

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. PC20-010  
A RESOLUTION DENYING THE FARZIN FAILI ET AL APPEAL AND APPROVING THE  
PARADISE MAR DEVELOPMENT COMPANY LP DESIGN REVIEW  
AND TREE REMOVAL PERMIT  
LOCATED ON A VACANT LOT HISTORICALLY REFERRED TO AS  
2495 MAR EAST STREET, TIBURON  
ASSESSOR’S PARCEL: 059-203-27

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SECTION I: FINDINGS

1. **WHEREAS**, Peter Brockman, on behalf of the owners, Paradise Mar Development LP, has submitted a Design Review and Tree Removal Permit application for the construction of a new 2,437 square foot residence and 540 square foot attached garage on a vacant lot in Tiburon. The 2,437 square feet of proposed development would result in a floor area ratio of 29.9 percent on the 8,126 square foot lot.

The proposed building would reach a maximum height of 29 feet, 4 inches above surrounding grade and the exterior walls would have the following setbacks: 0 feet from the western front property line; 10 feet from the northern side property line; 9 feet, 3 inches from the southern side property line; 39 feet from the eastern rear property line.

Various site improvements would also be entailed in the proposed development, including the construction of a swimming pool

Additionally, the applicant requests Tree Removal Permit approval to remove four trees as follows:

- One Heritage Coast live oak that measures 20 inches in diameter at breast height (DBH)
- One Heritage Coast live oak that measures 22.2 inches DBH
- One Protected California buckeye that measures 23.5 inches DBH
- One Protected Coast live oak that measures 16.6 inches DBH

The project is located on a vacant lot that has historically been referred to as 2495 Mar East Street and is further identified as Assessor’s Parcel 059-203-27.

2. **WHEREAS**, on March 2, 2020, the Marin County Planning Division administratively approved the Design Review and Tree Removal Permit for the project.

3. **WHEREAS**, on March 11, 2020, Farzin Faili et. al. submitted a timely appeal of the Paradise Mar Development LP Design Review and Tree Removal Permit approval.

4. **WHEREAS**, on August 24, 2020, the Marin County Planning Commission held a duly noticed public hearing to take public testimony and consider the project.

5. **WHEREAS**, the bases of appeal are insufficient to overturn the Marin County Planning decision, for the reasons discussed below.

- A. The appellants assert the site strategy results in an over developed lot that requires extensive earthwork and could result in drainage impacts.

Response:

The 8,126 square foot lot is proposed to be developed with a 2,438 square foot dwelling, 540 square foot garage, terraces, staircases, and a swimming pool. These improvements result in 4,729 square feet of impervious surface, 58% of the total lot area. The project would disturb 7,724 square feet of land, including 1,205 square feet of land within the Paradise Mar right of way, to accommodate the development.

Proposed earthwork entails 360 cubic yards of cut and 360 cubic yards of fill, resulting in balanced earthwork calculations. The grading that is proposed to cut the house into the hillside is consistent and complies with direction provided in the Single-Family Residential Design Guidelines. However, development that necessitates grading and terracing to accommodate a swimming pool is not considered to be appropriate on hillside lots.

Due to the impacts to the site, a condition of approval is imposed on the project that requires the removal of the swimming pool. Vegetation must be planted in the location of the proposed swimming pool to increase permeable surfaces on the property.

The increase in permeable surface from removing the pool would result in an enhanced drainage plan for the site, which includes the installation of a bio retention basin. Additional drainage details are to be provided and reviewed by the Department of Public Works (DPW) at the time of building permit submittal.

In addition to the increase in permeable surfaces on the site, the removal of the trees reduces the amount of earthwork required to accommodate the proposed development.

B. The appellants assert that the location of the proposed dwelling has insufficient setbacks and results in privacy impacts.

Response:

The lot is considered substandard due to the property size in relation to the slope of the property. Per Development Code Section 22.42.020, setback requirements are waived because the lot is less than half the minimum lot size required due to the steep slope of the property, which allows more flexibility to determine the appropriate location for development.

