



**Town of Tiburon
STAFF REPORT**

AGENDA ITEM 1

TO: PLANNING COMMISSION

FROM: JAYNI ALLSEP, CONTRACT PLANNER &
ENVIRONMENTAL COORDINATOR

SUBJECT: FILE #30003: CONSIDER RECOMMENDATION
TO THE TOWN COUNCIL REGARDING CERTIFICATION OF
FINAL ENVIRONMENTAL IMPACT REPORT FOR THE
TIBURON GLEN PRECISE DEVELOPMENT PLAN (PD #22)
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

REPORT DATE: AUGUST 20, 2003

MTG. DATE: AUGUST 27, 2003 REVIEWED BY: _____

PROJECT DATA

Address:	Vicinity of 3700 Block of Paradise Drive
Assessor's Parcel Number:	39-241-01
File Number:	30003
General Plan:	Low Density Residential
Zoning:	RPD (Residential Planned Development)
Current Use:	Vacant
Owners:	Xanadu Property Holdings, Inc.
Applicant:	Tom Newton, Planning Advisory Corporation
Date Complete:	February 15, 2001

BACKGROUND

Xanadu Property Holdings, Inc. has applied for a Precise Development Plan for development of a 26.03-acre parcel into eight (8) single-family residential lots. The project site is located on the northeast side of the Tiburon Peninsula in the Town of Tiburon. The irregularly shaped parcel is situated on the southwest (upslope) side of Paradise Drive and wraps around the existing Norman Estates neighborhood.

The Town recirculated a revised DEIR (RDEIR) for public review and comment beginning on Friday, May 30, 2003 and ending on Monday, July 14, 2003, and the Planning Commission held a public meeting to consider the recommendation of the environmental coordinator regarding the adequacy of the RDEIR. The Environmental Coordinator opined that re-circulation of the RDEIR was not required. After receiving public comment and making their own comments on the RDEIR, the Commission agreed with the opinion of the Environmental Coordinator on re-circulation of the RDEIR and directed staff to prepare the responses to comments and release a Final EIR. Section 8.5 of the Response to Comments document includes minutes of the July 14, 2003 Planning Commission meeting.

FINAL EIR RESPONSE TO COMMENTS DOCUMENT

The Response to Comments document is complete and is attached for the Commission's consideration. This document contains all public and agency comments received during the public review period on the Revised Draft EIR (May 2003), including verbal comments made at the July 14, 2003 Planning Commission Meeting.

In addition to the responses to individual comments, Section 8.3 provides master responses for three topics raised in many of the comments: The Tree Replacement and Enhancement Program (Mitigation Measure 5.3-4(b)), an additional project alternative, and consistency with Town policies. These master responses are often referred to in the response to individual comments in sections 8.4 and 8.5.

Section 8.6 of the Response to Comments document, *Changes to the RDEIR*, includes all revisions that have been made to the RDEIR in response to public comments as well as staff-initiated revisions. The revisions are illustrated by strikeout formatting for text that will be deleted and underline formatting for text that will be added. The changes shown in this section include the following:

- **Tree Replacement and Enhancement Program.** Changes to the RDEIR text are proposed that would clarify the intent of the Tree Replacement and Enhancement Plan by including additional performance standards.
- **Modified Three-Lot Alternative.** The RDEIR has been revised to include a modified three-lot alternative and revisions to a table that provides a summary of the project and all of the alternatives (see pages 8.6-8 through 8.6-16). This alternative is discussed in more detail below.
- **Consistency with Town Policies.** In cases where some aspects of the project would conform and some would not conform to a policy, the RDEIR concluded that the project would be "Partly Inconsistent." Similarly, where the project would conform to some and conflict with other aspects of a policy, the project was determined to be "Partly Inconsistent." The determinations of conformance provided in the RDEIR represent the EIR authors' best judgment based on a strict third-party interpretation of the policies examined. However,

in response to comments raised during the public comment period, the Town has elected to strike the phrase “partly inconsistent” from the RDEIR.

