



**STAFF REPORT TO THE MARIN COUNTY  
PLANNING COMMISSION  
The Oaks (Daphne Krestine Trust) Master Plan Amendment,  
Design Review, Tree Removal Permit, and EIR Addendum**

**Recommendation:**                      **Recommend Board Approval**  
**Hearing Date:**                              **September 24, 2018**

|                              |   |   |   |
|------------------------------|---|---|---|
| Agenda Item:                 | 4 | Owner(s):   | Daphne Krestine Trust   |
|                              |   | Assessor's Parcel No(s):  | 164-270-05  |
|                              |   | Property Address:   | Marinwood Avenue, San Rafael  |
|                              |   | Project Planner:  | Jeremy Tejirian<br><a href="mailto:itejirian@marincounty.org">itejirian@marincounty.org</a><br>(415) 473-3798 |
|                              |   | Signature:  |   |
| Countywide Plan Designation: |   | PR (Planned Residential, 1 unit/1-10 acres)   |   |
| Zoning District:             |   | RMP-1.38 (Residential, Multiple family, Planned, 1.38 units per acre maximum density) |   |
| Environmental Determination: |   | EIR Addendum  |   |

**PROJECT SUMMARY**

The applicant for the project is Robert Eves/Venture Senior Living, and the property is a vacant lot located in unincorporated San Rafael between Lucas Valley Road and Marinwood Avenue. The applicant proposes to construct a new residential care facility and associated affordable apartment building on the property, as discussed in additional detail below.

Three buildings are proposed on the site, including a main building with 86 apartments, an attached memory care building with 40 apartments, and a separate affordable housing building with six apartments. The 86 apartments in the main building would consist of 51 independent living apartments and 35 assisted living apartments and all of the apartments in the memory care building would be for assisted living. The main building would have a floor area of 78,358 square feet as well as an additional 19,756 square foot subterranean garage. The memory care building would have a floor area of 22,161 square feet and the affordable housing building would have a floor area of 3,625 square feet. The total floor area proposed for the residential care facility would be 100,519 square feet, and the total floor area on the property as a whole would be 104,144 square feet, resulting in a floor area ratio of 25 percent on the 9.6 acre lot.

The main building would be three stories tall and approximately 38 feet, six inches in height, as measured from natural grade (31 feet, eight inches above finished grade). An interior courtyard would be located in the central portion of the main building; terraces are proposed on the second story of the front elevation; and a small roof deck is proposed on the uppermost level of the

structure. The main building would be connected to the memory care building via a breezeway, to be used by service personnel. The proposed setbacks, from the exterior walls to the property lines, are as follows: 120 feet from the eastern (front) property line; 104 feet from the northern (side) property line; 99 feet from the western (rear) property line; and more than 300 feet from the southern (side) property line.

The memory care building would be one story tall and approximately 30 feet in height, as measured from natural grade (20 feet above finished grade). Apartments are proposed to be dispersed around the perimeter of the building, which is designed to feature an interior courtyard. The proposed setbacks, from the exterior walls to the property lines, are as follows: 53 feet from the eastern (front) property line; more than 300 feet from the northern (side) property line; 146 feet from the western (rear) property line; and 125 feet from the southern (side) property line.

The affordable apartment building is proposed to be two stories tall and approximately 22 feet in height, as measured from natural grade (25 feet above finished grade). The affordable apartment building is proposed to have lower level carports and six second story apartments, 571 square feet in size each. Second story decks are proposed to be located on the rear elevation of the building. The proposed setbacks, from the exterior walls to the property lines, are as follows: 98 feet from the eastern (front) property line; 20 feet from the northern (side) property line; more than 150 feet from the western (rear) property line; and more than 400 feet from the southern (side) property line.

All three buildings are proposed to be constructed out of natural materials in subdued earth tone colors, including natural wood siding, beige stucco, and stone veneer columns. The retaining walls are proposed to consist of a combination of stacked block walls (around the perimeter of the new bioswale, proposed on the front portion of the project site) and tan colored concrete walls (around the rear perimeter of the new buildings, as well as along the newly proposed access driveway). The proposed paving materials include a concrete driveway, beige colored integral concrete pathways and patio areas, and porcelain pavers at entryways and patio areas.

In addition to the construction of three new buildings, the project proposal includes the construction of a new entrance driveway, vehicular bridge across Miller Creek, new surface parking areas, storm drainage system, retaining walls, and the installation of utilities and landscaping. The proposed storm drainage system would include a series of catch basins, rain wash drainage pipes, and bio-retention basins. The proposed retaining walls, which would be located along the new driveway, surrounding the new drainage swale at the front property line, and behind the new buildings, would range in height from two to six feet along the drainage swale, four to 13 feet along the newly proposed access driveway, and one to six feet around the perimeter of the proposed buildings. Altogether, the proposed development would include 15,300 cubic yards of cut and 15,300 cubic yards of fill, with no off-haul proposed.

The applicant proposes to dedicate a pedestrian and bicycle easement of a minimum 12 feet in width across the property from the entrance on Marinwood Avenue to the intersection of Lucas Valley Road and Los Gamos Road and to construct a sidewalk and pedestrian and bicycle pathway from the residential care facility, across Miller Creek, to the existing end of Marinwood Avenue.

The landscape plan for the project includes new shrubs and trees along the new entrance driveway, as well as restorative planting using Marin County native plants, around the perimeter of the project site. A total of 50 trees would be removed to accommodate construction of the project, 39 of which are considered protected trees under County code. The landscape plan includes a comprehensive tree replacement plan. In addition, the proposed landscape plan

includes restoration planting of a seasonal wetland that will be impacted as a result of construction of the newly proposed access bridge. The restoration planting would be located adjacent to the stream that would be impacted by the bridge.

The conceptual lighting plan for the project includes new pole lights along the entrance driveway, bollard lights along the perimeter pathways surrounding the new buildings, and wall mounted downlights on the buildings.

Master Plan Amendment approval is required because the project does not conform to the approved Oakview Master Plan. Specifically, there are three modifications to the Master Plan proposed by the applicant, as listed below:

1. Increasing the floor area of the residential care facility above the allowable 94,400 square feet by 6,119 square feet to a total of 100,519 square feet.
2. Eliminating the berm previously required along the frontage of U.S. 10101 and replacing it with bioswales and landscaping.
3. Construction of the 3,625 square foot apartment building containing six affordable housing units.

Design Review approval is required because the project is in a Planned Zoning District.

Tree Removal Permit is required because the project would entail the removal of 39 mature, healthy, native trees that are protected under County code.

## **PROJECT SETTING**

Characteristics of the site and surrounding area are summarized below:

- Lot Area: 417,305 square feet
- Adjacent Land Uses: Open Space, U.S. 101
- Topography and Slope: Moderately sloped, with an easterly aspect
- Existing Vegetation: Eight biological communities have been identified on site, including 88 plant species

The project site is located in the unincorporated community of Marinwood, in Marin County, just north of the City of San Rafael. The 9.6-acre site is situated on the west side of U.S. Highway 101 (U.S. 101) approximately 1,500 feet north of Lucas Valley Road and 2,200 feet south of Miller Creek Road/Marinwood Avenue. The site is located in the eastern portion of Marin County, within the city-centered corridor that extends along the western margins of San Francisco and San Pablo bays and flanks U.S. 101.

The site consists of two areas: the primary area proposed for development with the residential care facility, and a narrower strip of land that would be developed with the long driveway providing access to the project from the southern terminus of Marinwood Avenue. This latter portion of the site is approximately 1,100 feet long and 90 feet wide, encompassing approximately 2.3 acres.

The project site slopes upward toward the west, with elevations ranging from about 62 feet above mean sea level on the eastern edge of the site to about 146 feet above mean sea level in the northwest corner. The concave slopes range from a gentle 16-percent gradient to steeper 40-percent slopes in the upper western portions of the site.

The site is in a natural, undeveloped state, and shows no signs of prior development. The majority of the site, including the portion proposed for development, supports non-native grassland habitat, as well as areas vegetated with native purple needlegrass. The upper slopes are occupied by coast live oak woodland.

At the northern limit of the site, just south of where the project driveway would connect to Marinwood Avenue, is Miller Creek, a perennial stream flanked by riparian coast live oak woodland. This creek flows 9 to 12 months in a normal rainfall year. The western banks above the creek have been modified with trails and jump ramps by bike users. Within the creek on either side are two old concrete footings that supported a former bridge. Remnants of an old gravel road are visible on the west side of the creek and in portions of the site south of Miller Creek running parallel to Highway 101.

Protected open space, consisting primarily of hilly coast live oak woodland, extends to the west and northwest of the proposed development area. This woodland separates the project site from the existing Marinwood subdivision of single-family homes located about 1,300 feet west of the site, though the closest homes at the end of Elvia Court are about 700 feet away on the west facing side of the hill separating the two development areas. In the northern portion of the site, condominiums on Majorca Court are located as close as 35 feet to the proposed driveway entrance to the property. The Marinwood Shopping Center, currently vacant except for the Marinwood Market, occupies the east side of Marinwood Avenue, about 500 feet north of the proposed site entrance.

## **BACKGROUND**

The proposed project has its genesis back in the 1980s, with multiple iterations proposed in the ensuing years. Although Marin County is the lead agency for the current project—pursuant to the California Environmental Quality Act (CEQA)—the project site was within the sphere of influence of the City of San Rafael when development of the site was first proposed. In December 1983, Virginia Daphne and Edward Bacciocco, property owners of a 106-acre property located at the northwest corner of the intersection of U.S. 101 and Lucas Valley Road, submitted an application to the City of San Rafael for a residential and commercial mixed-use development on the property. This application was subsequently withdrawn because it would have had to be annexed into the city, which would have led to substantial delays in project review.

In 1989, at the request of the County and residents of the unincorporated community of Marinwood, the City of San Rafael decided annexation of this property to the City could be waived, subject to certain conditions set forth in a joint City-County Memorandum of Understanding (MOU). The MOU established a mitigation fee for improvements of the Lucas Valley Road/Los Gamos Drive/Highway 101 freeway interchange, established a Joint Powers Agreement between the City and the Marinwood Community Services District (Marinwood CSD) for the provision of mutual fire protection of certain areas of both the City and the Marinwood CSD, and stipulated that all public improvements would be designed and built to the City's standards or to a standard mutually agreed upon by the City and County, among other provisions.

Subsequently, in May 1995, the property owners submitted an application to Marin County for a Master Plan, Use Permit, and Tentative Subdivision Map, proposing to subdivide the 106.3-acre property into two parcels for future residential and office building development. A Draft EIR for the project was prepared and circulated for public review in September 1996. The project evaluated in that EIR included up to 71 single-family detached housing units and two office buildings providing a total of 94,400 square feet of office space. The project also included dedication of

52.9 acres of open space and 9.0 acres reserved for improvements to Lucas Valley Road/Los Gamos Drive/Highway 101 freeway interchange.

