roof drainage and surface water runoff from driveways, walkways, and other paved surfaces. Drainage shall be conveyed and disposed in a manner that avoids concentrated flows and minimizes impacts to adjoining properties. Drainage collection systems shall be designed to Town standards and the flow shall be conveyed to a publicly maintained or natural storm drain system. Runoff shall not be diverted from one drainage area to another. The subsurface drainage system of the foundation or the retaining wall shall remain separate from the surface drainage system.
8. Construction activity resulting in a land disturbance of one acre or more, or less than one acre but part of a larger common plan of development, must obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit) from the California State Water Resources Control Board. This permit will require the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP) for the Project.

9. Prior to issuance of a building permit, a construction management plan shall be submitted by the applicant for approval. The plan shall show in detail how the work will progress in order to mitigate access impacts. This shall include, but not be limited to, a detailed schedule of the work, the designation of stockpile areas for grading and construction materials, the size and type of trucks and equipment to be used for the work, and an indication of how construction deliveries and workers will park and access the site.

10. Prior to issuance of a Building Permit, the Public Works/Engineering Department will make a determination as to whether the proposed improvements will interfere with the free flow of any watercourse affected by the Project. The construction of any improvement within a watercourse will require a Watercourse Alteration/Relocation Permit from the Public Works Department per Municipal Code Section 9.32.060.

Traffic

11. Prior to issuance of any permit, the applicant shall submit any applicable pedestrian or traffic detour plans, to the satisfaction of the Town Engineer, for any lane or sidewalk closures. The detour plan shall comply with the State of California Manual of Traffic Controls for Construction and Maintenance Work Zones, and with standard construction practices.

Work In Public Right-of-Way

12. Per Town Resolution No. 3314, a project over $10,000.00 is subject to the Street Impact Fee equal to 1% of the project valuation. Applicability of this fee will be determined at the time of Building Permit.

13. At the time of Building Permit, the Public Works/Engineering Department will inspect encroachments, vegetation, sidewalks, and drainage at the property for compliance with the Town Municipal Code. The applicant shall bring the property into compliance with the Municipal Code in accordance with Town standards and to the satisfaction of the Public Works Director/Town Engineer prior to final acceptance of the Project.

14. Per Municipal Code Section 12.04.040, an Encroachment Permit from the Public Works Department will be required for any activities within, or use of, the public right-of-way such as placement of debris boxes, staging of equipment in the street, traffic control activities, or street closures, subject to the review and approval of the Public Works Department.

15. The applicant may be required to prepare and submit a Construction Management Plan to the Public Works/Engineering Department prior to the issuance of the Building Permit. The Plan shall provide a general overview of the construction process as it affects the public right-of-way and surrounding neighbors. At a minimum, the plan should outline the schedule of construction, the locations for staging of equipment and materials, and the truck routes that will be used for deliveries.

16. Prior to the issuance of the Building Permit, the applicant may be required to provide a Construction Parking Plan to Public Works. The Plan shall propose a system to minimize the
effect of construction worker parking in the neighborhood, include an estimate of the number of workers and vehicles that will be present on the site during various phases of construction, and indicate where sufficient off-street parking will be provided.

Permits From Other Agencies

17. The applicant shall be responsible for determining if permits will be required from the Bay Conservation and Development Commission, Army Corps of Engineers, California Department of Fish and Game, or any other regulatory agency having jurisdiction over the Project. If any of these permits are required, they must be obtained by the applicant before a Building Permit will be issued.

Sanitary Sewer

18. The existing sewer lateral serving the property shall be pressure tested or inspected by in-line video equipment from the building foundation to the main in accordance with Sanitary District No. 2 standards. Should the lateral fail this test, the applicant shall obtain a Sanitary Sewer Permit for the repair or replacement of the lateral in accordance with District standards prior to final acceptance of the Project.

19. Prior to issuance of a building permit, the applicant shall submit a sanitary sewer drawing showing a plan and profile of the existing and proposed sewer mains and laterals. All work shall comply with Sanitary District No. 2 Standard Specifications and Drawings, latest edition, and any other special requirements, including additional sewer main replacement.

20. Sanitary District No. 2 requires that individual buildings have separate side sewers. Part B, Section 4-03(S) of the District's Standards allows an exception for this requirement only on specific approval from the District, and Part B, Section 4-03(B) would require a six (6) inch side sewer from the property to the sewer main if more than one building sewer were to be connected.

21. The applicant may be required to obtain a Sanitary Sewer Permit to be issued by Sanitary District No. 2 for all work associated with the sanitary sewer mains or laterals serving this property, including the installation of a backflow preventer device. An application for this permit shall be made to the District prior to beginning any work on the sanitary sewer system.

Construction Operations

22. Prior to the issuance of a Building Permit, it may be required that a cash deposit up to a maximum amount of $10,000 be posted for bonding purposes to ensure repair of any damage to roadways, landscaping, and other public improvements in the Town right-of-way caused by the applicant's construction-related activities. The amount of the cash deposit shall be determined at the time of the Building Permit. Said cash deposit shall not be released until the Project, including all landscaping, is completed and all required repairs have been made.

23. Prior to the issuance of Building Permit, a video or photographic inspection of the existing conditions of the roadways and other public improvements adjoining the Project may be required of the applicant. The inspection results shall be submitted to the Public Works Department.

24. Any damage to the street caused by heavy equipment or because of project construction activities shall be repaired, at the applicant's expense, prior to issuance of the Certificate of Occupancy. All hazardous damage shall be repaired immediately. Any heavy equipment
brought to the construction site shall be transported by truck.

25. Per Municipal Code Section 9.33.100, the applicant shall employ best management practices (BMPs) as appropriate from the California Stormwater Best Management Practice Handbook for Construction Activity, latest edition, or from the Erosion and Sedimentation Control Field Manual published by the California Regional Water Quality Control Board, to control and prevent the discharge of sediment, debris and other construction related wastes to the storm drainage system or waterways, including, but not limited to, general construction, concrete and mortar application, heavy equipment operation, road work and paving, and earth-moving activities.

CENTRAL MARIN FIRE DEPARTMENT CONDITIONS OF APPROVAL:

26. **Fire Protection Requirements.** A fire sprinkler system shall be installed throughout the entire building, which complies with the requirements of the National Fire Protection Association (NFPA) 13 and local standards. A separate deferred permit shall be required for this system. Plans and specifications for the system shall be submitted by an individual or firm licensed to design and/or design-build sprinkler systems.

A fire alarm system shall be installed throughout the entire building, which complies with the requirements of the National Fire Protection Association (NFPA) 72 and local standards. A separate deferred permit shall be required for this system. Plans for the system shall be submitted by an individual or firm licensed to design and install the fire alarm system.

27. **Fire Hydrant Requirements.** A minimum of 2 new fire hydrants able to supply a minimum of 1,500 gallons per minute will need to be installed.

28. **Fire Department Access Requirements.** A 20-foot fire department access road shall be provided and maintained. All fire lanes shall be maintained and kept clear of construction traffic at all times.

* * * * * * * * * * * * * *

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Corte Madera hereby approves the Conditional Use Permit for a café, with a serving area of 5,800 square feet including food preparation area and café seating, located within the RH Gallery as part of the Village at Corte Madera Restoration Hardware Expansion Project APN’S 024-032-030 and 019, (File # GPA-15-001, ZA-15-001, EA-15-001, PDP-15-003, DR-15-017, CUP-15-005); and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Town Council of the Town of Corte Madera does hereby find and resolve as follows:

1. **Recitals**
   
   The foregoing recitals are true and correct and are incorporated into the findings herein.

15
2. Record

The Record of Proceedings ("Record") upon which the Town Council makes its recommendation includes, but is not limited to: (1) the 2009 General Plan, (2) the FEIR certified for the 2009 General Plan, including the appendices and technical reports cited in and/or relied upon in preparing the FEIR, (3) all staff reports, Town files and records and other documents prepared for and/or submitted to the Town Council relating to the Village at Corte Madera Restoration Expansion Project Application including the EIR prepared to evaluate the environmental effects of the Project (4) the recommendation of the Planning Commission (5) all documentary and oral evidence received at public hearings or submitted to the Town relating to the Project EIR, and (6) all matters of common knowledge to the Town Council and the Town, including, but not limited to, Town, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the Town and its surrounding areas. The location and custodian of the Record is the Planning Director of the Town of Corte Madera, 300 Tamalpais Drive, Corte Madera, CA 94925.

3. Compliance with the California Environmental Quality Act (CEQA)

The Town Council of the Town of Corte Madera has reviewed the Environmental Impact Report (EIR) for the Project and based on its independent judgement and analysis determines that the EIR was prepared in accordance with the CEQA and that based on the whole record, including public comments received during the public review process, there is not substantial evidence that the project will have a significant effect on the environment.

I HEREBY CERTIFY that the foregoing resolution was duly and regularly adopted by the Town Council of Corte Madera at a regular meeting held on the 5th day of December 2017, by the following vote, to wit:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

Diane Furst, Mayor

ATTEST:
ATTACHMENT 5

Ordinance #973
Development Agreement and Non-Exclusive Parking Easement
WHEREAS, on June 19, 2015, Corte Madera Village, LLC and Restoration Hardware ("The Applicants") submitted an application for The Village at Corte Madera Restoration Hardware Expansion Project ("The Project") which contained a General Plan Amendment, Rezoning, Preliminary Plan Amendment, Precise Plan Amendment and Design Review to construct a ±52,000 sq. ft. two-story RH Gallery with an open roof top courtyard and improve the Town owned Gravel Lot located on Redwood Highway northeast of the Village at Corte Madera eastern parking lot (APN-024-03-019) (Gravel Lot) to the north east of the Village; and

WHEREAS, on October 20, 2015, the Town Council, during a public business item, approved Resolution 41/2015 giving authorization to proceed with discussions and/or real estate negotiations with Macerich (a property owner at the Village shopping center) regarding potential sale, lease or other disposition of the Gravel Lot and approval of Resolution No. 42/2015 approval of an access agreement to allow Corte Madera Village, LLC access for inspection and testing of the Gravel Lot; and

WHEREAS, on February 2, 2016, the Town Council, during a public business item, authorized further negotiations with Macerich for the use of the Gravel Lot for shopping center parking; and

WHEREAS, on December 20, 2016, the applicants revised their application, based on feedback from the community, to include a reduction in the size of the proposed building by approximately 7,000 square feet, a reduction in height by 6 feet, the addition of a café, and changes in the design elements to complement the surrounding views; and

WHEREAS, on March 21, 2017, the Town Council, during a public meeting, endorsed a proposed term sheet for a non-exclusive easement and development agreement to allow for Corte Madera Village, LLC to improve the Town’s Gravel Lot and utilize resulting parking spaces for required parking for the Village at Corte Madera, including a potential Restoration Hardware Expansion project and provided direction and authorization to Town staff to draft the non-exclusive easement and development agreement consistent with the term sheet; and

WHEREAS, on November 14, 2017, the Planning Commission held a public hearing on the Environmental Impact Report, the applications for a General Plan Amendment, Rezoning, Preliminary Plan Amendment, Precise Plan Amendment, Design Review, Conditional Use Permit, and a Development Agreement; and
WHEREAS, also on November 14, 2017, the Planning Commission unanimously approved Resolution 17-022, by a vote of 5-0, and thereby forwarded a recommendation to the Town Council to: 1) certify the Environmental Impact Report for the Project, 2) approve the General Plan Amendment to change the land use designation of the Gravel Lot from Wetlands and Marshlands to Mixed-Use Region-Serving Commercial, 3) approve the Rezoning of the Gravel Lot from Parks, Open Space and Natural Habitat to Regional Shopping (C-2), 4) approve the Preliminary Plan Amendment for retail expansion and improvements to the Gravel Lot, 5) approve the Precise Plan Amendment for a new approximately 46,000 square foot retail store and café, modifications to the Village east entry plaza, and modifications to the Gravel Lot, 6) approve the Design Review application for a new approximately 46,000 square foot retail store and café, modifications to the Village east entry plaza, and modifications to the Gravel Lot, 7) approve the CUP for a café within the Regional Shopping District (C-2), and 8) approve the Development Agreement between the Town of Corte Madera and Macerich; and

WHEREAS, on November 17, 2017, notices were sent and posted announcing the December 5, 2017 Town Council public hearing; notices were sent via: the Town's website, the email list of all individuals who have sign up on the Town's website to be notified of Town meetings, the email list of individuals who have commented on or signed up for notification of this particular project, hard copy mailings sent to all properties within 300' of the project, the town reader board and a posting on NextDoor.com; and

WHEREAS, on November 25, 2017, a notice announcing the December 5, 2017 public hearing was posted in the Marin Independent Journal; and

WHEREAS, on December 5, 2017, the Town Council held a public hearing on the Environmental Impact Report, the applications for a General Plan Amendment, Rezoning, Preliminary Plan Amendment, Precise Plan Amendment, Design Review, Conditional Use Permit, and a Development Agreement; and

WHEREAS, on December 5, 2017, the Town Council of the Town of Corte Madera held a noticed public hearing to discuss and possibly take action on The Village at Corte Madera Restoration Expansion Project which included a CUP for a café with a 5,800 square foot serving area within the proposed 46,000 square foot RH Gallery Building as part of the Village at Corte Madera Restoration Hardware Expansion Project including consideration for approval of the Development Agreement based on the findings discussed below and subject to the following conditions of approval.

NOW, THEREFORE, BE IT RESOLVED, that the Town Council of the Town of Corte Madera hereby finds and ordains as follows:

Section 1. Recitals

The foregoing recitals are true and correct and are incorporated into the findings herein.
Section 2. Record

The Record of Proceedings ("Record") upon which the Town Council bases its decision regarding includes, but is not limited to: (1) the 2009 Corte Madera General Plan, (2) all staff reports, Town files and records and other documents, including the Initial Study/Mitigated Negative Declaration prepared for and/or submitted to the Town Council relating to the Zoning Ordinance Amendment, (3) all documentary and oral comments received at public hearings or submitted to the Town relating the Development Agreement, (4) all matters of common knowledge to the Planning Commission and the Town, including, but not limited to, Town, State, and federal laws, policies, rules and regulations, reports, records and projections related to development in the Town and surrounding areas.

The location of the custodian of the Record is the Planning Director of the Town of Corte Madera, 300 Tamalpais Drive, Corte Madera, CA 94925.

Section 3. Compliance with the California Environmental Quality Act (CEQA)

The Town Council of the Town of Corte Madera has reviewed the Environmental Impact Report (EIR) for the Project and based on its independent judgement and analysis determines that the EIR was prepared in accordance with the CEQA and that based on the whole record, including public comments received during the public review process, there is not substantial evidence that the project will have a significant effect on the environment. Based on the fact, evidence, analysis, comments, and findings contained in Town Council Resolution No. 54/2017, adoption of the Ordinance approving the Development Agreement will not have a significant impact on the environment.

Section 4. General Plan Consistency Findings

The Town Council of the Town of Corte Madera hereby finds that the proposed Development Agreement is consistent with the Corte Madera General Plan, Zoning Code, and Town Council Resolution 24/2017 which sets forth the procedures for processing a development agreement. The specific policies and programs on which the Town Council makes this finding include, but are not limited to:

Town Council Resolution 24/2017 Findings for a Development Agreement:

1. The development agreement is consistent with the objectives, policies, general land uses and programs specified in the General Plan, and any preliminary or specific plan.

The Development Agreement is consistent with the proposed General Plan Amendment that would conform the GP land use designation with the existing and proposed use of the
parcels.

2. Is the development agreement compatible with the uses authorized in, and the regulations prescribed for the Land use district in which the real property is located.

The Development Agreement is consistent with the proposed Project applications for a General Plan Amendment and Zoning Amendment.

3. The development agreement will not be detrimental to the health, safety, and general welfare of the community.

The Development Agreement results in improvements to the existing Gravel Lot thereby reducing the risk of property damage or personal injury to persons using the property and, reduces the risk of liability for the Town. The lighting and circulation improvements to the Gravel Lot will increase the visibility and provide for safer use.

