

## BEFORE THE TOWN OF CORTE MADERA PLANNING COMMISSION

<p><b>In the Matter of:</b> Recommendation to the Town of Corte Madera Town Council to approve a Precise Plan and Design Review to 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><b>Resolution No. 19-010</b> <b>Permit No. PL-2017-0055 to 2017-0061</b></p> <p><b>Adoption Date:</b> 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,** on July 12, 2016, the Planning Commission conducted a study session on a preliminary design for the project and provided non-binding feedback to the applicant on the requested entitlements. At this meeting members of the public also provided comment on the project; and

**WHEREAS**, Aimco Robin Drive L.C. submitted an application on May 8, 2017 for a Zoning Amendment to enable a Planned Development for a clustered subdivision described in the supporting Preliminary Plan, Precise Plan, Tentative Map, and Design Review application involving subdividing the property into 19 lots with a private access road, and constructing 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 requested Zoning Amendment includes a rezoning of the project site to remove the existing Hillside Land Capacity Overlay District and add the Planned Development Overlay District to the property; and

**WHEREAS**, the requested Planned Development, includes a Preliminary Plan and Tentative Subdivision Map to subdivide the property into 19 lots with a private access road in a clustered development pattern; and

**WHEREAS**, the Planned Development includes modifications to several development standards in the R-1 Zoning Districts, including: reducing minimum lot width standards at the front property boundary and the minimum lot width standards at the front setback line, the minimum depth of front yard setback, and the minimum required setbacks from the rear property boundary; and

**WHEREAS**, the Planned Development includes a request to waive the owner-occupancy requirement for properties with accessory dwelling units defined in CMMC §18.31.050(2) to allow for an all-rental property management structure for the subdivision where the property owner is a Real Estate Investment Trust that will provide on-site property management but will not occupy housing units, and to exempt accessory dwelling units and associated primary dwelling units from the inclusionary housing requirements defined in CMMC §18.24.120 to implement Corte Madera 2015-2023 Housing Element Implementation Program H-2.b.a for the site; and

**WHEREAS**, the Precise Plan for the project is identical to the Preliminary Plan for the project; 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. 19-009, recommending to the Town Council of the Town of Corte Madera that it approve the requested Planned Development, Preliminary Plan, and Tentative Subdivision Map for a clustered subdivision involving 16 single-family homes with 8 accessory dwelling units and associated site improvements at the base of Robin Drive (APN 038-011-21).

**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 approve a Precise Plan and Design Review** 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.

2. Required Precise Plan and Design Review Findings

Pursuant to CMMC §18.18.050, the Planning Commission may recommend approval or conditional approval of a Precise Plan provided the Precise Plan conforms to an approved Preliminary Plan and applicable findings for Design Review required by CMMC Chapter 18.30, Design Review.

The Precise Plan is wholly consistent with and is identical to the Preliminary Plan for the Residences at Preserve project that was analyzed by the Planning Commission on February 26, 2019. The Planning Commission findings for the Preliminary Plan established in Planning

Commission Resolution 19-009 apply to the Precise Plan and are incorporated herein by reference.

Pursuant to CMMC §18.18.340, the Planning Commission may recommend approval or conditional approval of a Precise Plan and Design review subject to the following Design review findings:

**1. The Project conforms with the General Plan and all provisions of the Zoning Ordinance.**

As detailed in the Town of Corte Madera staff report for the project, dated February 22, 2019, the project is consistent with the General Plan because:

it successfully implements the Housing Element development program for the site (addressing Housing Element Program H-2.6.b, and Policies H-2.15 and H-2.16),

it is designed and conditioned to ensure that affordable housing goals are achieved (addressing General Plan Program LU-2.2.b, and Policies Policy LU-2.2, and LU-2.11),

it improves circulation options and safety for vehicles, cyclists, and pedestrians (addressing General Plan Programs CIR-1.1.c, CIR-2.1.a, CIR-3.1.b, CIR-3.1.d, CIR-3.3.b, CIR-5.1.b, RCS-6.5.b, and PR-3.1.a),

it is well designed and is compatible with the neighborhood and context (addressing General Plan Policies LU-2.4, CD-1.2, CD-1.3, CD-1.5, CD-2.4, CD-2.5, CD-3.1, CD-3.3, H-3.2, and H-3.3);

it protects natural resources (addressing General Plan Programs RCS-2.6.d, RCS-7.1.a, RCS-9.2a, and Policy RCS-7.3); and

it incorporates safety and fire resistance measures to reduce overall risk of harm (addressing General Plan Programs PSH-1.1.c, PSH-8.2.a, and PSH-8.2.d).

