

**BEFORE THE TOWN OF CORTE MADERA PLANNING COMMISSION**

<p><b>In the Matter of:</b> 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 Corte Madera Residence Inn application submitted by Reneson Hotels Inc. c (<b>APN 024-031-15</b>).</p>	<p><b>Resolution No. 22-002</b> <b>Permit No. PL-2021-0023</b></p> <p><b>Adoption Date:</b></p>
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**WHEREAS**, in February 20, 2018, the Town Council of the Town of Corte Madera directed staff to prepare a draft Hotel Floor Area Bonus Ordinance to update the existing Fifer/Tamal Vista Planning Area; and

**WHEREAS**, On June 16, 2020, the Town Council passed Ordinance 995 to adopt and incorporate the Hotel Floor Area Bonus Ordinance; and

**WHEREAS**, Reneson Hotels, LLC. submitted an application on March 2, 2021, for a for a Preliminary Plan, Precise Plan, Conditional Use Permit, Design Review, and Sign Permit to develop a new 149 room hotel, and associated landscaping, tree removal, and site improvements at 56 Madera Boulevard (APN 024-031-15); 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 17, 2021 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 17, 2021 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 17, 2021 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 January 15, 2022 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 January 25, 2022, 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. 22-002, recommending to the Town Council of the Town of Corte Madera that it certify the Mitigated Negative Declaration, and approve the requested Conditional Use Permit, Preliminary Plan, Precise Plan, Design Review, and Sign Permit 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 adopt** an Initial Study and Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan for the Residences at Preserve subdivision application submitted by Reneson Hotels, Inc., 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 FEIR certified for the 2009 General Plan, including the appendices and technical reports cited in and/or relied upon in preparing the FEIR, (2) the Initial Study/Mitigated Negative Declaration for the Hotel Floor Area Bonus, (4) all staff reports, Town files and records and other documents prepared for and/or submitted to the Commission relating to the Corte Madera Residence Inn Project, and its request for a Conditional Use Permit, a Preliminary Plan, Precise Plan, Design Review, and Sign Permit, (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 Corte Madera Residence Inn, and its request for a Preliminary Plan, Precise Plan, Conditional Use Permit, Design Review, and Sign Permit 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 1.6 of the IS/MND) to reduce impacts related to geologic hazards, air quality, hydrology and stormwater management, and CalGreen compliance:

- The Project has been designed to comply with the site-specific recommendations made in the Project's geotechnical report (Miller Pacific Engineering 2013). This would include design to address settlement from new building loads (replacement of fill material or deep foundations), around the pond area, and beneath gravity flow utilities, in accordance with the seismic and foundation design criteria, and design recommendations for site preparation and grading, site drainage, underground utilities, exterior concrete slabs, and asphalt concrete pavements included in the report. The geotechnical recommendations shall be incorporated into the final plans and specifications for the Project and shall be implemented during construction.
- Consistent with General Plan Implementation Program RCS-10.3.c, the following 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:
  - All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas and unpaved access roads) shall be watered two times per day;
  - All haul trucks transporting soil, sand, or other loose material off-site shall be covered or shall have at least two feet of freeboard;
  - 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;
  - All vehicle speeds on unpaved areas shall be limited to 15 miles per hour;
  - All paving shall be completed as soon as possible after trenching work is finished;
  - 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 airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Clear signage shall be provided for construction workers at all access points;
  - 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;

- A publicly visible sign shall be posted with the telephone number and person to contact at the Town 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.
  
- In compliance with State regulations, the Project will seek coverage under State Water Resources Control Board (Water Board) Order No. 2009-0009-DWQ, Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction and Land Disturbance Activities. The Applicant will submit permit registration documents (notice of intent, risk assessment, site maps, SWPPP, annual fee, and certifications) to the Water Board. The SWPPP will address pollutant sources, best management practices, and other requirements specified in the Order. The SWPPP will include erosion and sediment control measures, and dust control practices to prevent wind erosion, sediment tracking, and dust generation by construction equipment. A Qualified SWPPP Practitioner will oversee implementation of the Project SWPPP, including visual inspections, sampling and analysis, and ensuring overall compliance.
  