Before a Final EIR could be prepared, the processing of the EIR was suspended at the request of the property owners in November 1996. The property owners submitted a revised application to the County in April 1999. The revised project still included subdivision of the property into two parcels, with Parcel 1 to include 15.3 acres reserved for eventual site development with a maximum of 28 detached single-family residences, 1.8 acres of public right of way, and 34.8 acres of open space, for a total of 51.9 acres. Parcel 2 would consist of 20.1 acres reserved for eventual development of a maximum of 94,400 square feet of administrative/professional office development, 9.0 acres reserved for future interchange improvements to U.S. Highway 101, and 34.3 acres of open space, for a total of 54.4 acres.

A Draft Revised EIR for the modified project was circulated for public review on March 31, 2001. In order to address concerns raised during public review the project sponsors agreed to submit alternative project design options for residential and affordable housing use in lieu of the proposed office buildings. Accordingly, in June 2002 the property owners submitted an optional design for an assisted living use in lieu of the proposed office use. On February 24, 2003, the Marin County Planning Commission conducted another public meeting on the project and recommended that the Board of Supervisors certify the Final EIR.

The project applicant submitted a revised application to the County on April 18, 2003 that incorporated the assisted living design option that was evaluated in the Final EIR and Final EIR Response to Comments Amendment. This proposal replaced the two office buildings, totaling 94,400 square feet, with a 94,400-square-foot, 150-unit assisted living facility, to be located on the site of the previously-proposed 80,000-square-foot office building. It designated the site of the previously-proposed 14,400-square-foot office building as a site for wetland mitigation purposes. The revised proposal also eliminated the previously-proposed roadway connection to Lucas Valley Road, instead providing access to the 28 future single-family lots via a proposed extension to Erin Drive. Access to the future assisted living facility would be provided by a private roadway extension of Marinwood Avenue at its current southern terminus, continuing south across Miller Creek.

A second Amendment to the Final EIR was prepared in 2004, and the Planning Commission again recommended that the Board of Supervisors certify the Final EIR on December 6, 2004. On January 11, 2005, the Board of Supervisors certified the EIR, and subsequently approved the revised project. After the Board's approval, a Parcel Map was recorded creating the subject property, the property to be developed with single family residences, a parcel reserved for Caltrans to build an intersection, and an open space parcel that was dedicated to the Marinwood Community Services District for ongoing public use. The lot for single family residences has not yet been developed, and will need to go through an additional subdivision process before development can occur.

## **KEY ISSUES**

The Oakview Master Plan discussed the steps for implementing the proposed project with reference to the term "senior care facility", which is not defined in the Development Code, and anticipated a future Use Permit and Precise Development Plan. Due to code amendments approved by the Board of Supervisors in 2017, Precise Development Plans have been replaced and superseded by Design Review as the applicable planning entitlement necessary to develop the project. As used in the Master Plan, "senior care facility" is a generic term that correlates to

two land use classifications defined in the Development Code: (1) Residential Care Facility, (2) Medical-Extended Care (i.e. skilled nursing). The property is zoned for residential development, and therefore providing skilled nursing or other medical care would require a Conditional Use Permit. The applicant decided to propose a residential care facility, which is a residential use rather than a medical use, and therefore does not require a Conditional Use Permit.

Apartments provided in residential care facilities are treated differently in the Development Code when shared meals are provided to tenants in a dining hall. In these instances, the apartments are not treated as separate “units” with respect to the density calculations because the traffic generated by senior facilities does not easily equate to traffic generated by other kinds of multifamily residential development. Instead of labeling separate apartments as “units”, proposals for residential care facilities rely on traffic studies to determine impacts, as was done in this case. However, the Master Plan refers to apartments as “units”, so it is important to note that the proposal is consistent with the Master Plan in this respect. In fact, the Master Plan allows up to 75 independent units and 75 assisted care units and the proposal includes only 51 of the 75 independent units allowable.

In almost all respects, the proposed project is consistent with the original Master Plan. However, there are a few amendments requested by the applicant and other changes to the project that result from the EIR Addendum. One proposed amendment is to increase the size of the residential care facility above the allowable 94,400 square feet by 6,119 square feet to a total of 100,519 square feet (the floor area does not include the garage). Under many circumstances, this increase in floor area could result in considerably more mass and bulk visible from the surrounding area. However, in this case, because the design minimizes mass and bulk by excavating into the hillside and the building is distant from other properties, the impact of the additional floor area is minimal.

Another change relates to a required mitigation measure from the EIR to put in a berm between the development and U.S. 101. This requirement was intended to reduce noise to the facility from the highway but would have also provided additional screening. Under recent case law, CEQA does not require the impact of the surrounding environment on a project to be mitigated, and proposed landscaping would screen the development from the highway below.

Perhaps the most important amendment to the Master Plan involves the construction of the affordable housing apartment building. This is proposed to provide six units of affordable housing. The applicant hopes to market these units to staff of the facility, but understands that affordable housing rules require these to be open to the public as well. They would continue to be owned by the property owner and rented to tenants that meet the income qualifications for affordable housing.

It is important to understand the context for this request, since it is somewhat unusual and goes beyond what the code would normally require. Condition 5b of the Master Plan states:

“The project shall be subject to the affordable housing requirements of Marin County Code Chapter 22.22 (Affordable Housing Regulations) in effect at the time that the County issues the final decision on the Precise Development Plan and Use Permit.”

The condition then goes on to describe the requirements in place in 2005 when the Master Plan was originally approved. As discussed previously, the project is no longer subject to Precise Development Plan or Use Permit, but is subject to Design Review. The affordable housing regulations have changed considerably since 2005. Marin County Code 22.22.100A and Table 3-4b indicate that a fee of \$18.00 per square foot (not including garage area) shall be imposed for

residential care facilities as of 2016, with an annual increase in this fee each year. This section treats residential care facilities as non-residential development and also states:

“Alternatively, an applicant for non-residential development may propose to provide the number of new affordable units required by Table 3-4c.”

Table 3-4c does not list residential care facilities or provide a specific calculation to use to determine the correct fee. However, section 22.22.100B.1.c states:

“Other types of non-residential development shall provide housing for 25% of the income qualifying employee households associated with the new non-residential development.”

In combination, this is taken to mean that an applicant has the following two options: (1) pay the fee based on the floor area of the facility, or (2) provide housing for 25 percent of the income qualifying employee households for the facility.

The applicant has proposed to offset the fees normally required by providing six affordable units but it is not yet clear how many employees there will be that meet the income qualifications. It is possible that the six units will be sufficient to meet the affordable housing requirements. However, if this is an insufficient number of units to meet the 25 percent threshold, the applicant has not proposed a way to account for the marginal difference between the number of units provided and the amount of funds normally required. Since one of these standards is based on floor area and the other is based on a calculation of the number of units necessary for employees in the future, this ends up being a comparison between apples and oranges. Therefore, staff recommends that the interpretation of the affordable housing requirement be considered discretionary, rather than codified, and subject to the interpretation of the Board.

As described in the attached Resolution, conditions of approval are recommended that allow the applicant an alternative to either (1) pay the required fee for residential care facilities and eliminate the affordable housing apartment building from the project, or (2) provide an affordable housing plan that provides the numbers of employees who meet the income qualifications and, based on that number, calculates what the total number of affordable housing units would be required to meet the 25 percent threshold. If the 25 percent threshold requirement exceeds the six proposed units, then the in-lieu housing fee shall be paid for each required unit, or portion thereof, that is not provided. The substance and procedure of the affordable housing plan would be required to meet the other Development Code requirements for providing affordable housing.

## **ENVIRONMENTAL REVIEW**

The 2005 Oakview Master Plan approval relied on an EIR and subsequent amendments that fully addressed the potential environmental impacts of the project. At that time, the EIR was evaluating the whole of the project, including the residential care facility, the adjacent open space parcel and Caltrans parcel, and the single family residential subdivision that has yet to be built. Due to the length of time that had elapsed from that earlier EIR and the amendments proposed to the Master Plan, it was necessary to reevaluate the impacts identified by the EIR.

The County hired an outside consultant to conduct this analysis, which led to the conclusion that an EIR Addendum would be appropriate for the project. The checklist done for the EIR Addendum evaluated only the residential care facility property, and does not draw any conclusions about the impacts associated with the single-family residential lot. There are no new significant impacts resulting from the residential care facility, but there are a number of mitigations that needed to be

revisited and updated to reflect current conditions, which are detailed in the attached. EIR Addendum document.

Following the completion of the EIR Addendum document, the Mitigation and Monitoring Reporting Program (MMRP) needed to be evaluated and updated. This process involved modifying the MMRP to reflect the Addendum, researching those mitigations that apply to the project, evaluating whether the mitigations due for completion had been implemented, and in some cases making minor modifications to the timing or other details of the applicable mitigations. These issues are discussed in more detail in the attached MMRP and Resolution for the EIR Addendum.

## **RECOMMENDATION**

Staff recommends that the Planning Commission review the administrative record, conduct a public hearing, and recommend that the Board of Supervisors approve The Oaks Master Plan Amendment, Design Review, Tree Removal Permit, and EIR Addendum.

### Attachments:

1. The Oaks CEQA Resolution
2. The Oaks Master Plan Amendment, Design Review, and Tree Removal Permit Resolution
3. Mitigation Monitoring and Report Program (previously sent under separate cover)
4. Oakview FEIR Addendum and Appendix (previously sent under separate cover)
5. CDA Uniformly Applied Conditions
6. Department of Public Works comments, dated 8-21-18
7. Las Gallinas Valley Sanitary District comments, dated 7-3-17
8. Environmental Health Services Division comments, dated 6-29-17
9. Marin Municipal Water District comments, dated 2-3-17
10. Oakview Master Plan, Ordinance 3421



MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION APPROVING THE OAKS (DAPHNE KRESTINE TRUST) RESIDENTIAL CARE FACILITY ADDENDUM TO THE 2005 OAKVIEW MASTER PLAN, USE PERMIT, TENTATIVE MAP FINAL ENVIRONMENTAL IMPACT REPORT ASSESSOR'S PARCEL: 167-270-05

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SECTION I: FINDINGS

1. WHEREAS, The applicant for the project is Robert Eves/Venture Senior Living, and the owner is the Daphne Krestine Trust. The property is a vacant lot located in unincorporated San Rafael between Lucas Valley Road and Marinwood Avenue. The applicant proposes to construct a new residential care facility and associated affordable apartment building on the property, as discussed in additional detail below.

Three buildings are proposed on the site, including a main building with 86 apartments, an attached memory care building with 40 apartments, and a separate affordable housing building with six apartments. The 86 apartments in the main building would consist of 51 independent living apartments and 35 assisted living apartments and all of the apartments in the memory care building would be for assisted living. The main building would have a floor area of 78,358 square feet as well as an additional 19,756 square foot subterranean garage. The memory care building would have a floor area of 22,161 square feet and the affordable housing building would have a floor area of 3,625 square feet. The total floor area proposed for the residential care facility would be 100,519 square feet, and the total floor area on the property as a whole would be 104,144 square feet, resulting in a floor area ratio of 25 percent on the 9.6 acre lot.