The project includes a Planned Development with modifications to development standards applicable to the R-1 Zoning District consistent with the intent of the Planned Development Overlay District as provided in Planning Commission Resolution 19-008, recommending Town Council approval of a requested Zoning Amendment for the project to rezone the property from Hillside Land Capacity Overlay Zoning to Planned Development Overlay Zoning; and Planning Commission Resolution 19-009, recommending Town Council approval of a Planned Development, Precise Plan, and Tentative Map for a clustered subdivision with modified R-1 Zoning District development standards, and waivers to the owner-occupancy standards for accessory dwelling units and inclusionary housing requirements for accessory dwelling units and associated primary units.

**2. 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.**

Tree loss associated with developing 16 structures on the site is less than significant due to the proposed replanting program and habitat restoration, which provide replacement in

excess of the loss, and expand oak woodland habitat by a net gain of 1.04 acres at the site. This habitat will be maintained as open space in perpetuity. This approach to tree loss ensures that the tree removal remains at a less-than-significant level and that sensitive habitats on the site are enhanced and remediated as a result of the Project.

No structures are proposed within 50 feet of a ridgeline and structures are located on existing graded areas of the site to minimize unsightly grading and hillside degradation. The Project will preserve 10.75 acres of the site as private open space in perpetuity and the site plan and landscaping plan ensure that Paradise Drive will remain a scenic corridor. Thus proposed design will not unnecessarily remove trees and habitat, will preserve natural landforms, will not intrude into ridgelines, and will not otherwise adversely affect the natural beauty of the town.

**3. 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.**

The project provides all units with views and access to sunlight, while maintaining privacy. The primary view for future residents of the site will be toward the Bay as the subdivision is concentrated in a valley: hillsides block views to the east and south, and the Preserve at Marin apartments shield views to the west. View corridors are established in the building design by incorporating second level outdoor spaces, fenestration and offset buildings. The topography of the site places downhill properties northerly, thereby ensuring that downhill properties enjoy Bay views. Low and medium-height landscaping is placed along side yards to minimize view obstruction from residences. The orientation of the lots and buildings in the subdivision ensure access to sunlight by maintaining separation between structures and providing all units, including the accessory units, with ample fenestration. The sloping nature of the site also provides northerly exposure, and southern light is captured through cantilevered roof lines that allow for larger windows. Offset structures ensure that private outdoor spaces allow views to the Bay.

Adjoining single-family residences are located well uphill of the proposed development such that views will not be impacted by the development. Views from the upper stories of the adjacent apartments at the Preserve at Marin complex are similarly unaffected by the Project.

Privacy is managed by varying the size and location of fenestration on the structures. Where lots face public spaces or view corridors, fenestration is larger and more prominent as compared with fenestration on elevations near other structures or that are not oriented toward prominent views (west and south). With lots 8 through 12, where there is the most proximity between units, wood slat screening is appended to windows to further ensure privacy from uphill structures. Privacy with respect to the adjacent Tiburon neighborhood and Preserve at Marin complex is unaffected by the Project due to the wide separation and elevation change between the Project and these properties. The closest property in Tiburon is 15 Cibrian Drive, whose rear elevation is approximately 105 feet from the rear elevation of lot 12. The rear yard of 15 Cibrian is uphill of the roofline of lot 12, and due to the limited rear yard space for occupants of lot 11 and 12, there is limited opportunity for privacy intrusion through rear yard open spaces. Outdoor spaces for lots 11 and 12 are focused on the patios provided on the eastern elevation facing toward Robin Drive and the Bay.

The project will not significantly and adversely affect the views, sunlight or privacy

**4. The structure, site plan and landscaping are in scale and harmonious with existing and future development adjacent to the site, and in the vicinity, and with the landforms and vegetation in the vicinity of the site, and landscaping shall be based on water conservation designs.**

The Project is harmonious with adjacent development in that it continues the single-family residential character established in Tiburon to the west, and its clustered design serves as an appropriate transition to the dense Preserve at Marin apartment complex to the east. The proposed units, apart from lot 16, are smaller than the median-sized home in the adjacent Tiburon neighborhood, and are nestled in a valley to shelter the established neighborhood from the new development. The clustered subdivision design with ample setbacks from adjacent properties also ensures that future tenants will enjoy access to light, air, and views despite the adjacent apartment structures.