4. The development agreement will not adversely affect the orderly development of property.

The Gravel Lot is currently restricted for use as parking and the Development Agreement confirms and clarifies the existing requirements to use the Gravel Lot for parking consistent with the 1995/1996 agreements and bond documents between the property owners at The Village and the Town. The Development Agreement does not change the existing use, but rather brings the use into conformity.

5. The development agreement is advantageous to and/or benefits the Town.

The Development Agreement would require Macerich to improve the existing Gravel Lot resulting in an improved property that the Town continues to own, provide higher quality of parking and lighting on the existing property, shift the costs of improvements and ongoing maintenance from the Town to Macerich, shift the liability from Town to Macerich, and provides an annual payment of $320,000 to the Town during the term of the Agreement.

The Gravel Lot is currently restricted for use as parking and the Development Agreement confirms and clarifies the existing use requirements.

Section 5.


Section 6. Severability
If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Town Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

Section 7. Effective Date

This ordinance shall become effective 30 days after the date of adoptions.

Section 8. Posting

The Town Clerk shall cause this ordinance to be published and/or posted within fifteen days after adoption.

* * * * * * * * * *

This ordinance was introduced on the 5th day of December, 2017 and adopted on the ____ day of December 2017, by the following vote, to wit:

AYES: Councilmembers:
NOES: Councilmembers:
ABSENT: Councilmembers:

__________________________
Diane Furst, Mayor

ATTEST:

__________________________
Rebecca Vaughn, Town Clerk
EXHIBIT A

DEVELOPMENT AGREEMENT
By and Between the Town of Corte Madera and Village of Corte Madera, LLC
DEVELOPMENT AGREEMENT

BY AND BETWEEN

THE TOWN OF CORTE MADERA

AND

CORTE MADERA VILLAGE, LLC

(RELATING TO THE 3.95-ACRE PARKING AREA ON REDWOOD HIGHWAY)
Development Agreement By and Between  
The Town of Corte Madera and Corte Madera Village, LLC  

(Relating to the 3.95-Acre Parking Area on Tamalpais Drive)  

This Development Agreement ("Development Agreement"), dated for reference purposes only _________, 2017, is entered into by and between the TOWN OF CORTE MADERA, a California municipal corporation (the "Town"), and CORTE MADERA VILLAGE, LLC, a Delaware limited liability company ("Developer"), to be effective as of the Effective Date (as defined in Section 1.02), pursuant to Government Code section 65864 et seq. (the "Development Agreement Statute"). The Town and Developer are sometimes referred to individually herein as a "Party" and collectively as the "Parties."  

RECIDALS

A. To strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development, the California Legislature enacted the Development Agreement Statute, which authorizes a city to enter into a development agreement with any person having a legal or equitable interest in real property regarding the development of such property and establishing certain development rights therein.


C. Developer has a fee interest (the "Developer Parcel") in certain portions of a shopping center commonly known as The Village at Corte Madera ("The Village"), located in Corte Madera, Marin County, California. The Village is depicted in Exhibit A attached hereto and incorporated herein by reference. The Developer Parcel is depicted and more particularly described in Exhibit B attached hereto and incorporated herein by reference.

D. The Town is the fee owner of certain real property located in Corte Madera, Marin County, California, consisting of 3.95 acres, as depicted and more particularly described in Exhibit C attached hereto and incorporated herein by reference (the "Parking Area"). The Parking Area is located to the north of The Village across Redwood Highway and is currently used by the Town for public parking purposes and occasional public community events.

E. Developer and Restoration Hardware, Inc., a Delaware corporation ("Restoration Hardware"), desire (1) to construct a new Restoration Hardware Gallery of approximately 46,000 square feet and to make associated site improvements at The Village (the "Restoration Hardware Project"), and (2) to make improvements to the Parking Area (the "Parking Area Project"), each consistent with Applicable Law (as defined in Section 2.02) and substantially as configured in Exhibit D and Exhibit E, respectively, attached hereto and incorporated herein by reference. The Restoration Hardware Project and the Parking Area Project are collectively referred to herein as the "Restoration Hardware Expansion."

F. The Parties desire to allow parking spaces created by the Parking Area Project to be used toward satisfying the Town's parking requirements for the Developer Parcel (and such other portions of The Village as Developer may designate) during the Term (as defined in Section 1.03) of this Development Agreement, in accordance with section 18.20.060 of the
Town’s Municipal Code, which will provide benefits to Developer, Restoration Hardware, the Town, and the public.

G. The Parties desire for the Town to remain the fee owner of the Parking Area during the Term (as defined in Section 1.03) of this Development Agreement, and for the Town to own the Parking Area and any improvements existing thereon upon expiration or termination of this Development Agreement.

H. Developer and Restoration Hardware have applied for, and the Town has granted, the following approvals in connection with the Restoration Hardware Expansion (collectively referred to as the “Approvals”):

1) Adoption of Resolution No. __________, on __________, 2017, to approve amending the Town's General Plan to change the land use designation of the Parking Area from Wetlands and Marshlands to Mixed Use Regional Serving Commercial.

2) Adoption of Ordinance No. __________, on __________, 2017, to approve changing the zoning district of the Parking Area from POS Parks, Open Space and Natural Habitat District to C-2 Regional Shopping District (with the Baylands Risk Zone and Natural Habitat Overlay District remaining in place).

3) Adoption of Resolution No. __________, on __________, 2017, to approve an amendment to Preliminary Plan 11-01, which encompasses The Village and the Parking Area.

4) Adoption of Resolution No. __________, on __________, 2017, to approve a precise plan encompassing The Village and the Parking Area.

5) Adoption of Resolution No. __________, on __________, 2017, to approve a design review application for the Restoration Hardware Project.

6) Adoption of Resolution No. __________, on __________, 2017, to approve a conditional use permit to permit a cafe as part of the Restoration Hardware Project.

7) Adoption of Ordinance No. __________, on __________, 2017, to approve this Development Agreement.

I. To comply with the California Environmental Quality Act, and in connection with the Approvals, the Town prepared an environmental impact report (the “EIR”) that addresses the impacts of the Restoration Hardware Expansion (State Clearinghouse Number 2016102061). The Town Council reviewed and considered the information in the EIR and adopted Resolution No. __________, on __________, 2017, to certify the EIR and make findings.

J. This Development Agreement is consistent with the Town’s General Plan, any preliminary or specific plan, and the Town’s Municipal Code, all as amended by the Approvals. This Development Agreement is advantageous to and benefits the Town. This Development Agreement will not be detrimental to the public’s health, safety, or general welfare, nor will it adversely affect the orderly development of property.
AGREEMENT

NOW, THEREFORE, in consideration of the covenants set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and approved, the Parties hereby agree as follows:

Article I. SUBJECT PROPERTY, EFFECTIVE DATE, TERM, AND USE.

Section 1.01 Subject Property. The Developer Parcel is the "Subject Property" of this Development Agreement. The terms of this Development Agreement apply to the Subject Property.

Section 1.02 Effective Date. The rights, duties, and obligations hereunder shall become effective on the "Effective Date," which shall be the date this Development Agreement is executed by the Parties following (a) the effective date of the ordinance adopted by the Town Council to approve this Development Agreement and (b) the effective date of all Approvals.

Section 1.03 Term. The "Term" of this Development Agreement shall commence on the Effective Date and shall extend 99 years thereafter unless sooner terminated as provided in Section 11.02 or Section 11.03. Notwithstanding the foregoing, this Development Agreement and the Term shall automatically terminate should the Easement Agreement, for any reason, no longer be in full force and effect after its execution and recordation by the Parties.

Section 1.04 Use. The Parking Area may be used only for public parking, Community Events (as defined in Section 5.01), constructing the Parking Area Project, and construction staging for the Restoration Hardware Project, as further described in Article III, Article IV, Article V, and Article VII.

Section 1.05 Ownership Upon Termination or Expiration. Upon termination or expiration of this Development Agreement pursuant to Section 1.03, Section 11.02, or Section 11.03, the Town shall retain ownership of the Parking Area and any improvements then existing thereon, free and clear of the Easement Agreement.

Article II. VESTED RIGHT, LAWS, AND PROCEDURES GOVERNING THE PROJECT.

Section 2.01 Vested Right. Developer shall have the vested right to develop the Parking Area Project on the Parking Area and to count up to 455 parking spaces on the Parking Area toward satisfying the Town's parking requirements for the Developer Parcel and such other portions of The Village as Developer may hereafter designate in written notice to the Town, in accordance with this Development Agreement and Applicable Law (as defined in Section 2.02), during the Term of this Development Agreement. In the event of any conflict or inconsistency between this Development Agreement and Applicable Law, this Development Agreement shall prevail and control to the fullest extent legally possible. Except as expressly provided in this Development Agreement, Developer's vested right to count parking spaces on the Parking Area toward satisfying the Town's parking requirements for the Developer Parcel (and such other portions of The Village as Developer designates) does not confer, grant, or vest any discretionary approvals for future development projects at The Village, nor can the Parking Area be used in calculating the floor-area ratio for any future development projects at The Village.
Section 2.02  Applicable Law. "Applicable Law" consists of the Town’s laws, rules, regulations, and official policies applicable to the Parking Area Project and the Subject Property in force and effect on the Effective Date, as amended by the Approvals and Later Enactments (as defined in Section 2.03).

Section 2.03  Later Enactments. The Town may adopt new or modified laws, rules, regulations, or official policies after the Effective Date (each a "Later Enactment," and collectively the "Later Enactments"), and such Later Enactments shall be included within Applicable Law; provided, however, that such Later Enactments (whether adopted by action of the Town Council or other body or personnel, by initiative, by referendum, or otherwise) shall be applicable to the Parking Area Project and the Subject Property except to the extent that such application (a) prevents or prohibits any parking spaces at the Parking Area from being used toward satisfying the Town’s parking requirements for the Developer Parcel (or any other portion of The Village that Developer designates pursuant to Section 2.01) during the Term of this Development Agreement, (b) modifies or impedes the development of the Parking Area Project, or (c) otherwise affects Developer’s rights or obligations with respect to the Parking Area or the Parking Area Project under this Development Agreement and the Easement Agreement. Except as expressly provided in this Development Agreement, this Development Agreement shall not vest any other Town development regulations, including, without limitation, the Town’s General Plan; the Town’s Municipal Code; impact, processing, or development fees; or any other development requirements that may be imposed in connection with future development at The Village.

Section 2.04  Conflict Between Town and State or Federal Laws. In the event that state and/or federal law(s) and/or regulation(s) enacted after the Effective Date prevent or preclude compliance with one or more provisions of this Development Agreement, the Parties shall provide each other with written notice of such state or federal law or regulation, a copy of such law or regulation, and a statement concerning the conflict with the provisions of this Development Agreement. The Parties shall, within 30 days after such notice, meet and confer in good faith in a reasonable attempt to modify this Development Agreement so as to comply with such state or federal law or regulation giving rise to the conflict, pursuant to Government Code section 65369.5. The Town shall cooperate reasonably with Developer in the securing of any permits, approvals, or entitlements that may be required as a result of modifications of suspensions made pursuant to this Section 2.04. Notwithstanding the foregoing, Developer will have the right, at its sole cost, to challenge in a court of competent jurisdiction, the state or federal law or regulation preventing compliance with the terms of this Development Agreement and, if such challenge is successful, this Development Agreement shall remain unmodified and in full force and effect.

Section 2.05  Timing of Construction and Completion. Notwithstanding section 18.18.050(e) of the Town’s Municipal Code, the Parties acknowledge and agree that Developer cannot at this time predict when or the rate at which the Restoration Hardware Project will be constructed, and that there is no requirement that Developer initiate or complete construction of the Parking Area Project within any particular period of time during the Term of this Development Agreement, except that Developer shall complete the Parking Area Project prior to the completion of the Restoration Hardware Project.

Section 2.06  Subject Property Modifications. In the event that the Town approves a lot line adjustment or parcel map that affects the Subject Property, this Development Agreement automatically shall encumber any property added to the Subject Property and shall no longer encumber any property removed from the Subject Property, and the Parties shall promptly
amend this Development Agreement and any exhibits hereto to the extent necessary to reflect such changes to the Subject Property.

Article III. NON-EXCLUSIVE PARKING EASEMENT AGREEMENT.

Not later than the commencement of construction of the Parking Area Project and the date that the first Annual Payment (as defined in Section 6.01) is due pursuant to Section 6.01, whichever is later, the Parties shall execute the Non-Exclusive Parking Easement Agreement attached hereto as Exhibit F and incorporated herein by reference (the "Easement Agreement"), pursuant to which the Town grants to Developer a non-exclusive easement over the Parking Area for (a) constructing, maintaining, and operating thereon a parking lot that may be used by patrons and employees of The Village and invitees and licensees of Developer for parking and that may be used by Developer toward meeting the Town’s parking requirements for the Developer Parcel and such other portions of The Village as Developer may hereafter designate in written notice to the Town, and (b) construction staging for the Restoration Hardware Project. The Town Clerk shall cause the Easement Agreement to be recorded in the Official Records of Marin County within 10 days of its execution by both Parties. Recordation of the Easement Agreement shall terminate automatically the use restriction and other obligations applicable to the Parking Area that are more particularly described in Exhibit C to a certain Agreement to Pay $100,000 for Extension of Right to Purchase Habitat Site, entered into on December 18, 1995, by and between the Town and JMB/CM Village Associates.

Article IV. PARKING AREA OBLIGATIONS.

Section 4.01 Parking Area Project. Developer shall be responsible for development and construction of the Parking Area Project at its own expense, including any permit fees, which shall consist of the following improvements, each consistent with Applicable Law and as configured in the site plan, grading plan, stormwater control plan, and landscape plan that are attached hereto as Exhibit E and incorporated herein by reference:

(a) Replace the current gravel surface with pavement and stripe the pavement to accommodate up to 455 parking spaces.

(b) Install landscaping, using rain garden bioretention areas where feasible.

(c) Extend utilities from The Village to the Parking Area.

(d) Install environmentally sensitive lighting, using energy-efficient LED lighting.

(e) Upgrade drainage to meet current water quality standards, using low-impact development elements.

(f) Improve the biological preservation area between areas of the Parking Area that will be paved and San Francisco Bay, to the extent required by any of the mitigation measures in the EIR or project conditions of approval.

Section 4.02 Operation and Maintenance. During the Term of this Development Agreement, except during Community Events (as defined in Section 5.01) and as provided in Section 5.04, Developer shall operate and maintain the Parking Area in good order, condition, and repair, and in a manner consistent with the operation and maintenance of the parking lot at...
The Village. Notwithstanding the foregoing, the Town may perform emergency maintenance or emergency nuisance abatement on the Parking Area without prior written notice to Developer if giving prior written notice to Developer is not practicable under the circumstances, in which event the Town shall give such notice to Developer as shall be practicable under the circumstances. Developer shall reimburse the Town for the actual out-of-pocket costs incurred by the Town in performing such emergency maintenance or emergency nuisance abatement. Such reimbursement shall be paid within 30 days of Developer’s receipt of the Town’s request for reimbursement, which request shall be accompanied by reasonable supporting documentation of the costs incurred by the Town.

Section 4.03 Utilities. During the Term of this Development Agreement, except as provided in Section 5.04(b), Developer shall be responsible for the costs of providing utilities to the Parking Area.

Section 4.04 Insurance. During the Term of this Development Agreement, Developer shall obtain the following insurance policies in connection with construction, maintenance, and use of the Parking Area, naming the Town and its officials, officers, agents, employees, and volunteers as additional insureds on the policies listed in paragraphs (b), (c), and (d), or, at Developer’s option, Developer may pay the Town for the cost of obtaining any or all such insurance policies:

(a) A workers’ compensation insurance policy as required by law in an amount of at least $1,000,000;

(b) A general aggregate liability insurance policy in an amount of at least $1,000,000 per occurrence and $2,000,000 aggregate;

(c) A commercial automobile liability insurance policy in an amount of least $1,000,000 combined single limit per accident; and

(d) A property insurance policy in an amount of at least the replacement cost for all Parking Area improvements or all risk insurance on the Parking Area.

Developer also shall include in its construction contracts and contracts with manufacturers or suppliers, in connection with construction on the Parking Area, $2,000,000 products and completed operations aggregate limit policies.