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The conceptual lighting plan for the project includes new pole lights, along the entrance driveway, bollard lights along the perimeter pathways surrounding the new buildings, and wall mounted downlights on the buildings.

Master Plan Amendment approval is required because the project does not conform to the approved Oakview Master Plan. Specifically, there are three modifications to the Master Plan proposed by the applicant, as listed below:

- A. Increasing the floor area of the residential care facility above the allowable 94,400 square feet by 6,119 square feet to a total of 100,519 square feet.

- B. Eliminating the berm previously required along the frontage of State Route 101 and replacing it with bioswales and landscaping.
- C. Construction of the 3,625 square foot apartment building containing six affordable housing units.

Design Review approval is required because the project is in a Planned Zoning District.

Tree Removal Permit is required because the project would entail the removal of 39 mature, healthy, native trees that are protected under County code.

2. **WHEREAS**, the Oaks Project application represents a project subject to the California Environmental Quality Act (CEQA Public Resources Code Sections 21000-211178.1); and

3. **WHEREAS**, because of the changes to the Oakview project proposal since the 2005 Master Plan, Use Permit and Vesting Tentative Map FEIR certification and approval, environmental analysis is required pursuant to State CEQA Guidelines Section 15162 to determine if environmental impacts and mitigation measures of the current Oaks residential care facility proposal were adequately addressed in the 2005 Master Plan FEIR. The County selected an environmental consultant and the project sponsor submitted the funds necessary to initiate subsequent environmental review on the project; and

4. **WHEREAS**, the County independently selected and contracted with an EIR consultant in January 2018 to prepare an environmental checklist to document the evaluation of the site and the proposed activities to determine whether the environmental effects of the project were covered in the 2005 FEIR, pursuant to State CEQA Guidelines Section 15162, and to determine what subsequent level of CEQA document was necessary, in accordance with CEQA Guidelines Section 15162. Upon completion and review of the findings of the checklist, the County determined that the proposed project was consistent with the criteria for preparation of an Addendum to the EIR, pursuant to State CEQA Guidelines Section 15164. The evaluation and findings in the environmental checklist provide the substantial evidence on which the County relied in determining that a Subsequent EIR was not required. Following the County's determination, the EIR consultant prepared the Draft Addendum to the 2005 Master Plan, Use Permit, Vesting Tentative Map Final EIR, which incorporated the environmental checklist and supporting evaluation; and

5. **WHEREAS**, the previous 2005 Oakview Master Plan addressed both the project site with the proposed residential care facility and another project site that was to serve as a separate residential community with a maximum of 71 single-family residences. The 2005 Mitigation Monitoring and Reporting Program was reflective of the more comprehensive project, including the residential component of the Master Plan, and had corresponding mitigation measures that did not apply to the currently proposed Senior Living Community project that was covered as part of the project addendum. Thus, the Mitigation Monitoring and Reporting Program has been slightly updated to address the current Senior Living Community component of the project, and to better address the verification timing at each stage of the project in conformance with the current building and regulatory process as outlined below:

- A. Mitigation Measures that were to be verified by Marin County Department of Public Works (DPW) at the Building Permit Stage under the 2005 Oakview MMRP included: 5.1-3, 5.1-4, 5.1-9, 5.1-10, 5.2-7, 5.2-10 and 5.2-11. The above-listed mitigations measures have been modified to be verified "Before Building, Grading or other Construction Permits."

- B. Mitigation Measures that were to be verified by DPW at the Precise Development Plan stage under the 2005 Oakview MMRP included: 5.1-1, 5.3-4(b)(c), 5.3-6, 7.0-1(a)(c) and 7.0-2. The above-listed mitigations measures have been modified to be verified “Before Building, Grading or other Construction Permits.”
- C. Mitigation Measures that only apply to the residential component of the Oakview Master Plan include: 5.1-5, 5.1-13, 5.2-3, 5.2-4, 5.3-2(a), 5.4-1, 5.4-2, 7.0-1(b). These Mitigation Measures along with parts of 5.2-2, 5.3-3, 5.7-1, 5.7-3, and 5.8-2 that also pertain specifically to the residential component of the Oakview Master Plan have been stricken from the updated Mitigation Monitoring and Reporting program table.
- D. Mitigation Measures that were verified by either Department of Public Works or Community Development Agency staff that have been satisfied at the Design Review stage by the application materials include: 5.31(a)(b), 5.3-2(b)(c)(d), 5.3-3, 5.3-4(a), 5.3-6, and 5.8-2.
- E. A Mitigation Measure that was to be verified by CDA at the Building Permit phase, but which was verified via the current application and project materials was 5.3-2(d).
- F. The language in Mitigation Measure 7.0-1(c) was also corrected in conformance with the addendum to clarify that, “The applicant **shall** pay its estimated proportional share of 15.6 percent, estimated to be \$77,876.”

6. **WHEREAS**, on September 24, 2018 the Marin County Planning Commission conducted a public meeting to consider recommendation to the Board of Supervisors to certify the Oaks FEIR Addendum. The FEIR Addendum together with staff’s report recommending certification were provided to the Commission.

7. **WHEREAS**, the Marin County Planning Commission has reviewed and considered the information in the FEIR Addendum and the administrative record, including the specific findings contained in the FEIR Addendum, for adequacy, completeness and compliance with CEQA, State CEQA Guidelines, and Marin County Environmental Review Procedures.

**SECTION II: ACTION ON ADDENDUM TO THE FINAL EIR**

NOW THEREFORE, BE IT RESOLVED that that the Marin County Planning Commission makes the following findings:

- 1. The Final EIR consisted of three volumes: the June 2002 Final EIR Response to Comments, the December 2002 Response to Comments Amendment, the November 2004 FEIR Amendment, and the Oaks March 2018 FEIR Addendum; and
- 2. All comments submitted following the release of the FEIR Addendum, the public hearing on the adequacy of the FEIR Addendum conducted by the Planning Commission were responded to adequately; and
- 3. The Planning Commission was presented with all of the information in the administrative record, testimony, and FEIR Addendum documents for the project and the Commission has reviewed and considered this information and the FEIR Addendum; and

4. The FEIR Addendum has been completed in compliance with the intent and requirements of CEQA and the State CEQA Guidelines, and the County EIR process, and reflects the independent judgment of the County of Marin. The Planning Commission has considered and will continue to consider the information contained in the FEIR Addendum prior to making a recommendation to the Board of Supervisors regarding the project.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Marin County Planning Commission recommends that the Marin County Board of Supervisors certify the Addendum to the FEIR for the Oakview Master Plan, Use Permit, and Vesting Tentative Map project as adequate and complete in compliance with CEQA, the State CEQA Guidelines and the County Environmental Review Procedures, and as adequate and complete for consideration in making a decision on the merits of the project.

**SECTION III: VOTE**

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin held on this 24<sup>th</sup> day of September, 2018 by the following vote:

AYES: COMMISSIONERS

NOES:

ABSENT:

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MARGOT BIEHLE, CHAIR  
MARIN COUNTY PLANNING COMMISSION

Attest:

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Ana Hilda Mosher  
Planning Commission Recording Secretary

**MARIN COUNTY PLANNING COMMISSION**

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION APPROVING THE OAKS (DAPHNE KRESTINE TRUST) RESIDENTIAL CARE FACILITY MASTER PLAN AMENDMENT, DESIGN REVIEW, AND TREE REMOVAL PERMIT**

**ASSESSOR'S PARCEL: 167-270-05**

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**SECTION I: FINDINGS**

1. **WHEREAS**, the applicant for the project is Robert Eves/Venture Senior Living, and the property is owned by the Daphne Krestine Trust. The property is a vacant lot located in unincorporated San Rafael between Lucas Valley Road and Marinwood Avenue. The applicant proposes to construct a new residential care facility and associated affordable apartment building on the property, as discussed in additional detail below.

Three buildings are proposed on the site, including a main building with 86 apartments, an attached memory care building with 40 apartments, and a separate affordable housing building with six apartments. The 86 apartments in the main building would consist of 51 independent living apartments and 35 assisted living apartments and all of the apartments in the memory care building would be for assisted living. The main building would have a floor area of 78,358 square feet as well as an additional 19,756 square foot subterranean garage. The memory care building would have a floor area of 22,161 square feet and the affordable housing building would have a floor area of 3,625 square feet. The total floor area proposed for the residential care facility would be 100,519 square feet, and the total floor area on the property as a whole would be 104,144 square feet, resulting in a floor area ratio of 25 percent on the 9.6 acre lot.

The main building would be three stories tall and approximately 38 feet, six inches in height, as measured from natural grade (31 feet, eight inches above finished grade). An interior courtyard would be located in the central portion of the main building; terraces are proposed on the second story of the front elevation; and a small roof deck is proposed on the uppermost level of the structure. The main building would be connected to the memory care building via a breezeway, to be used by service personnel. The proposed setbacks, from the exterior walls to the property lines, are as follows: 120 feet from the eastern (front) property line; 104 feet from the northern (side) property line; 99 feet from the western (rear) property line; and more than 300 feet from the southern (side) property line.

The memory care building would be one story tall and approximately 30 feet in height, as measured from natural grade (20 feet above finished grade). Apartments are proposed to be dispersed around the perimeter of the building, which is designed to feature an interior courtyard. The proposed setbacks, from the exterior walls to the property lines, are as follows: 53 feet from the eastern (front) property line; more than 300 feet from the northern (side) property line; 146 feet from the western (rear) property line; and 125 feet from the southern (side) property line.

The affordable apartment building is proposed to be two stories tall and approximately 22 feet in height, as measured from natural grade (25 feet above finished grade). The affordable apartment building is proposed to have lower level carports and six second story apartments, 571 square

feet in size each. Second story decks are proposed to be located on the rear elevation of the building. The proposed setbacks, from the exterior walls to the property lines, are as follows: 98 feet from the eastern (front) property line; 20 feet from the northern (side) property line; more than 150 feet from the western (rear) property line; and more than 400 feet from the southern (side) property line.

All three buildings are proposed to be constructed out of natural materials in subdued earth tone colors, including natural wood siding, beige stucco, and stone veneer columns. The retaining walls are proposed to consist of a combination of stacked block walls (around the perimeter of the new bioswale, proposed on the front portion of the project site) and tan colored concrete walls (around the rear perimeter of the new buildings, as well as along the newly proposed access driveway). The proposed paving materials include a concrete driveway, beige colored integral concrete pathways and patio areas, and porcelain pavers at entryways and patio areas.

In addition to the construction of three new buildings, the project proposal includes the construction of a new entrance driveway, vehicular bridge across Miller Creek, new surface parking areas, storm drainage system, retaining walls, and the installation of utilities and landscaping. The proposed storm drainage system would include a series of catch basins, rain wash drainage pipes, and bio-retention basins. The proposed retaining walls, which would be located along the new driveway, surrounding the new drainage swale at the front property line, and behind the new buildings, would range in height from two to six feet along the drainage swale, four to 13 feet along the newly proposed access driveway, and one to six feet around the perimeter of the proposed buildings. Altogether, the proposed development would include 15,300 cubic yards of cut and 15,300 cubic yards of fill, with no off-haul proposed.

