



**TOWN OF TIBURON
PLANNING COMMISSION**
1505 Tiburon Boulevard
Tiburon, CA 94920
Action and Approved Minutes
October 27, 2004– 7:30 PM

ACTION MINUTES

CALL TO ORDER AND ROLL CALL 7:34 PM

Chairman Collins, Vice Chairman Kunzweiler, Commissioner Fraser, Commissioner Hermann, Commissioner Snow

ORAL COMMUNICATIONS *There Were None*

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.

COMMISSION AND STAFF BRIEFING *There Were None*

Staff Update
Commission Information Items

CONSENT CALENDAR

1. Approval of Planning Commission Minutes – October 13, 2004 **Approved as Corrected**

PUBLIC HEARING

2. GENERAL PLAN UPDATE: SCOPING SESSION FOR AN ENVIRONMENTAL IMPACT REPORT (EIR) TO BE PREPARED FOR A COMPLETE UPDATING OF THE TIBURON GENERAL PLAN **Public/Commission Comments Received**
3. TIBURON GLEN PRECISE DEVELOPMENT PLAN: FILE #30403; CONSIDER RECOMMENDATION TO THE TOWN COUNCIL REGARDING A PRECISE DEVELOPMENT PLAN (PD #22) TO CREATE FOUR BUILDING SITES ON A 26.03 ACRE PARCEL; REVIEW OF ADDENDUM TO CERTIFIED EIR; 3700 BLOCK OF PARADISE DRIVE NEAR NORMAN WAY; XANADU PROPERTY HOLDINGS, INC., OWNERS; ASSESSOR'S PARCEL NO. 039-241-01 **Public Hearing Held; Continued to November 10, 2004**

ADJOURNMENT 11:30 PM

**MINUTES NO. 899
PLANNING COMMISSION
October 27, 2004
Regular Meeting
Town Council Chambers
1505 Tiburon Boulevard, Tiburon, California**

CALL TO ORDER AND ROLL CALL

Present: Chairman Collins, Vice-Chairman Kunzweiler, Commissioners Fraser, Hermann, and Snow

Absent: None

Staff Present: Community Development Director Anderson, Advance Planner Bryant, Planning Consultant Allsep, EIR Consultant Berman, EIR Consultant Harrison and Meeting Recorder Flanagan

ORAL COMMUNICATIONS

There were none.

COMMISSION AND STAFF BRIEFING

There were none.

CONSENT CALENDAR

1. Approval of Planning Commission Minutes – October 13, 2004

The Planning Commission directed the following corrections be made:

Page 1, 4th paragraph, change “Hair Collins” to “Chair Collins.”

Page 2, 2nd paragraph, 3rd line, change to “restaurant’s business.”

Page 2, 5th paragraph, 2nd line, delete “most recently.”

Page 2, 6th paragraph, 1st line to state, “...requires that sound is not to be audible...”

Page 3, 4th paragraph, 3rd line, insert “any” before “alternatives.” Line 4, change “its noise issues” to “the noise issues.” Line 5, change to “...noise issues would be addressed; however, Guaymas has not demonstrated the willingness and effort to pursue the Planning Commission’s requested alternatives.”

Page 3, 5th paragraph, last line to state, “...the willingness to pursue the Planning Commission’s request for alternatives.”

Page 3, 7th paragraph, 3rd line, change to “...must be mindful of the creeping...”

Page 4, 2nd paragraph, 3rd line to state, “...commitment from the Town is granted to Guaymas.”

Page 4, 3rd paragraph, 1st line to state, "...stated that it must be possible for the restaurant..."

Page 4, 3rd paragraph, 2nd line to state, "...sore thumb and would not be too expensive."

Page 4, 8th paragraph, 2nd line to state, "...president and Pt. Tiburon residents and neighbors."

Page 5, 1st paragraph, 1st line "delete "ent" on the vote.

Page 5, 3rd paragraph, 2nd line, insert "the" before "fence."

Page 6, 4th paragraph, 3rd line to state, "...but these are not visible, except from far away."

Page 6, 7th paragraph, last sentence to state, "...application would not set a precedent, but he could support approval of the application."

Page 7, 1st paragraph, 1st line, change "to include" to "that." Line 2, delete "a condition is to be added."