It is important to note that the revisions to the RDEIR, as shown in Section 8.6, do not represent significant new information that would require recirculation of the EIR. The revisions do not significantly change the severity of the environmental impacts that would result from the proposed project, or the conclusions reported in the RDEIR. Furthermore, the modified three-lot alternative included in the Final EIR is not considerably different from the alternatives previously considered, and is within the range of alternatives presented in the RDEIR.

Modified Three-Lot Alternative

Numerous public comments on the RDEIR requested that the EIR include analysis of a three-lot alternative with all development located in Development Area No. 1. While the RDEIR included a reasonable range of potentially feasible project alternatives as required by CEQA, a modified three-lot alternative was developed and is presented in the Final EIR to further aid the Town decision-makers.

This Modified Three-Lot Alternative is within the range of alternatives already discussed in the RDEIR. It is based on the Modified Four-Lot Alternative site plan (page 6.0-27 of the RDEIR) but eliminates Alternative Lot 1 from this site plan, and retains Alternative Lots 2, 3, and 4. In addition, the Modified Three-Lot Alternative eliminates the parking area proposed within the Paradise Drive right-of-way and places the lot lines closer to the area of development, creating an “open space lot” totaling 22.18 acres. By reducing the visibility of project development, the Modified Three-Lot Alternative would have fewer significant visual impacts than a lot configuration that includes development on Alternative Lot 1. However, the Two-Lot Alternative would remain the environmentally superior development alternative because the landslide repair required for this alternative would be substantially less, and thus grading-related impacts would be substantially less.

PURPOSE OF THIS PUBLIC MEETING

Ultimately, the Town Council must certify the EIR. At this pre-merits stage, this means that the Council must certify that the EIR is complete in accordance with CEQA, and that it reflects the Town’s independent judgment and analysis.

The Town of Tiburon Environmental Review Guidelines, revised November 6, 2002, requires the Planning Commission, acting as an advisory body to the Town Council, to consider the Final EIR in making its recommendation on the project to the Town Council. The purpose of this meeting is to allow the Commission an opportunity to accept public comment and consider the Final EIR prior to making a recommendation to the Town Council on the merits of the proposed project.

The Final EIR, which is comprised of the RDEIR (as revised) and the Response to Comments document, discloses the environmental consequences of approving and

implementing the eight-lot residential development proposed by the applicant. It also identifies mitigation measures and alternatives to the project that would substantially lessen the environmental effects of the project. When compared to the RDEIR, the Final EIR does not reveal any new significant impacts, any substantial increase in severity of impacts, or other information that might warrant another re-circulation. Based on all of these facts, the Commission should recommend that the Council certify the EIR.

We stress that certification of the Final EIR does not approve the project proposed by the applicant or any alternative discussed in the Final EIR. Rather, certification of the Final EIR is an action by the Town, which certifies that the Final EIR has been prepared in accordance with the requirements of the California Environmental Quality Act (CEQA) and the Town of Tiburon Environmental Review Guidelines.

DEADLINE FOR CERTIFICATION OF EIR

In response to CEQA litigation filed by the applicant in 2002, the Marin County Superior Court imposed a deadline for EIR certification. After the Town and applicant agreed that recirculation was necessary, the applicant agreed to extend the deadline for EIR certification to September 24, 2003. The court reluctantly agreed to this extension but required the Town to appear shortly thereafter to confirm that the Town has in fact certified the document. Town Staff believes that it would be difficult to secure an additional time extension from the court.

The Town Council will consider certification of the Final EIR on September 3, 2003.

FUTURE ACTIONS REQUIRED

After the Town Council certifies the Final EIR, the Commission will hold public hearings to consider the merits of the project. The Commission will make a recommendation to the Town Council regarding the merits of the project.

RECOMMENDATION

Staff recommends that the Planning Commission recommend to the Town Council that the Final EIR prepared for the Tiburon Glen Residential Development be certified.

EXHIBIT

1. Final EIR Response to Comments Document, August 2003