The applicant proposes to dedicate a pedestrian and bicycle easement of a minimum 12 feet in width across the property from the entrance on Marinwood Avenue to the intersection of Lucas Valley Road and Los Gamos Road and to construct a sidewalk and pedestrian and bicycle pathway from the residential care facility, across Miller Creek, to the existing end of Marinwood Avenue.

The landscape plan for the project includes new shrubs and trees along the new entrance driveway, as well as restorative planting using Marin County native plants, around the perimeter of the project site. A total of 50 trees would be removed to accommodate construction of the project, 39 of which are considered protected trees under County code. The landscape plan includes a comprehensive tree replacement plan. In addition, the proposed landscape plan includes restoration planting of a seasonal wetland that will be impacted as a result of construction of the newly proposed access bridge. The restoration planting would be located adjacent to the stream that would be impacted by the bridge.

The conceptual lighting plan for the project includes new pole lights, along the entrance driveway, bollard lights along the perimeter pathways surrounding the new buildings, and wall mounted downlights on the buildings.

Master Plan Amendment approval is required because the project does not conform to the approved Oakview Master Plan. Specifically, there are three modifications to the Master Plan proposed by the applicant, as listed below:

- A. Increasing the floor area of the residential care facility above the allowable 94,400 square feet by 6,119 square feet to a total of 100,519 square feet.

- B. Eliminating the berm previously required along the frontage of U.S.101 and replacing it with bioswales and landscaping.
- C. Construction of the 3,625 square foot apartment building containing six affordable housing units.

Design Review approval is required because the project is in a Planned Zoning District.

Tree Removal Permit is required because the project would entail the removal of 39 mature, healthy, native trees that are protected under County code.

- 2. **WHEREAS**, on September 24, 2018 the Marin County Planning Commission conducted a duly noticed public hearing to take testimony and consider a recommendation to the Board of Supervisors to approve The Oaks Master Plan Amendment, Design Review, and Tree Removal Permit.
- 3. **WHEREAS**, the Marin County Planning Commission finds that the proposed project is consistent with the Marin Countywide Plan (CWP) for the following reasons:
  - A. The project is consistent with the CWP woodland preservation policy (BIO-1.3) because the project would not entail the irreplaceable removal of a substantial number of mature, native trees. As discussed in the finding for Tree Removal Permit, the trees being removed for the project would be replaced on site.
  - B. The project is consistent with the CWP special-status species protection policy (BIO-2.2) because all biological impacts would be mitigated to less than significant levels and the mitigation measures have been incorporated into the conditions of approval.
  - C. The project is consistent with the CWP natural transition and connection policies (BIO 2.3 and BIO 2.4) because the project impacts to the margins along riparian corridors, wetlands, baylands, or woodlands would be mitigated to less than significant levels and the mitigation measures are incorporated into the conditions of approval.
  - D. The project is consistent with the CWP stream and wetland conservation policies (BIO-3.1 and CWP BIO-4.1) because the proposed bridge would be the only encroachment into the Stream Conservation Area, and bridges are allowed to encroach into those areas, and because impacts to Wetland Conservation Areas would be mitigated to less than significant levels.
  - E. The project is consistent with CWP water quality policies and would not result in substantial soil erosion or discharge of sediments or pollutants into surface runoff (WR-1.3, WR-2.2, WR-2.3) because the grading and drainage improvements would comply with the Marin County standards and best management practices required by the Department of Public Works.
  - F. The project is consistent with CWP seismic hazard policies (CWP Policies EH-2.1, EH-2.3, and CD-2.8) because it would be constructed in conformance with County earthquake standards, as verified during review of the Building Permit application and the subject property is not constrained by unusual geotechnical problems, such as existing fault traces.



- G. The project is consistent with CWP fire hazard management policies (EH-4.1, EH-4.2, EH-4.5) because it would meet all fire safety requirements, as verified by the local fire protection district during review of the Building Permit application.
  - H. The project is consistent with CWP aesthetic policies and programs (DES-4.1 and DES-4.e) because it would protect scenic quality and views of ridgelines and the natural environment from adverse impacts related to development.
4. **WHEREAS**, the Marin County Planning Commission finds that the proposed project is consistent with the mandatory Findings for Master Plan Amendment (Marin County Code Section 22.44.070.A.3) for the following reasons:

**A. The Master Plan or Master Plan amendment is consistent with the goals, policies, objectives, and programs of the Countywide Plan and any applicable Community Plan.**

The project is consistent with the policies contained in the Countywide Plan for the reasons provided above in finding three, and there are no applicable community plans.

**B. The Master Plan or Master Plan amendment is consistent with all standards of the governing conventional zoning district, if applicable.**

The project is in a planned zoning district and is not subject to the requirements of a conventional district.

**C. The Master Plan or Master Plan Amendment is suitable for the site, and the future development would be able to conform to the Discretionary Development Standards.**

The amendments proposed to the Oakview Master Plan are limited to increasing the floor area, removing a berm in between the building and U.S. 101, and offsetting the affordable housing fees by building an affordable apartment building.

Exceeding the floor area threshold established in the original Master Plan would not substantially increase the building's appearance of mass and bulk. One positive design feature is locating a substantial amount of the parking in a subterranean garage. Although this area does not count as floor area in any case, excavating it into the hillside substantially reduces the mass and bulk of a surface parking structure and more than offsets the increase in mass resulting from the additional floor area.

The berm being removed is no longer necessary to mitigate any noise impact, and the screening it would have provided from U.S. 101 is made up by landscaping the area in front of the entrance to the facility.

Constructing an affordable apartment building is a benefit of the project not contemplated in the original Master Plan. This aspect of the project would potentially mean that some employees with lower incomes would be able to live on site, providing better services to the tenants and reducing commute traffic on the freeway.

Although the height of the buildings would exceed the maximum height of 30 feet above grade normally allowed in planned zoning districts, the design of the buildings and their

distance to surrounding properties result in the visual effect off this increased height being minimal.

Findings related to the project's consistency with the discretionary development standards were made in the original Master Plan approval, and the proposed amendments do nothing to alter the project's consistency with those original findings. The project is well designed and will be an asset to the community over the long term.

**D. The proposed Master Plan or Master Plan amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the County.**

The proposed residential care facility would provide a valuable service to the community by providing housing and services to an aging population with limited other options. In addition, the affordable housing component of the proposal would provide more diverse housing opportunities. Traffic and other impacts related to the development would be mitigated to levels of insignificance and the design and location of the project would be appropriate for the area.

**5. WHEREAS**, the Marin County Planning Commission finds that the proposed project is consistent with the mandatory Findings for Design Review (Marin County Code Section 22.42.060) for the following reasons:

**A. The proposed development complies with either the Single-family or Multi-family Residential Design Guidelines, as applicable, the characteristics listed in Chapter 22.16 (Discretionary Development Standards) and any applicable standards of the special purpose combining districts provided in Chapter 22.14 of this Development Code.**

The proposed project is consistent with all but a few of the requirements of the original Oakview Master Plan for the property. That Master Plan contained findings that the residential care facility would be consistent with the discretionary development standards, and the proposed design bears that out. As noted above in the Master Plan findings, the buildings exceed the 30 foot height limit normally allowed, but this would not adversely affect views or the appearance of mass and bulk of the buildings due to their design and location.

The proposed project would be built on a property that is considered to be within a residential neighborhood under DG-2 and the type of housing proposed would fall under the Senior and Special Needs Housing category described in DG-105. This guideline specifies that the guidelines should be applied to residential care facilities with a degree of flexibility so that they can be designed to be suitable for a special needs population.

The design of the project satisfies a number of important Multi-family Design Guidelines, as described below.

*DG-8 Building Entrances:* the project would emphasize the building entrances with features such as porticos and open lobbies.

*DG-13 Context-Sensitive Massing:* The building facades would be articulated with balconies and courtyards, and the roofs would be pitched and oriented to reflect the

natural grade. In addition, placing a large proportion of the parking in a subterranean garage would eliminate the mass created by building a surface garage.

*DG 18 General Composition and Rooflines:* The three story main building would be designed with an obvious base, middle, and top, which establish attractive building proportions.

*DG 27 Color Context:* The project would be located on a grassy hillside with a backdrop of oak woodlands. The colors and materials would complement the natural surroundings by being medium dark earthtones and using natural and traditional materials for the surfaces.

*DG 29 Outdoor Living Space General Provisions:* The guidelines establish a minimum area of shared open space that needs to be available to occupants. The proposed project provides far more than the minimum open space necessary for the occupants and also provides easements and sidewalks through the property to public trails that access the open space on the adjacent property.

*DG 37 General Landscaping Provisions:* The proposed landscaping, tree replacement, restoration planting, and bioswales would satisfy both the general landscaping provisions as well as the required mitigations identified in the EIR and would provide screening from the freeway.

*DG 47 Equipment and Service Areas Unobtrusive Character:* As required by Development Code section 22.20.100, solid waste and recycling would be incorporated into the project design and be screened by fencing and landscaping.

*DG 52 Context Sensitive Design:* The development would be clustered on an open grassy hillside, avoiding unnecessary tree removal on the upper slopes and providing ample setbacks to surrounding properties and the freeway.

*DG 80 Parking Location and Design:* Parking would be provided in front of the buildings and in a subterranean garage. Although open parking makes access easier, locating parking in the subterranean garage substantially reduces the appearance of mass and bulk that would result from building a surface garage.

*DG 88 Privately Maintained Streets in Residential Areas:* As required by the Oakview Master Plan, the applicant would provide a sidewalk from the residential care facility along the new access road, across the bridge, leading to the current end of Marinwood Avenue. The Public Works Department will require the proposed alignment of the sidewalk across the bridge to be redesigned as necessary to provide safe pedestrian access.

Based on these findings, the project would be consistent with the Multi-family Design Guidelines.

**B. The proposed development provides architectural design, massing, materials, and scale that are compatible with the site surroundings and the community.**

The proposed project would develop a large institution in comparison with other development in the area. However, a number of design features make the project

consistent with this finding. These breaking up the facades and rooflines with different building components, pitched roofs, balconies, courtyards, and ornamentation, as well as locating a substantial amount of the parking in a subterranean garage rather than a surface garage.

- C. The proposed development results in site layout and design that will not eliminate significant sun and light exposure or result in light pollution and glare; will not eliminate primary views and vistas; and will not eliminate privacy enjoyed on adjacent properties.**

The proposed buildings would be clustered on an open grassy hillside, well away from the more environmentally sensitive areas of the creek through the eastern portion of the property and the oak woodland up the hill to the north. This location results in ample setbacks from surrounding properties, which protects the views and privacy enjoyed on surrounding properties and avoids glare from the new lighting affecting them.

