

**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 Planned Development, Preliminary Plan, and Tentative Subdivision Map for the Residences at Preserve subdivision application submitted by Aimco Robin Drive L.C. to subdivide the property into 19 lots with a private access road and 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. 19-009</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 setback line, the minimum setback of front property boundary, 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**, 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 Planned Development, Preliminary Plan, and Tentative Subdivision Map** 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. Findings

General

The proposed Planned Development is contingent upon Town Council approval of the requested Zoning Amendment to rezone the property from Hillside Land Capacity Overlay District to the Planned Development Overlay District. The Corte Madera Planning Commission recommends Town Council approval of the Zoning Amendment as outlined in the associated Planning Commission Resolution 19-007.

The Planned Development Overlay District provisions are intended to allow freedom of design to obtain developments which will be an asset to the town by equaling or surpassing the quality required by the regulations of underlying Zoning Districts. A development under the PD structure is implemented through a Preliminary Plan and Precise Plan. The proposed Planned Development for the project implements a clustered subdivision design that requires modifications to the minimum lot width at the property front setback line, the minimum front yard setback, and the minimum rear yard setback standards that apply in the R-1 Zoning District as detailed in Exhibit A for each proposed lot.

The Planned Development also includes a request for a waiver of CMMC §18.31.050(2) requiring owner-occupancy for one of the units on a lot containing an ADU, and modification to CMMC §18.24.120 to exempt the proposed accessory dwelling units and associated single-family units from the inclusionary housing calculation formula consistent with Corte Madera 2015-2023 Housing Element Implementation Program H-2.6.b.

#### Required Planned Development Findings

Pursuant to CMMC §18.18.340, the Planning Commission may recommend approval or conditional approval of a Planned Development subject to the following findings:

**1. The Project is consistent with all criteria and findings established in Municipal Code Chapter 18.30, Design Review.**

The project is consistent with all criteria and findings established in Municipal Code Chapter 18.30, Design Review, as outlined in detail in Planning Commission Resolution 19-010.

**2. In general, the Project shall be designed to fit the existing topography; the site shall not be significantly graded to accommodate the project.**

The Project involves nearly 3,400 cubic yards of cut and a net fill of 780 cubic yards. The clustered design significantly limits development along hillsides by focusing development on previously graded portions of the "lower" area. Where hillside development is necessary, buildings are designed to fit the natural contour by stepping back structures or aligning the building (in the case of lot 16) to follow the site's topography. The Project incorporates all recommended geotechnical recommendations established in the geotechnical report to ensure the development is secure. The proposed grading is appropriate to achieve the clustered development at the site.

**3. The proposed density does not exceed the maximum allowed density.**

5.93 acres of the property are located in the R-1 Zoning District and 9.49 acres are in the R-1-C District. The project is consistent with the maximum allowed density of the underlying R-1 and R-1-C Zoning Districts which are 5.8 units per acre (maximum capacity of 34 units on the 5.93 acres) and 0.2 units per acre (maximum capacity of 2 units on the 9.49 acres). The project also maintains a site density consistent with the Housing Element development program for the property in Implementation Program H-2.6.b, which defers to the Hillside Land Capacity density formula contained in CMMC §18.18.105. The Housing Element Program identifies a capacity of 16 units and 8 ADUs, with the potential need to reduce the capacity to 15 units and 8 ADUs for environmental resource conservation. The project utilizes a clustered design to achieve the 16-unit capacity identified in the Housing Element

while limiting impacts on environmental resources on the site. The project does not exceed the maximum allowable nor the maximum feasible density for the site.

**4. Final contours and slopes shall generally reflect existing landforms; in particular, building pads and terraces interspersed with slopes shall not be created, and ridgelines, knolls and significant tree masses shall be preserved.**

The Project layout establishes building pads and terraces along site contours and does not intersperse buildings on the hillside. All structures are more than 50 feet from a ridgeline and the development is concentrated in a valley rather than on knolls and elevated planes. Several trees will be removed from the site to accommodate the development; however, the clustered design minimizes overall tree loss to the maximum extent feasible. 68 trees will be removed by the project, including 27 oak trees, however the project will provide at least 107 replacement trees and expand the oak woodland area on the site by 1.04 acres through sensitive habitat restoration and rehabilitation requirements contained in the project conditions and the CEQA Mitigation Monitoring and Reporting Plan. The expanded oak woodland will be preserved in perpetuity through restrictions recorded with the County of Marin, and landscape areas will be maintained through active, on-site property management. The development reflects existing land forms and preserves significant tree masses consistent with this finding.

