



**TOWN OF TIBURON
PLANNING COMMISSION**
1505 Tiburon Boulevard
Tiburon, CA 94920
July 14, 2003 - 7:30 PM

ACTION MINUTES

CALL TO ORDER AND ROLL CALL

At 7:30 pm

Commissioner Collins, Commissioner Greenberg, Commissioner Stein, Vice-Chairman Snow, Chairman Smith
All Commissioners Present

ORAL COMMUNICATIONS

Persons wishing to address the Planning Commission on any subject not on the agenda may do so under this portion of the agenda. Please note that the Planning Commission is not able to undertake extended discussion, or take action on, items that do not appear on this agenda. Matters requiring action will be referred to Town Staff for consideration and/or placed on a future Planning Commission agenda. Please limit your comments to no more than three (3) minutes. **There were none**

COMMISSION AND STAFF BRIEFING

Staff Update
Commission Information Items

There were none

UNFINISHED BUSINESS

1. CONSIDER RECOMMENDATION OF ENVIRONMENTAL COORDINATOR REGARDING RECIRCULATION OF THE REVISED DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE TIBURON GLEN PRECISE DEVELOPMENT PLAN TO CREATE EIGHT BUILDING SITES ON A 26.03 ACRE PARCEL; 3700 BLACK OF PARADISE DRIVE NEAR NORMAN WAY; Xanadu Property Holdings, Inc., Owners; Assessor's Parcel No. 39-241-01.
3-0 (Greenberg and Smith Recused Themselves) to Find Recirculation Unnecessary and to Direct Preparation of the Final EIR

ADJOURNMENT **At 10:15 pm**

Future Agenda Items

General Plan Update: Review of Draft revised Land Use Element (August)
1620-1632 Tiburon Boulevard: Renewal of CUP for wireless communication facility (August 13)
Election of Officers (August 13)

a071403

MINUTES NO. 882
PLANNING COMMISSION
July 14, 2003
Special Meeting
Town Council Chambers
1505 Tiburon Boulevard, Tiburon, California

Chair Smith called the meeting to order at 7:30 p.m.

ROLL CALL

Commissioners Present: Chair Smith, Commissioners Collins, Greenberg, Snow, and Stein

Staff Present: Community Development Director Anderson, Environmental Coordinator Allsep, EIR Preparer Harrison, EIR Biologist Hopkins, and Town of Tiburon Geotechnical Consultant Stephens

Commissioner Greenberg recused herself from participation at this meeting because her residence is located within 300 feet of the Tiburon Glen property. Chairman Smith recused himself from participation at his meeting because he is currently acting a special legal counsel to Sanitary District No. 5 which is in negotiations concerning the Tiburon Glen property. Both Commissioner Greenberg and Chairman Smith left the room.

PUBLIC QUESTIONS AND COMMENTS:

None.

COMMISSION AND STAFF BRIEFING

None.

UNFINISHED BUSINESS

1. CONSIDER RECOMMENDATION OF ENVIRONMENTAL COORDINATOR REGARDING RECIRCULATION OF THE REVISED DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE TIBURON GLEN PRECISE DEVELOPMENT PLAN TO CREATE EIGHT BUILDING SITES ON A 26.03 ACRE PARCEL; 3700 BLOCK OF PARADISE DRIVE NEAR NORMAN WAY; Xanadu Property Holdings, Inc., Owners; Assessor's Parcel No. 39-241-01

Vice Chairman Snow asked for the Staff Report.

Planner Allsep summarized the background history and merits of the proposed project stating that the Town published and circulated a Draft EIR in September of 2002. Subsequent to closing of the public hearing, the applicant submitted additional application materials, which Staff

determined would require revision and recirculation of the DEIR. The DEIR was recirculated for public review and comment with the comment period closing at this hearing. She then summarized the main conclusions of the Revised Draft EIR and the significant unavoidable impacts identified in the revised DEIR. Planner Allsep indicated that several comment letters have been received on the Revised Draft EIR, which letters include comments on: 1) traffic/traffic safety; 2) extent of grading, landslide repair and secondary impacts; 3) tree removal/tree mitigation; 4) sanitary sewer service; and 5) cumulative and growth inducing impacts.

