

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

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF TIBURON  
RECOMMENDING CONDITIONAL APPROVAL OF THE TIBURON GLEN PRECISE  
DEVELOPMENT PLAN (PLANNED DEVELOPMENT NO. 22) AND  
ADOPTION OF A MITIGATION MONITORING PROGRAM  
(ASSESSOR PARCEL NO. 39-241-01)**

WHEREAS, the Planning Commission of the Town of Tiburon does resolve as follows:

Section 1. Findings.

- A. The Town of Tiburon has received and considered an application filed by Xanadu Property Holdings, Inc. for a Precise Development Plan (the Tiburon Glen Precise Development Plan) to develop the following project:

The development of four (4) single-family dwellings and appurtenant improvements on a 26.03-acre property, with lots ranging in size from 2.3 acres to 16.8 acres. The Tiburon Glen Precise Development Plan would establish building envelopes, residential use areas, height and floor area limits, and other zoning limitations for the four future lots.

- B. The Precise Development Plan application consists of File #30403, on file with the Town of Tiburon Community Development Department. Materials from that application include but are not limited to the following:

1. Precise Development Plan for Tiburon Glen Estates APN 39-241-01,” LTD Engineering, Inc. (applicant’s engineer), Sheets 1-13, dated May 12, 2004, including revised alternate 4-lot plan sheets dated November 19, 2004 (Sheets 3A and 5A).
2. Design and architectural drawings for each residence (15 sheets total) prepared by Mohamad Sadrieh Architects, dated January 20, 2004 (Lots 1, 3 & 4) and November 30, 2004 (Lot 2).
3. “On-Site Tree Mitigation Plan,” Don Blayney & Associates, Sheets 1 and 2, dated December 7, 2004.
4. Written materials from Scott Hochstrasser, IPA Inc. (applicant’s representative), dated February 4, March 12, May 17, 2004, and December 6, 2004.
5. *Tiburon Glen Design Guidelines*, submitted August 9, 2004.

The official record for this project is hereby incorporated and made part of this resolution. The record includes the Staff Reports, minutes, application materials, and all comments and materials received at the public hearing.

- C. The Planning Commission held duly noticed public hearings on October 27, 2004 and December 13, 2004 at which it heard and considered testimony from interested persons. The Planning Commission found that, based upon application materials and analysis presented in the staff report, the Final EIR and the Addendum, the proposed project is, on balance, consistent with the goals and policies of the Tiburon General Plan and in conformance with provisions of the Tiburon Zoning Ordinance. The facts in support of this finding are set forth in the staff reports and the Final EIR and Addendum, all of which are incorporated into the project record.

Section 2. Recommendation for EIR Addendum

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission has considered and does hereby recommend to the Town Council acceptance of the Addendum dated October 2004. CEQA guidelines sections 15164 (a) and (b) state that an addendum should be prepared when none of the conditions triggering a subsequent EIR or supplemental EIR have occurred. Section 15162 of the CEQA Guidelines advises the preparation of a subsequent or supplemental EIR when substantial changes to the project require major revisions to the EIR because of new significant environmental effects or a substantial increase in the severity of previously identified effects. The four-lot Tiburon Glen project that is currently proposed (November 2004 plans) is essentially a scaled back version of the original 8-lot analyzed in the certified EIR incorporating only Lots 1, 2, 5 & 6 from that project, and is within the range of alternatives and impacts discussed in the certified EIR and the Addendum to the EIR. This scaled-back design would not result in new significant environmental effects or a substantial increase in the severity of previously identified effects. The Final Environmental Impact Report and Addendum were prepared under contract to the Town of Tiburon by the consulting firm of Nichols-Berman.