- The Project will comply with the water efficiency and conservation requirements in CAL Green, which include reduced flow in all indoor water fixtures. For outdoor water use, the Project will comply with the California Department of Water Resources' Model Water Efficient Landscape Ordinance.

Specific mitigation measures are incorporated into the MMRP to reduce impacts related to air quality, biological resources, cultural resources, hazardous materials, transportation/traffic, and tribal cultural resources:

**Mitigation Measure AQ-1.4b (from HFABO MND):** The Project applicant shall be required to specify in the construction bid that the Project construction contractor(s) and subcontractor(s) comply with the following requirements for all off-road equipment greater than 50 hp that will be operating for more than 20 hours over the entire duration of the construction activities at the site:

- Have engines that meet either US EPA or California Air Resources Board (CARB) Tier 4 Final emission standards. Ensure that all construction plans submitted to the Town of Corte Madera clearly show the selected emission reduction strategy for construction equipment over 50 horsepower.
- Maintain a list of all operating equipment in use on the Project Site for verification by Town official or his/her designee. The construction equipment list shall state the makes, models, and number of construction equipment on-site. Ensure that all equipment shall be properly serviced and maintained in accordance with the manufacturer's recommendations.
- Communicate with all sub-contractors in contracts and construction documents that all non-essential idling of construction equipment is restricted to 5 minutes or less in compliance with California Air Resources Board Rule 2449 and is responsible for ensuring that this requirement is met.

**Mitigation Measure BIO-1a (from HFABO MND):** Nests of raptors and other birds shall be protected when in active use, as required by the federal Migratory Bird Treaty Act and the California Fish and Game Code. If construction activities and any required tree removal are proposed to occur during the breeding season (February 1 and August 31), the Applicant shall indicate, on all construction plans, that preconstruction surveys shall:

- Be conducted by a qualified biologist prior to tree removal or grading, demolition, or construction activities. Note that preconstruction surveys are not required for tree removal or construction, grading, or demolition activities outside the nesting period.
- Be conducted no more than 14 days prior to the start of tree removal or construction.
- Be repeated at 14-day intervals until construction has been initiated in the area after which surveys can be stopped.
- Document locations of active nests containing viable eggs or young birds.

**Mitigation Measure BIO-1b (from HFABO MND):** Protective measures for active nests containing viable eggs or young birds shall be implemented under the direction of a qualified biologist until the nests no longer contain eggs or young birds. Protective measures shall include:

- Establishment of clearly delineated exclusion zones (i.e., demarcated by identifiable fencing, such as orange construction fencing or equivalent) around each nest location as determined by the qualified biologist, taking into account the species of birds nesting, their tolerance for disturbance and proximity to existing development. In general, exclusion zones shall be a minimum of 300 feet for raptors and 75 feet for passerines and other birds.
- Monitoring active nests within an exclusion zone on a weekly basis throughout the nesting season to identify signs of disturbance and confirm nesting status.
- An increase in the radius of an exclusion zone by the qualified biologist if Project activities are determined to be adversely affecting the nesting birds. Exclusion zones may be reduced by the qualified biologist only in consultation with California Department of Fish and Wildlife.
- Protection measures shall remain in effect until the young have left the nest and are foraging independently or the nest is no longer active.

**Mitigation Measure BIO-2:** Prevent Disturbance to Roosting Bats. The Applicant shall implement the following measures to prevent impacts to roosting bats during construction.

Removal of trees that potentially support a bat maternity roost should only occur between September 1 and October 15, after the young have learned to be self-sufficient but before hibernation. Trees supporting bats should not be removed while bats are hibernating between October 15 and March 15 or otherwise while bats are present.