M/S, Hermann/Kunzweiler (4-0-1, Snow abstained) to approve the minutes as corrected.

PUBLIC HEARING

2. GENERAL PLAN UPDATE: SCOPING SESSION FOR AN ENVIRONMENTAL IMPACT REPORT (EIR) TO BE PREPARED FOR A COMPLETE UPDATING OF THE TIBURON GENERAL PLAN.

Advance Planner Bryant reviewed the Staff report.

The public comment period was opened.

August Strotz, Tiburon architect, complimented the Town for the "Friday Nights on Main" events and on planning for the Downtown area in the General Plan. He said that Downtown planning should include safety and security, which is the Town's responsibility to provide. Particularly, he identified the street lighting, which is inadequate. He said there is no real "downtown" in Tiburon and the General Plan should acknowledge this. He said the Planning Commission should think of the development of properties in the downtown area. As to a "village" character, he said the Town of Tiburon not a fishing village, is not in England, and is not full of quaint identical buildings that one associates with villages.

Commissioner Hermann asked for other specifics for improving downtown besides improving the dim gaslights, and what role the Planning Commission can play in building an implementation plan instead of just a regulatory framework.

Mr. Strotz responded that residents are generally well protected with the Fire and Police Departments. He said the Planning Commission should not be specific as to property development; rather, be open minded to development opportunities that have a Tiburon "feel".

Becky Pringle asked what the goals and policies of the General Plan are.

Advance Planner Bryant responded that the draft goals, policies, and programs are available on the Town's website.

Dr. Lynn Fox asked that the EIR address safety, noise and quality of life issues, and what Tiburon is doing to strengthen its regulations relating to wireless communication so there is not another MERA situation and the town does not have antenna farms in residential areas. She studies health issues of

radio waves and is learning they are unsafe, and she wants to ensure that residents are protected from mega dollar companies who want to take over the Tiburon community. These concerns should be considered in the EIR.

Commissioner Hermann noted that including specific restrictions in a General Plan that has a life of ten years is difficult with technology advances that can't be anticipated, and asked how this can be done.

Dr. Fox stated that all available information should be known before approving an application and when information is available, the Town should look at it objectively. She said that process, procedures and boundaries for decision-making are important. She said the MERA project process did not protect the residential community by allowing radio waves to pass directly through residents' homes.

Fiona O'Connor stated that what is missing in the General Plan is specific data, which will open up the forum again and avoid confusion as the process continues. She said that the density issue and spot zoning are issues. She would like to see the EIR include numbers on density so there can be better discussions of density.

Sandra Swanson stated that traffic is a chief concern. She said her neighborhood is concerned about health, safety and emergency issues around traffic. She said the circulation element is based on data collected two years ago, during which time traffic has increased dramatically. She said that data should be re-gathered so the future can be looked at with clear vision. She said that Tiburon Boulevard is addressed as being in and out of Tiburon, and Paradise Drive should be included as well because parcels are being developed on Paradise Drive in the next fifteen years. She asked if densities can be changed in the General Plan.

Advance Planner Bryant responded, yes, it is possible.

Scott Hochstrasser, environmental consultant and land use planner, stated the EIR should look at how policies will impact housing in the future. He said there is a shortage of housing in the Bay Area. He said the EIR should look at how land use policies will impact future housing development. He said that new policies may have a direct impact on the required housing numbers in the future which are based on a needs assessment. In response to questions from the Planning Commission, he stated ABAG allocates the housing needs. He said that Tiburon's Housing Element has projections to meet the housing needs for very low to moderate income households. He said the Town should look at potential densities and downtown commercial spaces. He said that land is the most valuable commodity. He said that with increased densities; there is a need for more parking, which can use up available land.

Commissioner Hermann asked if the Town's Housing Element supports housing over commercial in the downtown.

Mr. Hochstrasser responded that the zoning probably does not fit well with the Town's policies for housing.

Carolyn Friedman stated the problem on Lyford and Sugarloaf with multiple houses built at one time should be avoided. She said construction should not occur simultaneously. She suggested that

language be included that there is less construction in one area at one time. She said simultaneous construction creates blocked streets, noise, dust, trash, which is inexcusable. She asked if primary ridgelines can be seen from the Town or not. She said that one cannot see the primary ridgeline from downtown Tiburon, but one can see secondary ridgelines. The Town should extend the definition of primary ridgelines to include the ones seen from the downtown. She wants to protect the ridgelines that can be seen.