Section 4.05 Taxes. Developer shall be responsible for and shall pay any taxes that are assessed, due, and payable on the Parking Area by any government agency as a result of Developer’s construction or use of the Parking Area pursuant to the Easement Agreement from and after the execution of the Easement Agreement and continuing thereafter during the Term of this Development Agreement. Developer shall indemnify and hold harmless the Town for any such taxes. The obligations of this Section 4.05 shall survive termination or expiration of this Development Agreement with respect to any such taxes that are allocable to the period prior to such termination or expiration.

Article V. PARKING AREA COMMUNITY EVENTS.

Section 5.01 Right to Use Parking Area for Community Events. Subject to the limitations in this Article V and the Easement Agreement, the Town shall have the right to use all or a portion of the Parking Area for up to 12 days between January 10 and October 31 of each
year for noncommercial public community events and, with Developer's consent, commercial public community events (each a "Community Event") that are not reasonably expected to cause more wear and tear of the Parking Area than would occur from its ordinary use as a parking lot. The sponsor of a Community Event (each a "Community Event Sponsor") may be the Town or a third party.

**Section 5.02 Promotional Event and Anniversary Sale Event Notices.** On or before February 1 of each year, Developer shall deliver to the Town a written notice of the known dates of promotional events, including, without limitation, department store sales or other significant sales events (each a "Promotional Event") to be conducted at The Village during the succeeding year. Developer also may deliver to the Town a written notice of Nordstrom’s annual anniversary sale event typically held in July and/or August (each an "Anniversary Sale Event") at least 90 days prior to such Anniversary Sale Event.

**Section 5.03 Community Event Notice.** The Town shall give Developer at least 90 days' prior notice of any proposed Community Event that will limit or preclude public parking on the Parking Area, which notice shall include the date(s) and a description of each proposed Community Event ("Community Event Notice"); provided, however, that such Community Events (a) shall not be held on consecutive weekends, (b) shall not last more than two consecutive days, and (c) shall not coincide with Promotional Events or Anniversary Sale Events. Following receipt of a Community Event Notice, Developer shall have 15 days to approve or disapprove the Community Event Notice, which approval shall not be unreasonably withheld, and may take into consideration the possibility of an Anniversary Sale Event, even if notice of an Anniversary Sale Event has not yet been given. Developer's consent for a Community Event may be reasonably withheld if the Community Event Sponsor would typically or historically pay the Town for use of the Parking Area for the Community Event and the Town has not required the Community Event Sponsor to pay an equivalent amount for use of the Parking Area for the Community Event. In the event that Developer disapproves the Community Event Notice, Developer shall explain the reasons for its disapproval, and the Parties shall thereafter cooperate in good faith in an effort to agree upon a mutually acceptable alternative date for the Community Event, provided such Community Event is otherwise permitted under the terms of this Development Agreement and the Easement Agreement. In the event that Developer neither approves nor disapproves the Community Event Notice within the 15-day period described in this Section 5.03, the Community Event Notice shall be deemed approved, provided such Community Event is otherwise permitted under the terms of this Development Agreement and the Easement Agreement.

**Section 5.04 Obligations of Community Event Sponsors.** The Town shall require each Community Event Sponsor (whether a third party or the Town) to:

(a) Perform all maintenance of the Parking Area during the Community Event, and, upon the conclusion of the Community Event, remove all trash and debris from the Parking Area and restore the Parking Area to substantially the same condition as it was prior to the Community Event;

(b) Provide its own generator(s) for all electricity needed for the Community Event, except for lighting that is provided by Developer as part of its normal operation of the Parking Area, and except for Community Events sponsored by the Town;

(c) At least 15 days prior to the Community Event, deliver to Developer an agreement executed by the Community Event Sponsor in form and content reasonably...
satisfactory to Developer whereby the Community Event Sponsor agrees to indemnify, defend, and hold harmless Developer and its affiliates from and against all claims, causes of action, proceedings, losses, damages, liability, cost, and expense (including, without limit, any fines, penalties, judgments, litigation costs, and attorneys’ fees) for actual loss or damage to property and for injuries to or death of any person arising out of the Community Event; and

(d) Obtain commercially reasonable property and liability insurance to cover the Community Event, naming both the Town and Developer as insureds, and deliver a certificate of such insurance to Developer at least 15 days prior to the Community Event.

Section 5.05 Community Event Clean-Up. In the event that a Community Event Sponsor does not perform its obligations under Section 5.04(a), the Town shall reimburse Developer for the actual costs incurred by Developer in performing such obligations. Such reimbursement shall be paid within 30 days of the Town’s receipt of Developer’s request for reimbursement, which request shall be accompanied by reasonable supporting documentation of the costs incurred by Developer.

Section 5.06 Community Event Revenue. In the event that the Town receives any revenue from a third-party sponsor of a Community Event in excess of the Town’s actual out-of-pocket expenses related to the Community Event, the Town shall pay such revenue to Developer within 30 days of the Community Event.

Section 5.07 Developer’s Right to Hold Special Events on Parking Area. In addition to Community Events authorized pursuant to this Article V, Developer shall have the right to hold occasional special events on the Parking Area in accordance with the Town’s regulations governing special events.

Article VI. ANNUAL PAYMENTS.

Section 6.01 Annual Payment to Town. In consideration of the vested rights and associated benefits conferred upon Developer by this Development Agreement, Developer shall pay to the Town an “Annual Payment” each calendar year to be used by the Town in its sole discretion for any purpose it deems appropriate. The Annual Payment shall be $320,000. The first Annual Payment shall be due on the first day of the first calendar month that is at least 60 days after the Effective Date, and subsequent Annual Payments shall be due annually thereafter on such month and day; provided, however, that if a third party files a lawsuit to challenge this Development Agreement, the Town’s certification of the EIR, or any of the Approvals (a “Third-Party Lawsuit”), Developer’s obligation to make such Annual Payments shall be suspended until (a) a court issues a final judgment in such Third-Party Lawsuit and all appeal periods following such judgment have expired or (b) such Third-Party Lawsuit is dismissed.

Section 6.02 Termination of Annual Assessments. After Developer has made the first Annual Payment pursuant to Section 6.01, any annual assessments that accrue after Developer makes the first Annual Payment and that are received by the Town from any of the owners of The Village for maintenance of the Parking Area shall be credited against the Annual Payment next due under Section 6.01. In addition, after Developer has made the first Annual Payment pursuant to Section 6.01, the Town shall work expeditiously to terminate permanently such annual assessments for maintenance of the Parking Area no later than one year after Developer has made the first Annual Payment, at no cost to Developer. Developer shall cooperate
reasonably with the Town to terminate such annual assessments for maintenance of the Parking Area.

Article VII. LICENSE TO USE PARKING AREA.

At Developer’s request, the Town shall grant a license to Developer to commence construction of the Parking Area Improvements and to use the portion of the Parking Area depicted in Exhibit G, which is attached hereto and incorporated herein by reference, for construction staging purposes in connection with the Restoration Hardware Project prior to execution of the Easement Agreement as provided in Article III, for a period not to exceed 120 days. As a condition to such license, Developer shall pay to Town $25,000, which shall be credited toward the first Annual Payment due pursuant to Section 6.01. In the event that this Development Agreement is terminated or is declared invalid by a court of competent jurisdiction before Developer makes the first Annual Payment pursuant to Section 6.01, the Town shall return such $25,000 payment to Developer. The form of the agreement granting a license pursuant to this Article VII is attached hereto as Exhibit H and incorporated herein by reference.

Article VIII. SALE AND ENCUMBRANCE OF PARKING AREA.

The Town may not sell, convey, transfer, lease, hypothecate, or otherwise encumber all or any part of the Parking Area during the Term of this Development Agreement, nor grant any other party the right to use the Parking Area or to otherwise operate a parking or shuttle program thereon (except for Community Events permitted under the terms of this Development Agreement and the Easement Agreement), without the prior written consent of Developer, which consent may be granted or denied in Developer’s sole and absolute discretion. Notwithstanding the foregoing, the Town may convey, transfer, or lease the entire Parking Area, or the utilities within the Parking Area, to another government agency for purposes of protecting public health and safety, provided that (a) such government agency agrees in writing to be bound by the terms of the Easement Agreement, (b) such conveyance, transfer, or lease will not affect Developer’s rights or obligations under the Easement Agreement or this Development Agreement, and (c) Developer has granted prior written consent for such conveyance, transfer, or lease, which consent shall not be unreasonably withheld.

Article IX. AMENDMENTS.

This Development Agreement may be amended from time to time, in whole or in part, only by mutual written consent of the Parties, in accordance with the provisions of Government Code sections 65867, 65867.5, and 65868. Following any amendment of this Development Agreement, the amended Development Agreement shall be recorded in accordance with Government Code section 65868.5.

Article X. DEFAULT, LEGAL ACTION, AND ATTORNEYS’ FEES.

Section 10.01 Default. Any failure by either Party to perform any term or provision of this Development Agreement, which failure continues uncured for a period of 90 days following written notice of such failure from the non-defaulting Party ("Notice of Default"), unless such period is extended by written mutual consent, shall constitute a default under this Development Agreement. A Notice of Default shall specify the nature of the alleged failure and, where appropriate, the manner in which said failure may be cured. If the nature of the alleged failure is such that it cannot reasonably be cured within such 90-day period, then the cure period shall be extended for such additional time as shall be reasonably required to effectuate such cure,
provided that within that 90-day period, the defaulting Party shall begin acting to cure the default and shall thereafter continue acting diligently to complete the cure.

Section 10.02 Enforced Delay: Extension of Time of Performance. Neither Party shall be deemed to be in default of its obligations under this Development Agreement if a delay or default is due to an act of God, natural disaster, accident, breakage or failure of equipment, Third-Party Lawsuit or other litigation, failure of a government agency to issue a necessary permit or approval to Developer despite Developer’s best efforts to secure such permit or approval, strikes, lockouts or other labor disturbances or disputes of any character, interruption of services by suppliers thereof, unavailability of materials or labor, rationing or restrictions on the use of utilities or public transportation whether due to energy shortages or other causes, war, civil disturbance, riot, or any other occurrence that is beyond the reasonable control of that Party (collectively, "Enforced Delay"). Performance by a Party of its obligations under this Development Agreement shall be excused during, and extended for a period of time equal to, any period (on a day-for-day basis) (a) for which the cause of such Enforced Delay is in effect or (b) in which a failure by the other Party to perform any term or provision of this Development Agreement remains uncured.

Section 10.03 Recovery of Town Costs for Operation, Maintenance, and Utilities. In the event that Developer has failed to cure or begin acting to cure a default under Section 4.02 or Section 4.03 within the time period provided in Section 10.01, the Town may, at its sole discretion, upon 10 days’ written notice to Developer, elect to perform Developer’s obligations under Section 4.02 or Section 4.03 of which Developer remains in default, in which event Developer shall reimburse the Town for the actual out-of-pocket costs incurred by the Town to effect such cure. Such reimbursement shall be paid within 30 days of Developer’s receipt of the Town’s request for reimbursement, which request shall be accompanied by reasonable supporting documentation of the costs incurred by the Town.

Section 10.04 Legal Action. Either Party may, in addition to any other rights or remedies, institute legal action to cure, correct, or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation hereof, enforce by specific performance the obligations and rights of the Parties, or obtain any other remedy consistent with this Development Agreement. With the exception of claims to enforce any express monetary obligation under this Development Agreement and claims to enforce Developer’s rights to use parking spaces at the Parking Area or to count parking spaces at the Parking Area toward meeting the Town’s parking requirements, the Parties hereby waive any and all claims for money damages as a remedy.

Section 10.05 Attorneys’ Fees. In any legal action or other proceeding brought by one Party against the other Party to enforce or interpret a provision of this Development Agreement, the prevailing Party shall be entitled to reasonable attorneys’ fees and any other costs incurred in that action or proceeding in addition to any other relief to which it is entitled. The prevailing Party for purposes of this Development Agreement shall be deemed to be that Party which obtains substantially the result sought, whether by settlement, dismissal, or judgment.

Article XI. PERIODIC REVIEW AND TERMINATION.

Section 11.01 Periodic Review. No later than 12 months after the Effective Date, and no later than every 12 months thereafter, Developer and the Town Director of Planning and Building, or his or her designee, shall meet and review this Development Agreement annually to
ascertain the good faith compliance by Developer with its terms pursuant to the Development Agreement Statute.

Section 11.02 Termination by Town. If the Town elects to consider terminating this Development Agreement due to a material default by Developer that remains uncured after expiration of the cure period provided in Section 10.01, then the Town shall give a notice of intent to terminate this Development Agreement to Developer, and the matter shall be scheduled for consideration and review by the Town Council in the manner set forth in the Development Agreement Statute and Town Resolution No. 24/2017. If the Town Council finds and determines, on the basis of substantial evidence, that a material default has occurred and remains uncured after expiration of the cure period provided in Section 10.01, and the Town Council elects to terminate this Development Agreement, the Town shall give written notice of termination of this Development Agreement to Developer, whereupon this Development Agreement shall be terminated thereby provided that such default remains uncured prior thereto; provided further, however, that Developer reserves any and all rights it may have to challenge in court the Town’s termination of this Development Agreement and the basis therefor.

Section 11.03 Termination by Developer. In the event Developer no longer needs parking spaces at the Parking Area to satisfy the Town’s parking requirements for the Developer Parcel (or such other portions of The Village that Developer designates pursuant to Section 2.01), Developer may elect to terminate this Development Agreement upon 6 months’ written notice to the Town. In addition, in the event of a material default by the Town, Developer may terminate this Development Agreement by giving written notice to the Town, and this Development Agreement shall be terminated thereby.

Article XII. INDEMNITY.

Section 12.01 Developer’s Indemnification Obligation. Developer shall indemnify, defend (with counsel reasonably acceptable to the Town), and hold harmless the Town, Town Council members, Town Planning Commission members, and any of the foregoing’s officers, employees, and agents from and against all claims, causes of action, proceedings, losses, damages, liability, cost, and expense (including, without limit, any fines, penalties, judgments, litigation costs, attorneys’ fees, and consulting, engineering, and construction costs) for actual loss of or damage to property and for injuries to or death of any person (including, but not limited to, the property and employees of the Parties) to the extent caused by, in whole or in part, any actions or inactions, negligent or otherwise, by Developer or its officers, employees, agents, or contractors in connection with the construction, improvement, operation, or maintenance of the Parking Area during the Term of this Development Agreement (“Developer’s Indemnified Claims”); provided that Developer shall have no indemnification or other obligation herein to the extent the Developer’s Indemnified Claims arise out of or result from (a) any hazardous substance or environmental contamination existing in, on, under, or about the Parking Area prior to the Effective Date, (b) the negligence or willful misconduct of the Town, Town Council members, Town Planning Commission members, or any of the foregoing’s officers, employees, agents, or contractors, or (c) a Community Event.

Section 12.02 Town’s Indemnification Obligation. The Town shall indemnify, defend (with counsel reasonably acceptable to Developer), and hold harmless Developer and its members, managers, officers, employees, and agents from and against all claims, causes of action, proceedings, losses, damages, liability, cost, and expense (including, without limit, any fines, penalties, judgments, litigation costs, attorneys’ fees, and consulting, engineering, and
construction costs) for actual loss of or damage to property and for injuries to or death of any person (including, but not limited to, the property and employees of the Parties) to the extent they arise out of or result from (a) any event or occurrence prior to the Effective Date, or (b) any actions or inactions of the Town’s officers, employees, agents, or contractors while on or about the Parking Area.

Section 12.03 Survival of Obligations. The provisions of Section 12.01 and Section 12.02 shall survive the termination or expiration of this Development Agreement to the extent such indemnification obligations arise during the Term of this Development Agreement.

Article XIII. ASSIGNMENT.

Section 13.01 Right to Assign to Affiliate or Purchaser. Developer shall have the right to assign this Development Agreement at its sole discretion to (a) any subsidiary or other affiliate of The Macerich Company, a Maryland corporation, or (b) any party that acquires all or substantially all of the portions of the Developer Parcel that are owned by Developer at the time of assignment. Developer shall provide the Town written notice of any assignment of this Development Agreement pursuant to this Section 13.01, which notice shall include contact information for the assignee.

