

BEFORE THE TOWN OF CORTE MADERA PLANNING COMMISSION

<p>In the Matter of: Recommendation to the Town of Corte Madera Town Council for approval of a Resolution certifying an Initial Study and Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan for the Residences at Preserve subdivision application submitted by Aimco Robin Drive L.C. for a Zoning Amendment, Planned Development, Preliminary Plan, Precise Plan, Tentative Map, and Design Review to subdivide the property into 19 lots with a private access road and construct 16 single-family units with 8 accessory dwelling units, and associated landscaping, tree removal, and site improvements at the base of Robin Drive (APN 038-011-21).</p>	<p>Resolution No. 19-007 Permit No. PL-2017-0055 to 2017-0061</p> <p>Adoption Date: February 26, 2019</p>
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WHEREAS, On April 21, 2009, the Town Council conducted a public hearing on the Town of Corte Madera 2009 General Plan (the "2009 General Plan"), including the Revised Final Environmental Impact Report (FEIR) and its accompanying Mitigation Monitoring and Reporting Program, and considered all oral and written testimony submitted to the Town regarding the same prior to taking its action. By Resolution No. 3595, the Town Council certified the FEIR for the General Plan, and considered the FEIR and identified mitigation measures prior to taking action to adopt the 2009 General Plan, including its related goals, policies and programs, by separate Resolution No. 3594; and

WHEREAS, in March of 2014, the Town Council of the Town of Corte Madera directed staff to prepare a draft Housing Element for the 2015-2023 housing cycle to update the existing Housing Element approved in April 2011; and

WHEREAS, on April 28, 2015, following a written statement from the California Department of Housing and Community Development on April 2, 2015 that the draft 2015-2023 Housing Element would comply with State Housing Element law, the Planning Commission passed resolution 15-004 recommending the Town Council of the Town of Corte Madera adopt an amendment to the 2009 General Plan to incorporate the 2015-2023 draft Housing Element; and

WHEREAS, On May 19, 2015, the Town Council passed Resolution 21/2015 authorizing an amendment to the 2009 General Plan to adopt and incorporate the Town of Corte Madera 2015-2023 Housing Element; and

WHEREAS, the Corte Madera 2015-2023 Housing Element includes, among other policies, Policy H-2.6, which names the subject property as a High Potential Housing Opportunity site; and

WHEREAS, Aimco Robin Drive L.C. submitted an application on May 8, 2017 for a Zoning Amendment, Planned Development, Preliminary Plan, Precise Plan, Tentative Map, and Design Review to subdivide the property into 19 lots with a private access road, and construct a 16-unit single-family subdivision with 8 accessory dwelling units, landscaping, tree removal, and site improvements at the base of Robin Drive (APN 038-011-21); and

WHEREAS, the Town contracted with GHD, Inc., to conduct an environmental review of the proposed project; and

WHEREAS, after completing an Initial Study, a Mitigated Negative Declaration was prepared for the project. The Initial Study and Mitigated Negative Declaration identifies and analyzes potential environmental impacts and the mitigation measures, which if adopted will reduce any potential impacts to less than significant, and which have been agreed to by the applicant and incorporated by reference into the project conditions of approval; and

WHEREAS, on November 13, 2018 the Notice of Completion and Draft Initial Study/Environmental Checklist for the project was filed with the State Clearinghouse beginning a 30-day public review period; and

WHEREAS, on November 14, 2018 the Notice of Availability and Notice of Intent to Adopt a Mitigated Negative Declaration for the project was filed with the Marin County Clerk; and

WHEREAS, on November 14, 2018 the Notice of Availability of the Draft Initial Study/Environmental Checklist and Notice of Public Hearing for the project were mailed to residents within 500 feet of the subject property; and

WHEREAS, on February 15, 2019 the Town sent a notice to all properties within 500 feet of the project site announcing a February 26, 2019 Planning Commission hearing to review the application; and

WHEREAS, on February 26, 2019, the Corte Madera Planning Commission held a public hearing on the project, heard testimony from the applicant and interested parties, and at the close of the public hearing voted to adopt Resolution No. 19-007, recommending to the Town Council of the Town of Corte Madera that it certify the Mitigated Negative Declaration, and approve the requested Zoning Amendment, Planned Development, Preliminary Plan, Precise Plan, Tentative Map and Design Review for the project.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the Town of Corte Madera does hereby **recommend that the Town Council of the Town of Corte Madera certify** an Initial Study and Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan for the Residences at Preserve subdivision application submitted by Aimco Robin Drive L.C., based upon the findings listed below:

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 Planning Commission makes its recommendation includes, but is not limited to:

(1) the 2009 General Plan including the 2015-2023 Housing Element, (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) the Initial Study/Mitigated Negative Declaration for the Residences at Preserve Subdivision Project, (4) all staff reports, Town files and records and other documents prepared for and/or submitted to the Commission relating to the Residences at Preserve Subdivision Project, and its request for a Zoning Amendment, Planned Development, Preliminary Plan, Precise Plan, Tentative Map, and Design Review, (5) all documentary and oral evidence received at public hearings or submitted to the Town relating to the project, and (6) all matters of common knowledge to the Commission 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 CEQA Guidelines Section 15074, prior to recommending that the Town Council approve the Mitigated Negative Declaration prepared for the Project, the Planning Commission must consider the proposed Initial Study and Mitigated Negative Declaration and make the following findings:

1. The Mitigated Negative Declaration adequately assesses the environmental impacts of the proposed project.

Acceptable mitigation measures have been identified, and have been incorporated into the proposed project and shall be required as conditions of approval to reduce the level of all potentially significant impacts to the level of insignificance.

The Initial Study (IS), Mitigated Negative Declaration (MND) and Mitigation Monitoring Reporting Program (MMRP) (located on the Town's Website under Planning Commission Meetings) outline the potential environmental effects of the project in accordance with CEQA. These documents demonstrate that although potential significant impacts were identified in the Initial Study, with the implementation of the mitigation measures in the MMRP and the conditions of approval listed in the staff report, any potential project impacts will be reduced to less than significant.

Based on the facts and analysis of the Residences at Preserve Project, and its request for a Zoning Amendment, Planned Development, Preliminary Plan, Precise Plan, Tentative Map, and Design Review, included in the Staff Report to the Planning Commission, the Planning Commission finds and recommends to the Town Council that the project before the Planning Commission, with mitigations outlined in the Mitigation Monitoring and Reporting Plan (MMRP) incorporated, will not result in a significant impact on the environment pursuant to CEQA.

The Planning Commission finds that the Project will not have a significant effect on the environment with mitigations incorporated for several reasons. As evaluated in this IS/MND, the Project would not substantially degrade the quality of the environment; substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; reduce the number or restrict the range of an endangered, rare, or threatened species; or eliminate important examples of the major periods of California history or prehistory.

Environmental protection actions are in place (see Section 1.7 of the IS/MND) to reduce impacts related to air quality, geologic hazards, nighttime lighting, wildfire hazards, and the spread of Sudden Oak Death:

The Project shall be designed to comply with the site-specific recommendations made in the Project's geotechnical report. This would include design in accordance with the seismic and foundation design criteria, site preparation and grading recommendations, and practices for addressing expansive soils included in the report.

Consistent with General Plan Implementation Program RCS-10.3.c, the Bay Area Air Quality Management District (BAAQMD) recommended Basic Construction Measures shall be included in construction contract specifications and required during implementation of the Project to control for air pollutant and precursor emissions during construction from construction activities, including equipment exhaust and worker trips to the Project site.

In compliance with General Plan Policy CD-1.5a, the Project's exterior lighting shall be designed to comply with "Dark Sky" requirements including the use of energy-efficient lighting and shielded fixtures.

Best management practices, as outlined in the Arborist Report – The Preserve at Marin II prepared by LSA (November 2015), shall be implemented to handle trees infected with sudden oak death. All pruning of trees shall be performed by a certified arborist or certified tree worker (tree crew) and conform to the best management practices and Measures to Minimize Pathogen Spread.

In compliance with the Corte Madera Wildland Urban Interface Code, the Applicant has prepared a Vegetation Management Plan (Carducci Associates 2018). The plan contains Maintenance Requirements for Defensible Space Zones, including maintenance of vegetation and use of fire resistive landscape materials. The maintenance requirements shall be implemented during operation of the Project, on a permanent and on-going basis.

Specific mitigation measures are incorporated into the MMRP to reduce impacts related to biological resources, cultural resources, hydrology and water quality, noise, transportation/traffic, and tribal cultural resources:

Mitigation Measure BIO-1: Protect Oakland Star-tulip during Construction, will reduce the potential construction impact to Oakland star-tulip to less-than-significant by providing a process for identifying and protecting this species.

Mitigation Measure BIO-2: Prevent Disturbance to Nesting Birds, and Mitigation Measure BIO-3: Prevent Disturbance to Roosting Bats, will reduce impacts to nesting birds and bats by limiting construction and tree removal to specified work windows, and if that is not feasible providing a procedure to follow to identify nests and/or roosts, and establish buffers and other avoidance measures until nesting and/or roosting is complete.

Mitigation Measure BIO-4: Protect Needlegrass Grassland, will reduce the impact to needlegrass grassland to less than significant by eliminating the invasive threat and thus protecting and increasing the amount of needlegrass grassland at the Project site.

Mitigation Measure BIO-5: Remove Non-native Species from Landscape Plan, will reduce the impact to less than significant by providing a mechanism for the landscape plans to be reviewed by a qualified biologist and modified prior to planting.

Mitigation Measure CR-1: Protect Unknown Archaeological Resources, will reduce the impact to archaeological resources to a less-than-significant level because a procedure to address discovery of unanticipated resources and to preserve and/or record those resources consistent with appropriate laws and requirements would be implemented.