Becky Pringle stated construction issues are something to think about even though the Town is almost built out. She said remodeling, with its noise and construction, is an impact that should be taken into account. She suggested that the EIR include a study of density fairness, which includes issues of private property rights and how to relate density fairness to properties that are in the Town and property currently in the County of Marin. She said there is a development near the downtown with eight acres and six homes but it is within a different sphere than are other developments in other areas, so the owner will benefit more but will bring in as much construction impacts. She said that ridgelines have not been studied or defined. She said there is no careful definition of ridgeline or secondary ridgelines. She said there is no definition or study of view corridors and who owns what view — the people who own the land or the owners nearby who have lived there only a year. She said these three factors will be used on those houses which are in Tiburon's sphere of influence.

Karen Nygren stated she worked on the General Plan the last time it was updated, and a General Plan must be internally consistent; all elements must relate to the other. She said that housing must tie in with noise and open space elements. She said that secondary ridges were studied, and since then, it has been decided that secondary ridges should be protected because there is more impact on ridges than earlier considered. She said there had been a lot of discussion on the definition of view corridors. She said that when looking at the EIR that financial considerations do not prevail; the Planning Commission is to look at environmental impacts. She suggested Planning Commissioners attend a seminar about General Plans and how they function. She said that commissioners should be able to analyze what is being put together and become educated as to what it legally means to put a General Plan together.

Betsy Little stated the town must be hyper-vigilant that what is done with one is done for another. She said that undeveloped land is undeveloped for a reason. She asked, at what point is enough? She said the Ling property is "landslide city". She asked if the Town becomes liable when it knows there are landslides. She said that noise, safety and life quality are affected by housing. She said the definition of ridgelines should be included. She asked what the Town is thinking in allowing 5,800-square-foot houses with three to four-car garages and an extra building for more parking spaces, and stated that traffic on Tiburon Boulevard is not getting any better.

There being no further comment, the public comment period was closed.

Commissioner Kunzweiler stated that there should be an emphasis on air quality, especially related to odors around wastewater treatment facilities. He said that he would like the assertion that deeded open space or conservation areas are not covered by local, regional or state environmental plans clarified. He said that hazardous materials are a concern. He said that old and crumbling roads must have an impact on emergency access. He said that emergency response (e.g., 911 to local safety) is an important area. He said that transportation needs to be dealt with in terms of traffic patterns and up-to-date facts. He said that many streets and patterns have changed recently. He warned that some sampling techniques can result in misleading outcomes, so these need to be handled properly.

He said that emergency access on Paradise Drive must be ensured. He said that with respect to cumulative impacts, the challenge will be county property versus Tiburon property. He wanted to ensure there is a clear process and consistency between the County and Town regulations.

Commissioner Hermann stated that almost all items on the checklist showed potential impacts, and asked if other items have been left out.

Advance Planner Bryant stated the checklist is a State of California form included with the CEQA Guidelines and provides a mirror of the topics to be included in an EIR. There are topics that will be discussed in the EIR that are not included in the Initial Study checklist.

Commissioner Fraser stated, regarding concerns discussed tonight, that if one issue is looked at, policies can be made to deal with that issue, however, the Town should not forget that all issues are probably connected. He said that traffic is a concern and could become a gridlock situation. He suggested that items in the EIR be looked at in an integrated way. He urged the EIR to not evaluate issues individually.

Chair Collins stated he finds the document difficult to address because there is so much left out of it. He said reviewing the entire EIR would be more appropriate. He said Paradise Drive should be addressed as a whole; he asked, how might it be possible for the Town to overcome the situation we now have on Paradise Drive and how the Town might better control that situation. He would like to see an open space policy with funding, programs, and maintenance addressed in a comprehensive way. He said the EIR should look at policies in dealing with other agencies, and the Town should have a policy that land belonging to other agencies in Tiburon should be used only for its intended purpose. He said the downtown is a major issue - including traffic, parking, and land uses. He would like to see a lot of input on the affordable housing overlay. He stated that strategy is needed to make it happen.