Section 13.02 Continuing Obligations. Beginning on the date of the assignment of this Development Agreement by Developer to another person or entity, the assignee shall be required to satisfy all of Developer’s obligations thereafter arising under this Development Agreement, and Developer shall be released from all obligations thereafter arising under this Development Agreement.

Section 13.03 Binding on Successors and Assignees. Except as otherwise provided in this Development Agreement, this Development Agreement shall run with the land, as respects both benefits and burdens created herein, and shall be binding upon and inure to the benefit of all assignees acquiring any right, title, or interest in the Developer Parcel.

Article XIV. MORTGAGEE PROTECTIONS.

Section 14.01 Encumbrances on Subject Property. Notwithstanding anything to the contrary in this Development Agreement, this Development Agreement shall not prevent or limit Developer, in its sole discretion, from encumbering, in any manner, the Subject Property or any portion thereof or any improvement thereon by any mortgage, deed of trust, assignment of rents, or other security device securing financing with respect to the Subject Property (each a “Mortgage”). Each mortgagee of a mortgage or beneficiary of a deed of trust on the Subject Property (each a “Mortgagée”) shall be entitled to the rights and privileges set forth in this Article XIV. No foreclosure (or deed or other transfer in lieu of foreclosure) under any Mortgage shall require the consent of the Town, or constitute a breach or default, under this Development Agreement.

Section 14.02 Mortgage Not Rendered Invalid. Neither entering into this Development Agreement or the Easement Agreement, nor a breach of this Development Agreement or the Easement Agreement, nor the occurrence of any default under this Development Agreement or the Easement Agreement, shall defeat, render invalid, diminish, or impair the lien of any Mortgage made in good faith and for value. This Development Agreement and the Easement Agreement shall be superior and senior to the lien of any Mortgage made after the date hereof. Any acquisition or acceptance of title or any right or interest in or with respect to the Subject
Property or any portion thereof by a Mortgagee or its successor in interest (whether pursuant to foreclosure, trustee's sale, deed in lieu of foreclosure, lease termination, or otherwise) shall be subject to all of the terms and conditions of this Development Agreement and the Easement Agreement.

Section 14.03 Right of Mortgagee to Cure Default. Developer or Mortgagee may at any time during the Term provide the Town notice of the existence of a Mortgage, which notice shall include the Mortgagee's name and address, and the Town thereafter shall provide the Mortgagee(s) a copy of any Notice of Default in accordance with Section 10.01 and Article XV. In the event that Developer has failed to cure or begin acting to cure a default within the time period provided in Section 10.01, the Town shall give the Mortgagee(s) written notice that Developer has failed to cure or begin acting to cure such default, and the Mortgagee(s) shall have 30 days after receiving such notice to cure such default or, if such default cannot reasonably be cured within 30 days, to begin acting to cure such default and to continue acting diligently to complete such cure within a reasonable time thereafter. The Town shall accept performance by any Mortgagee of any covenant, condition, or agreement on Developer's part to be performed hereunder with the same force and effect as though performed by Developer.

As of the Effective Date, the name and address of the existing Mortgagee is as follows (and the Town agrees this shall satisfy the notice request described in this Section 14.03 and that it shall deliver copies of any Notice of Default to such Mortgagee in accordance herein):

New York Life Insurance Company
c/o New York Life Real Estate Investors
51 Madison Avenue
New York, NY 10010-1603
ATTN: Senior Director - Loan Administrative Division, Loan No. 374-0752
and Managing Director - Real Estate Section

Section 14.04 Mortgagee Not Obligated Under This Development Agreement. No Mortgagee shall have any obligation or duty under this Development Agreement to perform the obligations of Developer or the affirmative covenants of Developer hereunder or to guarantee such performance unless and until such time as a Mortgagee takes possession or becomes the owner of the property covered by its Mortgage. If the Mortgagee takes possession or becomes the owner of any portion of the Subject Property, then from and after that date, the Mortgagee shall be obligated to comply with all provisions of this Development Agreement; provided that the Mortgagee shall not be responsible to the Town for any unpaid monetary obligations of Developer that accrued prior to the date the Mortgagee became the fee owner of the Subject Property. Nothing in this Section 14.04 is intended, nor should be construed or applied, to limit or restrict in any way the Town's authority to terminate this Development Agreement pursuant to Section 11.02, as against any Mortgagee as well as against Developer if any curable default, which occurred while either Developer or the Mortgagee is the owner of the Subject Property, is not completely cured within the time period provided for in Section 14.03.

Article XV. NOTICES.

All notices or other communication required or otherwise provided herein between the Parties shall be in writing, and shall be given by certified mail (return receipt requested) or by a reputable courier promising overnight delivery to the respective addresses specified by each Party. A notice shall be deemed effective on the next business day following the date of deposit
for overnight delivery, and three business days following the date of mailing if given by certified mail (return receipt requested).

**Notices to the Town:**

Town of Corte Madera  
Planning Director  
300 Tamalpais Drive  
Corte Madera, CA 94925

With copies to:

Corte Madera Town Attorney  
300 Tamalpais Drive  
Corte Madera, CA 94925

**Notices to Developer:**

Corte Madera Village, LLC  
ATTN: Vice President, Development  
401 Wilshire Boulevard  
Suite 700  
Santa Monica, CA 90401-1452

With copies to:

The Macerich Company  
ATTN: General Counsel  
401 Wilshire Boulevard  
Suite 700  
Santa Monica, CA 90401-1452

and

The Village at Corte Madera  
Attn: Property Manager  
1618 Redwood Highway  
Corte Madera, CA 94925-1224

and

Cecily T. Barclay  
Perkins Cole LLP  
505 Howard Street  
Suite 1000  
San Francisco, CA 94105

Either Party may at any time, by giving 10 days' written notice to the other Party, designate any other address or addresses in substitution of the address to which such notice or communication shall be given.
Article XVI. MISCELLANEOUS.

Section 16.01 Notice of Completion. Within 30 days following any written request that Developer may make from time to time, the Town shall execute and deliver to Developer a written “Notice of Completion” in recordable form, duly executed and acknowledged by the Town, which certifies the completion of certain or all improvements Developer is obligated to make under this Development Agreement or to explain in writing why such notice cannot be provided. The failure to deliver such a statement or explanation within such time shall constitute a conclusive presumption against the Town that all improvements that are the subject of Developer’s request have been completed. Developer may record the Notice of Completion.

Section 16.02 Notice of Compliance. Within 30 days following any written request that Developer or a Mortgagee may make from time to time, the Town shall execute and deliver to Developer and such Mortgagee a written “Notice of Compliance” in recordable form, duly executed and acknowledged by the Town, which certifies:

(a) The amount of Annual Payment or other amounts due and payable by Developer to the Town under this Development Agreement;

(b) This Development Agreement is unmodified and in full force and effect, or, if there have been modifications hereto, that this Development Agreement is in full force and effect as modified and stating the date and nature of such modifications;

(c) There are no known current uncured defaults under this Development Agreement or, in the alternative, specifying the dates and nature of any such default and any pertinent facts with respect thereto; and

(d) Any other reasonable information requested by Developer or such Mortgagee.

The failure to deliver such a statement, or to explain in writing why such notice cannot be provided, within such time shall constitute a conclusive presumption against the Town that this Development Agreement is in full force and effect without modification (except as may be asserted by Developer) and that there are no uncured defaults in the performance of Developer. Developer may record the Notice of Compliance.

Section 16.03 No Third Party Beneficiary Rights. With the exception of those rights expressly conferred upon a Mortgagee under this Development Agreement, this Development Agreement is not intended nor shall it be construed to create any third party beneficiary rights in any person or entity that is not expressly made a Party to this Development Agreement.

Section 16.04 No Agency, Joint Venture, or Partnership. The Parking Area Project is a private undertaking. Neither Party is acting as the agent of the other in any respect hereunder. Each Party is an independent contracting entity with respect to the terms and provisions contained in this Development Agreement. None of the terms or provisions of this Development Agreement shall be deemed to create a partnership, joint venture, or joint enterprise between or among the Parties.

Section 16.05 Prevailing Wage Laws. In the event that Developer constructs any improvements on the Parking Area that require compliance with California prevailing wage laws ("Prevailing Wage Laws"), the Developer shall be solely responsible for ensuring that
Prevailing Wage Laws are, and have been, complied with in connection with the construction of such improvements, and the Town has no responsibility to ensure compliance with Prevailing Wage Laws. Developer shall bear all responsibility and liability in the event that a court of competent jurisdiction determines that construction of any such improvements by Developer requires compliance with Prevailing Wage Laws in construction of such improvements, and Developer shall indemnify and hold harmless the Town as provided in Section 12.01.

Section 16.06 Governing Law, Interpretation of Development Agreement. This Development Agreement shall be governed by and interpreted in accordance with the laws of the State of California applicable to contracts entered into and to be performed in California. Any action to enforce or interpret this Development Agreement shall be brought in a court of competent jurisdiction in Marin County or, in the case of any federal claims, in federal court for the Northern District of California.

Section 16.07 Covenants Running with the Land. All of the terms and provisions contained in this Development Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective heirs, successors, and assigns. All of the terms and provisions contained in this Development Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to California law including, without limitation, California Civil Code section 1468.

Section 16.08 Further Acts. Each Party shall execute and deliver any and all additional documents and instruments, and perform such further acts, as may be reasonably necessary or proper to achieve the purposes of this Development Agreement.

Section 16.09 Counterparts. This Development Agreement and any and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.

Section 16.10 Execution and Recordation of Development Agreement. Not later than 10 days after the Effective Date, the Town Clerk shall cause this Development Agreement to be recorded in the Official Records of Marin County.

Section 16.11 Cooperation in the Event of Legal Challenge. In the event of any legal or equitable action or proceeding instituted by a third party challenging the validity of any provision of this Development Agreement or the procedures leading to its adoption, the Parties shall cooperate in defending said action or proceeding. Developer shall be liable to the Town to bear its own litigation expenses of defense as a real party in interest in any such action, and to reimburse the Town for all court costs and reasonable attorneys’ fees expended by the Town in defense of any such action or other proceeding or payable to any prevailing plaintiff/petitioner.

Section 16.12 Exhibits. The following exhibits are attached to this Development Agreement and incorporated herein as though set forth in full for all purposes:

Exhibit A  Map Depicting The Village
Exhibit B  Legal Description and Plat of the Developer Parcel
Exhibit C  Legal Description and Plat of the Parking Area
Exhibit D  Site Plan, Grading Plan, Stormwater Control Plan, and Landscape Plan of the Restoration Hardware Project

Exhibit E  Site Plan, Grading Plan, Stormwater Control Plan, and Landscape Plan of the Parking Area Project

Exhibit F  Non-Exclusive Parking Easement Agreement

Exhibit G  Map Depicting the Portion of the Parking Area to Be Used for Construction Staging

Exhibit H  Form of License Agreement

In witness whereof, the Parties have entered into this Development Agreement as of the Effective Date.

[Remainder of page left blank – signatures on next page.]
CORTE MADERA VILLAGE, LLC,
a Delaware limited liability company

By: MACERICH CM VILLAGE LIMITED PARTNERSHIP,
a California limited partnership,
its managing member

By: MACERICH CM VILLAGE GP CORP.,
a Delaware corporation,
its general partner

By: ________________________________
Name: ________________________________
Title: ________________________________
Date: ________________________________

APPROVED AS TO FORM:
Perkins Coie LLP on behalf of Corte Madera Village, LLC

By: ________________________________
Cecily Barclay, Partner

TOWN OF CORTE MADERA,
a municipal corporation

By: ________________________________
Name: ________________________________
Town Manager
Date: ________________________________

APPROVED AS TO FORM:
Town of Corte Madera,
a Municipal Corporation

By: ________________________________
Name: ________________________________
Town Attorney
The Village at Corte Madera
Land Description

Real property situated in the State of California, County of Marin, and the Town of Corte Madera described as follows:

Being a portion of Parcel 3 as said parcel is shown on that certain Parcel Map entitled "Parcel Map of The Village" filed for record in Book 22 of Parcel Maps at Page 90 on October 4, 1985 in the Official Records of Marin County, and being more particularly described as follows:

BEGINNING at a point on the westerly line of Redwood Highway (a public right-of-way varying in width), distant thereon South 5°41'38" East a distance of 21.08 feet the most northeasterly corner of said Parcel 3, and proceeding coincident with said westerly line, South 5°41'38" East a distance of 260.80 feet to the beginning of a tangent curve to the left; thence coincident with said curve having a radius of 539.50 feet, an included angle of 4°00'00" and an arc length of 37.66 feet; thence South 9°41'38" East a distance of 140.27 feet to the beginning of a tangent curve to the right; thence coincident with last said curve having a radius of 460.50 feet, an included angle of 4°00'00" and an arc length of 32.15 feet; thence South 5°41'38" East a distance of 86.93 feet; thence South 4°11'38" East a distance of 39.05 feet; thence South 80°40'00" West a distance of 302.99 feet to the beginning of a tangent curve to the left; thence coincident with last said curve having a radius of 75.00 feet, an included angle of 45°00'00" and an arc length of 58.90 feet; thence South 35°40'00" West a distance of 14.23 feet; thence South 9°20'00" East a distance of 99.97 feet; thence South 80°40'00" West a distance of 65.72 feet; thence North 54°20'00" West a distance of 66.47 feet; thence South 80°40'00" West a distance of 64.99 feet; thence South 35°40'00" West a distance of 193.75 feet; thence South 80°40'00" West a distance of 139.01 feet; thence South 54°20'00" East a distance of 67.29 feet; thence South 35°40'00" West a distance of 68.59 feet to a point on the westerly line of Parcel 2 as last said Parcel 2 is described in the Relinquishment of State Highway filed for record in Book 1512 of Official Records at Page 437 on November 3, 1961 in said Official Records of Marin County, and the beginning of a non-tangent curve to the right, the center of which bears North 44°54'21" East; thence coincident with last said westerly line and last said curve having a radius of 367.00 feet, an included angle of 35°25'09" and an arc length of 226.87 feet; thence North 9°40'30" West a distance of 251.69 feet; thence North 8°50'10" West a distance of 302.78 feet; thence North 7°37'00" West a distance of 337.56 feet; thence North 6°58'20" West a distance of 34.88 feet; thence departing last said westerly line, North 83°01'40" East a distance of 24.53 feet; thence North 5°02'28" West a distance of 255.00 feet; thence North 84°57'32" East a distance of 17.00 feet; thence South 5°02'28" East a distance of 255.59 feet to the beginning of a tangent curve to the right; thence coincident with last said curve, having a radius of 10.00 feet, an included angle of 40°34'53" and an arc length of 7.08 feet to the beginning of a reverse curve; thence coincident with last said curve, having a radius of 53.00 feet, an included angle of 44°47'33" and an arc length of 41.43 feet; thence South 9°15'08" a distance of 8.23 feet; thence North 82°22'59" East a distance of 49.53 feet; thence North 8°20'00" West a distance of 19.67 feet to the beginning of a tangent curve to the right; thence coincident with last said curve having a radius of 21.00 feet, an included angle of 59°55'32" and an arc length of 21.96 feet; thence North 51°35'32" East a distance of 56.84 feet; thence North 85°00'00" East a distance of 16.01 feet; thence North 5°00'00" West a distance of 10.56 feet; thence North 51°35'32" East a distance of 33.04 feet; thence South 83°25'01" East a distance of 53.64 feet; thence South 6°35'32" West a distance of 4.21 feet; thence South 83°25'01" East a distance of 13.50 feet; South 32°40'46" East a

EXHIBIT B TO DEVELOPMENT AGREEMENT
distance of 3.54 feet; thence South 83°25'01" East a distance of 31.83 feet; thence South 6°36'43" West a distance of 15.33 feet; thence South 83°23'17" East a distance of 29.43 feet; thence North 6°32'32" East a distance of 22.30 feet; thence South 83°25'01" East a distance of 211.89 feet; thence South 9°20'00" East 10.28 feet to the beginning of a tangent curve to the right; thence coincident with last said curve, having a radius of 60.00 feet, an included angle of 27°31'16" and an arc length of 28.82 to the northerly-most corner of Parcel One as said parcel is described in Exhibit A of the Grant Deed to Corte Madera Village, LLC a Delaware limited liability company, dated June 10, 2004 and recorded on August 13, 2004 as Instrument Number 2004-0071908 in said Official Records and the beginning of a non-tangent reverse curve, the center of which bears North 62°57'58" East; thence coincident with the easterly lines of said Parcel One and last said curve having a radius of 70.67 feet, an included angle of 4°40'25" and an arc length of 5.76 feet to the beginning of a reverse curve; thence coincident with last said curve having a radius of 51.33 feet, an included angle of 67°17'06" and an arc length of 60.28 feet; thence South 35°34'39" West a distance of 92.17 feet to a point on said common line; thence, coincident with said common line, South 9°20'00" East a distance of 145.53 feet; thence North 80°40'00" East a distance of 412.13 feet; thence North 6°50'00" West a distance of 53.05 feet to the southeast corner of Parcel One as last said Parcel One is described in Exhibit A of the Grant Deed to Nordstrom, Inc., a Washington corporation, dated June 14, 2004 and recorded on August 13, 2004 as Instrument Number 2004-0071907 in said Official Records; thence, coincident with the easterly line of last said Parcel One, North 9°06'56" West a distance of 29.68 feet to the northeasterly corner of last said Parcel One; thence, coincident with the northerly line of last said Parcel One, South 80°53'04" West a distance of 74.34 feet to the northwesterly corner of last said Parcel One; thence, coincident with the westerly lines of last said Parcel One, South 9°06'56" East a distance of 11.74 feet and South 40°10'22" East a distance of 21.23 feet to said common line; thence, coincident with said common line, South 80°40'00" West a distance of 103.50 feet to the southeast corner of Parcel One as said parcel is described in Exhibit B of said Grant Deed to Nordstrom, Inc.(2004-0071907); thence, coincident with the easterly line of last said Parcel One, North 9°20'00" West a distance of 91.47 feet; thence, departing said common line North 80°40'00" East a distance of 229.23 feet to the POINT OF BEGINNING and having an area of 15.87 acres, more or less.