- D. The proposed development will not adversely affect and will enhance where appropriate those rights-of-way, streetscapes, and pathways for circulation passing through, fronting on, or leading to the property.**

As required by the Oakview Master Plan, the applicant would be providing access easements through the property with a minimum width of 12 feet that will be dedicated for public trails. In addition, a new driveway, bridge, and sidewalk would be built in conformance with the requirements of the Department of Public Works.

- E. The proposed development will provide appropriate separation between buildings, retain healthy native vegetation and other natural features, and be adequately landscaped consistent with fire safety requirements.**

Landscaping would be provided to screen the development, replace trees being removed, support bioswales, and restore sensitive habitats as required by the mitigation measures. The original Master Plan approved the development in an area of the property that minimizes unnecessary grading, ground disturbance, and tree removal.

6. **WHEREAS**, the Marin County Planning Commission finds that the proposed project is consistent with the Mandatory Findings for Tree Removal Permit (Marin County Code Section 22.62.050) as discussed below.

In considering a Tree Removal Permit application, the Director may only grant approval or conditional approval based on a finding that removal of the tree(s) is necessary for the reasonable use and enjoyment of land under current zoning regulations and Countywide Plan and Community Plan (if applicable) policies and programs, taking into consideration the following criteria:

- A. Whether the preservation of the tree would unreasonably interfere with the development of land.**

As required by the original Oakview Master Plan for the property, the development would be located in an area that avoids as much tree removal as possible. Most of the trees being removed are near the stream where the bridge needs to be built, but there is no

better location for the bridge in terms of tree protection and there is no alternative access to the site.

**B. The number, species, size and location of trees remaining in the immediate area of the subject property.**

The proposed buildings would be clustered on a portion of the property that is an open hillside, avoiding areas of the upper hillside or around the creek that are more densely wooded. Although 39 protected trees need to be removed, there are healthy and mature woodlands in these other areas of the site to provide natural habitats and scenery to the surrounding area.

**C. The number of healthy trees that the subject property can support.**

The property is large enough to support a healthy oak woodland and the trees being removed would be replaced at an at least two to one ratio.

**D. The topography of the surrounding land and the effects of tree removal on soil stability, erosion, and increased runoff.**

Most of the tree removal would occur in a riparian area around the bridge that needs to be constructed to access the site. The EIR for the project found that the tree removal and construction could lead to impacts to the stream channel, and imposed mitigation measures to assure that tree replacement and habitat restoration would be required to avoid any potential impacts to soil stability, erosion, and stormwater runoff. These mitigations are reflected in the conditions of approval.

**E. The value of the tree to the surrounding area with respect to visual resources, maintenance of privacy between adjoining properties, and wind screening.**

Most of the tree removal would take place in the riparian area near where the bridge would be constructed, which would continue to be heavily wooded, and tree replacement would also take place in this area. This is not an area where tree cover enhances privacy, scenery, or wind screening.

**F. The potential for removal of a protected or heritage tree to cause a significant adverse effect on wildlife species listed as threatened or endangered by State or Federal resource agencies in compliance with the California Environmental Quality Act (CEQA).**

As indicated in the EIR for the Oakview Master Plan, the tree removal in the riparian area would result in impacts to the natural environment. However, mitigations are required that would reduce these impacts to insignificant levels, and the mitigations are reflected in the conditions of approval.

**G. Whether there are alternatives that would allow for the preservation of the tree(s), such as relocating proposed improvements, use of retaining walls, use of pier and grade beam foundations, paving with a permeable substance, the use of tree care practices, etc.**

Alternatives to the proposed project were evaluated in the Oakview EIR. The proposed project was found to be the environmentally preferable alternative with mitigations imposed.

## **SECTION II: CONDITIONS OF PROJECT APPROVAL**

NOW, THEREFORE, BE IT RESOLVED that the Marin County Planning Commission hereby recommends that the Marin County Board of Supervisors approve the Master Plan Amendment, Design Review, and Tree Removal Permit subject to the conditions listed below.

### **CDA-Planning Division**

1. This Master Plan Amendment, Design Review, and Tree Removal Permit approval authorizes the construction of a new residential care facility and associated affordable apartment building. The applicant for the project is Robert Eves/Venture Senior Living, and the property is owned by the Daphne Krestine Trust. The property is a vacant lot located in unincorporated San Rafael between Lucas Valley Road and Marinwood Avenue.

Three buildings are approved on the site, including a main building with 86 apartments, an attached memory care building with 40 apartments, and a separate affordable housing building with up to six apartments. The 86 apartments in the main building will consist of 51 independent living apartments and 35 assisted living apartments and all of the apartments in the memory care building will be for assisted living. The main building will have a floor area of 78,358 square feet as well as an additional 19,756 square foot subterranean garage. The memory care building will have a floor area of 22,161 square feet and the affordable housing building will have a floor area of 3,625 square feet. The total floor area approved for the residential care facility is 100,519 square feet, and the total floor area approved for the property as a whole is 104,144 square feet, resulting in a floor area ratio of 25 percent on the 9.6 acre lot.

The main building will be three stories tall and approximately 38 feet, six inches in height, as measured from natural grade (31 feet, eight inches above finished grade). An interior courtyard will be located in the central portion of the main building; terraces will be on the second story of the front elevation; and a small roof deck will be on the uppermost level of the structure. The main building will be connected to the memory care building via a breezeway. The proposed setbacks, from the exterior walls to the property lines, are as follows: 120 feet from the eastern (front) property line; 104 feet from the northern (side) property line; 99 feet from the western (rear) property line; and more than 300 feet from the southern (side) property line.

The memory care building will be one story tall and approximately 30 feet in height, as measured from natural grade (20 feet above finished grade). Apartments will be dispersed around the perimeter of the building, which is designed to feature an interior courtyard. The setbacks, from the exterior walls to the property lines, are as follows: 53 feet from the eastern (front) property line; more than 300 feet from the northern (side) property line; 146 feet from the western (rear) property line; and 125 feet from the southern (side) property line.

The affordable apartment building will be two stories tall and approximately 22 feet in height, as measured from natural grade (25 feet above finished grade). The affordable apartment building will have lower level carports and six second story apartments, 571 square feet in size each. Second story decks will be located on the rear elevation of the building. The

setbacks, from the exterior walls to the property lines, are as follows: 98 feet from the eastern (front) property line; 20 feet from the northern (side) property line; more than 150 feet from the western (rear) property line; and more than 400 feet from the southern (side) property line.

All three buildings are proposed to be constructed out of natural materials in subdued earth tone colors, including natural wood siding, beige stucco, and stone veneer columns. The retaining walls will consist of a combination of stacked block walls (around the perimeter of the new bioswale, proposed on the front portion of the project site) and tan colored concrete walls (around the rear perimeter of the new buildings, as well as along the newly proposed access driveway). The paving materials include a concrete driveway, beige colored integral concrete pathways and patio areas, and porcelain pavers at entryways and patio areas.

In addition to the construction of three new buildings, the project includes the construction of a new entrance driveway, vehicular bridge across Miller Creek, new surface parking areas, storm drainage system, retaining walls, and the installation of utilities and landscaping. The proposed storm drainage system will include a series of catch basins, rain wash drainage pipes, and bio-retention basins. The retaining walls, which will be located along the new driveway, surrounding the new drainage swale at the front property line, and behind the new buildings, would range in height from two to six feet along the drainage swale, four to 13 feet along the newly proposed access driveway, and one to six feet around the perimeter of the proposed buildings. Altogether, the proposed development will include 15,300 cubic yards of cut and 15,300 cubic yards of fill, with no off-haul.

The applicant will dedicate a pedestrian and bicycle easement of a minimum 12 feet in width across the property from the entrance on Marinwood Avenue to the intersection of Lucas Valley Road and Los Gamos Road and to construct a sidewalk and pedestrian and bicycle pathway from the residential care facility, across Miller Creek, to the existing end of Marinwood Avenue.

The landscape plan for the project includes new shrubs and trees along the new entrance driveway, as well as restorative planting using Marin County native plants, around the perimeter of the project site. A total of 50 trees will be removed to accommodate construction of the project, 39 of which are considered protected trees under County code. The landscape plan includes a comprehensive tree replacement plan which shall be implemented. In addition, the landscape plan includes restoration planting of a seasonal wetland that will be impacted as a result of construction of the newly proposed access bridge. The restoration planting will be located adjacent to the stream that will be impacted by the bridge.

The conceptual lighting plan for the project includes new pole lights along the entrance driveway, bollard lights along the perimeter pathways surrounding the new buildings, and wall mounted downlights on the buildings.

Master Plan Amendment approval is granted for three modifications to the Oakview Master Plan, as listed below:

- A. Increasing the floor area of the residential care facility above the allowable 94,400 square feet by 6,119 square feet to a total of 100,519 square feet.
- B. Eliminating the berm previously required along the frontage of U.S.101 and replacing it with bioswales and landscaping.

- C. Construction of the 3,625 square foot apartment building containing six affordable housing units.

This Master Plan Amendment relates solely to the lot containing the residential care facility, and has no force or effect on the original Oakview Master Plan requirements for any of the other lots included in the Oakview Master Plan.

Design Review approval is granted for the physical improvements for the project.

Tree Removal Permit is granted for the removal of 39 mature, healthy, native trees that are protected under County code.

The conditions of approval contained herein supersede the conditions of approval applied in the original Oakview Master Plan, Use Permit, and Tentative Map.

2. Plans submitted for a Building Permit shall substantially conform to plans identified as Exhibit A, entitled "The Oaks Senior Living Community," consisting of 65 sheets prepared by Dahlin Group, RHAA Landscape Architecture and Planning, and ILS Associates, Inc., received in final form on June 12, 2017, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
3. BEFORE ANY PERMITS ARE SUBMITTED AND ANY WORK IS PERFORMED, apply and pay the required fee for mitigation monitoring.
4. Design and build all on-site structures, roads, and utilities in conformance with the California Building Code. *MM 5.1-6*
5. BEFORE REMOVING ANY RIPARIAN TREES, the applicant shall obtain authorization in a Section 1602 Streambed Alteration Agreement from the California Department of Fish and Wildlife (CDFW). *MM 5.3-2(a)*
6. BEFORE ISSUANCE OF BUILDING, GRADING, OR ANY CONSTRUCTION PERMITS for the bridge and to reduce project impacts of on-site erosion and downstream sedimentation due to construction of the Marinwood Avenue Bridge on Miller Creek, it will be necessary demonstrate compliance with the following:
  - Acquire a 1603 Stream Alteration Agreement from the California Department of Fish and Wildlife (CDFW). In addition to measures outlined in the project SWPPP for graded or exposed soil surfaces, the applicant's construction contractor(s) and field engineer should implement temporary measures, where required, to minimize channel sedimentation during bridge construction. Due to the good quality stream habitat and culverting impacts to aquatic life, a bypass pipe through the work area is not recommended. Some form of cofferdam segregating the work areas from the active channel are would be preferable. All such measures would be described in the Stream Alteration Agreement submittal and would be subject to approval by CDFW.
  - Submit an application or letter of notification, as appropriate, to the U.S. Army Corps of Engineers for an Army Fill Permit, in accordance with provisions of the Nationwide Permit Program.