The appeal materials include communications from the earlier design iterations of the project, which had a 10-inch setback along Mar Centro (the northern side property line). The applicant was informed that while the normal setbacks do not apply to the property, the proposed residence should maintain a 10-foot setback along Mar Centro to reduce the appearance of a looming structure along the roadway. As such, the applicants submitted new plans on February 6, 2020 that increased the side setback to 10 feet prior to the issuance of the administrative decision, which conditionally approved the project on March 2, 2020. The 10-foot setback further allows the project to incorporate plantings along Mar Centro to reduce the appearance of the structure when viewed offsite.

The appeal materials specifically note the staircase along the common property line with Mr. Faili's duplex at 2485 Mar East (directly south of the project site). The stairs along the common property line are not subject to Design Review because they do not exceed 18 inches above grade and are not subject to removal.

Windows along the southern façade are minimal and will not reduce privacy between the proposed project and Mr. Faili's property. Further, the upper windows are clerestory and above eyeline, the windows in the kitchen are counter level, located below the upper cabinets, and are below eyeline.

The lower level deck contains a solid wall that will increase privacy between the two properties and the upper deck is set back from the exterior of the structure and more than 10 feet from the common property line with 2485 Mar East, consistent with the R2 zoning district side yard setback standards.

Additionally, mature vegetation serves as a screen between the two properties and the project entails the installation of additional plantings along the common property line to enhance privacy between adjacent properties.

C. The appellants assert that the property has a Mar East Drive address and should be accessed by Mar East, not Paradise Drive, which results in backing out onto a busier roadway and results in using the public right of way for private access improvements.

Response:

The County does not typically assign addresses to vacant properties. There was an application in the past to develop a single-family home on the lot. At this time, an address was assigned, but the project was ultimately never built. Because this property is not developed, it is not required to maintain a Mar East address nor take access from the roadway. The proposed residence would instead be assigned a Paradise Drive address.

DPW has reviewed the proposal and evaluated the project in relation to turning radius, sight distance, roadway constraints, and site layout. They determined that the proposed access would not result in adverse impacts as there is enough room to pull out of the driveway as well as adequate visibility to pull safely onto Paradise Drive.

The proposal utilizes the right-of-way to access the structure. These improvements, including the driveway and access stairs, are consistent with improvements typically permitted within the right-of-way.

However, the project is not permitted to block access of the Paradise Drive right-of-way. As a result, the mailbox must be relocated, or a path of travel must be maintained. A condition of approval is imposed on the project requiring as such.

The proposed improvements do not preclude future extensions or improvements within the right-of-way or prohibit the public's use within the right-of-way.

D. The appellants assert that the owner illegally removed trees and now propose additional trees for removal when every effort should be made to protect the trees.

Response:

The owner illegally removed two trees prior to applying for the current Design Review and Tree Removal application. One of these trees was a California Bay (*Umbellularia californica*) with a 14.6 inch diameter at breast height. The other was a California Buckeye (*Aesculus californica*) with a 10.9 inch diameter at breast height. The County required the owner to apply

for a retroactive Tree Removal Permit and four replacement trees were planted on the site. These replacement trees are required to be maintained as part of the current project.

Per the Arborist Report, prepared by Zach Vought of Urban Forestry Associates, three of the four trees are in “suboptimal” locations and should be relocated to more appropriate areas on the site. Because these trees are small, relocation is feasible and the trees will be protected during construction.

The current project includes removal of four more trees to accommodate the development. An arborist report, prepared by Urban Forestry Associates, Inc., dated October 14, 2019, indicates that the health of the trees (two Heritage California oak trees, one Protected California oak tree, and one Protected California buckeye tree) are fair to good. The structures of the oak trees are considered fair, while the buckeye is considered to be in good health. Due to its wide canopy, the buckeye is proposed for removal to accommodate the proposed structure.

Eight replacement trees are required to be planted onsite. The arborist report recommends three toyons and five live oaks as replacement trees. However, this recommendation has not been incorporated into the landscape plan. A condition of approval is imposed on the project that requires the landscape plan to include the planting of three toyons and five Interior live oaks in accordance with the Tree Plan.

Further, the landscape plan indicates that the replacement trees are to be 15-gallons in size. This size is small in comparison to the number and size of trees that are proposed for removal. A condition of approval is imposed on the project that requires a minimum 36-inch box size for the replacement trees to ensure that the removed canopy is replenished at a faster rate than currently proposed.

E. The overall project is incompatible with the neighborhood and will significantly impact the lives of the adjacent affected neighbors.

