

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 three (3) single-family dwellings and appurtenant improvements on a 26.03-acre property. The Tiburon Glen Precise Development Plan would establish the basic layout of the development, building envelopes, residential use areas, height and floor area limits, and other zoning limitations for the three (3) future lots.

- B. The Precise Development Plan application consists of File #30403 (File 2 of 2), 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 1-11, last revised July 1, 2005, except Sheets 9 and 10 revised October 12, 2005, and Sheet 2 revised November 5, 2005.
2. Design and architectural drawings for each residence (6 sheets total) prepared by Joseph Farrell Architect, dated May 18, 2005, with revisions to the Lot 2 basement plan received August 8, 2005.
3. Written materials from Scott Hochstrasser, IPA Inc. (applicant's representative), dated May 19, 2005 and July 15, 2005.
4. *Tiburon Glen Architectural Design Guidelines*, submitted July 18, 2005.
5. Letter from Herzog Geotechnical Engineers dated July 15, 2005.

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 a duly noticed public hearing on November 29, 2005 at

which it heard and considered testimony from interested persons. The Planning Commission found, based upon application materials and analysis presented in the staff report, the certified Final EIR and the First and Second Addendums thereto, that 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 its Addendums, all of which are incorporated into the project record.

Section 2. Recommendation for Acceptance of Second Addendum to the EIR

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission has considered and does hereby recommend to the Town Council acceptance of the Second Addendum dated November 2005. 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 three-lot Tiburon Glen project that is currently proposed (July 2005 Plan) is essentially a scaled back version of the original 8-lot project analyzed in the certified EIR, and of the four-lot project analyzed in the First Addendum dated October 2004. The July 2005 plan essentially incorporates Lots 1, 2, and 4 from the 8-lot project, and is within the range of alternatives and impacts discussed in the certified 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 First and Second Addendums were prepared under contract to the Town of Tiburon by the consulting firm of Nichols-Berman.

The Second Addendum concludes that all but three environmental impacts associated with the current three-lot proposal have been or would be mitigated to a level of less-than-significant (LTS). The remaining significant unavoidable (SU) impacts relate to the loss of trees for grading, 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 (from the loss of trees)

While the level of tree loss was reduced considerably (from 339 trees to 168 trees) due to the scaling back of the project between the First Addendum and Second Addendum, the EIR preparer concluded that the tree-loss-related impacts would remain significant and unavoidable. The EIR preparer concluded that visual impacts of the project would be reduced to less-than-significant levels under the three lot plan.

The July 2005 three lot plan reduces environmental impact in all three areas where significant unavoidable impacts were identified as remaining. The three lot plan will reduce the surface area of grading, reduce the export of soil, reduce the number of trees removed, and reduce visual impact of

site disturbance and development. 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 July 2005 plan as there is insufficient area on the site to replace lost trees at a 3:1 ratio. A 1.9:1 ratio can be achieved on-site. Off-site replacement and habitat restoration could mitigate the remaining tree loss impact, but insufficient off-site locations to plant trees have been identified to make this potential mitigation measure feasible. Instead, the applicant has offered to make a monetary contribution to the Town for habitat restoration off the property but on the Tiburon Peninsula.

Section 3. Recommendation for Adoption of 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 remaining adverse effects are acceptable. A list of project benefits that could serve as the basis for a statement of overriding considerations for Town Council adoption 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 as modified by conditions of approval and mitigation measures contained herein, said drawings and materials being on file with the Tiburon Community Development Department in File #30404 (2 of 2):
 - A. Precise Development Plan drawings for Tiburon Glen Estates APN 39-241-01, LTD Engineering (including On-Site Tree Mitigation Plan sheets); Sheets 1-11, last revised July 1, 2005, except Sheets 9 and 10 revised October 12, 2005 and Sheet 2 revised November 5, 2005.
 - B. Design and architectural drawings for each residence (6 sheets total) prepared by Joseph Farrell Architect, dated May 18, 2005, with revisions to the Lot 2 basement plan received August 8, 2005. These drawings are illustrative of homes that would be consistent with the project's *Architectural Design Guidelines*, but it is understood that future lot owners may design different homes than those shown in these architectural drawings.