Condition #27 requires that the Project complies with graywater provisions in Title 13 of the Marin Municipal Water District (MMWD) Code (Ordinance 429) and the Model Water Efficient Landscape Ordinance (Condition #23) to the extent that graywater is feasible and desirable on-site considering the challenges of managing effluent discharge in a rental complex, as well as the site's topography and proximity to the Bay. The Project includes three bioretention swales and six tree boxes that are designed to retain stormwater flows which will reduce the need for watering. The landscaping proposed for the site, and the Vegetation Management Plan (VMP) included as Attachment C in the CEQA IS/MND for the project, outline a planting program of native varieties that are suited to local hydrological conditions. The Project will also comply with Marin Municipal Water District (MMWD) water conservation standards.

The structure, site plan and landscaping are in scale and harmonious with existing and future development, with the landforms and vegetation in the vicinity, and the landscaping shall be based on water conservation designs.

**5. Development materials and techniques will result in durable high-quality structures and landscaping.**

The proposed construction materials include high-quality durable products. The materials use an earth-tone color palette that blends into the environment and wood accents throughout add texture and soften the building mass. Materials are alternated throughout each lot and on each structure to add detail and visual interest. The proposed landscaping uses local varieties that are resilient to site conditions. The Vegetation Management Plan for the property shall be reviewed and approved by the Fire Marshall, and it includes several measures to ensure proper irrigation and landscape maintenance to remove pyrophytic and invasives that generate fire fuels. The project is also required to provide on-site property management to ensure landscape resilience in the long term. The proposed development materials and techniques will result in durable high-quality structures and landscaping.

**6. The structures, site plan and landscaping create an internal 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 and convenient access to the property for pedestrians, cyclists and vehicles.**

The Project is designed as a contained residential subdivision with open space areas and architecture that provides visual appeal and an internal sense of order. Condition #58 ensures that the clustered design is more effectively carried through lots 6 and 7 by framing the street more effectively with the structures on these lots. Condition #56 requires greater articulation on garages for lots 1-3 and 8-12 to reduce the prominence of solid garage-dominated facades. The CEQA MND mitigation TR-1 requires the applicant to modify the Paradise Drive/Robin Drive intersection to provide enhanced sight distance by reconfiguring the intersection's curbs, moving Robin Drive's stop bar northerly, pruning trees within the public right-of-way; and enhanced pedestrian safety by installing a new east-west crosswalk across Robin Drive, with associated ADA improvements and sidewalk extensions. Condition #60 requires that the applicant provide a fair-share contribution to extend the Paradise Drive Multi-Use Pathway from the planned terminus at Upupanda Way westerly to the improved Robin Drive intersection. The Paradise Drive Multi-Use Pathway extension condition ensures the Project will comply with General Plan Policy CIR-1.5, as well as Programs CIR-1.1.c, CIR-2.1.a, and CIR-3.1.b. Therefore the project, as conditions and with CEQA mitigations incorporated, creates an internal sense of order, in a visually pleasing setting, and provides safe and convenient access to the property for pedestrians, cyclists and vehicles.

**7. 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, Building Code or other Municipal Codes that exist on the site.**

The Project site is undeveloped, thus non-conforming structures are not present. The Project includes thorough remediation of existing landscaping and the site's natural condition by removing pyrophytic landscaping, invasive species, and trees that have succumbed to pathogens such as Sudden Oak Death. The project results in a net gain of oak woodland habitat of 1.04 acres and will expand protected needlegrass grassland habitat by removing areas that have succumb to invasive species. The Project memorializes an existing informal public pathway to Ring Mountain establishing an option for a formal public access easement. Furthermore, the Project will enhance the existing ephemeral stream in the "lower" area by installing rock weirs in the channel to better retain and manage hydrological flows. Landscape improvements will widen the channel and improve the watercourse for residents' enjoyment and to the benefit of local biota. The Project is consistent with this finding.

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

The Initial Study/Mitigated Negative Declaration was prepared for the project in accordance with the California Environmental Quality Review Act 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 as more fully set forth in the Findings in Resolution 19-007.

**NOW, THEREFORE, BE IT FURTHER RESOLVED**, that the Town of Corte Madera Planning Commission forwards its recommendation to the Town Council to approve the Precise Plan and Design Review including the Conditions of Approval in Exhibit A attached hereto for the Residences at Preserve project involving a subdividing the property into 19 lots with a private access road, and constructing 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).

\* \* \* \* \*

**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

  
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Peter Chase, Chair

  
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Adam Wolff, Planning Director