The certified EIR and Addendum conclude that all but four (4) environmental impacts associated with the current four-lot proposal have been or would be mitigated to a level of less-than-significant (LTS). All four significant unavoidable (SU) impacts relate to the biological and visual effects of grading for landslide repair and subdivision/lot development and are as follows:

- Impact 5.1-3 Secondary Effects of Grading for Landslide Repair
- Impact 5.3-4 Loss of Mixed Coast Live Oak-Bay Woodland
- Impact 5.3-10 Cumulative Biologic Impacts
- Impact 5.4-2 View of Lots 2, 3, and 4 Looking East from Paradise Drive

While the level of impact was reduced considerably in all four cases due to the scaling back of the project to four lots per the May 2004 plan, the EIR preparer concluded that the impacts would remain significant and unavoidable. The Addendum also concluded that two of the significant and unavoidable impacts of the 8-lot project were now less than significant, due to the removal of development from the former "Development Area No. 2." These are impacts *5.4-3 View of Lots 7 and 8 Looking West from Paradise Drive*, and *5.4-4 View of Lot 8 Looking North from Paradise Drive.*)

The current (November 2004) four lot alternative plan further reduces environmental impact in all four of the areas where significant unavoidable impacts were identified as remaining. The alternative repair strategy for the Landslides D & E complex will reduce the surface area of grading, reduce the export of soil, reduce the number of trees removed, and reduce visual impact of Viewpoint #2 by relocating Lot 2 west of the entry roadway and substantially reducing the number of trees to be removed in that viewpoint, especially in the foreground view where Lot 2 is no longer proposed, and in the mid-range view where tree removal from Landslide E is reduced. These impact reductions will reduce the visual impact from Viewpoint #2 to less than significant with mitigation. The new location of Lot 2 is very similar to that analyzed in the certified EIR under Viewpoint #1, the visual impacts of which were found to be significant but mitigable. Those mitigations have been incorporated as conditions of approval in this Resolution. Despite the reduction in environmental effects that contribute to Impacts 5.1-3, 5.3-4 and 5.3-10, these three impacts would still not be feasibly mitigated and would remain significant and unavoidable under the November 2004 plan.

Section 3. Statement of Overriding Considerations

FURTHER, BE IT RESOLVED that the Planning Commission does hereby recommend to the Town Council that adoption of a Statement of Overriding Considerations is appropriate in order to balance the benefits of the project against its unavoidable environmental impacts. The Planning Commission has determined that the project's benefits outweigh the unavoidable adverse environmental effects, and that the adverse effects are acceptable. A draft list of project benefits that would serve as the basis for a statement of overriding considerations is attached as **Exhibit "A"**.

Section 4. Recommendation for Conditional Project Approval and Adoption of Mitigation Monitoring Program.

BE IT FURTHER RESOLVED that the Planning Commission hereby recommends approval of the Tiburon Glen Precise Development Plan to the Town Council and further recommends adoption of a mitigation monitoring program for the project, subject to the following conditions:

1. The following Tiburon Glen Precise Development Plan drawings and application materials are approved, said plans being on file with the Tiburon Community Development Department:
  - A. "Alternate 4-lot Plan drawing (Sheet 3A) for Tiburon Glen Estates APN 39-241-01," prepared by LTD Engineering, Inc., dated November 19, 2004. Applicant shall prepare full Precise Development Plan drawings, similar in detail to the above-referenced 13-sheet set dated May 12, 2004, to reflect the November 19, 2004 site plan and project layout, prior to consideration of the application by the Town Council.