With regard to the review process, Planner Allsep explained that the purpose of the hearing was for the Commission to consider whether new significant information has been received and whether recirculation of the DEIR was necessary. She clarified that while comments on the revised DEIR will be accepted, the meeting is not a public question-and-answer session. Furthermore, she noted that due to a litigation filed by the applicant in 2002, time is of essence for certification of the EIR since the Marin County Superior Court had imposed a deadline. However, upon mutual agreement between the applicant and the Town, said deadline was extended to September 24, 2003, although it was unlikely that the Superior Court would grant an additional time extension.

In response to Commissioner Stein, Planner Allsep stated that recirculation of the DEIR would be required if new significant information that would deprive the public the opportunity to comment on a project impact was submitted. In staff's opinion, so far, no new significant information has been submitted in any of the written comments.

The hearing was opened to public comment.

Anne Norman, 42 Norman Way, noted her letter dated July 1, 2003 opposing the creation and location of a parking lot along Paradise Drive in order to mitigate the inability of providing adequate on-site parking for the homes. In her opinion, reducing the size of the homes would decrease the need for additional off-site parking.

Robert Benbow, 53 Norman Way, noted his letters dated July 8, 2003 expressing concern that the DEIR did not adequately analyze traffic, vehicular access, bicycles, and pedestrian safety on Paradise Drive. In his opinion, traffic surveys were unreliable because the process followed in developing them was unscientific. He concluded by recommending that the traffic section of the DEIR be rejected.

Jerry Riessen, 616 Ridge Road, echoed the safety concerns along Paradise Drive. He also commented on the importance of preserving open space through a public open space easement with funding for future maintenance and protection as indicated in the Town General Plan.

David Coury, 3312 Paradise Drive, stated that the DEIR was inadequate, particularly the alternatives section.

Bill White, attorney representing the Last Chance Committee and residents of Norman Way, stated that while the DEIR was improved, there were still several issues outstanding, such as:

- Mitigation for tree loss. Replacement on a one-to-one ratio, on-site is not adequate. Furthermore, while the document implies that Sudden Oak Death Syndrome (SODS) exist on the property, no actual testing has been conducted to determine if SODS is on-site and whether trees need to be removed. Off-site mitigation at a 3-5 to one ratio would be more appropriate.
- The proposed eight-lot project is inconsistent with over thirty General Plan policies.
- Although the alternatives section has been expanded, it does not include an alternative which would mitigate all impacts. The only alternative that would mitigate most of the impacts is the two-lot alternative. However, the DEIR should consider a redesigned alternative which limits development to development area #1, reduces the size of homes in order to eliminate the need for a parking lot on Paradise Drive, and minimizes the amount of grading.

In response to Commissioner Stein, Mr. White stated that while his proposed additional alternative may be considered to be part of the merits process, it should at least be addressed in the DEIR.

John Kunzweiler, 16 Norman Way, stated that in his opinion significant new information has been presented which would require recirculation of the revised DEIR, particularly with regards to grading, tree removal, and visual impacts. Furthermore, he found the proposed project to be inconsistent with at least half of the General Plan policies and asserted that the DEIR did not adequately analyze reasonable alternatives. Guiding criteria for the project should be: one development area with one entrance from Paradise Drive; minimal clear cutting; elimination of a split road in development area #1; minimal grading and amount of retaining walls; reducing the size of homes in order to better fit the character of the area; eliminating development in areas with a slope greater than 30%; requiring that all mitigations be legally binding; eliminating the proposed parking lot on Paradise Drive; analysis of additional alternatives; applicant outreach to the community; and requiring that common open space is not individually owned.

The hearing was closed to public comment.

Planner Allsep stated that all issues raised in the written comments and at this meeting will be addressed in the Final EIR. In her opinion as Environmental Coordinator, no new significant information, which would require recirculation of the document, had been presented.