The property is 8,126 square feet in size. The R-2 zoning for the area allows a 30 percent floor area ratio (FAR). The proposal would result in a 29.9% FAR. In general, the area is composed of smaller lots and there are some homes that exceed the 30 percent FAR. Using the properties of the appellants, it is evident that the development of the area is varied and there are several homes in the area that are larger than what would normally be permitted by code.

Per the Marin County Assessor’s records the adjacent property at 2485 Mar East is approximately 8,100 square feet and is developed with an approximately 3,292 square foot duplex. The property at 2480 Mar East is approximately 4,020 square feet and developed with an approximately 1,990 square foot dwelling. 2483 Mar East is an approximately 4,263 square foot lot developed with an approximately 1,350 square foot structure. 2506 Mar East has an approximately 2,334 square foot structure on a 5,700 square foot lot. While these are approximates, this information demonstrates that the development within the area consists of diverse lot and home sizes.

The upper level of the structure is designed to step back from the lower level to avoid looming over downhill properties.

Windows and door locations are placed in a manner that would not impair privacy on adjacent properties. Homes in the vicinity are often oriented towards views of the Bay and Angel Island. As a result, windows are often placed in locations that provide views to the east and preserve privacy to the north and south.

6. **WHEREAS**, the project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Sections 15303, Class 3 and 15304, Class 4 of the CEQA Guidelines because it does not result in significant impacts to the environment.

7. **WHEREAS**, the project is consistent with the goals and policies of the Marin Countywide Plan 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. Although the project proposes to remove four trees protected under the Marin County Code Chapter 22.27 (Native Tree Protection and Preservation), the proposal also includes planting eight replacement trees (three toyon and five interior live oak).
- B. The project is consistent with the CWP special-status species protection policy (BIO-2.2) because the property is not identified as an area that supports endangered, rare or threatened species.
- C. The project is consistent with the CWP natural transition and connection policies (BIO 2.3 and BIO 2.4) because the project would not in any way alter the margins along riparian corridors, wetlands, baylands, or woodlands.
- D. The project is consistent with the CWP stream and wetland conservation policies (BIO-3.1 and CWP BIO-4.1) because the project site does not feature any Stream Conservation Areas or Wetland Conservation Areas
- 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.
- I. The project is consistent with CWP residential design policies and programs (DES-3.b and DES-4c) because it would fit within the context of the neighborhood, minimize the perception of mass and bulk, and comply with the Single-family Residential Design Guidelines

8. **WHEREAS**, the project is consistent with the mandatory findings for Design Review approval (Marin County Code Section 22.42.060).

**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.**

There are no standards provided in Chapter 22.14 that apply to the project. The proposed project is consistent with the Design Guidelines and Discretionary Development Standards because it is designed to avoid adversely affecting natural resources or the character of the local community. The project's consistency with the standards and guidelines most pertinent to the subject property is discussed below.

SITE PREPARATION: Development Standards J.1 through J.6; Design Guidelines A-1.2 through A-1.4

The 8,126 square foot lot is proposed to be developed with a 2,438 square foot dwelling, 540 square foot garage, terraces, staircases, and a swimming pool. These improvements result in 4,729 square feet of impervious surface, 58% of the total lot area. The project would disturb 7,724 square feet of land, including 1,205 square feet of land within the Mar East right of way, to accommodate the development.

Proposed earthwork entails 360 cubic yards of cut and 360 cubic yards of fill, resulting in balanced earthwork on site and no off-haul. Grading and natural landforms would be minimized, except as required for construction of the foundations. The grading that is proposed to cut the house into the hillside is consistent and complies with direction provided in the Single-Family Residential Design Guidelines. However, development that necessitates grading and terracing to accommodate a swimming pool is not considered to be appropriate on such a small and steep hillside lot.

Due to the impacts to the site, a condition of approval is imposed on the project that requires the removal of the swimming pool.

The increase in pervious surface resulting from eliminating the pool will result in an enhanced drainage plan for the site, which includes the installation of a bio retention basin. Additional drainage details are to be provided and reviewed by the Department of Public Works (DPW) at the time of building permit submittal.