- Acquire a Waiver of Water Quality Certification from the Regional Water Quality Control Board.

*MM 5.2-8*

7. BEFORE ISSUANCE OF ANY GRADING, BUILDING, OR OTHER CONSTRUCTION PERMIT AND DURING DEVELOPMENT ACTIVITIES, a qualified landscape architect shall prepare a detailed Landscape and Vegetation Management Plan in consultation with a plant ecologist experienced in management of native species. This Landscape and Vegetation Management Plan shall be incorporated into the Final Landscape Plan prepared as a part of the mitigation monitoring and Building Permit application. The plan should: 1) provide for re-establishment of native vegetation on graded slopes around the fringe of proposed development; 2) provide details on native plantings associated with proposed restoration, enhancement, and mitigation.; 3) establish a program to salvage suitable native plants for use in landscaping and revegetation; 4) identify unsuitable species which should not be used in landscaping; 5) control the establishment and spread of introduced broom; and 6) specify long-term management provisions to ensure re-establishment of landscape improvements.

Aspects of the plan should include the following:

Landscaping and revegetation should emphasize the use of native plant species along the fringe of proposed structures and grading. Plant lists should be expanded to include valley oak (*Quercus lobata*), California buckeye (*Aesculus californica*), California rose (*Rosa californica*), common rush (*Juncus patens*), creeping wildrye (*Leymus triticoides*), purple needlegrass (*Nassella pulchra*), iris-leaved rush (*Juncus xiphioides*), and slender rush (*Juncus tenuis*).

Suitable tufts of native grasses to be removed by the project should be salvaged before grading and used in landscaping and revegetation, providing a source of mature plants and re-establishing much of the desirable local cover which otherwise would be lost with development. The anticipated limits of grading should be flagged, and plant material suitable for use in the salvage program should be marked, carefully removed, and stored. The salvage material should be transplanted to selected mitigation areas at the appropriate time of the year before grading (generally in October and November), with maintenance provided as necessary to ensure re-establishment.

Non-native ornamental species used in landscape plantings should be restricted to the immediate vicinity of streets and development areas on residential lots on Parcel 1 and the parking lots and buildings on Parcel 2. The landscape plan should prohibit use of invasive non-native species which may spread into adjacent undeveloped areas.

Unsuitable species include blue gum eucalyptus (*Eucalyptus globulus*), acacia (*Acacia* spp.), pampas grass (*Cortaderia selloana*), broom (*Cytisus* and *Genista* spp.), gorse (*Ulex europaeus*), bamboo (*Bambusa* spp.), giant reed (*Arundo donax*), English ivy (*Hedera helix*), German ivy (*Senecio milanioides*), and periwinkle (*Vinca* sp.), among others.

Species planted adjacent to retained woodlands should be native to the site, and "other trees offering seasonal color" should be eliminated from the Conceptual Landscape Plan.

Graded slopes and areas disturbed as part of the project should be monitored to prevent establishment and spread of French and Scotch broom. Removal and monitoring should include annual late winter removal of any rooted plants when soils are saturated and cutting back of any remaining flowering plants in the spring before seed begins to set in late April.

The landscape plan should specify provisions to maintain landscaping and graded slope revegetation with replacement plantings and seeding for a minimum of five years to ensure re-establishment of cover.

*MM 5.3-1(b)*

8. BEFORE AND DURING TREE REMOVAL, GRADING, AND CONSTRUCTION, implementing the following measures is required to mitigate impacts to special-status species:
  - A. Potential significant impacts to roosting special-status bats shall be mitigated through avoiding disturbance to active roost sites. If tree removal or trimming is required, it shall take place between September and October. This time period for tree removal or trimming falls outside of both the maternity and hibernation periods for bats, and avoids the time period for bird breeding. Tree removal may take place during this period without a breeding bird or bat roost survey.
  - B. If removal of large oaks or riparian trees (DBH >12 inch) occurs during the bat roosting season (November through August), these trees shall be inspected by a qualified biologist for the presence of bat roosts. Potential bat roosts include large oak trees, broad leafed riparian trees, exfoliating bark, tree cavities, and snags. If a maternity roost is detected, a 200-foot buffer shall be placed around the maternity site until the bats are no longer utilizing the site. Non-maternity roost sites can be removed under the direction of the biologist.
  - C. Any large tree (DBH >12 inch) that will be removed shall be left on the ground for 24 hours before being taken offsite or chipped. This period will allow any day roosting bats the opportunity to leave before the tree is either removed from the area or chipped.
  - D. If any active raptor special-status bird nests are established within the vicinity of proposed grading in the future, they should be avoided until young birds are able to leave the nest (fledge) and forage on their own. Avoidance may be accomplished either by scheduling grading and tree removal during the non-nesting period (August 15 through January 14) or, if this is not feasible, by conducting a pre-grading survey for raptor and other special-status bird species nests not more than two weeks prior to the start of vegetation removal or grading. Provisions of the pre-grading nesting bird survey effort, if necessary, should include the following:
  - E. If vegetation removal or grading is scheduled during the sensitive nesting period (January 15 through August 14), a qualified wildlife biologist, chosen by the County and paid for by the applicant, shall conduct a pre-construction grading raptor and special-status bird survey to confirm the presence or absence of active nests in the vicinity of proposed construction activities.
  - F. If active nests are encountered, the biologist shall prepare and implement species-specific measures to prevent abandonment of the active nest(s). At a minimum, grading in the

vicinity of a nest's tree should be deferred until the young birds have fledged, and a construction-disturbance setback of at least 300 feet should within a distance determined by the biologist shall be provided. Grading or other disturbance in the vicinity of the nest should not be permitted until the biologist confirms that the young raptors birds have fledged. The biologist shall submit a survey report to the County verifying that the young have fledged before grading in the construction-disturbance setback area is initiated.

- G. As necessary, representatives of the CDFW and USFWS shall be consulted about appropriate construction restrictions, building setbacks, landscape screening, and other methods to ensure compliance with the Migratory Bird Treaty Act and provisions of the State Fish and Game Code.
- H. Prior to any work within jurisdictional wetlands involving fill for the bridge crossings or removal of the old bridge footings, a Section 404 permit and a Section 401 Water Quality Certification shall be obtained. In addition, a Streambed Alteration Agreement shall be obtained from the CDFW. If in-channel work will occur, the Corps may initiate consultation with National Marine Fisheries Service (NMFS) if there is a potential for adverse impact to the species in order to determine the appropriate impact avoidance, minimization, and mitigation measures (if any) for the proposed Project.
- I. Avoidance and minimization measures that may be required by NMFS and CDFW, and if required shall be implemented during the proposed Project, include the following:
- J. Work below top of bank shall be conducted in isolation from flowing water and will only occur during the dry season (April 15 to October 31). In the event that flowing water is present, the work area shall be isolated, and flowing water shall be diverted around the work area.
- K. The appropriate Corps, CDFW, and RWQCB permits and approvals shall be obtained prior to conducting work within the active channel or below top of bank within the Study Area. The Corps may initiate consultation with NMFS to determine if any additional impact avoidance, minimization, and mitigation measures would be required for the proposed Project. The Corps, CDFW, and NMFS (if necessary) will be consulted regarding the bridge crossing design. Additional avoidance and minimization measures recommended in these permits shall be followed to reduce the potential to impact steelhead and fish habitat.

*MM 5.3-7, inclusive of a through c*

- 9. Vehicles and motorcycles shall not be allowed to travel off designated roadways to prevent further disturbance to grassland cover and other vegetation. Barriers should be provided where vehicular access to open space areas may be possible. *MM 5.3-1(b)*
- 10. DURING CONSTRUCTION, the following measures shall be implemented to mitigate the project's short-term construction noise impacts:
  - A. Adequately muffle and maintain all equipment used on the project site. All internal combustion engine-driven equipment should be fitted with intake and exhaust mufflers which are in good condition. Good mufflers with quieted compressors should result in all non-impact tools generating a maximum noise level of 85 dB when measured at a distance of 50 feet.

- B. Powered construction equipment should be turned off when not in use.
  - C. Assign a disturbance coordinator to be available on-site during construction.
  - D. Clearly post the name and telephone number of the disturbance coordinator so that neighbors have a contact person at the project site with whom to discuss problems and who can facilitate resolution of these problems.
11. DURING GRADING AND CONSTRUCTION, contractors shall conform to the following measures to reduce dust and equipment exhaust emissions:
- A. Emissions from construction activities can be greatly reduced by implementing dust control measures. The significance of construction impacts to air quality is typically determined based on the control measures that will be implemented. Implementation of the measures listed below would reduce the dust impacts associated with grading and new construction to a less-than-significant level:
  - B. All active construction areas shall be watered at least twice daily and more often during windy periods. Active areas adjacent to residences should be kept damp at all times.
  - C. All hauling trucks shall be covered or at least two feet of freeboard shall be maintained.
  - D. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites.
  - E. Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas and sweep streets daily (with water sweepers) if visible soil material is deposited onto the adjacent roads.
  - F. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas that are inactive for 10 days or more).
  - G. Enclose, cover, water twice daily, or apply (non-toxic) soil binders to exposed stockpiles.
  - H. Limit traffic speeds on any unpaved roads to 15 mph.
  - I. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
  - J. Replant vegetation in disturbed areas as quickly as possible.
  - K. Install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site.
  - L. Install wind breaks, or plant trees/vegetative wind breaks on the windward side(s) of construction areas.
  - M. Suspend excavation and grading activity when winds cause dust clouds to extend beyond the construction site and affect nearby land uses.

- N. Limit the area subject to excavation, grading, and other construction activity at any one time.
- O. Properly maintain construction equipment and avoid unnecessary idling near residences.
- P. Designate a disturbance coordinator that would respond to complaints regarding construction-related air quality issues. The phone number for this disturbance coordinator shall be clearly posted at the construction sites.

*MM 5.6-3*

- 12. The applicant shall implement the proposed noise mitigation measures to ensure that the project has been designed to meet the Countywide Plan's criteria for acceptable interior and exterior noise levels. This can be done by using sound rated windows and providing the buildings with mechanical ventilation so that the windows could be maintained closed. Non-operable (sealed) windows shall be provided on the Highway 101 frontage of the building. Outdoor areas exposed to an Ldn of 60 dB or less shall be provided on the westerly back side of the building.