Bearings shown hereon are based on said Parcel Map (22 PM 90).

End of Description.

Jesse L. Fullen, PLS #8208
License Expires March 31, 2013
2420 Sand Creek Road, C-1 #287
Brentwood, CA 94513

EXHIBIT B TO DEVELOPMENT AGREEMENT
THE VILLAGE AT CORTE MADERA
LAND DESCRIPTION PLAT

PARCEL LINE PER (22 PM 90) (TYPICAL)

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<th>LINE</th>
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<td>65.72'</td>
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<td>66.47'</td>
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<td>L6</td>
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PARCEL ONE OF EXHIBIT A
INSTRUMENT No. 204-0071908
S05°41'38"E 21.08'

PARCEL 2
(22 PM 90)

PARCEL ONE OF EXHIBIT B
INSTRUMENT No. 204-0071907
N80°40'00"E 412.13'

LANDS OF
CORTE MADERA VILLAGE, LLC
691,289 SQUARE FEET± / 15.87 ACRES±

PARCEL 3
(22 PM 90)

CURVE TABLE

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PARCEL 4
(22 PM 90)

EXHIBIT B TO DEVELOPMENT AGREEMENT
NORTH PARKING LOT
LAND DESCRIPTION

Real property situated in the State of California, County of Marin, and the Town of Corte Madera described as follows:

Being a portion of Parcel 1 as said parcel is shown on that certain Parcel Map entitled “Parcel Map of The Village” filed for record in Book 22 of Parcel Maps at Page 29 on August 30, 1984 in the Official Records of Marin County, and being more particularly described as follows:

BEGINNING at a point on the southerly line of said Parcel 1, distant thereon South 84°18’22” West a distance of 118.13 feet from the southeasterly most corner of said Parcel 1, and proceeding thence North 56°42’16” East a distance of 28.29 feet; thence North 2°39’02” East a distance of 90.02 feet; thence North 5°41’38” West a distance of 327.95 feet to the beginning of a radial curve to the left; thence coincident with said curve, having a radius of 110.00 feet, an included angle of 95°56’23” and an arc length of 184.19 feet; thence South 78°21’59” West a distance of 175.25 feet; thence South 39°18’22” West a distance of 133.54 feet; thence South 37°56’17” West a distance of 257.19 feet; thence North 89°59’49” East a distance of 110.66 feet to the beginning of a tangent curve to the right; thence, coincident with last said curve, having a radius of 549.99 feet, an included angle of 49°03’32” and an arc length of 470.92 feet; thence North 84°18’22” East a distance of 24.72 feet to the POINT OF BEGINNING, and having an area of 172,022 square feet (3.95 acres), more or less.

Bearings shown hereon are based on said Parcel Map (22 PM 29).

End of Description.

Jesse L. Fullen, PLS #8208
2420 Sand Creek Road, C-1 #287
Brentwood, CA 94513

EXHIBIT C TO DEVELOPMENT AGREEMENT
NORTH PARKING LOT
LAND DESCRIPTION PLAT

NORTH LOT
172,022 FEET² (3.95 ACRES)
PORTION OF PARCEL 1
(22 M 29)

LINE TABLE

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<td>L2</td>
<td>N84°18'22&quot;E</td>
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EXHIBIT C TO DEVELOPMENT AGREEMENT
PRELIMINARY GRADING PLAN - BUILDING PAD C4

AREA OF EAST ENTRY IMPROVEMENTS

Rh
PROPOSED BUILDING
FF = 7.4

PRELIMINARY EARTHWORK VOLUMES SUMMARY

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<td>500</td>
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LEGEND

BENCHMARK
ELEVATIONS SHOWN HEREIN ARE AS PROVIDED BY TOWN OF CORTE MADERA. ELEVATION SURVEYED BY A.B. & B.M., SAN FRANCISCO. ELEVATIONS ARE SHOWN RELATIVE TO THE HIGH WATER MARK OF THE OCEAN AND MANHATTAN BAY. ELEVATIONS SHOWN ARE BENCHMARKED TO THE HIGH WATER MARK OF THE OCEAN AND MANHATTAN BAY AT POINTS 49.0 AND 48.5.
PRELIMINARY STORMWATER CONTROL PLAN - BUILDING PAD C5

SCALE 1" = 25'

FLOW-THROUGH PLANTER DETAIL
NOT TO SCALE
PRELIMINARY EARTHWORK VOLUMES SUMMARY

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<th>Total Excavation Volume</th>
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<td>Total Cut &amp; Fill Volume</td>
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<tr>
<td>Wet Export Volume</td>
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LEGEND

- DIRT CUTTING
- DIRT BACKFILL
- DIRT LIGHTLY COMPACTED
- DIRT COMPACTED
- IMPROVED EARTH
- WATER CONDUIT
- UTILITIES
- UTILITIES (EXT)

THE VILLAGE AT CORTE MADERA
Corte Madera, CA

PRELIMINARY GRADING PLAN - NORTH LOT C7

SCALE: 1" = 20'

Kimley-Horn
Keller Mitchell & Co.
Landscape Architecture

MBH

ARCHITECTURE | DESIGN
MACERICH

EXHIBIT E TO DEVELOPMENT AGREEMENT
PRELIMINARY STORMWATER CONTROL PLAN - NORTH LOT C8
CONCEPTUAL LANDSCAPE PLAN - NORTH LOT L2

REDWOOD HIGHWAY

NOTE: LANDSCAPED AREAS SHALL BE MOWED BY THE VILLAGE AT CORTE MADERA. WEED MANAGEMENT TO CONTROL AND PREVENT THE SPREAD OF HIGHLY INVASIVE AND WEEDING MEANS.
NON-EXCLUSIVE PARKING EASEMENT AGREEMENT

(Relating to the 3.95-Acre Parking Area on Redwood Highway)

This Nonexclusive Parking Easement Agreement ("Agreement") is entered into as of ________, 2018 (the "Effective Date"), by and between the TOWN OF CORTE MADERA, a California municipal corporation (the "Town"), and CORTE MADERA VILLAGE, LLC, a Delaware limited liability company ("Developer"). The Town and Developer are sometimes referred to individually herein as a "Party" and collectively as the "Parties."

RECITALS

A. Developer has a fee interest (the "Developer Parcel") in certain portions of a shopping center commonly known as The Village at Corte Madera ("The Village"), located in Corte Madera, Marin County, California. The Village is depicted in Exhibit A attached hereto and incorporated herein by reference. The Developer Parcel is depicted and more particularly described in Exhibit B attached hereto and incorporated herein by reference.

B. The Town is the fee owner of certain real property located in Corte Madera, Marin County, California, consisting of 3.95 acres, as depicted and more particularly described in Exhibit C attached hereto and incorporated herein by reference (the "Parking Area"). The Parking Area is located to the north of The Village across Redwood Highway and is currently used by the Town for public parking purposes and occasional public community events.

C. The Town and Developer entered into that certain Development Agreement, with an effective date of __________, 2018, which was approved by the Town Council by Ordinance No. __________ on __________, 2017, and which was recorded with the Official Records of Marin County on __________, 2018 (the "Development Agreement"). Pursuant to the Development Agreement, and in accordance with the Approvals defined therein, Developer and Restoration Hardware, Inc., a Delaware corporation, desire (1) to construct a new Restoration Hardware Gallery of approximately 46,000 square feet and to make associated site improvements at The Village (the "Restoration Hardware Project"), and (2) to make improvements to the Parking Area, which include paving the Parking Area and striping the pavement to accommodate up to 455 parking spaces.

D. In accordance with section 18.20.060 of the Town's Municipal Code, the Parties desire to record an indenture that designates parking spaces at the Parking Area as serving the Developer Parcel and such other portions of The Village as Developer may hereafter designate during the term of the Development Agreement.
E. Pursuant to the Development Agreement, and subject to the terms of this Agreement, the Town has agreed to grant to Developer a non-exclusive easement over the Parking Area for (i) constructing, maintaining, and operating thereon a parking lot that may be used by patrons and employees of The Village and invitees and licensees of Developer for parking and that may be used by Developer toward meeting the Town’s parking requirements for the Developer Parcel and such other portions of The Village as Developer may hereafter designate during the Term of the Development Agreement, and (ii) construction staging for the Restoration Hardware Project.

AGREEMENT

NOW, THEREFORE, in consideration of the covenants set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and approved, the Parties hereby agree as follows:

1. Parking Easement.

   a. Creation of Easement. Subject to the terms and conditions of this Agreement, the Town hereby grants to Developer a non-exclusive appurtenant easement ("Parking Easement") on, over, and across the Parking Area, as the servient tenement, for the benefit of the Developer Parcel, as the dominant tenement, for (i) constructing, maintaining, and operating thereon a parking lot that may be used by patrons and employees of The Village and invitees and licensees of Developer for parking and that may be used by Developer toward meeting the Town’s parking requirements for the Developer Parcel and such other portions of The Village as Developer may designate in written notice to the Town, and (ii) construction staging for the Restoration Hardware Project.

   b. Non-Exclusive Use. The Parking Area shall be available for use as a parking lot for the non-exclusive use by patrons and employees of The Village and invitees and licensees of Developer at no charge, in common with the general public. Notwithstanding the foregoing, and subject to the terms and conditions of the Development Agreement, the Town shall have the right to use all or a portion of the Parking Area for up to 12 days between January 10 and October 31 of each year for public Community Events (as such term is defined in the Development Agreement); provided, however, that such Community Events (1) shall not be held on consecutive weekends, (2) shall not last more than two consecutive days, and (3) shall not coincide with promotional events or anniversary sale events for The Village of which Developer gives the Town notice pursuant to Section 5.02 of the Development Agreement.

   c. Alterations. The Town may alter, improve, or add signage to the Parking Area only after receiving the written consent of Developer. Developer may alter or improve the Parking Area with the Town’s prior approval, except that Developer shall have the right to make minor alterations to improve functionality and safety without the Town’s prior approval.

2. Term. The term of the Parking Easement granted hereunder shall commence on the Effective Date and continue thereafter for the term of the Development Agreement, but in no event longer than 99 years (the "Easement Term"). The Parking Easement shall terminate automatically upon expiration or termination of the Development Agreement pursuant to Sections 1.03, 11.02, or 11.03 of the Development Agreement.

3. Amendment. This Agreement may be amended only by a written instrument signed by each Party.
4. **Developer Parcel Modifications.** In the event that the Town approves a lot line adjustment or parcel map that affects the Subject Property, the benefits and burdens of this Agreement automatically shall attach to any property added to the Developer Parcel and shall have no further application to any property removed from the Developer Parcel, and the Parties shall promptly amend this Agreement and any exhibits hereto to the extent necessary to reflect such changes to the Developer Parcel, which amendment shall be recorded in the Official Records of Marin County within 10 days of its execution by both Parties.

5. **Assignment.** Developer shall have the right to assign this Agreement to any party to whom Developer may assign the Development Agreement pursuant thereto.

6. **Sale and Encumbrance of Parking Area.** The terms and provisions of Article VIII of the Development Agreement are incorporated herein by reference and shall be of the same force and effect as if the same were fully set forth herein.

7. **Mortgagee Protections.** The terms and provisions of Article XIV of the Development Agreement are incorporated herein by reference and shall be of the same force and effect as if the same were fully set forth herein.

8. **Notices.** All notices or other communication required or otherwise provided herein between the Parties shall be in writing, and shall be given by certified mail (return receipt requested) or by a reputable courier promising overnight delivery to the respective addresses specified by each Party. A notice shall be deemed effective on the next business day following the date of deposit for overnight delivery, and three business days following the date of mailing if given by certified mail (return receipt requested).

**Notices to the Town:**

Town of Corte Madera  
Planning Director  
300 Tamalpais Drive  
Corte Madera, CA 94925

With copies to:

Corte Madera Town Attorney  
300 Tamalpais Drive  
Corte Madera, CA 94925

**Notices to Developer:**

Corte Madera Village, LLC  
ATTN: Vice President, Development  
401 Wilshire Boulevard  
Suite 700  
Santa Monica, CA 90401-1452

With copies to:
Either Party may at any time, by giving 10 days' written notice to the other Party, designate any other address or addresses in substitution of the address to which such notice or communication shall be given.


a. Entire Agreement. This Agreement and the Development Agreement contain the entire understanding and agreement of the Parties relating to the rights granted herein and therein and the obligations set forth herein and therein. Any prior, contemporaneous, or subsequent written or oral representations and modifications concerning this Agreement and the Development Agreement shall be of no force or effect.

b. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall, for all purposes, be deemed an original and all such counterparts, taken together, shall constitute one and the same instrument.

c. Recitals. The recitals above are incorporated herein by reference.

d. Binding on Successors and Assigns. Each Parcel shall be burdened by and benefited by the provisions of this Agreement, and such Parcel shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the foregoing easements, limitations, restrictions, obligations and conditions. All provisions of this Agreement shall run with the land and be binding upon all parties having or acquiring any right, title, or interest in the Developer Parcel or the Parking Area, and their respective successors and assigns.

e. Not a Public Dedication. Except as expressly provided herein, nothing herein contained shall be deemed to be a gift or dedication of the Parking Easement or any other portion of The Village or the Parking Area to the general public, or for any public purpose whatsoever, it being the intention of the Parties that this Agreement shall be limited to, and for, the purposes herein expressed.
f. **Attorneys' Fees.** In any legal action or other proceeding brought by one Party against the other Party to enforce or interpret a provision of this Agreement, the prevailing Party shall be entitled to reasonable attorneys' fees and any other costs incurred in that action or proceeding in addition to any other relief to which it is entitled. The prevailing Party for purposes of this Agreement shall be deemed to be that Party which obtains substantially the result sought, whether by settlement, dismissal, or judgment.

10. **Exhibits.** The following exhibits are attached to this Agreement and are hereby incorporated herein by this reference for all purposes as if set forth herein in full:

   - **Exhibit A**    Map Depicting The Village
   - **Exhibit B**    Legal Description and Plat of the Developer Parcel
   - **Exhibit C**    Legal Description and Plat of the Parking Area

In witness whereof, the Parties have entered into this Agreement as of the Effective Date.