Prior to construction, the Applicant shall have a Bat Habitat Assessment conducted, and submitted to the Town, for the trees to be removed. The Habitat Assessment shall be completed by a qualified biologist who is approved by the Town. The Habitat Assessment shall evaluate the trees for suitable entry points and roost features and shall provide focused daytime surveys for day-roosting bats. If a special-status bat species is found, or if suspected day roosts for special-status bats are identified, then the Habitat Assessment shall identify suitable performance measures for avoiding impacts to roosts, which may include, but would not be limited to:

- Consultation with the California Department of Fish and Wildlife to determine appropriate measures for protecting bats with young if present, and for implementing measures to exclude non-breeding bat colonies during construction process.
- Phased removal of trees where selected limbs and branches not containing cavities

are removed using chainsaws on the first day, with the remainder of the tree removed using chainsaws or other equipment on the second day.

If no bats are present during the day, construction shall proceed. If bats are present during the day, additional exclusion and eviction efforts will be required based on specific recommendations of a qualified bat biologist in consultation with the California Department of Fish and Wildlife.

**Mitigation Measure CR-1:** Protect Unknown Archaeological Resources Prior to Construction. The Applicant shall have a qualified archaeologist complete a geoarchaeological testing program, or other on-site investigation that achieves the intent and outcome of the testing program, prior to issuance of a grading permit by the Town. The testing program, or other investigation, shall be designed to:

1. characterize the subsurface conditions of the Project Site, including the age and composition of stratigraphic units;
2. assess the presence/or absence of archaeological deposits underlying the Project Site; and
3. produce a report of findings that includes recommendations for further study of archaeological resources, as appropriate.

These recommendations may include archaeological monitoring of areas where there is a potential to encounter buried archaeological deposits during construction, additional excavation to recover and study buried archaeological deposits, or avoidance of the area altogether. A monitor designated by the Federated Indians of Graton Rancheria shall be on-site during the geoarchaeological excavations, if conducted, in the event that archaeological deposits are unearthed. The Town shall ensure that the recommendations of the report of findings are followed as a condition of the Project's grading permit.

**Mitigation Measure CR-2:** Protect Unknown Archaeological Resources During Construction. If potential archaeological resources are uncovered, the Town shall halt work within 50 feet of the discovery. Construction workers shall avoid altering the materials and their context. Project personnel shall not collect cultural materials. Prehistoric materials might include obsidian and/or chert flaked-stone tools such as projectile points, knives, or scraping implements; the debris from making, sharpening, and using them ("debitage"); culturally darkened soil containing shell, dietary bone, heat-altered rock, and carbonized plant material ("midden"); or stone milling equipment such as mortars, pestles, handstones, or milling slabs. A qualified professional archaeologist shall evaluate the find and provide appropriate recommendations. If the archaeologist determines that the find potentially qualifies as a historic resource or unique archaeological resource for purposes of CEQA (per CEQA Guidelines Section 15064.5), all work must remain stopped in the immediate vicinity to allow the archaeologist to evaluate any materials and recommend appropriate treatment. A Native American monitor shall be present for the investigation, if the local Native American tribe requests. Avoidance of impacts to the resource are preferable. 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 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 as recommended by the archaeologist (e.g., data recovery) shall be instituted. Work may proceed on other parts of the Project while mitigation for the historic resources or unique archaeological resources is being carried out.

**Mitigation Measure CR-3:** Protect Human Remains If Encountered during Construction. If

human remains, associated grave goods, or items of cultural patrimony are encountered during construction, the Town shall halt work in the vicinity of the find and notify the County Coroner immediately. The Town shall follow the procedures in Public Resources Code § 5097.9 and Health and Safety Code § 7050.5. If the human remains are determined to be of Native American origin, the Coroner shall notify the Native American Heritage Commission within 24 hours of the determination. The Native American Heritage Commission shall then notify the Most Likely Descendant (MLD), who has 48 hours to make recommendations to the landowner for the disposition of the remains. 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 unassociated funerary objects. The agreement would take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, and final disposition of the human remains and associated or unassociated funerary objects.