3. TIBURON GLEN PRECISE DEVELOPMENT PLAN: FILE #30403; CONSIDER RECOMMENDATION TO THE TOWN COUNCIL REGARDING A PRECISE DEVELOPMENT PLAN (PD #22) TO CREATE FOUR BUILDING SITES ON A 26.03 ACRE PARCEL; REVIEW OF ADDENDUM TO CERTIFIED EIR; 3700 BLOCK OF PARADISE DRIVE NEAR NORMAN WAY; XANADU PROPERTY HOLDINGS, INC., OWNERS; ASSESSOR'S PARCEL NO. 039-241-01

Commissioner Kunzweiler recused himself from this item.

Community Development Director Anderson introduced Planning Consultant Allsep, and EIR consultants Berman and Harrison.

Planner Allsep reviewed the Staff report.

Commissioner Fraser noted Council took no action and the eight-lot project was withdrawn, and asked for an explanation.

Planner Allsep responded Councilmembers echoed Staff's sentiments that the eight-lot project had too many significant impacts and was not an appropriate density for the site.

Scott Hochstrasser, land use and environmental planner, advising the developer of the project, stated he has been working on the project since the four-lot project was initiated. The Addendum to the EIR has interesting findings, particularly the significant unavoidable impacts, three of which have to do with landslide repair, grading and loss of woodland. He believes these are cumulative biological impacts and this is really only one impact that would result from the required landslide repair. If there were no development and the Town had an ordinance to require that landslides be repaired, 54 percent of the total grading would be required to repair landslides for safety and 160 trees would be removed, which is one cumulative biological impact. Fifty percent of the disturbed property is a direct result of the Town's landslide policy; this is a secondary impact, required by Town policy. Regarding the visual impact analysis, it is subjective. Three viewpoints were selected in the EIR. The visual dominance methodology used in the EIR is typically used in the analysis of huge projects, he said, and is not part of the General Plan; it was selected by the EIR consultants. He asked how 20 percent of the view of housing is significant. There is not a fair and reasonable visual analysis and impact. Viewpoint #2 will be almost invisible and in seven years, completely invisible. Regarding the twelve Norman Way homes on fifteen acres, the project surrounds Norman Way and connects to Norman Way's open space. His project is comprised of four homes on less than an acre of the property, which preserves 95 percent of the land; 95 percent of the property is a public benefit of open space. There are 26 acres of permanent open space. The homes are one-half the size of market-demand homes of 8,000 square feet. Forty-five percent is private open space offered beyond what the General Plan calls for. The Housing Element states eight units can be on the site but there is no analysis of this in the Staff report. The two-unit alternative changes the required landslide repair because it does not have to be repaired; however, this is not in the General Plan. Any access to the homes will require landslide repair and two units will result in less safety because the landslides are not required to be repaired, but cut at the bottom. The Town has no stipulated formula for replacement of trees. His project will replace 1.3 trees to one removed. The owners have agreed to plant trees on other open space properties. There will be 160 very large trees planted, which will mitigate visual impacts in seven years. Eighty-seven percent of the woodland is undisturbed. Regarding the four Late Mail letters and the letter from Randy Greenberg who includes fifteen additional conditions; he has no problem with eight of the conditions. Responses include a deed restriction in perpetuity for open space. Her concerns do not suggest the density be reduced. In the letter from John Kunzweiler and his statement that public benefit is not being recognized, it is not possible to submit a plan to change the project, this is impossible because of Town policy. Regarding the letter from the Last Chance Committee, it lists several impacts. One lot has a 70 percent slope and the hill will be re-contoured as required. Regarding the request from the Marin County Open Space District for a trail, the project includes that trail plus two additional trails.

Commissioner Fraser asked if there is a Landslide Repair Ordinance, and noted the average size of a Tiburon home in 2003 was 2,900 square feet and this year, 2,900 square feet. The Town has a village character. In hindsight, Via Los Altos is an example of houses on a hill with large square footage. This is not a town that has unlimited development opportunities. He asked how the EIR consultants concluded a two-lot alternative would provide for less than significant impacts.

Mr. Hochstrasser responded that the Town does not have a landslide repair ordinance. He noted that the landslide repair is at the base of a graded-in road. It would have to be graded further to undercut the landslide. Removing the trees and compaction of the soil is the best repair solution. The mitigation policy is to protect and preserve private and public property. Repairing the landslides will protect Paradise Drive. The tradeoff is public safety if there are two units.