[Remainder of page left blank – signatures on next page.]
Corte Madera Village, LLC,
a Delaware limited liability company

By: MACERICH CM VILLAGE LIMITED PARTNERSHIP,
a California limited partnership,
its managing member

By: MACERICH CM VILLAGE GP CORP.,
a Delaware corporation,
its general partner

By: ____________________________
Name: __________________________
Title: __________________________
Date: __________________________

APPROVED AS TO FORM:
Perkins Coie LLP on behalf of Corte Madera Village, LLC

By: ____________________________
Cecily Barclay, Partner

Town of Corte Madera,
a municipal corporation

By: ____________________________
Name: __________________________
Town Manager

Date: ____________________________

APPROVED AS TO FORM:
Town of Corte Madera,
a Municipal Corporation

By: ____________________________
Name: __________________________
Town Attorney
The Village at Corte Madera
Land Description

Real property situated in the State of California, County of Marin, and the Town of Corte Madera described as follows:

Being a portion of Parcel 3 as said parcel is shown on that certain Parcel Map entitled “Parcel Map of The Village” filed for record in Book 22 of Parcel Maps at Page 90 on October 4, 1985 in the Official Records of Marin County, and being more particularly described as follows:

BEGINNING at a point on the westerly line of Redwood Highway (a public right-of-way varying in width), distant thereon South 5°41'38" East a distance of 21.08 feet the most northeasterly corner of said Parcel 3, and proceeding coincident with said westerly line, South 5°41'38" East a distance of 260.80 feet to the beginning of a tangent curve to the left; thence coincident with said curve having a radius of 539.50 feet, an included angle of 4°00'00" and an arc length of 37.66 feet; thence South 9°41'38" East a distance of 140.27 feet to the beginning of a tangent curve to the right; thence coincident with last said curve having a radius of 460.50 feet, an included angle of 4°00'00" and an arc length of 32.15 feet; thence South 5°41'38" East a distance of 86.93 feet; thence South 4°11'38" East a distance of 39.05 feet; thence South 80°40'00" West a distance of 302.99 feet to the beginning of a tangent curve to the left; thence coincident with last said curve having a radius of 75.00 feet, an included angle of 45°00'00" and an arc length of 58.90 feet; thence South 35°40'00" West a distance of 14.23 feet; thence South 9°20'00" East a distance of 99.97 feet; thence South 80°40'00" West a distance of 65.72 feet; thence North 54°20'00" West a distance of 66.47 feet; thence South 80°40'00" West a distance of 64.99 feet; thence South 35°40'00" West a distance of 193.75 feet; thence South 80°40'00" West a distance of 139.01 feet; thence South 54°20'00" East a distance of 67.29 feet; thence South 35°40'00" West a distance of 68.59 feet to a point on the westerly line of Parcel 2 as last said Parcel 2 is described in the Relinquishment of State Highway filed for record in Book 1512 of Official Records at Page 437 on November 3, 1961 in said Official Records of Marin County, and the beginning of a non-tangent curve to the right, the center of which bears North 44°54'21" East; thence coincident with last said westerly line and last said curve having a radius of 367.00 feet, an included angle of 35°25'09" and an arc length of 226.87 feet; thence North 9°40'30" West a distance of 251.69 feet; thence North 8°50'10" West a distance of 302.78 feet; thence North 7°37'00" West a distance of 337.56 feet; thence North 6°58'20" West a distance of 34.88 feet; thence departing last said westerly line, North 83°01'40" East a distance of 24.53 feet; thence North 5°02'28" West a distance of 255.00 feet; thence North 84°57'32" East a distance of 17.00 feet; thence South 5°02'28" East a distance of 255.59 feet to the beginning of a tangent curve to the right; thence coincident with last said curve, having a radius of 10.00 feet, an included angle of 40°34'53" and an arc length of 7.08 feet to the beginning of a reverse curve; thence coincident with last said curve, having a radius of 53.00 feet, an included angle of 44°47'33" and an arc length of 41.43 feet; thence South 9°15'08" a distance of 8.23 feet; thence North 82°22'59" East a distance of 49.53 feet; thence North 8°20'00" West a distance of 19.67 feet to the beginning of a tangent curve to the right; thence coincident with last said curve having a radius of 21.00 feet, an included angle of 59°55'32" and an arc length of 21.96 feet; thence North 51°35'32" East a distance of 56.84 feet; thence North 85°00'00" East a distance of 16.01 feet; thence North 5°00'00" West a distance of 10.56 feet; thence North 51°35'32" East a distance of 33.04 feet; thence South 83°25'01" East a distance of 53.64 feet; thence South 6°35'32" West a distance of 4.21 feet; thence South 83°25'01" East a distance of 13.50 feet; South 32°40'46" East a

EXHIBIT B TO NON-EXCLUSIVE PARKING EASEMENT AGREEMENT
distance of 3.54 feet; thence South 83°25′01″ East a distance of 31.83 feet; thence South 6°36′43″ West a distance of 15.33 feet; thence South 83°23′17″ East a distance of 29.43 feet; thence North 6°32′32″ East a distance of 22.30 feet; thence South 83°25′01″ East a distance of 211.89 feet; thence South 9°20′00″ East 10.28 feet to the beginning of a tangent curve to the right; thence coincident with last said curve, having a radius of 60.00 feet, an included angle of 27°31′16″ and an arc length of 28.82 to the northerlymost corner of Parcel One as said parcel is described in Exhibit A of the Grant Deed to Corte Madera Village, LLC a Delaware limited liability company, dated June 10, 2004 and recorded on August 13, 2004 as Instrument Number 2004-0071908 in said Official Records and the beginning of a non-tangent reverse curve, the center of which bears North 62°57′58″ East; thence coincident with the easterly lines of said Parcel One and last said curve having a radius of 70.67 feet, an included angle of 4°40′25″ and an arc length of 5.76 feet to the beginning of a reverse curve; thence coincident with last said curve having a radius of 51.33 feet, an included angle of 67°17′06″ and an arc length of 60.28 feet; thence South 35°34′39″ West a distance of 92.17 feet to a point on said common line; thence, coincident with said common line, South 9°20′00″ East a distance of 145.53 feet; thence North 80°40′00″ East a distance of 412.13 feet; thence North 6°50′00″ West a distance of 53.05 feet to the southeast corner of Parcel One as last said Parcel One is described in Exhibit A of the Grant Deed to Nordstrom, Inc., a Washington corporation, dated June 14, 2004 and recorded on August 13, 2004 as Instrument Number 2004-0071907 in said Official Records; thence, coincident with the easterly line of last said Parcel One, North 9°06′56″ West a distance of 29.68 feet to the northeasterly corner of last said Parcel One; thence, coincident with the northerly line of last said Parcel One, South 80°53′04″ West a distance of 74.34 feet to the northerly corner of last said Parcel One; thence, coincident with the westerly lines of last said Parcel One, South 9°06′56″ East a distance of 11.74 feet and South 40°10′22″ East a distance of 21.23 feet to said common line; thence, coincident with said common line, South 80°40′00″ West a distance of 103.50 feet to the southeast corner of Parcel One as said parcel is described in Exhibit B of said Grant Deed to Nordstrom, Inc.(2004-0071907); thence, coincident with the easterly line of last said Parcel One, North 9°20′00″ West a distance of 91.47 feet; thence, departing said common line North 80°40′00″ East a distance of 229.23 feet to the POINT OF BEGINNING and having an area of 15.87 acres, more or less.

Bearings shown hereon are based on said Parcel Map (22 PM 90).

End of Description.

Jesse L. Fullen, PLS #8208
License Expires March 31, 2013
2420 Sand Creek Road, C-1 #287
Brentwood, CA 94513

EXHIBIT B TO NON-EXCLUSIVE PARKING EASEMENT AGREEMENT
THE VILLAGE AT CORTE MADERA
LAND DESCRIPTION PLAT

PARCEL LINE PER (22 PM 90)
(TYPICAL)

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PARCEL LINE PER (22 PM 90)
(TYPICAL)

PARCEL 1
(22 PM 90)

INSTRUMENT No. 204-0071908 S05°41'38"E 21.08'

PARCEL ONE OF EXHIBIT A

INSTRUMENT No. 204-0071907 N80°50'00"E 412.13'

PARCEL ONE OF EXHIBIT A

POINT OF BEGINNING

PARCEL 2
(22 PM 90)

INSTRUMENT No. 204-0071907 N80°50'00"E 412.13'

PARCEL ONE OF EXHIBIT B

INSTRUMENT No. 204-0071907 N80°50'00"E 412.13'

PARCEL 3
(22 PM 90)

INSTRUMENT No. 204-0071908 S05°41'38"E 21.08'

PARCEL ONE OF EXHIBIT A

INSTRUMENT No. 204-0071907 N80°50'00"E 412.13'

PARCEL ONE OF EXHIBIT B

INSTRUMENT No. 204-0071907 N80°50'00"E 412.13'

PARCEL 4
(22 PM 90)

INSTRUMENT No. 204-0071908 S05°41'38"E 21.08'

POINTS OF BEGINNING

PARCEL ONE OF EXHIBIT A

INSTRUMENT No. 204-0071907 N80°50'00"E 412.13'

PARCEL ONE OF EXHIBIT B

INSTRUMENT No. 204-0071907 N80°50'00"E 412.13'

CONTINUATION FROM TOP LEFT CORNER OF PAGE

EXHIBIT B TO NON-EXCLUSIVE PARKING EASEMENT AGREEMENT

LANDS OF
CORTE MADERA VILLAGE, LLC
691,289 SQUARE FEET / 15.87 ACRES

CURVE TABLE

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REDWOOD HIGHWAY (WIDTH VARIES)

STATE HIGHWAY 101

EXHIBIT B TO NON-EXCLUSIVE PARKING EASEMENT AGREEMENT

CONTINUATION FROM TOP LEFT CORNER OF PAGE

EXHIBIT B TO NON-EXCLUSIVE PARKING EASEMENT AGREEMENT
NORTH PARKING LOT
LAND DESCRIPTION

Real property situated in the State of California, County of Marin, and the Town of Corte Madera described as follows:

Being a portion of Parcel 1 as said parcel is shown on that certain Parcel Map entitled “Parcel Map of The Village” filed for record in Book 22 of Parcel Maps at Page 29 on August 30, 1984 in the Official Records of Marin County, and being more particularly described as follows:

BEGINNING at a point on the southerly line of said Parcel 1, distant thereon South 84°18’22” West a distance of 118.13 feet from the southeasterly most corner of said Parcel 1, and proceeding thence North 56°42’16” East a distance of 28.29 feet; thence North 2°39’02” East a distance of 90.02 feet; thence North 5°41’38” West a distance of 327.95 feet to the beginning of a radial curve to the left; thence coincident with said curve, having a radius of 110.00 feet, an included angle of 95°56’23” and an arc length of 184.19 feet; thence South 78°21’59” West a distance of 175.25 feet; thence South 39°18’22” West a distance of 133.54 feet; thence South 37°56’17” West a distance of 257.19 feet; thence North 89°59’49” East a distance of 110.66 feet to the beginning of a tangent curve to the right; thence, coincident with last said curve, having a radius of 549.99 feet, an included angle of 49°03’32” and an arc length of 470.92 feet; thence North 84°18’22” East a distance of 24.72 feet to the POINT OF BEGINNING, and having an area of 172,022 square feet (3.95 acres), more or less.

Bearings shown hereon are based on said Parcel Map (22 PM 29).

End of Description

Jesse L. Fullen, PLS #8208
2420 Sand Creek Road, C-1 #287
Brentwood, CA 94513
**NORTH PARKING LOT**

**LAND DESCRIPTION PLAT**

---

**NORTH LOT**

172,022 FEET\(^2\) (3.95 ACRES)

PORTION OF PARCEL 1

(22 M 29)

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**LINE TABLE**

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EXHIBIT C TO NON-EXCLUSIVE PARKING EASEMENT AGREEMENT
EXHIBIT H

FORM OR ESSENTIAL TERMS OF LICENSE AGREEMENT

EXHIBIT H TO DEVELOPMENT AGREEMENT
LICENSE AGREEMENT

This License Agreement ("License Agreement") is entered into as of __________, 2018, by and between the TOWN OF CORTE MADERA, a California municipal corporation (the "Town"), and CORTE MADERA VILLAGE, LLC, a Delaware limited liability company ("Developer"). The Town and Developer are sometimes referred to individually herein as a "Party" and collectively as the "Parties."

RECITALS

A. Developer has a fee interest (the "Developer Parcel") in certain portions of a shopping center commonly known as The Village at Corte Madera ("The Village"), located in Corte Madera, Marin County, California. The Village is depicted in Exhibit A attached hereto. The Developer Parcel is depicted and more particularly described in Exhibit B attached hereto.

B. The Town is the fee owner of certain real property located in Corte Madera, Marin County, California, consisting of 3.95 acres, as depicted and more particularly described in Exhibit C attached hereto (the "Parking Area"). The Parking Area is located to the north of The Village across Redwood Highway and is currently used by the Town for public parking purposes and occasional public community events.

C. The Town and Developer entered into that certain Development Agreement, with an effective date of __________, 2018, which was approved by the Town Council by Ordinance No. _________ on __________, 2017, and which was recorded with the Official Records of Marin County on __________, 2018 (the "Development Agreement").

D. Pursuant to the Development Agreement, and in accordance with the Approvals defined therein, Developer and Restoration Hardware, Inc., a Delaware corporation, desire (1) to construct a new Restoration Hardware Gallery of approximately 46,000 square feet and to make associated site improvements at The Village (the "Restoration Hardware Project"); and (2) to make improvements to the Parking Area, which include paving the Parking Area and striping the pavement to accommodate up to 455 parking spaces (the "Parking Area Project"). The Restoration Hardware Project and the Parking Area Project are collectively referred to herein as the "Restoration Hardware Expansion."

E. Pursuant to the Development Agreement, the Town and Developer intend to enter into and record a Non-Exclusive Parking Easement Agreement (the "Non-Exclusive Parking Easement Agreement") whereby the Town grants to Developer a non-exclusive easement over the Parking Area for (i) constructing, maintaining, and operating thereon a parking lot and (ii) construction staging for the Restoration Hardware Project.

F. Pursuant to the Development Agreement, and subject to the terms of this License Agreement, the Town has agreed to grant to Developer, at Developer’s request, a license to commence construction of the Parking Area Project on the Parking Area and to use that portion of the Parking Area depicted in Exhibit D attached hereto for construction staging purposes in connection with the Restoration Hardware Project prior to execution of the Easement Agreement for a period not to exceed 120 days.

G. Pursuant to the Development Agreement, and as a condition to the license granted by this License Agreement, Developer has agreed to pay the sum of $25,000 (the "License Fee") to the Town to be credited toward the first annual payment due pursuant to the Development Agreement.
H. It is in the best interests of the Town and Developer for Developer to commence construction of the Parking Area Project and the Restoration Hardware Project prior to execution of the Easement Agreement.

I. To comply with the California Environmental Quality Act, the Town prepared an environmental impact report (the "EIR") that addresses the impacts of the Restoration Hardware Expansion (State Clearinghouse Number 2016102061). The Town Council reviewed and considered the information in the EIR and adopted Resolution No. __________, on __________, 2017, to certify the EIR and make findings.

**AGREEMENT**

NOW, THEREFORE, in consideration of the covenants set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and approved, the Parties hereby agree as follows:

1. **License.** The Town hereby grants to Developer a license and right of entry during the Term (as defined in Section 2) of this License Agreement to enter the Parking Area to construct the Parking Area Project and to use that portion of the Parking Area depicted in Exhibit D attached hereto for construction staging purposes in connection with the Restoration Hardware Project.

2. **Term.** The term ("Term") of this License Agreement shall commence on the date that both Parties have executed this License Agreement (the "Effective Date"), and shall terminate automatically on the earlier of (a) the date 120 days after the Effective Date of this License Agreement or (b) the effective date of the Non-Exclusive Parking Easement Agreement.

3. **License Fee.** Within 10 days following the Effective Date of this License Agreement, Developer shall pay the License Fee to the Town.