**Mitigation Measure GEO-1:** Protect Paleontological Resources during Construction Activities. In the event that fossils are encountered during construction (i.e., bones, teeth, or unusually abundant and well-preserved invertebrates or plants), the Town shall divert construction activities away from the discovery within 50 feet of the find and notify a professional paleontologist to document the discovery as needed, to evaluate the potential resource, and to assess the nature and importance of the find. Based on the scientific value or uniqueness of the find, the paleontologist may record the find and allow work to continue, or recommend salvage and recovery of the material, if it is determined that the find cannot be avoided. The paleontologist shall make recommendations for any necessary treatment that is consistent with currently accepted scientific practices. Any fossils collected from the area shall then be deposited in an accredited and permanent scientific institution where they will be properly curated and preserved.

**Mitigation Measure HAZ-1:** Assess and Manage Hazardous Materials. Prior to building demolition, the Applicant shall ensure that a registered environmental assessor or a professional engineer perform a hazardous building materials survey of the Project Site. The survey shall be designed to identify any asbestos-containing materials, lead-based paint, electrical equipment containing Polychlorinated Biphenyls (PCBs), fluorescent lights containing mercury, or fluorescent light ballasts containing PCBs or di(2-ethylhexyl)phthalate (DEHP). If any friable asbestos-containing materials, lead-containing materials, or other hazardous components of building materials are identified, adequate abatement practices, such as containment and/or removal, in accordance with applicable regulations for the handling and removal of these materials, shall be implemented prior to demolition. Any PCB-containing equipment or fluorescent lights containing mercury vapors shall also be removed and disposed of in accordance with applicable regulations.

A written plan or notification of intent to demolish buildings shall be provided to the BAAQMD at least ten working days prior to commencement of demolition, even if no ACMs are present. If asbestos is detected, the demolition and removal of asbestos-containing building materials shall be subject to applicable California Occupational Safety and Health Administration (Cal/OSHA) and BAAQMD regulations (Regulation 11, Rule 2). If lead-based paint is identified, then federal and State construction worker health and safety regulations shall be followed during demolition activities, including Title 17 of the CCR, Sections 35001 through 36000. If loose or peeling lead-based paint is identified, it shall be removed by a qualified lead abatement contractor and disposed of in accordance with existing hazardous waste regulations.

**Mitigation Measure TR-1:** Reduce Traffic Hazards during Construction. The Applicant shall prepare a construction traffic management plan (CTMP), defining hours of operation,

specified truck routes, ingress/egress into the site, and construction parking provisions during demolition and construction associated with the Project. The CTMP shall be subject to review and approval by the Town of Corte Madera Public Works Department prior to the issuance of grading or building permits.

**Mitigation Measure TCR-1: Protect Unknown Tribal Cultural Resources.** If previously unknown tribal cultural resources are uncovered, the Applicant shall halt work, and workers shall avoid altering the materials and their context. Project personnel shall not collect cultural materials. The Applicant shall notify the Town and the California Native American tribes culturally affiliated with the Project area. The Applicant, in coordination with Native American tribes, 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 Applicant shall ensure that qualified resources are avoided, protected in place, or moved to an appropriate location in accordance with the requests of Native American tribes, to the extent feasible. Work may proceed on other parts of the Project while mitigation for tribal cultural resources is being carried out.

**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 Corte Madera Residence Inn 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 IS/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@tcmmaii.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.**

The public comments submitted regarding the IS/MND do not contain any substantial evidence of significant adverse effects on the environment that were not addressed in the IS/MND nor do the comments contain substantial evidence that the project will have significant effects after the implementation of the proposed mitigations measures.

- 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 adopt an Initial Study and Mitigated Negative Declaration, and the associated Mitigation Monitoring and Reporting Plan attached in Exhibit A, for the Corte Madera Residence Inn project involving a Preliminary Plan, Precise Plan, Conditional Use Permit, Design Review, and Sign Permit to construct a 149 room hotel, associated landscaping, tree removal, and site improvements at 56 Madera Boulevard (APN 024-031-15).

\* \* \* \* \*

**PASSED AND ADOPTED** by the Corte Madera Planning Commission on January 25, 2022 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Peter Chase, Chair

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Adam Wolff, Planning Director