Planner Allsep stated that both the applicant and Town hired geotechnical engineers who were involved in developing and reviewing the landslide repair plan. The two-lot alternative did not magically change because density was reduced; rather, it reduced the extent of landslide repair because of the location of the lots. The factor of safety was not changed as a result of the density. She understands the two-lot alternative has less disturbed area because the road helps to stabilize the landslide and the location of the homes are not downhill of the slides.

Community Development Director Anderson noted there was a very high level of geotechnical expert review regarding the appropriate fixes to the landslide areas in order to create a reasonable level of safety. The four-unit proposal adequately mitigates all landslide hazards.

Commissioner Hermann asked if these are mitigated whether only the view issue remains.

Consultant Berman stated that relative to the criticisms of the EIR's visual analysis, the EIR has already been certified. Specific issues regarding landslides were looked at by the Town's geologist and information in the EIR represents that information. He would not say there is just one impact. It is true that three significant impacts are related to grading but they are separate and distinct impacts; hence, four unavoidable impacts, which would result in a need to adopt overriding considerations if the Town approves this application.

Commissioner Snow asked for a comparison of landslide repair extent between the two lot project and a three-or four-lot alternative.

Planner Allsep responded that in the draft EIR, under the geology and soils headings of the project alternatives section, the level of landslide repair required is discussed for each alternative. The extent of repair is less with two units. However, with three units, repair is almost comparable to what is required for four units, which is almost comparable to what is required for eight units. The two-lot alternative is the threshold in terms of keeping environmental impacts to a less-than-significant level.

Community Development Director Anderson stated that Town policy requires that landslides that would affect Paradise Drive if they slid be repaired as part of a development project.

Chair Collins asked what percent of the landslide repair of the property is to protect the slides that affect Paradise Drive and about the plan to re-contour the slopes.

Mr. Hochstrasser responded retaining walls will be built and the slope will be stepped. There must be a fire turnaround. The slope percentage will be 35 percent after re-contouring.

Commissioner Fraser noted there will be 16,000 square feet of houses and asked if the houses could be clustered in a smaller area, which would reduce exposure to slides.

Mr. Hochstrasser responded the houses are clustered as directed by Staff, close to the road. There are four houses on only one acre of land.

Chair Collins asked what would be done for the safety as to the Lot 2 ancient slide.

Mr. Hochstrasser responded it will be regraded.

In response to Chair Collins, Glen Dearth, applicant's civil engineer, stated that 40 percent of the slide repair on the project is to protect Paradise Drive.

The public comment period was opened.

Diana Farrell stated she feels Staff is helping to reach a good compromise. Current modifications to the plan are significant improvements; however, there are clear guidelines that have yet to be met. The impacts should be reduced too insignificant; a two-lot proposal would do this. There are still significant biological impacts and the removal of trees. The General Plan should address whether building on slides is all right. Roadside views would be changed with this project, a visual impact. Traffic/safety concerns have been attenuated but have not gone away. A 70 percent grade exceeds Town guidelines, which must be upheld. The Planning Commission should listen to Staff. If this is approved, Staff's recommendations should be incorporated. The optimum solution is the two house alternative.

In response to questions, Consultant Berman stated 339 trees will be removed. The mitigation recommendation is 3:1 replacement ratio and applicant offered 1.3:1.

Karen Nygren stated the Planning Commission is to ensure all impacts are mitigated to a level of less than significant or the Planning Commission must state specific facts and findings for overriding considerations, which will be very difficult on this project. The General Plan states there are to be natural contours, minimal grading, and never a 70 percent slope.

Community Development Director Anderson confirmed the Tree Ordinance recommends 3:1 tree replacement.

Ms. Nygren added that tree replacement should total more than 1,000 trees. The two-home alternative mitigates significant impacts to less than significant. As to applicant's list of ten benefits for overriding considerations, they do not mitigate significant impacts to earth and tree removal, retaining walls, etc. Adding a new trail, bicycle refuge and financial contributions do not compensate for environmental degradation. The EIR has a project that will reduce impacts to less than significant impacts. This project would establish a terrible precedent for future projects and put the Town in a legal situation if it does not follow the EIR and Staff's recommendations.