*Unnumbered Mitigation Measure (Original Master Plan Condition of Approval No. 5-e)*

- 13. BEFORE FINAL INSPECTION OF THE RESIDENTIAL CARE FACILITY, implement the applicant's proposed project landscaping (which includes landscaping around the assisted living area) as shown in the Conceptual Landscape Plan. This would break up the form and lines of project site development. *MM 5.4-5*
- 14. BEFORE FINAL INSPECTION OF THE RESIDENTIAL CARE FACILITY, the landscape architect shall submit certification and any necessary supplemental information to demonstrate that the landscape requirements set forth in mitigation measures 5.3-1(b), 5.3-3, 5.3-4(a), 5.3-7 have been satisfied.
- 15. BEFORE FINAL INSPECTION OF THE RESIDENTIAL CARE FACILITY, the applicant shall demonstrate that the residential care facility meets the Silver rating criteria of the Leadership in Energy and Environmental Design (LEED) green building standards and incorporate green building principles and materials, with a focus on energy efficiency, renewable energy, water conservation, indoor air quality, site protection, and green materials.
- 16. BEFORE FINAL INSPECTION OF THE RESIDENTIAL CARE FACILITY, the applicant shall record the dedication of a pedestrian and bicycle easement of sufficient width to accommodate the required improvements, as determined by the Department of Public Works, between Marinwood Avenue and the point of the property closest to the intersection of Lucas Valley Road and Los Gamos Road. In no case shall the easement be less than 12 feet in width. In addition, the applicant shall construct a sidewalk and pedestrian and bicycle pathway from the residential care facility, across Miller Creek, to the end of Marinwood Avenue that meets the Department of Public Works standards.
- 17. BEFORE FINAL INSPECTION OF THE RESIDENTIAL CARE FACILITY, the applicant shall install a solid waste and recycling collection area that complies with the standards of Marin County Code section 22.20.100. This area shall be screened from view by fencing and landscaping.

18. BEFORE FINAL INSPECTION OF THE RESIDENTIAL CARE FACILITY, the applicant shall enter into an affordable housing agreement with the CDA Housing Division that implements all the applicable affordable housing requirements of Marin County Code Chapter 22.22 (Affordable Housing) as determined by the CDA Housing Division. The applicant shall meet these requirements in one of two ways:
- A. Pay the required fee for residential care facilities and eliminate the affordable housing apartment building from the project
  - B. Provide an affordable housing plan that provides the numbers of employees who meet the income qualifications and, based on that number, calculates what the total number of affordable housing units would be required to meet the 25 percent threshold required by Marin County Code section 22.22.100.B.1.a. If the 25 percent threshold requirement exceeds the six affordable housing units, then the in-lieu housing fee shall be paid for each required unit, or portion thereof, that is not provided. If the affordable housing apartment building is being constructed, then it must receive final inspection before final inspection approval will be granted to the residential care facility.
19. The project shall conform to the Planning Division's "Uniformly Applied Conditions 2018" with respect to all of the standard conditions of approval and the following special conditions: 6, 7, 8, 9, 10, 15, 16, 18, 19.

**Department of Public Works- Land Development Division**

20. PRIOR TO THE ISSUANCE OF ANY BUILDING, GRADING, OR OTHER CONSTRUCTION PERMITS, the applicants shall provide plans which include details for the repair of landslides and colluvial soils near the proposed development areas, to be completed during grading to mitigate the potential for future landslide movements. Standard techniques proposed to repair the landslides include removal and re-compaction of loose materials, keying and benching, and installation of subdrains and surficial drainage systems. All grading shall be performed in compliance with the Uniform Building Code, as well as local code and agency standards, under the observation and testing of the project geotechnical engineer and engineering geologist.

*MM 5.1-1 Land Sliding (moved from Before Precise Development Plan (PDP) to Before issuance of any Building, Grading or other construction permit).*

21. PRIOR TO THE ISSUANCE OF ANY BUILDING, GRADING, OR OTHER CONSTRUCTION PERMITS, the applicants shall show on the plans implementation of mitigation measures that consist of a combination of site-specific recommendations by the applicant's consultant and local agency and code requirements. The following measures would be feasible in mitigating site-specific conditions and producing stable natural slopes, as well as engineered slopes, where cutting and filling would occur on the site:
- Evaluate the effects of bedding orientation on the gross stability of existing and proposed slopes in the development area to prepare the geotechnical consultant to observe and direct grading operations and make site-specific determinations (see immediately following measure).
  - Examine natural and cut slopes during grading to confirm their potential for long-term stability. If the geotechnical consultant determines that the exposed earth materials are weaker than expected, mitigate this condition by recompacting as an earth buttress or

stability fill or by the selected use of retaining walls or other acceptable methods, as have been proposed by the applicant's geologist.

- Design drainage facilities to conform with agency and code standards. This shall include terrace drains every 30 feet of vertical height on all graded slopes with grades steeper than 5:1. The terrace drains shall have a minimum flowline gradient of six percent to make them self-cleaning (a minimal tenet of the Uniform Building Code). They also shall be fitted with down drains every 150 linear feet of terrace to allow for quick drainage.
- Plant cut and fill slopes with ground cover to prevent erosion, raveling, or development of rills, sloughs, and other failures which could reduce the effectiveness of stabilization methods whereas roots of newly planted vegetation would enhance stability of graded slopes by holding materials in place.

*MM 5.1-3 Slope Stability (Expanded from Before Building Permit to Before issuance of any Building, Grading or other construction permit)*

22. PRIOR TO THE ISSUANCE OF ANY BUILDING, GRADING, OR OTHER CONSTRUCTION PERMITS, the applicants shall show on the plans drainage devices that are employed during grading to reduce the potential for seepage from area D to the adjacent residential development. This shall include a subdrain system to intercept this seepage water and a surficial drainage system to reduce the ponding and infiltration of surface water into the landslide. The drainage system shall be designed by the project engineer and installed under his / her supervision. The plans shall also show implementation of the following measures:

- The construction contractor shall slope temporary excavations no steeper than 1-1/2:1 or shall install shoring as excavations proceed to maintain lateral support. Shoring shall be designed to resist lateral earth pressures as outlined in the Temporary Shoring section of August 2016 geotechnical report prepared for the project by Herzog Geotechnical Consulting Engineers, or as updated by the geotechnical engineer of record. In addition, the construction contractor shall implement the following additional measures during construction:
  - To the maximum extent feasible, all excavations and other site grading shall be performed during the late summer and fall months to minimize the potential for seepage to infiltrate the excavations required for Project construction. To the extent feasible, excavation within soft areas shall be done from the unexcavated perimeter areas using an excavator. Trucks and other construction equipment shall be restricted from the soft subgrade soils.
  - To protect construction workers within excavations from material sloping into the excavations that may occur from exposure of relatively weak soils and bedrock with bedding, fracture, and shear surfaces, all excavations shall be laid back or shored in conformance with applicable federal Occupational Safety and Health Administration (OSHA) standards. Shoring may be achieved with cantilevered or tied-back soldier piers with lagging, tied-back shotcrete walls, soil nail walls, internally braced walls, or other equally effective measures. Adequate drainage facilities shall be provided to prevent hydrostatic buildup behind the shoring.
  - Excavations shall be dewatered as necessary to address intrusion of water through seepage. If seasonal high moisture contents of some near surface soils cause soft "pumping" conditions in and adjacent to excavations, the construction contractor shall perform additional over excavation, install geotextile reinforcement, and/or import granular fill to provide adequate soil stability.

- Where potentially unstable deposits will remain upslope of proposed improvements, debris fences or catchment/deflection berms shall be installed to protect workers and equipment. The debris fences shall consist of catchment areas and high-energy, ring net barriers (GeoBrugg® or equivalent). Material accumulated behind the barriers shall be removed periodically as necessary to maintain adequate catchment. Any occasional damage to fences caused by the high lateral forces of slide debris shall be repaired or, if necessary, the fences shall be replaced.
- All other construction and design recommendations presented in the Herzog August 2016 geotechnical report shall be implemented unless updated or modified by the Project geotechnical engineer of record.

*MM 5.1-4 (a) and (b) Groundwater (Expanded from Before Building Permit to Before issuance of any Building, Grading or other construction permit)*

23. PRIOR TO THE ISSUANCE OF ANY BUILDING, GRADING, OR OTHER CONSTRUCTION PERMITS, the applicants shall show on the plans the following measures that would mitigate potential rockfall impacts:

- Remove any unstable materials encountered adjacent to development areas.
- Remove the materials and place rip-rap or other engineered erosion control devices, construct rockfall entrapment trenches, or undertake selective rock bolting of remaining materials with galvanized or gray PVC-coated gabion mesh.
- Set development back from eroding rock faces not mitigated by the above measures or in addition to implementing those measures, depending on specific situations.

*MM 5.1-9 Rockfall (Expanded from Before Building Permit to Before issuance of any Building, Grading or other construction permit)*

24. PRIOR TO THE ISSUANCE OF ANY BUILDING, GRADING, OR OTHER CONSTRUCTION PERMITS, the applicants shall show on the plans the following measures that would mitigate artificial fill impacts:

- Conduct field investigations when formulating the Final Grading Plan required for the Development Plan to determine the presence and limits of such materials in the vicinity of parts of the site proposed for development.
- Remove and recompact artificial fill located in or adjacent to areas of proposed grading during landslide repair, grading operations for road construction, or development of individual private lots under the observation and testing of a registered engineer.

*MM 5.1-10 Artificial Fill Areas (Expanded from Before Building Permit to Before issuance of any Building, Grading or other construction permit)*

25. PRIOR TO THE ISSUANCE OF ANY BUILDING, GRADING, OR OTHER CONSTRUCTION PERMITS, the applicants shall prepare a comprehensive Stormwater Pollution Prevention Plan (SWPPP), which is submitted as part of the NPDES General Construction Activity Stormwater Permit (General Permit) filing with the State Water Resources Control Board, then implement this plan prior to and during construction activities on the site. The NPDES General Permit is required for all developments which would disturb more than one acre of land. The SWPPP describes on-site measures for erosion control and stormwater treatment to be implemented during and following project construction, as well as a schedule for monitoring of performance. These measures are referred to as Best Management Practices (BMPs) for



the control of point and non-point source pollutants in stormwater. BMPs incorporated in the project SWPPP would likely include *in-situ* protection, seeding and mulching of bare ground, planting of trees and shrubbery in both disturbed upland and riparian areas, and installation of other forms of biotechnical slope stabilization, such as appropriately staked straw bale perimeters, silt fences, or staked plant wattles on the slope contour. No grading shall occur within the Miller Creek Stream Conservation Area during the winter season, thus restricting grading activities at the proposed Miller Creek bridge crossing to the period between May 1 and October 15. Grading in site areas outside of the SCA can occur during the winter season, as long as erosion control measures approved as a part of the Stormwater Pollution Plan (SWPPP) are installed and properly maintained during this period.