Commissioner Stein questioned the process being followed and the fact that the Commission was being asked to consider whether the DEIR should be recirculated prior to receiving responses to comments. Staff explained that under State CEQA law, no public meetings were required on an EIR. However, under local guidelines adopted by the Town of Tiburon, the public was being given another opportunity for further comment beyond the usual written comment period. Staff reiterated that all comments will be addressed in the Final EIR, except for those regarding the merits of the project. Comments regarding merits of the project will be noted as such. The Planning Commission may also take this opportunity to comment on the revised Draft EIR.

Commissioner Stein stated that members of the public may have not understood the process and therefore suggested that the hearing be reopened to give members of the public the opportunity to speak again if they so desired.

The hearing was reopened to public comment.

Mr. Riessen stated that it should be the Planning Commission's decision as to whether the DEIR should be recirculated.

Mr. Coury agreed that further review would be appropriate since the consultant was hired by the developer to prepare the document based on the information provided by the developer himself.

Mr. Olav Norman attested to the safety hazards on Paradise Drive.

Mr. White stated that recirculation of the document could be determined at any time, especially since the Commission has not had time to digest all comments.

Tom Newton, Planning Consultant for development team, stated that his understanding of the purpose of the meeting was to obtain further comment, direct Staff to respond to each and every comment, and then prepare a final document, which would come back to the Planning Commission to determine whether it is adequate. Therefore, he had no additional comments at this time.

The reopened hearing was closed.

Commissioner Stein stated that the revised DEIR did not address the amount of retaining walls and their impacts in all alternatives.

Commissioner Collins asked for photo simulations of the alternatives. He then asked whether liability should be addressed in case the landslide repair mitigation plans were not effective. Planner Allsep stated that the EIR was not the appropriate time to address such legal issues. Commissioner Collins then asked whether the proposed parking lot on Paradise Drive could be relocated. Planner Allsep stated that said parking lot was part of the project proposed by the applicant, but was not a requirement. This issue would be reviewed during the merit review process, at which time the Planning Commission can decide the fate of the proposed parking lot.

Commissioner Snow made the following comments: 1) tree replacement should be increased back to 3:1 as originally proposed; 2) all conditions and restrictions should run with the land, not with a Homeowners Association; 3) expand analysis on slopes, grading, and retaining walls; and 4) expand analysis on the Traffic Circulation section.

Commissioner Stein found that the Revised DEIR included more detail regarding landslide repairs. However, since earth movement was a major concern in the area, he agreed that the Final EIR should provide additional information regarding the risks of repair plans in terms of what can, or cannot, be done and more discussion of the proposed engineering methods to be

used.

Town Geological Consultant Stephens noted that retaining walls for landslide repairs were different than those for pad development, and that landslide repair plans were still conceptual at this state.

Planner Allsep noted that the DEIR focused on the grading and landslide repairs associated with the eight-lot development project in order to analyze a worse case scenario.

Commissioner Stein asked for more focus on geological and grading impacts in the alternatives section in the FEIR.

In response to Commissioner Collins, Director Anderson stated that from an environmental standpoint it did not make a difference whether open space was privately or publicly owned because it would remain as open space permanently in either case. However, the Planning Commission does have some reasonable discretion as to the form of ownership that would be exercised during the merit review phase.

Commissioner Stein stated that general plan policies require that open space be preserved to the maximum extent feasible, and asked for an explanation as to where this fits in the CEQA analysis.

Commissioner Stein stated that some of the unmitigable issues related to visual impacts. Therefore, he asked how this would be dealt with, what the environmental consequences would be, and whether said impacts would prevent an eight-unit alternative.

Anderson replied that projects with significant unavoidable can only be approved if the Town makes findings of overriding considerations which state that due to social, economic or other factors, the project should be approved even though significant impacts remain.

M/S Collins/Stein (3-0) to find that the revised DEIR does not need to be re-circulated, and to direct that responses to comments be prepared and a Final EIR released.

ADJOURNMENT

Having no further business, Vice Chair Snow adjourned the meeting at 9:55 p.m.

WAYNE SNOW, VICE-CHAIRMAN
Tiburon Planning Commission

ATTEST:

SCOTT ANDERSON, SECRETARY