**5. The proposed development seeks to avoid significantly intruding into the views, privacy, and sunlight of adjoining residences.**

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. Rooftop solar, if installed, must be non-reflective consistent with the project conditions to minimize glare on adjacent, uphill properties. View, privacy, and light impacts are discussed in more detail under the Design Review findings below. Overall, the project will not have a significant impact on adjacent views, privacy, and access to sunlight.

**6. Views from public open space areas, rights-of-way, and other public places and of major public open space areas are not significantly affected.**

By preserving the "upper" area as private open space in perpetuity with the option for a public access trail easement on the existing informal trail, views from public areas will be preserved by the project. Prominent views from Robin Drive are north toward the Bay beginning at the southern proposed entrance to the private road for the Project. The ridgeline to the west is disrupted by existing development along Cibrian Drive and generally obscured by tree cover. Public views are generally unaffected or are improved by preserving the "upper" area as publicly-accessible open space.

**7. Wide pads or level areas are not created to accommodate roads. Roads should be fit into the existing topography; one-way roads may be preferred over two-way roads to reduce grading, and on-street parking should be parallel to the road, not perpendicular.**

The proposed private road traverses an existing graded site. The one-way design and shared use functionality minimize the required right-of-way area to the maximum extent

feasible on the site while maintaining accessibility for residents and emergency vehicles. No on-street parking is proposed; on-site and shoulder parking spaces provide parking for the subdivision. The project's roadway fits into the existing topography and minimizes grading of the site.

**8. Buildings, parking, carports and landscaping shall be arranged so that view corridors from downslope lots are created.**

The primary view for future residents of the site will be toward the Bay. Hillsides block views to the east and south, and the Preserve at Marin shields 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. Landscaping frames the proposed lots, and tall vegetation is located generally along the proposed road and on the hillside. Low and medium-height landscaping is placed along side yards to minimize private view obstructions. The project provides adequate view corridors for the proposed units.

Required Preliminary Plan Findings

Per CMMC §18.18.40, the Planning Commission may recommend approval or conditional approval of a Preliminary Plan subject to the findings below.

**1. The Project can be substantially completed within a period of four years.**

The proposed construction timeframe is expected to be 20 months; Conditions #10 and #11 ensure that the project will be completed within 3 years, and Condition #19 ensures the work will be conducted in a single phase.

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

The project will be constructed in one phase, per Condition #19.

**3. The proposed density will not exceed the capacity of the land to sustain it, and traffic generated by the development will not exceed the capacity of the local street system, including intersections.**

The proposed density is consistent with the Housing Element development program for the site and is more responsive to the environmental context than originally envisioned in the development program due to the clustered, Planned Development design.

As provided in the CEQA IS/MND, the Project will not generate excessive traffic beyond the capacity of the local street system. Existing pedestrian and bicycle access at the intersection of Robin and Paradise Drive will be improved consistent with the project's CEQA Mitigation Monitoring and Reporting Plan to further pedestrian and bicycle safety in the Town. Condition #60 requires that the project contribute up to \$250,000 toward the Paradise Drive Multi-Use Pathway Improvements, which will facilitate safe multi-modal access to and from the site.

**4. The Project will continue the development pattern of any adjacent residential neighborhoods without abrupt change and will not significantly affect traffic patterns, views and land use in adjacent residential neighborhoods.**

The Project is a self-contained clustered subdivision, set significantly back from surrounding neighborhoods. Due to the topography of the area, the proposed lots sit well below adjacent single-family neighborhoods in Tiburon and do not have direct access to these neighborhoods. The adjacent Preserve at Marin apartment complex features several 4 and 5-story multi-unit structures that define the use, traffic, and character of Robin Drive. Views from units in these structures are unaffected by the proposed development.

The proposed structures are located on graded portions of the property that are elevated above Paradise Drive, the main through-road, but well below surrounding ridgelines such that the development will not affect views from adjacent properties.

The project provides a buffer between the low-density residential neighborhoods to the north and west, and the apartment complexes east of the site. The project is compatible with existing neighborhoods, will not generate significant traffic, and will improve the circulation conditions in the area and conditions and with CEQA mitigations incorporated.

**5. Existing or proposed utility services are adequate to serve the Project, and adequate fire protection can be provided.**

The applicant has secured will-serve letters from all necessary utilities indicating capacity to service the Project. The Project is responsible entering into a pipeline extension agreement with the Marin Municipal Water District to complete a pipeline extension to the property before water service will be available. Condition #94 (Attachment 21) ensures that all utilities services will be connected prior to the issuance of Occupancy Permits.