*MM 5.2-7 Site Erosion and Downstream Sedimentation and Flooding (expanded from Before Building Permit to Before issuance of any Building, Grading or other construction permit)*

26. PRIOR TO THE ISSUANCE OF ANY BUILDING, GRADING, OR OTHER CONSTRUCTION PERMITS, the applicants shall show on the plans the following measures required to minimize impacts on-site and downstream water quality to less-than-significant levels, then implement them during construction on the site:

- Implementation of Mitigation Measure 5.2-7 (Site Erosion and Downstream Sedimentation and Flooding).
- Due to the close proximity to the sensitive wetland and aquatic habitats in the receiving waters of Miller Creek and lower Gallinas Creek, the following BMPs are considered a minimum for Oakview stormwater treatment to comply with the requirements of the NPDES General Permit and provisions of Title 24 of the Marin County Code (24.04.625), citing erosion control requirements associated with site grading.
- Institution of a regular schedule of street and parking lot sweeping. The frequency of cleaning should be higher (e.g. twice monthly) during the winter rainy season, yet maintained year-round. Regular cleaning of paved surfaces reduce the “first flush” phenomenon wherein the highest concentration of contaminants are flushed off the surfaces during the early portion of a runoff event.
- Incorporation of grass-lined swales to convey stormwater from paved surfaces to creek channels or wetlands. Grass-lined swales filter particulates from stormwater and, as a result, reduce the entry of heavy metals and contaminated sediments to drainageways. The current development plan includes one grass-lined (i.e. vegetated) swale each toward the lower end of Sub-watersheds 2 and 3, although the one proposed for Sub-watershed 2 would not provide significant water quality benefits. Two additional swale locations could be integrated into the project design for Sub-watershed 6 stormwater drainage. The first swale would extend downslope from the eastern edge of the Lot 30 parking lot to the top of the existing cut-slope, at the freeway interface. The second swale would extend from the northernmost storm drain inlet along Roadway C (Marinwood Avenue extension), parallel to the freeway, to the southern bank of Miller Creek. To forestall excessive rilling within such swales, it may be necessary to install biodegradable fabric along the swale flowline. Initially, the swale may need to be irrigated along with the landscaping.
- Revegetation of all disturbed areas prior to the onset of each winter rainy season during and for 2-3 years following completion of construction. Use of an erosion control grass and forb mixture, favoring native species, would be best suited to this task. In addition, some type of surface erosion protection (e.g. jute netting, erosion control blankets, punched straw) should be installed to reduce the erosive energy of incoming raindrops for the first couple of winter seasons.

- Preparation and implementation of an irrigation scheduling and chemical management plan governing the application of irrigation water and chemical amendments to landscaped areas adjacent to buildings and within or adjacent to parking lot facilities. Components of such a plan would likely include an irrigation schedule linked to soil moisture levels or related variables such as temperature, humidity and wind speed. Specific chemical inputs proposed for application to vegetation should be among those tested and cleared for use by the USEPA. Frequency and scheduling of these chemical inputs should also be indicated, based on-site-specific characteristics (e.g. soil and vegetative cover and rates of uptake) and the acknowledged sensitivity of downstream receiving waters.
- Implementation Mitigation Measure 5.2-8 (Site Erosion and Downstream Sedimentation and Flooding). ((CDA)

*MM 5.2-10 Water Quality – Violation of Water Quality Standards and MM5.2-11 Cumulative Water Quality Impacts (both expanded from Before Building Permit to Before issuance of any Building, Grading or other construction permit)*

27. PRIOR TO THE ISSUANCE OF ANY BUILDING, GRADING, OR OTHER CONSTRUCTION PERMITS, the applicants shall provide a detailed erosion and sedimentation control plan and implement it during construction on the site. The plan shall contain detailed measures to control erosion of stockpiled earth and exposed soil, provide for revegetation of graded slopes before the first rainy season following construction, and specify procedures for monitoring the plan's effectiveness. The revegetation component of the plan shall be consistent with the Landscape and Vegetation Management Plan required by Mitigation Measure 5.3-1(a). Implement Mitigation Measures 5.2-7 and 5.2-8.

*MM 5.3-4(b) Disturbance to Freshwater Seeps and Wetlands (moved from Before Precise Development Plan (PDP) to Before issuance of any construction permit).*

28. PRIOR TO THE ISSUANCE OF ANY BUILDING, GRADING, OR OTHER CONSTRUCTION PERMITS, the applicant shall provide plans for the bridge or arched culvert proposed for the Marinwood Avenue crossing of Miller Creek, which shall minimize disturbance to jurisdictional waters and riparian vegetation by designing it to conform with the County's minimum roadway width standards and restricting abutments to the upper channel banks. Construction shall be performed during the low flow period in the creek (from June through October), and construction debris shall be kept outside of the creek channel by using silt fencing or other effective methods. Replacement planting with native trees and shrubs shall be provided adjacent to the structure as part of mitigation following completion of bridge construction. Alternately, the applicant may mitigate for permanent impacts to U.S. Army Corps of Engineers (Corps) jurisdictional wetlands by purchasing an appropriate amount of mitigation credits by an approved mitigation bank within the Project service area or other type of mitigation approved by the Corps and the San Francisco Bay Regional Water Quality Control Board (RWQCB) through the permitting process.

*MM 5.3-4(c) and (d) Disturbance to Freshwater Seeps and Wetlands (moved from Before Precise Development Plan (PDP) to Before issuance of any Building, Grading or other construction permit).*

29. PRIOR TO THE ISSUANCE OF ANY BUILDING, GRADING, OR OTHER CONSTRUCTION PERMITS, the applicants shall provide plans which demonstrate that proposed development will minimize disturbance within the Miller Creek corridor on the site to protect its function for fish and wildlife movement. The proposed bridge or arched culvert crossing should be designed to avoid impeding movement of fish and wildlife along the creek channel, and drop

structures under the bridge shall be prohibited. Improvements to the existing creekside path should be limited to stabilizing and possibly surfacing, and lighting should be prohibited along the path to minimize disrupting creek use by wildlife at night.

*MM 5.3-6 Disruption of Fish and Wildlife Habitat (moved from Before Building Permit to before issuance of any Building, Grading or other construction permit)*

30. PRIOR TO THE ISSUANCE OF ANY BUILDING, GRADING, OR OTHER CONSTRUCTION PERMITS, the applicants shall pay the project's 1.5-percent proportional share of signaling the intersection of Miller Creek Road and Marinwood Avenue, estimated to be \$7,440.

*MM 7.0-1(a) Existing Plus Project AM and PM Peak Hour Conditions, MM 7.0-2(a) Short Range Cumulative AM and PM Peak Hour Conditions and MM 7.03-(a) Long Range Cumulative AM and PM Peak Hour Conditions (moved from Before Precise Development Plan (PDP) to Before issuance of any Building, Grading or other construction permit).*

PRIOR TO THE ISSUANCE OF ANY BUILDING, GRADING, OR OTHER CONSTRUCTION PERMITS, the applicants shall pay the project's 15.6-percent proportional share of signaling the intersection of Highway 101 Southbound Ramps and Miller Creek Road, estimated to be \$77,876.

*MM 7.0-1(c) Existing Plus Project AM and PM Peak Hour Conditions, MM 7.0-2(c) Short Range Cumulative AM and PM Peak Hour Conditions and MM 7.03-(c) Long Range Cumulative AM and PM Peak Hour Conditions (moved from Before Precise Development Plan (PDP) to Before issuance of any Building, Grading or other construction permit).*

31. PRIOR TO THE ISSUANCE OF ANY BUILDING, GRADING, OR OTHER CONSTRUCTION PERMITS, the applicants shall pay the project's 2.1-percent proportional share of signaling the intersection of Miller Creek Road and Las Gallinas Avenue, estimated to be \$10,615.

*MM 7.0-3(d) Long Range Cumulative AM and PM Peak Hour Conditions (moved from Before Precise Development Plan (PDP) to Before issuance of any Building, Grading or other construction permit).*

32. PRIOR TO THE ISSUANCE OF ANY BUILDING, GRADING, OR OTHER CONSTRUCTION PERMITS, the applicants shall provide the following information on the construction plans or documentation to DPW:

- a. Plot, label and dimension all easements which benefit or encumber the property
- b. Plot, label and dimension all proposed easements, specifically the proposed pedestrian and bike path easement (COA 5.d.) and drainage easement (COA 11.c)
- c. Any work which extends over the property line for the construction of the bridge and footings shall be coordinated with that property owner. Applicant shall provide DPW with written verification of coordination from that owner.
- d. Add a note to the plans indicating that all new easements shall be recorded prior to final inspection for senior residential facility.

33. PRIOR TO THE ISSUANCE OF ANY BUILDING PERMIT for the residential care facility, the applicant shall specify on the construction drawings, and in the associated documents, the number of independent living units and the number of assisted living units to be constructed. The minimum number of parking spaces to be provided for the senior residential facility shall be determined based on the following parking generation rate presented in an analysis by W-Trans dated March 17, 2018: 0.54 parking spaces per assisted living unit and 0.66 parking

spaces per independent living unit. The total number of parking spaces to be provided for the senior residential facility does not include the eleven (11) parking spaces to be provided for the six (6) affordable housing units to be constructed in a separate building. Applicants shall provide calculations to determine the number of accessible parking spaces and accessible van parking spaces to be provided for the senior residential facility per current State accessibility requirements for the intended use (provide reference to section in CBC being used for the proposed type of development). Plans shall show that the minimum number of accessible parking spaces, or greater, will be provided.

34. PRIOR TO ISSUANCE OF ANY BUILDING PERMIT for the residential care facility, applicants shall provide plans which show that conventional parking spaces in the garage are no less than 18.5 feet by 8.5 feet, which is a reduction from the requirements of MCC24.04.380(a) which requires a minimum of 9 feet by 20 feet for interior spaces.
35. Wheel stops are required by MCC 24.04.355(f), or overhang a curb adjacent to a landscape area (not walkway) as described in MCC24.04.335(h). Note that spaces along sidewalk in front of building must have wheel stops.
36. PRIOR TO ISSUANCE OF ANY BUILDING PERMIT for the affordable housing apartment building applicants shall demonstrate compliance with 2016 CBC 1102A.1.1 which requires that apartment buildings with three or more dwelling units shall be accessible to persons with disabilities. All proposed units are accessed up a flight of stairs

#### **Marin Municipal Water District**

37. All future landscape and irrigation plans must be designed in accordance with the most current District landscape requirements. Prior to providing water service for new landscape areas, or improved or modified landscape areas, the applicant shall obtain the District's approval of all working drawings for planting and irrigation systems.
38. Recycled water shall be used for the residential care facility's common landscape irrigation and any other approved use, as determined by the District. Landscape and irrigation plans shall comply with the District's recycled water criteria.

#### **Marinwood Fire Department**

39. The applicant shall be responsible for payment of fees associated with the review of the improvement plans and building permits by an outside fire protection engineer contractor or plan review contractor.

### **SECTION III: VESTING**

NOW THEREFORE, BE IT RESOLVED that unless conditions of approval establish a different time limit or an extension to vest has been granted, any permit or entitlement not vested within three years of the date of the approval shall expire and become void. The permit shall not be deemed vested until the permit holder has actually obtained any required Building Permit or other construction permit and has substantially completed improvements in accordance with the approved permits, or has actually commenced the allowed use on the subject property, in compliance with the conditions of approval.

**SECTION IV: VOTE**

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin held on this 24<sup>th</sup> day of September, 2018 by the following vote:

AYES: COMMISSIONERS

NOES:

ABSENT:

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MARGOT BIEHLE, CHAIR  
MARIN COUNTY PLANNING COMMISSION

Attest:

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Ana Hilda Mosher  
Planning Commission Recording Secretary