As noted above, the project involves removal of four trees to accommodate the development. An arborist report, prepared by Urban Forestry Associates, Inc., dated October 14, 2019, indicates that the health of the trees (two Heritage California oak trees, one Protected California oak tree, and one Protected California buckeye tree) are fair to good. The structures of the oak trees are considered fair, while the buckeye is considered to be good but due to its wide canopy, it is proposed for removal to accommodate the proposed structure.

Eight replacement trees are required to be planted onsite. The arborist report recommends three toyons and five Interior live oaks as replacement trees. However, this recommendation has not been incorporated into the landscape plan. A condition of approval is imposed on the project that requires the landscape plan to include the planting of three toyons and five Interior live oaks in accordance with the Tree Plan.

Further, the landscape plan indicates that the replacement trees are to be 15 gallons in size. This size is small in comparison to the number and size of trees that are proposed for removal.

A condition of approval is imposed on the project that requires a minimum 36-inch box size for the replacement trees to ensure that the removed canopy is replenished at a faster rate than currently proposed.

**BUILDING LOCATION:** Development Standards D.1 through D.4; Design Guidelines D-1.6

The proposed dwelling is accessed from Paradise Drive and the garage is located near the roadway to allow for easy accessibility. The property is not located within 300 feet horizontally, nor 100 feet vertically, from a visually prominent ridgeline. Noise impacts on nearby residents will be reduced with the removal of the pool because the location of the pool in relation to the Mar East right-of-way and location residences on properties within the vicinity of the project.

**PROJECT DESIGN:** Development Standard I.1 and I.2; Design Guideline D-1.7

The project has been designed to meet all of the R-2 zoning district height standards. As proposed, the project would measure approximately 29 feet four inches above the surrounding grade where a maximum 30 feet is permitted. No exceptions to height limits and development standards are requested by the applicant. Exterior colors and materials include gray painted stucco, both gray metal and gravel roofing materials, dark gray windows and doors, and board-formed site walls. The colors and materials are compatible with the neighborhood as there are several gray painted homes along Mar East Drive that do not detract from the surrounding environment.

**MASS AND BULK:** Design Guidelines D-1.1 through D-1.5

The garage structure is located closer to the street than the residence and elevated above the top floor of the residence. This offset helps break up the mass of the structure by dividing the development into smaller building components.

Roof forms are varied and designed to reduce long, linear, unbroken lines. The northern portion of the structure is located at an angle to the structure, better following the orientation of the hillside and reducing overall mass and bulk.

The canopy located above the roof deck patio at the proposed entry and living area level is a roof structure elevated on poles. This feature unnecessarily contributes to the mass of the structure, especially when viewed from downhill, and should be removed. Therefore, a condition of approval is imposed on the project that requires the removal of the canopy roof.

The structure is effectively articulated by stepping the building forms down with the hillside, utilizing side yard stepbacks, and cutting into the hillside to reduce effective visual bulk. The garage wall is the tallest unbroken wall, but the overall mass of the structure will be reduced by planting coffeeberry shrubs at the base. These plantings, paired with other vegetation in the vicinity of this façade, will minimize the overall appearance of the wall.

**EXTERIOR LIGHTING:** Development Standard G; Design Guideline C-1.11

The exterior lighting is shielded and directed downward. Additionally, the lighting is located under covered overhangs and eaves that will direct lighting downward and will not allow for adverse lighting impacts on nearby properties

**LANDSCAPING AND VEGETATION REMOVAL:** Development Standard F; Design Guideline A-1.1

The lot is currently undeveloped with mature native oaks and buckeyes. Due to the removal of four trees (three oaks and one buckeye), native oaks and toyons are to be planted to replace the removal of the trees. While these tree species are native to California, a majority of nonnative plant species are incorporated into the landscape plan.

New plantings should be primarily native, drought tolerant, and fire resistant. As a result, a condition of approval is imposed on the project requiring that at least 50 percent of the proposed plantings are native to California.

ACCESS: Development standard C; Design Guidelines A-1.5

The project entails the construction of a new driveway to access the proposed garage. No additional changes to the roadway are anticipated.

The Department of Public Works has reviewed the proposed access along Paradise Drive and determined there are appropriate sight distances and turning radii in order to access and exit the garage.

NEIGHBORHOOD COMPATABILITY: Design Guidelines B-1.1, C-1.1 through C-1.3, C-1.7

Homes within the neighborhood vary in architectural styles, colors and materials, scales, and setback patterns. The proposed home and placement are consistent with dwellings that front Paradise Drive and setbacks are incorporated into the project design.