4. **Indemnity.** Developer shall indemnify, defend (with counsel reasonably acceptable to the Town), and hold harmless the Town, Town Council members, Town Planning Commission members, and any of the foregoing's officers, employees, and agents from and against all claims, causes of action, proceedings, losses, damages, liability, cost, and expense (including, without limit, any fines, penalties, judgments, litigation costs, attorneys' fees, and consulting, engineering, and construction costs) for actual loss of or damage to property and for injuries to or death of any person (including, but not limited to, the property and employees of the Parties) to the extent caused by, in whole or in part, any actions or inactions, negligent or otherwise, by Developer or its officers, employees, agents, or contractors in connection with Developer's use of the Parking Area pursuant to this License Agreement, except to the extent caused by the negligence or misconduct of the Town, Town Council Members, Town Planning Commission members, or any of the foregoing's officers, employees, agents, or contractors. The provisions of this Section 4 shall survive termination of this License Agreement.

5. **Notices.** All notices or other communication required or otherwise provided herein between the Parties shall be in writing, and shall be given by certified mail (return receipt requested) or by a reputable courier promising overnight delivery to the respective addresses specified by each Party. A notice shall be deemed effective on the next business day following the date of deposit for overnight delivery, and three business days following the date of mailing if given by certified mail (return receipt requested).
Notices to the Town:
Town of Corte Madera
Planning Director
300 Tamalpais Drive
Corte Madera, CA 94925

With copies to:
Corte Madera Town Attorney
300 Tamalpais Drive
Corte Madera, CA 94925

Notices to Developer:
Corte Madera Village, LLC
ATTN: Vice President, Development
401 Wilshire Boulevard
Suite 700
Santa Monica, CA 90401-1452

With copies to:
The Macerich Company
ATTN: General Counsel
401 Wilshire Boulevard
Suite 700
Santa Monica, CA 90401-1452

and

The Village at Corte Madera
Attn: Property Manager
1618 Redwood Highway
Corte Madera, CA 94925-1224

and

Cecily T. Barclay
Perkins Cole LLP
505 Howard Street
Suite 1000
San Francisco, CA 94105

Either Party may at any time, by giving 10 days' written notice to the other Party, designate any
other address or addresses in substitution of the address to which such notice or
communication shall be given.

6. Amendment. This License Agreement may be amended only by a written
instrument signed by each Party.

a. **Entire Agreement.** This License Agreement, the Development Agreement, and the Non-Exclusive Parking Easement Agreement contain the entire understanding and agreement of the Parties relating to the rights granted herein and therein and the obligations set forth herein and therein. Any prior, contemporaneous, or subsequent written or oral representations and modifications concerning this License Agreement, the Development Agreement, and the Non-Exclusive Parking Easement Agreement shall be of no force or effect.

b. **Counterparts.** This License Agreement may be executed in one or more counterparts, each of which shall, for all purposes, be deemed an original and all such counterparts, taken together, shall constitute one and the same instrument.

c. **Recitals.** The recitals above are incorporated herein by reference.

d. **Binding on Successors and Assigns.** This License Agreement shall be binding on and shall inure to the benefit of the Parties and their successors and assigns.

e. **Attorneys’ Fees.** In any legal action or other proceeding brought by one Party against the other Party to enforce or interpret a provision of this License Agreement, the prevailing Party shall be entitled to reasonable attorneys’ fees and any other costs incurred in that action or proceeding in addition to any other relief to which it is entitled. The prevailing Party for purposes of this License Agreement shall be deemed to be that Party which obtains substantially the result sought, whether by settlement, dismissal, or judgment.

8. **Exhibits.** The following exhibits are attached to this License Agreement and are hereby incorporated herein by this reference for all purposes as if set forth herein in full:

   **Exhibit A**    Map Depicting The Village

   **Exhibit B**    Legal Description and Plat of the Developer Parcel

   **Exhibit C**    Legal Description and Plat of the Parking Area

   **Exhibit D**    Map Depicting the Portion of the Parking Area to Be Used for Construction Staging

In witness whereof, the Parties have entered into this License Agreement as of ____________, 2018.

[Remainder of page left blank – signatures on next page.]
CORTE MADERA VILLAGE, LLC,
a Delaware limited liability company

By: MACERICH CM VILLAGE LIMITED PARTNERSHIP,
a California limited partnership,
its managing member

By: MACERICH CM VILLAGE GP CORP.,
a Delaware corporation,
its general partner

By: ________________________________
Name: ______________________________
Title: ______________________________
Date: ______________________________

APPROVED AS TO FORM:
Perkins Coie LLP on behalf of Corte Madera Village, LLC

By: ________________________________
Cecily Barclay, Partner

TOWN OF CORTE MADERA,
a municipal corporation

By: ________________________________
Name: ______________________________
Town Manager
Date: ______________________________

APPROVED AS TO FORM:
Town of Corte Madera,
a Municipal Corporation

By: ________________________________
Name: ______________________________
Town Attorney
The Village at Corte Madera
Land Description

Real property situated in the State of California, County of Marin, and the Town of Corte Madera described as follows:

Being a portion of Parcel 3 as said parcel is shown on that certain Parcel Map entitled “Parcel Map of The Village” filed for record in Book 22 of Parcel Maps at Page 90 on October 4, 1985 in the Official Records of Marin County, and being more particularly described as follows:

BEGINNING at a point on the westerly line of Redwood Highway (a public right-of-way varying in width), distant thereon South 5°41'38" East a distance of 21.08 feet the most northeasterly corner of said Parcel 3, and proceeding coincident with said westerly line, South 5°41'38" East a distance of 260.80 feet to the beginning of a tangent curve to the left; thence coincident with said curve having a radius of 539.50 feet, an included angle of 4°00'00" and an arc length of 37.66 feet; thence South 9°41'38" East a distance of 140.27 feet to the beginning of a tangent curve to the right; thence coincident with last said curve having a radius of 460.50 feet, an included angle of 4°00'00" and an arc length of 32.15 feet; thence South 5°41'38" East a distance of 86.93 feet; thence South 4°11'38" East a distance of 39.05 feet; thence South 80°40'00" West a distance of 302.99 feet to the beginning of a tangent curve to the left; thence coincident with last said curve having a radius of 75.00 feet, an included angle of 45°00'00" and an arc length of 58.90 feet; thence South 35°40'00" West a distance of 14.23 feet; thence South 9°20'00" East a distance of 99.97 feet; thence South 80°40'00" West a distance of 65.72 feet; thence North 54°20'00" West a distance of 66.47 feet; thence South 80°40'00" West a distance of 64.99 feet; thence South 35°40'00" West a distance of 193.75 feet; thence South 80°40'00" West a distance of 139.01 feet; thence South 54°20'00" East a distance of 67.29 feet; thence South 35°40'00" West a distance of 68.59 feet to a point on the westerly line of Parcel 2 as last said Parcel 2 is described in the Relinquishment of State Highway filed for record in Book 1512 of Official Records at Page 437 on November 3, 1961 in said Official Records of Marin County, and the beginning of a non-tangent curve to the right, the center of which bears North 44°54'21" East; thence coincident with last said westerly line and last said curve having a radius of 367.00 feet, an included angle of 35°25'09" and an arc length of 226.87 feet; thence North 9°40'30" West a distance of 251.69 feet; thence North 8°50'10" West a distance of 302.78 feet; thence North 7°37'00" West a distance of 337.56 feet; thence North 6°58'20" West a distance of 34.88 feet; thence departing last said westerly line, North 83°01'40" East a distance of 24.53 feet; thence North 5°02'28" West a distance of 255.00 feet; thence North 84°57'32" East a distance of 17.00 feet; thence South 5°02'28" East a distance of 255.59 feet to the beginning of a tangent curve to the right; thence coincident with last said curve, having a radius of 10.00 feet, an included angle of 40°34'53" and an arc length of 7.08 feet to the beginning of a reverse curve; thence coincident with last said curve, having a radius of 53.00 feet, an included angle of 44°47'33" and an arc length of 41.43 feet; thence South 9°15'08" a distance of 8.23 feet; thence North 82°22'59" East a distance of 49.53 feet; thence North 8°20'00" West a distance of 19.67 feet to the beginning of a tangent curve to the right; thence coincident with last said curve having a radius of 21.00 feet, an included angle of 59°55'32" and an arc length of 21.96 feet; thence North 51°35'32" East a distance of 56.84 feet; thence North 85°00'00" East a distance of 16.01 feet; thence North 5°00'00" West a distance of 10.56 feet; thence North 51°35'32" East a distance of 33.04 feet; thence South 83°25'01" East a distance of 53.64 feet; thence South 6°35'32" West a distance of 4.21 feet; thence South 83°25'01" East a distance of 13.50 feet; South 32°40'46" East a
distance of 3.54 feet; thence South 83°25'01" East a distance of 31.83 feet; thence South 6°36'43" West a distance of 15.33 feet; thence South 83°23'17" East a distance of 29.43 feet; thence North 6°32'32" East a distance of 22.30 feet; thence South 83°25'01" East a distance of 211.89 feet; thence South 9°20'00" East 10.28 feet to the beginning of a tangent curve to the right; thence coincident with last said curve, having a radius of 60.00 feet, an included angle of 27°31'16" and an arc length of 28.82 to the northerlymost corner of Parcel One as said parcel is described in Exhibit A of the Grant Deed to Corte Madera Village, LLC a Delaware limited liability company, dated June 10, 2004 and recorded on August 13, 2004 as Instrument Number 2004-0071908 in said Official Records and the beginning of a non-tangent reverse curve, the center of which bears North 62°57'58" East; thence coincident with the easterly lines of said Parcel One and last said curve having a radius of 70.67 feet, an included angle of 4°40'25" and an arc length of 5.76 feet to the beginning of a reverse curve; thence coincident with last said curve having a radius of 51.33 feet, an included angle of 67°17'06" and an arc length of 60.28 feet; thence South 35°34'39" West a distance of 92.17 feet to a point on said common line; thence, coincident with said common line, South 9°20'00" East a distance of 145.53 feet; thence North 80°40'00" East a distance of 412.13 feet; thence North 6°50'00" West a distance of 53.05 feet to the southeast corner of Parcel One as last said Parcel One is described in Exhibit A of the Grant Deed to Nordstrom, Inc., a Washington corporation, dated June 14, 2004 and recorded on August 13, 2004 as Instrument Number 2004-0071907 in said Official Records; thence, coincident with the easterly line of last said Parcel One, North 9°06'56" West a distance of 29.68 feet to the northeasterly corner of last said Parcel One; thence, coincident with the northerly line of last said Parcel One, South 80°53'04" West a distance of 74.34 feet to the northwesterly corner of last said Parcel One; thence, coincident with the westerly lines of last said Parcel One, South 9°06'56" East a distance of 11.74 feet and South 40°10'22" East a distance of 21.23 feet to said common line; thence, coincident with said common line, South 80°40'00" West a distance of 103.50 feet to the southeast corner of Parcel One as said parcel is described in Exhibit B of said Grant Deed to Nordstrom, Inc.(2004-0071907); thence, coincident with the easterly line of last said Parcel One, North 9°20'00" West a distance of 91.47 feet; thence, departing said common line North 80°40'00" East a distance of 229.23 feet to the POINT OF BEGINNING and having an area of 15.87 acres, more or less.

Bearings shown hereon are based on said Parcel Map (22 PM 90).

End of Description.

Jesse L. Fullen, PLS #8208
License Expires March 31, 2013
2420 Sand Creek Road, C-1 #267
Brentwood, CA 94513

EXHIBIT B TO
THE VILLAGE AT CORTE MADERA
LAND DESCRIPTION PLAT

LANDS OF
CORTE MADERA VILLAGE, LLC
691,289 SQUARE FEET± / 15.87 ACRES±

POINT OF BEGINNING
PARCEL ONE OF EXHIBIT A
INSTRUMENT No. 204-0071908 S05°41'38"E 21.08'

PARCEL 2
(22 PM 90)
PARCEL ONE OF EXHIBIT B
INSTRUMENT No. 204-0071
N80°40'00"E 412.13'

PARCEL 3
(22 PM 90)

PARCEL 4
(22 PM 90)

EXHIBIT B

CONTINUATION FROM TOP LEFT CORNER OF PAGE
NORTH PARKING LOT
LAND DESCRIPTION

Real property situated in the State of California, County of Marin, and the Town of Corte Madera described as follows:

Being a portion of Parcel 1 as said parcel is shown on that certain Parcel Map entitled “Parcel Map of The Village” filed for record in Book 22 of Parcel Maps at Page 29 on August 30, 1984 in the Official Records of Marin County, and being more particularly described as follows:

BEGINNING at a point on the southerly line of said Parcel 1, distant thereon South 84° 18' 22" West a distance of 118.13 feet from the southeasterly most corner of said Parcel 1, and proceeding thence North 56° 42' 16" East a distance of 28.29 feet; thence North 2° 39' 02" East a distance of 90.02 feet; thence North 5° 41' 38" West a distance of 327.95 feet to the beginning of a radial curve to the left; thence coincident with said curve, having a radius of 110.00 feet, an included angle of 95° 56' 23" and an arc length of 184.19 feet; thence South 78° 21' 59" West a distance of 175.25 feet; thence South 39° 18' 22" West a distance of 133.54 feet; thence South 37° 56' 17" West a distance of 257.19 feet; thence North 89° 59' 49" East a distance of 110.66 feet to the beginning of a tangent curve to the right; thence, coincident with last said curve, having a radius of 549.99 feet, an included angle of 49° 03' 32" and an arc length of 470.92 feet; thence North 84° 18' 22" East a distance of 24.72 feet to the POINT OF BEGINNING, and having an area of 172,022 square feet (3.95 acres), more or less.

Bearings shown hereon are based on said Parcel Map (22 PM 29).

End of Description.

Jesse L. Fullen, PLS #8208
2420 Sand Creek Road, C-1 #287
Brentwood, CA 94513

EXHIBIT C
NORTH PARKING LOT
LAND DESCRIPTION PLAT

NORTH LOT
172,022 FEET² (3.95 ACRES)
PORTION OF PARCEL 1
(22 M 29)

LINE TABLE

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</tr>
<tr>
<td>L2</td>
<td>N84'18'22&quot;E</td>
<td>24.72'</td>
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</tbody>
</table>
ATTACHMENT 6

Ordinance #974
Rezoning
ORDINANCE NO. 974

REZONING

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA AMENDING THE OFFICIAL ZONING MAP OF THE TOWN OF CORTE MADERA DATED AUGUST, 1994 BY CHANGING THE ZONING DESIGNATION OF THE GRAVEL LOT (APN 024-03-019) FROM PARKS, OPEN SPACE AND NATURAL HABITAT (POS) TO REGIONAL SHOPPING DISTRICT (C-2).