- B. Design and architectural drawings for each residence (15 sheets total) prepared by Mohamad Sadrieh Architects, dated January 20, 2004 (Lots 1, 3 & 4) and November 30, 2004 (Lot 2). These drawings are illustrative of homes that would be consistent with the project's *Design Guidelines*.
  - C. "On-Site Tree Mitigation Plan," Don Blayney & Associates, sheets 1 and 2, dated December 7, 2004, incorporating modifications set forth in the approved Mitigation Monitoring Plan.
  - D. Revised *Tiburon Glen Design Guidelines* (3 pages), submitted August 9, 2004, as revised by conditions of approval herein.
2. This Precise Development Plan approval incorporates all of the environmental mitigation measures listed in the Tiburon Glen Mitigation Monitoring Program, attached hereto as **Exhibit "B"**. Applicant shall bear all costs for implementation and monitoring of said Mitigation Monitoring Program.
  3. This Precise Development Plan is intended to reflect ultimate development of the property. No additional subdivision is permitted and a note to that effect shall be placed on the parcel map.
  4. All residential improvements constructed on the property shall substantially conform to the *Tiburon Glen Design Guidelines*, as amended by these conditions of approval. Applicant shall revise said Design Guidelines pursuant to these conditions and submit the revised copy for final approval by the Director of Community Development. The final Design Guidelines shall be incorporated into the CC&R's for the subdivision. The exterior appearance of the homes shall be maintained over time in accordance with said Design Guidelines. Painting, repainting, or other exterior alteration not in accordance with the Design Guidelines as determined within the reasonable discretion of the Director of Community Development, will require an amendment to this Precise Development Plan.
  5. The maximum "gross floor area", as defined by the Tiburon Zoning Ordinance, allowed to be constructed on each lot shall be as follows:
    - Lot 1 - 4,250 square feet
    - Lot 2 - 4,320 square feet
    - Lot 3 - 4,145 square feet
    - Lot 4 - 4,500 square feet
  6. Dwelling units shall be confined to the approved "building envelope" on each lot, as shown on the approved *Precise Development Plan*.

7. Accessory buildings or structures and other improvements, including patios, decks, pools, spas, fountains and water features, built-in barbeques, play structures, arbors, gazebos, fencing, ornamental landscaping (including turf lawns), parking areas, driveways, and retaining walls shall be limited to the “building envelope” and the “residential use area” on each lot, except for deer fencing as provided below.
8. No improvements of any type, including fencing and landscaping, shall be permitted outside the approved “residential use area” for each lot. ~~shown on the approved *Precise Site Plan*. , although limited deer fencing is permitted within the Open Space Conservation Easement areas provided that it is a minimum of 50 feet upslope from the Paradise Drive right of way and provided that it does not extend into the grassland areas above the woodland/grassland interface. All such fencing shall be subject to Site Plan & Architectural Review approval.~~
9. The following zoning and design standards shall be applied to the residences and/or accessory structures on each lot:

**Lot 1** – All components of Mitigation Measure 5.4-1 of the certified EIR shall apply. These include, but are not limited to the following: Residence--- The second floor shall be set back from the first floor on the downhill side, and both levels shall be articulated. The roof shall be low pitched with generous overhangs. Maximum height from existing grade (not excavated) shall not exceed 25 feet, as defined by the Tiburon Zoning Ordinance. Accessory structures--- May not exceed 15 feet in height from grade at any point.

**Lot 2** - All components of Mitigation Measure 5.4-1 of the certified EIR shall apply. These include, but are not limited to the following: Residence--- The second floor shall be set back from the first floor on the downhill side, and both levels shall be articulated. The roof shall be low pitched with generous overhangs. Maximum height from existing grade shall not exceed 25 feet, as defined by the Tiburon Zoning Ordinance. Accessory structures--- May not exceed 15 feet in height from grade at any point.

**Lot 3** - Residence: The roof shall be low pitched with generous overhangs. Maximum height from existing grade shall not exceed 30 feet, as defined by the Tiburon Zoning Ordinance. Accessory structures: May not exceed 15 feet in height from grade at any point.

**Lot 4** - Residence: The second story shall be smaller in area and set back from the first floor. The minimum setback for the second floor level (from the first floor level) is four (4) feet. The roofs shall be low-pitched. The maximum height from existing grade shall not exceed 20 feet. Accessory structures: May not exceed 15 feet in height from grade at any point.