Fiona O'Connor stated precedent must be considered and that people will be working together in a positive way as they have in the past.

Sandra Swanson stated this is a precedent-setting project. There are seven new projects proposed for Paradise Drive and she is concerned about cumulative effects. It is not right to consider in isolation any one project. She is concerned about the excavation of the slides. Each project proposes heavy grading. She asked how many truck trips are anticipated. The Tiburon Glen project will have 900 to 1,000 truck trips to remove the soil and the same number to bring in the soil. Tree removal will add more truck trips. She hopes the Planning Commission will examine the documents created by residents. The Planning Commission should know all the cumulative effects of the future projects before deciding what is right for this property. Additionally, there are concerns about the stress on the sewer system, water supply and roadways.

Chair Collins asked what level of development she could accept.

Ms. Swanson responded that she would recommend two lots.

Randy Greenberg stated she would like her letter's issues discussed at this meeting. The proposed Sorokko project had a hearing at the County Planning Commission and two other projects have been filed at the county in this area. What is approved here will be a benchmark for those to come. The Sorokko project analysis cited Tiburon Glen's density factor. The Planning Commission should fully understand what is proposed. The biggest problem is the land itself, not the number of units. That 20,000 cubic yards will be dug up and moved around is mind-numbing, as well as is the removal of hundreds of trees and the slides that will be repaired are of a scale associated with huge developments. Based on the Herzog soils report, she believed that when the individual houses are built, more grading will be required at the top of the slides. She asked if there will be repair of slides outside the disturbed area. Three houses are below the largest slide. The Planning Commission should not approve this development on this property. A statement of overriding considerations contains legal foundations needed to approve the project with significant impacts. Open space is not a benefit because a two-lot alternative would have the same benefit since this is a difficult property to build on. Benefits do not offset the damage to the environment. Only one area should be built on, in and around Lot 2. This would make all impacts less than significant because grading and tree removal is significantly reduced.

Commissioner Hermann asked her opinion regarding the statement that the two-house alternative would not impact the upper slides or solve that problem.

Ms. Greenberg responded that one of the two big slides extends way up to open grasslands. Measures to stabilize slides on the two-lot alternative are less environmentally disruptive. She was concerned that individual lot owners would probably have to take out more trees and dirt to be able to build their homes safely.

Community Development Director Anderson responded he spoke with the Town's geotechnical engineer, who reviewed the language in the Herzog soils report and stated he does not believe owners will need to perform additional slide repair during construction of the homes.

John Kunzweiler stated it is clear the developer has a problem on his hands. There have been many owners and this is a difficult site. The only buildable area is on slides. Project benefits do not outweigh adverse effects and these impacts are not acceptable. The four unavoidable adverse impacts are significant. There is a huge amount of work to be done—tree removal; 20,000 cubic yards of dirt being moved and 9,000 yards hauled offsite. Not covered during the EIR process is SODS. If the developer cuts down 339 trees, and some are oak, and some are infected, the degree of that problem is intensified by this project and swings out of control the SODS issue on Paradise Drive. Staff's resolution has 42 pages of recommended mitigation measures. He is concerned about the contentious debate about the EIR and that this owner will have to ensure 42 pages of mitigations will be implemented. He asked the name of the developer and whether he is committed to living up to the demands.

Becky Pringle stated the Town will have to set up taking care of many projects. She approves of the concept of the developer and property owner working with Tiburon to come up with acceptable plan.

In 50 years of time on Paradise Drive, she has seen one bad slide, and another slide that was connected to a drainage issue. Experts continue to make efforts to make it safe. She does not believe there are buildings proposed on 70 percent slopes. Some arguments are scare tactics to reduce the size of the project. It is not a horrible thing to take down trees to do something on one's property. When Norman Way was built, she had to look at those houses. Those owners have the right to remove oak trees from their properties and replant for their views. The Planning Commission must be careful to ensure what is fair for all projects. Residents view development by officials in subjective terms, and fairness needs to enter the review process. This is a good project. The owner should be allowed to do something on his property. If there are only two homes, the owner will not be able to afford all the mitigations.