**6. The Project conforms with the purposes of the Overlay District in which the site is located and conforms to the General Plan and Zoning Code.**

The project is consistent with the applicable Overlay District as described in the associated Planning Commission Resolution 19-009 recommending Town Council approval of the requested Zoning Amendment to rezone the property from the Hillside Land Capacity to Planned Development Overlay District, and the preceding Planned Development findings.

As detailed in the Town of Corte Madera staff report for the project, dated February 22, 2019, the requested modifications to development standards in the R-1 Zoning District are necessary to enable the clustered development pattern for the project, and the proposed waivers to the owner-occupancy requirement for accessory dwelling units and the inclusionary housing requirement for accessory dwelling units and associated primary units are 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, as conditioned, conforms to the Overlay District, General Plan and Zoning Code.

### Required Tentative Map Findings

Subdivision Tentative Maps must conform with the requirements of CMMC Chapter 17.20, Tentative Maps, and the CA Subdivision Map Act (SMA). There are seven standards in the SMA (Government Code §66474) by which subdivisions are evaluated:

**1. The proposed map is consistent with applicable General and Specific Plans as specified in §65451.**

The Town has not adopted a Specific Plan that applies to the property, and as previously stated in findings related to General Plan consistency under the Preliminary Plan findings, the Project is consistent with all applicable General Plan policies for the site and with the applicable Low-Density Land Use Designation that pertains to the "lower" disturbed portion of the site.

**2. The design or improvement of the proposed subdivision is consistent with applicable General and Specific Plans.**

A Specific Plan does not apply to the site and the Project is consistent with the General Plan as noted in the previous standard and in the Preliminary Plan findings.

**3. The site is physically suitable for the type of development**

The site has significant development constraints owing to its topography, sensitive biological features and habitats as discussed in the CEQA IS/MND (Attachment 9), and jurisdictional watercourses/wetlands. The property is also listed as a High Potential Housing Opportunity Site in the Corte Madera 2015-2023 Housing Element, and the development program for the site envisioned up to 16 units with 8 ADUs consistent with the proposed subdivision plan. A significant portion of the site was previously-graded, and the site is surrounded by existing residential development. The Project achieves the anticipated residential capacity in a clustered site layout that is responsive to the property's physical constraints and is therefore a suitable development.



**4. The site is physically suitable for the proposed density of development**

The site is suitable for the proposed development as described in the previous standard. The Housing Element development program for the property anticipated 16 units, the controls established by the Hillside Land Capacity Overlay District—although they will be removed from the site by the requested project entitlements—are being upheld by the Planned Development program. An IS/MND has been prepared for the project pursuant to CEQA and has found that the project will not create significant impacts on the environment that are not effectively mitigated, as described in further detail in the associated Planning Commission Resolution 19-007, recommending Town Council approval of the IS/MND for the project.

**5. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.**

As documented in the draft Mitigated Negative Declaration (MND) for the project, the project will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The subdivision is in an area with jurisdictional wetlands and watercourses, however the design of the subdivision avoids these features by clustering structures in previously graded areas away from these resources. Open Space B protects a jurisdictional watercourse that traverses through the center of the subdivision and impacts to the watercourse are minimized by a span bridge over the watercourse. Condition #50 and the MMRP for the project require that the applicant secure appropriate agency permits from the Regional Water Quality Control Board and CA Dept. of Fish and Wildlife to ensure that any impacts to wetlands and watercourses are mitigated.

The Project will remove 68 trees from the property. At least 107, 24"-box trees will be planted throughout the "lower" area and along Robin Drive, in compliance with the Town's Code and to enhance the existing tree canopies. The landscaping mixes native oaks with oaks that are both native and resistant to the diseases. The extent of tree loss on the site is minimized by the clustered design. Sensitive habitats will be restored through the CEQA mitigations for the project, which includes expanding the existing oak woodland on the property by 1.04 acres.

The subdivision, with associated conditions and subject to the MMRP, will not cause substantial environmental damage.

**6. The design of the subdivision or type of improvements is not likely to cause serious public health problems.**

The design of the subdivision and the residential improvements in the subdivision are not likely to cause serious public health problems in that the project will be not expose inhabitants of the homes to any known hazards.

**7. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.**

The design of the subdivision does not conflict with existing easements; rather, the Project memorializes an existing informal trail to Ring Mountain by establishing an option for a

permanent public access easement from the terminus of Robin Drive across the "upper" area to Ring Mountain.

**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 Planned Development and Preliminary Plan, including the modification to development standards outlined in Exhibit A; the Tentative Subdivision Map, attached in Exhibit A; and the Conditions of Approval in Exhibit B, for the Residences at Preserve project to 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).

\* \* \* \* \*

**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