Mitigation Measure CR-2: Protect Paleontological Resources during Construction Activities, will reduce the impact of construction activities on potentially unknown paleontological resources to a less-than-significant level by addressing discovery of unanticipated buried resources and preserving and/or recording those resources consistent with appropriate laws and requirements.

Mitigation Measure CR-3: Protect Human Remains If Encountered during Construction, will ensure consistency with General Plan policies regarding protection of Native American heritage.

Mitigation Measure NOI-1: Limit Noise during Construction, will reduce the construction impact to less than significant by limiting construction hours to those established in the applicable ordinances for the Towns of Corte Madera and Tiburon.

Mitigation Measure TR-1: Improve Line-of-Site at Paradise Drive/Robin Drive, will improve the line of site at the Paradise Drive/Robin Drive intersection, reducing the potential hazard, resulting in a less-than-significant impact regarding increasing hazardous conditions.

Mitigation Measure TCR-1: Protect Unknown Tribal Cultural Resources, will mitigate this impact to a less-than-significant level by providing a process for unknown tribal cultural resources to be evaluated and therefore determine the appropriate avoidance and protection measures.

- 2. Pursuant to §21081.6 of the Public Resources Code, a Mitigating Monitoring and Reporting Program has been prepared, incorporated into the conditions of approval for this project and the applicant has agreed to the mitigation measures.**

This MMRP was prepared to comply with the requirements of State law (Public Resources Code Section 21081.6). State law requires the adoption of a mitigation monitoring program when mitigation measures are required to avoid significant impacts. The monitoring program is intended to ensure compliance during implementation of the project.

This MMRP has been formulated based upon the findings of the Initial Study/Mitigated Negative Declaration. This MMRP identifies mitigation measures recommended in the Initial Study/Mitigated Negative Declaration to avoid or reduce identified impacts, and specifies the agencies/parties responsible for implementation and monitoring of the measure.

For the Residences at Preserve Project the mitigation measures will be overseen by the Town of Corte Madera Planning Department and/or Public Works Department. The applicant has agreed to the mitigation measures and signed the MMRP.

- 3. Certification of this Mitigated Negative Declaration reflects the independent judgment of the approval authority of the Town of Corte Madera.**

The MND was prepared by a team of professional environmental consultants lead by GHD, Inc. under contract with the Town of Corte Madera. The Town chose the consultants to prepare the MND, independent of input from the applicant. The consultants performed their tasks under the direction of the Town and were paid from funds deposited with the Town by the applicant. The MND was reviewed by staff and revised by the consultant team. A Notice of Completion was filed with the State Clearinghouse which began a 30-day public review period. A Notice of Availability and Notice of Intent to Adopt a Mitigated Negative Declaration for the Residences at Preserve project was also filed with the Marin County Clerk. The general public was notified through the Town's website, the posting of notices at Town Hall, the post office and both Town fire stations. Notices were also sent to all residences within 500 feet of the project site.

- 4. 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 Planning Commission's recommendation memorialized in this Resolution is based.**

All documents related to this project, except those under the authority of the Town's legal counsel, are available for public review. The documents are located at 300 Tamalpais Drive, Corte Madera, CA. Any questions regarding the documents should be directed to the Corte Madera Planning Department – 415-927-5064 or plcounter@tcmmail.org

5. **The Planning Commission considered the proposed Initial Study/Mitigated Negative Declaration, together with all public comments received during the public review process and based on the whole record, finds that the Residences at Preserve project as proposed with the mitigation measures and project conditions incorporated has reduced any potential environmental impacts to less than significant, and recommends that the Town Council of the Town of Corte Madera certify the IS/MND for the project.**
6. **The Mitigated Negative Declaration reflects the lead agency's independent judgement and analysis.**

In particular, the Planning Commission has reviewed the Mandatory Findings of Significance (Section XVII of the Initial Study/Mitigated Negative Declaration) and concurs with the findings that the project will have a less than significant impact on the environment for the reasons specified.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Town of Corte Madera Planning Commission forwards its recommendation to the Town Council to approve an Initial Study and Mitigated Negative Declaration, and the associated Mitigation Monitoring and Reporting Plan attached in Exhibit A, for the Residences at Preserve subdivision project involving a Zoning Amendment, Planned Development, Preliminary Plan, Precise Plan, Tentative Map and Design Review to subdivide the property into 19 lots with a private access road, and construct a 16-unit single-family subdivision with 8 accessory dwelling units, associated landscaping, tree removal, and site improvements at the base of Robin Drive (APN 038-011-21).

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PASSED AND ADOPTED by the Corte Madera Planning Commission on February 26, 2019 by the following vote:

AYES: Chase, Metcalfe, Bundy

NOES:

ABSTAIN:

ABSENT: Lee, Bandel



 Peter Chase, Chair



 Adam Wolff, Planning Director