The upper level of the structure is designed to step back from the lower level when viewed downhill to minimize interference with views and privacy from downhill properties.

Windows and door locations are placed in a manner that would not impair privacy on adjacent properties. Homes in the vicinity are oriented towards views of the Bay and Angel Island. As a result, windows are placed in locations that provide views to the east and preserve privacy to the north and south.

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

The surrounding area is comprised of a mix of architectural styles with variety in the bulk, massing, and height amongst the residences. The project is in keeping with the character of the community because of the balanced architectural design, use of materials to articulate elevations of the development, landscaping, and overall site layout.

**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 development will not result in a site layout and design that will eliminate significant sun and light exposure due to the orientation of the lot. Light pollution and glare will be eliminated because the eaves and overhangs will block light emitted from the structure. Primary views and vistas are maintained as the homes in the area are oriented towards the Bay.

The owner of the duplex at 2485 Mar East (directly south of the project site) provided a communication indicating that the project would directly impact privacy currently enjoyed by occupants of the units. The letter requested that the pool area be eliminated, that the stairway along the common property line be removed, that the windows along the southern elevation be removed or relocated, and that the overall size of the decks be reduced..

As conditioned, the pool and associated improvement area would be eliminated because it is inconsistent with the Single-Family Design Guidelines. The stairs along the common property line are not subject to Design Review because they do not exceed 18 inches above grade and are not subject to removal. Windows along the southern façade are minimal and will not reduce privacy between the properties. Further, the upper windows are clerestory and above a person's

eyeline, the windows in the kitchen are at counter level, located below the upper cabinets, and are below a person's eyeline.

The lower level deck contains a solid wall that will increase privacy between the two properties and the upper deck is set back from the exterior of the structure and more than 10 feet from the common property line with 2485 Mar East, consistent with the R2 zoning district side yard setback standards.

Further, mature vegetation serves as a screen between the two properties and the project entails the installation of additional plantings along the common property line to enhance privacy between adjacent properties.

**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.**

The proposal utilizes the right of way to access the structure. These improvements, including the driveway and access stairs, are consistent with improvements typically permitted within the right-of-way.

However, the project is not permitted to block access of the Paradise Drive right-of-way. As a result, the mailbox must be relocated, or a path of travel must be maintained. A condition of approval is imposed on the project requiring as such.

The proposed improvements do not preclude future extensions or improvements within the Paradise Drive right-of-way or prohibit the public's use within the right-of-way.

**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.**

The proposed structures maintain appropriate separation between buildings on adjacent properties by utilizing adequate setbacks from common property lines. The proposal does not entail the elimination of natural features other than trees. Four trees are proposed for removal, though new trees are proposed to provide privacy screening around the property. The property is not located within the Wildland Urban Interface (WUI) but will still be required to comply with fire safety standards.

9. **WHEREAS**, the project is consistent with the mandatory findings for Tree Removal Permit approval (Marin County Code Section 22.62.050).

In considering a Tree Removal Permit application, the Planning Commission 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.**

The project site is constrained by its unusual slope and, therefore, tree removal is necessary to accommodate the proposed project. Although the project proposes to remove four trees protected under Marin County Code Section 22.130.030, it would provide eight replacement trees.

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

The project proposes to remove two heritage and two protected trees. However, the project would retain three trees and provide additional eight replacement trees three toyon and five interior Live oak. Thus, the project would continue to maintain enough trees for visual screening of the house. In order to protect existing trees within the project site, a condition of approval will be imposed on the project, requiring installation of tree protection fencing throughout the building construction site in order to protect existing vegetation (Special Condition 6).

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

The subject property will continue to support the remaining healthy tree canopy and implementation of a vegetation management plan will ensure that existing trees will be maintained to promote tree vigor and reduce fire hazard potential. At 8,126 square feet in area, the site is of sufficient size to implement the proposed landscaping.

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

The retention of the remaining trees on site, along with the planting of replacement trees will aid in maintaining site stability and controlling erosion, as well as avoiding increased run-off.