WHEREAS, On April 21, 2009 by the adoption of Resolution 3594 the Town Council did adopt the 2009 General Plan (the “2009 General Plan”); and

WHEREAS, the objective of the Corte Madera Zoning Code is to provide a precise guide for the physical development of the town in such a manner as to preserve its small town residential character, and, consistent with that objective, to achieve progressively the arrangement of land uses and open spaces depicted in the general plan; and

WHEREAS, the objective of the Corte Madera Zoning Code is to promote the stability of existing land uses that conform with the general plan and to protect them from inharmonious influences and harmful intrusions; and

WHEREAS, the objective of the Corte Madera Zoning Code is to ensure that public and private lands ultimately are used for the purposes which are most appropriate and most beneficial to the town as a whole; and

WHEREAS, the objective of the Corte Madera Zoning Code is to facilitate the appropriate location of community facilities; and

WHEREAS, the objective of the Corte Madera Zoning Code is to preserve the natural beauty of the town’s setting and ensure conservation of its scenic, recreation and wildlife resources, particularly the remaining open space, which form the basis of the town’s outstanding quality of life; and

WHEREAS, the objective of the Corte Madera Zoning Code is to ensure that uses and structures enhance their sites and harmonize with the surrounding area; and

WHEREAS, on June 19, 2015, Corte Madera Village, LLC and Restoration Hardware (“The Applicants”) submitted an application for The Village at Corte Madera Restoration Hardware Expansion Project (“The Project”) which contained a General Plan Amendment, Rezoning, Preliminary Plan Amendment, Precise Plan Amendment and Design Review to construct a ±52,000 sq. ft. two-story RH Gallery with an open roof top courtyard and improve the Town owned Gravel Lot located on Redwood Highway northeast of the Village at Corte Madera
eastern parking lot (APN-024-03-019) (Gravel Lot) to the north east of the Village; and

WHEREAS, on October 6, 2015, the Town Council, during a public business item, approved a contract with the Environmental Consulting Firm of GHD (“GHD”) to prepare Phase 1 of the Environmental Impact Report for the Project; and

WHEREAS, on October 20, 2015, the Town Council, during a public business item, approved Resolution 41/2015 giving authorization to proceed with discussions and/or real estate negotiations with Macerich (a property owner at the Village shopping center) regarding potential sale, lease or other disposition of the Gravel Lot and approval of Resolution No. 42/2015 approval of an access agreement to allow Corte Madera Village, LLC access for inspection and testing of the Gravel Lot; and

WHEREAS, on February 2, 2016, the Town Council, during a public business item, approved a contract with GHD to prepare Phase 2 of the Environmental Impact Report and authorized further negotiations with Macerich for the use of the Gravel Lot for shopping center parking; and

WHEREAS, on October 25, 2016, a Notice of Preparation (NOP) for the Project EIR was filed with the State Clearinghouse and the public comment period (October 25, 2016 to November 30, 2016) regarding the scope of work for the proposed EIR commenced; this comment period was notice via: the Town’s website, the email list of individuals who had commented on or signed up for notification of this particular project, in the Marin Independent Journal, and to properties within 300 feet of the Project; and

WHEREAS, from October 25, 2016 to November 30, 2016, the Town received public comments regarding the scope of work for the proposed EIR for the Project; and

WHEREAS, on November 17, 2016, a scoping meeting which was noticed via: the Town’s website, the email list of all individuals who have sign up on the Town’s website to be notified of Town meetings, the email list of individuals who have commented on or signed up for notification of this particular project, the Marin Independent Journal, all properties within 300’ of the project and the town reader board was held at the Town Hall to receive input from the public on the scope of work proposed by GHD for the EIR; and

WHEREAS, on December 20, 2016, the applicants revised their application, based on feedback from the community, to include a reduction in the size of the proposed building by approximately 7,000 square feet, a reduction in height by 6 feet, the addition of a café, and changes in the design elements to complement the surrounding views; and

WHEREAS, on March 21, 2017, the Town Council, during a public meeting, endorsed a proposed term sheet for a non-exclusive easement and development agreement to allow for Corte Madera Village, LLC to improve the Town’s Gravel Lot and utilize resulting parking spaces for required parking for the Village at Corte Madera, including a potential Restoration Hardware Expansion project and provided direction and authorization to Town staff to draft the non-exclusive easement and development agreement consistent with the term sheet; and
WHEREAS, on July 12, 2017, a Notice of Completion (NOC) for the Project Draft Environmental Impact Report (DEIR) was filed with the State Clearinghouse and the public comment period (July 12, 2017 to August 25, 2017) regarding the DEIR commenced; this comment period was noticed via: the Town’s website, the email list of individuals who had commented on or signed up for notification of this particular project, in the Marin Independent Journal, and to properties within 300 feet of the Project; and

WHEREAS, on August 8, 2017, the Planning Commission, during a public hearing, which was noticed via; the Town’s website, the email list of all individuals who have sign up on the Town’s website to be notified of Town meetings, the email list of individuals who have commented on or signed up for notification of this particular project, the Marin Independent Journal, hard copy mailings sent to all properties within 300’ of the project and the town reader board received comments on the DEIR; and

WHEREAS, from October 16, 2017 to November 19, 2017 notices were posted at two locations: the Village East Entry Plaza and the north entrance of the Gravel Lot announcing the display of story poles and supplemental information to aid in understanding the physical location and scale of the proposed Project, notices of the story board display were posted on the Town’s website and sent to the email list of individuals who have commented on or signed up for notification of this particular project; and

WHEREAS, on November 1, 2017, copies of the FEIR were sent to those public agencies who commented on the Draft EIR; accordance with CEQA Guidelines Section 15088; and

WHEREAS, also on November 1, 2017, the public was notified of the availability of the FEIR and the November 14, 2017 Planning Commission public hearing via: the Town’s website, the email list of all individuals who have sign up on the Town’s website to be notified of Town meetings, the email list of individuals who have commented on or signed up for notification of this particular project, hard copy mailings sent to all properties within 300’ of the project, the town reader board and a posting on NextDoor.com; and

WHEREAS, on November 3, 2017, additional notice of the November 14, 2017 Planning Commission public hearing, availability of the FEIR, and extension of story pole viewing period was posted as a News Flash item on the Town’s website; and

WHEREAS, on November 4, 2017, a notice announcing the November 14, 2017 Planning Commission public hearing was posted in the Marin Independent Journal; and

WHEREAS, on November 14, 2017, the Planning Commission held a public hearing on the Environmental Impact Report, the applications for a General Plan Amendment, Rezoning, Preliminary Plan Amendment, Precise Plan Amendment, Design Review, Conditional Use Permit, and a Development Agreement; and

WHEREAS, also on November 14, 2017, the Planning Commission unanimously approved Resolution 17-022, by a vote of 5-0, and thereby forwarded a recommendation to the Town Council to: 1) certify the Environmental Impact Report for the Project, 2) approve the General
Plan Amendment to change the land use designation of the Gravel Lot from Wetlands and Marshlands to Mixed-Use Region-Serving Commercial, 3) approve the Rezoning of the Gravel Lot from Parks, Open Space and Natural Habitat to Regional Shopping (C-2), 4) approve the Preliminary Plan Amendment for retail expansion and improvements to the Gravel Lot, 5) approve the Precise Plan Amendment for a new approximately 46,000 square foot retail store and café, modifications to the Village east entry plaza, and modifications to the Gravel Lot, 6) approve the Design Review application for a new approximately 46,000 square foot retail store and café, modifications to the Village east entry plaza, and modifications to the Gravel Lot, 7 ) approve the Conditional Use Permit for a café within the Regional Shopping District (C-2), and 8) approve the Development Agreement between the Town of Corte Madera and Macerich; and

WHEREAS, on November 17, 2017, notices were sent and posted announcing the December 5, 2017 Town Council public hearing; the Council and the public were notified via: the Town’s website, the email list of all individuals who have sign up on the Town’s website to be notified of Town meetings, the email list of individuals who have commented on or signed up for notification of this particular project, hard copy mailings sent to all properties within 300’ of the project, the town reader board and a posting on NextDoor.com; and

WHEREAS, on November 25, 2017, a notice announcing the December 5, 2017 public hearing was posted in the Marin Independent Journal; and

WHEREAS, on December 5, 2017, the Town Council of the Town of Corte Madera held a noticed public hearing to discuss and possibly take action on The Village at Corte Madera Restoration Expansion Project which included the rezoning of the Gravel Lot (APN 024-03-019) from Parks, Open Space and Natural Habitat (POS) to Regional Shopping District (C-2) and several other entitlements under separate resolutions or ordinances; and

NOW, THEREFORE, BE IT RESOLVED, that the Town Council of the Town of Corte Madera hereby approves the amending of the official zoning map of the Town of Corte Madera dated August, 1994 by changing the zoning designation of the Gravel Lot (APN 024-03-019) from Parks, Open Space and Natural Habitat (POS) to Regional Shopping District (C-2) as part of the Village at Corte Madera Restoration Hardware Expansion Project (Exhibit A) APN’S 024-032-030 and 019

The Project includes a request to amend the General Plan and to amend the Zoning Ordinance. As described in the December 5 2017 staff report and in Resolution 55/2017 the discussion of the Zoning Ordinance Amendment findings and the General Plan Amendment findings have been combined because they are very similar and the responses to the findings overlap.

The two large shopping centers, The Town Center and The Village at Corte Madera play key roles in the social and economic fabric of the Town. The 2009 General Plan recognizes the role of these two centers pursuant to General Plan Land Use Goal LU-4 which advocates "Strong and vibrant commercial and office centers that serve local and regional needs". The project is consistent with this goal and specifically Policy LU-4.3 and implementation measure LU-4.3a which aim to expand the Village through the use of flexible development standards to protect and enhance the Town’s tax base.
The Project will also promote and implement General Plan Goal LU-3, to encourage infill development that achieves a more livable, sustainable community. The Project meets the infill objectives stated in General Plan Implementation Program LU-3.2.a to produce jobs for Town residents, provide convenient access to shopping destinations, increase commercial intensity, reduce creation of traffic congestion, use existing infrastructure, embody environmentally sensitive design and construction principles, and provide for more efficient use of Corte Madera’s limited land supply. The project will also facilitate the implementation of Policies LU-3.5 and LU-4.5, to require that infill development include high quality design and site planning techniques, and ensure that the appearance of non-residential development contributes positively to the community’s image.

Below is a discussion of each of the findings for Zoning Ordinance Amendment.

Finding - RZ#1: How is the proposed amendment consistent with the adopted general and specific plans of the Town of Corte Madera?

Finding – RZ#2 How is the proposed amendment consistent with the objectives of the Zoning Ordinance?

Findings of Fact - GPA#1, RZ#1 and RZ#2

The Town’s first General Plan (1958) and the 1963 General Plan both designated the Gravel Lot for industrial uses. In 1984, an amendment to the 1975 General Plan was approved and the land use designation was changed to High Density Residential in conjunction with the development of the Village shopping center.

In the 1989 General Plan the site was designated Wetlands, Unique Marshland, Related Habitat and Potential Habitat Restoration Area for the first time. The General Plan identified the Gravel Lot, referred to as the “Habitat Site” in Section 2.5 - Specific Sites, as a site that was included along with twelve other larger sites in town that had development potential. A separate working paper, Analysis of Planning Options, October 1987 was created which identified the following options for the Gravel Lot: 1) designate the site as permanent open space; 2) designate the site a potential habitat restoration area; and 3) designate the site for other alternative uses identified in the Town Survey including senior housing, parking, and a nature study facility. These options were incorporated into the 1989 General Plan as allowable potential uses of the site.

In November 1995 a conditional use permit was approved by the Council to facilitate use of the lot for public parking and for patrons of the Village in conjunction with an agreement being negotiated at that time for purchase of the Gravel Lot by the Town. Then in December 1995, the Town entered into an agreement with the owners of the Gravel Lot and agreed to use the site for parking.

In the early 2000’s expansion entitlements for the Gap, Banana Republic and the Cheesecake Factory were granted with required parking being permitted at the Gravel Lot. The Town has
also granted permits for a variety of community-oriented events at the Gravel Lot over the years such as staging for the Avon Walk, the Marin General Hospital Annual Gala, the Wood-Chipper event, etc.

In 2009 the General Plan Land Use designation for the site was established as Wetlands and Marshlands, and removed any specific policies related to specific uses of the Gravel Lot. This designation did not take into account the 1995 agreement between the Town and the Village owners which required that the lot be used for public parking, including for patrons of the Village, nor the practice of permitting community-oriented events on the Gravel Lot.

Changing the Gravel Lot’s GP and the ZO designations to new designations that explicitly allow parking for commercial uses would more accurately reflect the reality of existing land use requirements consistent with the 1995 agreement with the Village, past entitlement and permit history, and the functional relationship between the Village and the Gravel Lot that has existed for decades.

At the same time, the proposed development agreement, which would replace of the 1995 agreement, would continue to restrict the use of the Gravel Lot to public parking, would recognize for the first time community-oriented events as a permitted use, and require that the owners of the Village to improve the Gravel Lot consistent with General Plan policies intended to improve stormwater filtration, pedestrian safety, and habitat protection (particularly with the potential inclusion of the optional fence). Furthermore, the development agreement would shift maintenance, security, and liability costs associated with the Gravel Lot to the Village and require an annual payment to the Town.

In addition to the reasons mentioned above, Staff notes that the 2009 General Plan allows for additional expansion at the Village and such additional floor area will necessarily require that additional parking spaces be constructed pursuant to the CMMC. Therefore, it is important to consider not whether more parking for the Village should be constructed, but where additional parking should be constructed. In Staff’s view, it is preferable to allow required parking to be located in the Gravel Lot, a lot that is already required to be a parking lot, and remain so, rather than in other locations, such as a parking garage structure on the Village shopping center property itself, like that described in Alternative 2 of the DEIR. Although the General Plan anticipates the development of a parking garage structure at some point, it seems preferable to avoid having to consider adding more structures and mass to the Village (and more significant construction impacts) if there are other viable alternatives.

Finally, allowing the Gravel Lot to be used as required parking for uses at the Village, and amending the Gravel Lot’s General Plan land use designation and Zoning District to do so, would facilitate the applicant’s Project, which would be consistent with several land use policies discussed above intended to further the Town’s economic development goals.

In summary, the Zoning Ordinance amendment is appropriate because the proposed new designation, combined with the proposed development agreement, more accurately reflect historical use of the site, allow the Gravel Lot to be improved and developed as a parking resource for the Village instead of the development of a parking garage structure, and would
facilitate a project otherwise consistent with the General Plan, and one that would substantially further the Town’s economic development goals.

For the reasons outlined above related to the General Plan Amendment, the proposed rezoning of the Gravel Lot to C-2, would be appropriate. The C-2 district would be consistent the Mixed-Use Regional Serving Commercial land use designation and would allow for public parking uses, including parking required under the Zoning Ordinance for commercial uses, and the limited number of community-focused events that have been permitted by the Town in the past, and allowed pursuant to the proposed development agreement associated with this project.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Town Council of the Town of Corte Madera does hereby find and resolve as follows:

1. Recitals

   The foregoing recitals are true and correct and are incorporated into the findings herein.

2. Record

   The Record of Proceedings (“Record”) upon which the Town Council makes its recommendation includes, but is not limited to: (1) the 2009 General Plan, (2) the FEIR certified for the 2009 General Plan, including the appendices and technical reports cited in and/or relied upon in preparing the FEIR, (3) all staff reports, Town files and records and other documents prepared for and/or submitted to the Town Council relating to the Village at Corte Madera Restoration Expansion Project Application including the EIR prepared to evaluate the environmental effects of the Project (4) the recommendation of the Planning Commission (5) all documentary and oral evidence received at public hearings or submitted to the Town relating to the Project EIR, and (6) all matters of common knowledge to the Town Council and the Town, including, but not limited to, Town, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the Town and its surrounding areas. The location and custodian of the Record is the Planning Director of the Town of Corte Madera, 300 Tamalpais Drive, Corte Madera, CA 94925.

3. Compliance with the California Environmental Quality Act (CEQA)

   The Town Council of the Town of Corte Madera has reviewed the Environmental Impact Report (EIR) for the Project and based on the Town Council’s approval of Resolution 54/2017, adopted on December 5, 2017, it finds, there is not substantial evidence that the project will have a significant effect on the environment. Based on the fact, evidence, analysis, comments, and findings contained in Town Council Resolution No. 54/2017, adoption of the Ordinance approving the Development Agreement will not have a significant impact on the environment.

4. Amendment
The Town Council amends Corte Madera Municipal Code Section 18.06.020 - District Boundaries and the Official Zoning Map of the Town of Corte Madera by changing the zoning designation of the Gravel Lot (APN 024-03-019) from Parks, Open Space and Natural Habitat (POS) to Regional Shopping District (C-2) as part of the Village at Corte Madera Restoration Hardware Expansion Project (Exhibit A).

5. **Severability**

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the ordinance. The Town Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared unconstitutional on their face or as applied.

6. **Effective Date**

This ordinance shall go into effect thirty (30) days after the date of its passage and adoption.

7. **Posting**

The Clerk of the Town shall cause this ordinance to be published and/or posted within fifteen days after its adoption.

* * * * * * * * * *

This ordinance was introduced on the 5th day of December, 2017 and adopted on the ___ day of ___, 2017, by the following vote, to wit:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

_________________________
Diane Furst, Mayor

ATTEST:

_________________________
Rebecca Vaughn, Town Clerk
EXISTING ZONING DIAGRAM

PROPOSED ZONING DIAGRAM