For all lots, existing (pre-project) grade shall be based upon the topographic lines included on the *Site Plan* (Sheet 1) for Tiburon Glen Estates APN 39-241-01,” prepared by LTD Engineering, Inc., dated May 12, 2004, as will be revised to reflect the approved lot layout.

10. Exterior lighting (for roadways and residential improvements) shall be limited to the minimum amount necessary to safely illuminate points of access and outdoor use areas. In its review of individual homes, the Design Review Board shall carefully review all lighting to minimize its visibility from surrounding properties and Paradise Drive.
11. All portions of each lot, exclusive of the “building envelope”, “residential use area”, and roadways shall be contained and protected by an open space conservation easement to be offered for acceptance to the Town of Tiburon. Said open space easement (if accepted) shall be recorded in conjunction with the recordation of the parcel map. Said open space conservation easement shall acknowledge, if necessary, any required drainage and utility easements and any landscape installation (e.g. entry landscaping, retaining wall screening, and mitigation planting) and maintenance agreements that are required as part of this Precise Development Plan approval. The open space conservation easement language shall be reviewed and approved by the Town Attorney and Director of Community Development prior to acceptance for filing of the parcel map application.
12. Draft CC&R’s for the subdivision shall be prepared and submitted for review and approval by the Town Attorney and Director of Community Development as part of the Tentative Map application. Said CC&Rs shall contain provisions and limitations as set forth in this Precise Development Plan approval to the satisfaction of the Town Attorney and Director of Community Development. CC&R’s shall contain educational information regarding the biological value of serpentine grasslands.
13. In addition to the public access easement proposed along the northerly property boundary, applicant shall offer for dedication to the Town of Tiburon additional public access easements along existing trail alignments as generally shown on **Exhibit “C”** attached hereto.
14. Applicant shall survey and install (or make a monetary contribution to cover fully the Town’s estimated reasonable costs of surveying and installing) traversable pedestrian paths in the approximate locations described below:
  - a) From Paradise Drive across Tiburon Glen site/AP 39-021-07 to a trail on an existing Town open space parcel (AP 39-161-24);

- b) Across the adjoining Town-owned open space parcels (AP 39-161-32 and AP 58-100-11) to the Tiburon Ridge Trail on AP 58-100-52.
15. Applicant shall remove all old fencing and fence-posts, litter, garbage, and other junk materials from the entire site.
  16. Applicant shall make an additional cash contribution of \$20,000 to the Town's Circulation System Improvement Fund for use at the Tiburon Boulevard/Trestle Glen Boulevard intersection.
  17. This Precise Development Plan approval shall be valid for 36 months following its effective date, and shall expire unless subsequent zoning and/or building permits have been issued pursuant to this approval. A time extension may be granted if such request is filed prior to the expiration date.
  18. The Design Guidelines for the project shall be revised to incorporate the following:
    - a. A statement that the intent is that house colors blend into their woodland backdrop, and be medium to dark against the forest backdrop. References to naturally stained and transparent stain should be qualified to indicate that the materials they are staining are already appropriate in color to achieve the purposes of the design guidelines.
    - b. *Fencing (including deer fencing) shall be limited to the Residential Use Area (RUA) for each lot.*
    - c. Guest parking for all lots shall be designed or appropriately screened to result in low visual impact from off-property locations.
    - d. V-ditches shall be medium to dark in color or lined with rock similar in appearance to that naturally occurring in the vicinity.
  19. Where feasible and appropriate in the opinion of the Town Engineer, guest parking areas for each lot shall be composed of permeable surfaces.
  20. Appearance and vegetative screening of all retaining walls in excess of 3 ½ feet shall be subject to review and approval by the Design Review Board.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the Town of Tiburon held on \_\_\_\_\_, 2004 by the following vote:

AYES:

NOES:

ABSENT:

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RICHARD COLLINS, CHAIRMAN  
Tiburon Planning Commission

ATTEST:

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SCOTT ANDERSON, SECRETARY