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

Because the majority of existing trees will remain with the implementation of the project, and the applicant proposes replacement tree plantings, privacy between adjoining properties and the visual resources of the site will be maintained. The retention of existing mature trees and vegetation, as well as the replanting of trees will provide 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).**

According to County records, the site does not contain habitat for special-status species. Therefore, tree removal activities would not result in a significant effect on threatened or endangered wildlife, under CEQA.

**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.**

The tree removal will facilitate the construction of the proposed project on the site. Due to site constraints including the steep slope, opportunities for siting the residence are limited. The location of the proposed residence will result in limiting the number of trees being removed. Tree protection zones will be employed to ensure that construction activities minimize potential damage to those trees not approved for removal as part of the project.

## **SECTION II: ACTION**

NOW THEREFORE, BE IT RESOLVED that the project described in condition of approval 1 is authorized by the Marin County Planning Commission and is subject to the conditions of project approval.

This decision certifies the proposed project's conformance with the requirements of the Marin County Development Code and in no way affects the requirements of any other County, State, Federal, or local agency that regulates development. In addition to a Building Permit, additional permits and/or approvals may be required from the Department of Public Works, the appropriate Fire Protection Agency, the Environmental Health Services Division, water and sewer providers, Federal and State agencies.

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

NOW, THEREFORE, BE IT RESOLVED that the Marin County Planning Commission hereby approves the Paradise Mar Development LP Design Review and Tree Removal Permit subject to the conditions listed below.

### **CDA-Planning Division**

1. This Design Review approval authorizes the construction of a new 2,437 square foot residence and 540 square foot attached garage on a vacant lot in Tiburon. The 2,437 square feet of floor area would result in a floor area ratio of 29.9 percent on the 8,126 square foot lot.

The building would reach a maximum height of 29 feet, 4 inches above surrounding grade and the exterior walls would have the following setbacks: 0 feet from the western front property line; 10 feet from the northern side property line; 9 feet, 3 inches from the southern side property line; 39 feet from the eastern rear property line.

Various site improvements would also be entailed in the proposed development.

Additionally, the applicant requests Tree Removal Permit approval to remove four trees as follows:

- One Heritage Coast live oak that measures 20 inches in diameter at breast height (DBH)
  - One Heritage Coast live oak that measures 22.2 inches DBH
  - One Protected California buckeye that measures 23.5 inches DBH
  - One Protected Coast live oak that measures 16.6 inches DBH
2. Plans submitted for a Building Permit shall substantially conform to plans identified as Exhibit A, entitled "2485 Mar East, Paradise Drive – New Single-Family Residence, Tiburon," consisting of 39 sheets prepared by The Brockman Design Studio, received in final form on February 6, 2020, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.

BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall modify the project to conform to the following requirements:

- a. The swimming pool and surrounding improvements must be removed.
  - b. Landscaping must be installed in the location of the removed pool area and surrounding improvements.
  - c. The Landscape Plan must include planting three toyons and five interior live oaks in accordance with the Tree Plan.
  - d. Replacement trees must be at minimum a 36-inch box size.
  - e. The Landscape Plan must be revised to include a minimum of 50 percent native species.
  - f. The canopy roof must be removed from the upper level roof deck.
  - g. A path of travel must be maintained along the Paradise Drive right-of-way.
  - h. The overall lot area must be reduced due to the presence of roadways on the property, resulting in a decrease in allowed floor area.
3. The project shall conform to the Planning Division's "Uniformly Applied Conditions 2020" with respect to all of the standard conditions of approval and the following special conditions: 6 and 7 (tree protection measures).

#### **SECTION IV: 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 V: APPEAL RIGHTS**

NOW, THEREFORE, BE IT RESOLVED that this decision is final unless appealed to the Marin County Board of Supervisors. A Petition for Appeal and the required fee must be submitted in the Community Development Agency, Planning Division, Room 308, Civic Center, San Rafael, no later than eight business days from the date of this decision (September 3, 2020).

#### **SECTION VI: VOTE**

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin held on this 24 day of August 2020 by the following vote:

AYES: MARGOT BIEHLE, MARGARET CURRAN, CHRISTINA L. DESSER, DON DICKENSON, JOHN ELLER, DAVID PAOLI; PETER THERAN

NOES: NONE

ABSENT: NONE



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MARGARET CURRAN, CHAIR  
MARIN COUNTY PLANNING COMMISSION

Attest:



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ANA HILDA MOSHER  
Planning Commission Recording Secretary