Jerry Riessen stated the issue is who will be responsible in the future. The Mitigation Monitoring Plan is good but it will be in the hands of the two to four homeowners and there is a potential over the years for lawns to grow and play sets to move around. He encouraged a system where the Town could tell the owners this needs to be repaired, etc. A bond should be posted to ensure maintenance is ongoing. This is an enormously sensitive site and it does not want to have very many houses on it. There are parts of the property that should not be built on as there is too much slope. The amount of dirt to be removed is ridiculous.

A member of the audience stated she supports the two-house alternative, which reduces the visual impact from Paradise Drive. A 500-year old oak tree cannot be replaced and even a 3:1 tree replacement requirement is inadequate.

Greg Arkus stated that in looking at the site, there would be real trauma to the property. It will be suburbia if this is approved and development continues.

Mr. Hochstrasser stated he needs a decision tonight on the project. The same issues have come up over and over again, over the years. There is a Staff recommendation that there are overriding considerations and not all impacts are mitigated. It is unfortunate that no one finds it a benefit to add housing to the community.

Chair Collins asked the purpose of the deer fence.

Mr. Hochstrasser responded it helps define where the development is.

Mohamed Sadrieh, project architect, added some homeowners may wish to have a deer fence and the line describes where they can put the most forward location of the deer fence. The fence would be in the open space easement.

There being no further public comment, the public comment period was closed.

Chair Collins stated he did not read the several pieces of late mail and is not prepared to make a decision. He wants to hear from geotechnical experts, consider the testimony and think about what has been said tonight.

Commissioner Snow stated he could go either way. He would like the uncertainty and clarifications cleaned up.

Commissioner Hermann concurred and stated he also has not read the late mail. He also would like to ask questions of the Town's geotechnical engineer. This is an important decision and the Planning Commission should not rush to judgment.

Commissioner Fraser stated that based upon all the input, he believes the applicant has put a sincere effort forward and his intentions are genuine if he can mitigate what he says he can mitigate. However, the site is very challenging. While the information indicates the site can be repaired and built upon, he is unsure if he is convinced that four houses will work on the site. He asked if the Town wants to undertake the trauma to fix the site for the project to be built. This is a precedent-setting project because the decision will impact other decisions in the area.

Commissioner Snow asked what would be the number of trees lost in the 40 percent of the slide repair areas not associated with the proposed lots, but repaired to protect Paradise Drive.

Planner Allsep responded that those landslide areas contained trees that would be removed.

James McNair, consulting arborist for the applicant, stated there are 79 trees in the repair slide areas outside the development area. If the development area overlapped, the trees were counted in the development area. Approximately 35 of the 79 trees are in the 40 percent repair area. Seventy percent of the oaks are in poor condition because they are being shaded out by bay trees. The bays are collapsing now. The so-called old growth forest is less than 100 years old and is in poor condition. New plantings hopefully would generate a healthier forest. The existing forest is too crowded. While SODS is found in oak trees, the bay tree is a primary host and when it spreads to the oak trees, it gets into the trunk and kills the tree. In the bay trees and the toyon trees, it is a foliar disease, not a trunk disease. There is strict regulatory control by the county for removal of SODS trees. Most SODS is spread from bay tree to bay tree rather than a person walking through an oak forest or during the transport of dead SODS trees.

Commissioner Fraser stated he would like to see the project and the two-lot alternative compared from a landslide and grading perspective. He wants to better understand the amount of trauma the hillside will go through.

Chair Collins asked about the retaining walls with respect to the photosimulations.

Mr. Hochstrasser responded they have been included, but most of the walls are behind trees or homes.

Planner Allsep noted the four-lot alternative's retaining walls are modeled in the visual simulation in the Addendum. They would be natural rock-faced retaining walls, as stipulated in the Design Guidelines.

M/S, Hermann/Fraser (passed 4-0) to continue this item to November 10, 2004.

Community Development Director Anderson noted that the Commission had held its public hearing and suggested that the Commission consider limiting additional public comment to those topics being discussed at the next meeting.

Commissioner Snow stated he would like to see a deadline on late mail to allow Commissioners the time to properly review them.

ADJOURNMENT

The meeting was adjourned at 11:25 p.m.

RICHARD COLLINS, CHAIRMAN

ATTEST:

SCOTT ANDERSON, SECRETARY