- C. *Tiburon Glen Architectural Design Guidelines* (3 pages), submitted July 18, 2005, as revised by conditions of approval herein.
- D. Written application materials submitted by from Scott Hochstrasser, IPA Inc. (applicant's representative), dated May 19, and July 15, 2005.
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 for the purpose of creating additional building sites is permitted and a note to that effect shall be placed on the parcel map.
 4. 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 – 5,400 square feet
 Lot 2 – 4,800 square feet
 Lot 3 – 4,800 square feet

In addition to the above-listed gross floor area, garage area of up to 750 square feet shall be permitted for each lot. Any garage floor area in excess of 750 square feet shall be counted as additional gross floor area on the lot. Floor areas meeting the definition of "basement" in the Tiburon Zoning Ordinance shall not be included in the calculation of gross floor area.
 5. All residential improvements constructed on the property shall substantially conform to the *Tiburon Glen Architectural Design Guidelines*, as amended by these conditions of approval. Applicant shall revise said *Guidelines* pursuant to these conditions and submit the revised copy for final approval by the Director of Community Development. The final *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 the *Guidelines*. Painting, repainting, or other exterior alteration not in accordance with the *Guidelines* as determined within the reasonable discretion of the Director of Community Development, will require an amendment to this Precise Development Plan.
 6. The *Tiburon Glen Architectural 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 and other drainage ditches shall be medium to dark in color or lined with rock similar in appearance to that naturally occurring in the vicinity.

e. The description of floor area limits for each lot shall be revised to reflect provisions of Condition #4 of this Resolution.

7. The dwelling unit (main building on each lot) shall be confined to the approved “building envelope” on each lot, as shown on Sheet 9 of the approved *Precise Development Plan* drawings. Dwelling units shall not exceed thirty (30) feet in height from grade.
8. 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”. Accessory buildings shall not exceed fifteen (15) feet in height from grade.
9. No improvements of any type, including fencing and landscaping, shall be permitted outside the approved building envelope or residential use area for each lot. This limitation does not apply to the access roads, driveways, walls, utilities, landslide repair devices, drainage ditches, or other improvements shown on the drawings approved herein.
10. A note on Sheet 3 of the *Precise Development Plan* drawings states that possible reconstruction of the cut-slope along Paradise Drive for Lot 2 may be required pending additional geotechnical review for a proposed residence on that lot. All reasonable attempts shall be made in the design and location of the residence and lot improvements to avoid cut-slope reconstruction. The note is hereby modified to indicate that all feasible options that would not require cut-slope restoration shall be explored and exhausted prior to approval by the Town of a building permit for said lot that would include cut-slope restoration.
11. All portions of each lot designated “Private Open Space” and shown on Exhibit 2-1.1 (Page 2.0-3) of the November 2005 Seconded Addendum to the August 2003 EIR, exclusive of the “building envelope”, “residential use area”, and roadways shall be contained within and protected by an open space easement or easements

to be offered for acceptance to the Town of Tiburon by separate instrument as part of the parcel map application. Said open space easement or easements (if accepted) shall be recorded in conjunction with the recordation of the parcel map. All portions of Said open space easement or easements 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 and trailing permits. Open space 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. All of “Parcel A – Open Space and Conservation Easement”, a 7.49 acre parcel voluntarily offered to the Town for additional open space beyond what the General Plan and Zoning regulations require, and shown on Exhibit 2-1.1 (Page 2.0-3) of the November 2005 Second Addendum to the August 2003 EIR, shall be protected by an open space easement or easements to be offered for acceptance to the Town of Tiburon by separate instrument as part of the parcel map application. Said open space and conservation (if accepted) shall be recorded in conjunction with the recordation of the parcel map. All portions of Said open space easement or easements 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 and trailing permits. Open space and 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.
13. 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 and the adopted Mitigation Monitoring Program 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, damaging effects of pesticide/herbicide use, maintenance of common areas, and maintenance of drainage structures.
14. Applicant shall survey and install (or make a monetary contribution to cover fully the Town’s estimated reasonable costs of surveying and installing) a traversable pedestrian trail within the easement and/or its adjoining easement located on assessor parcel 039-021-07. Applicant-performed work shall be done as part of the subdivision improvement phase of the project. If an in-lieu monetary contribution is proposed instead of applicant installation, then said payment shall occur prior to recordation of the parcel map. The amount of any monetary

contribution shall be based on an estimate by the Town Engineer.

15. As part of the installation of the subdivision improvements, applicant shall remove all old fencing and fence-posts, litter, garbage, and other junk materials from the entire site. Extreme care (up to removal and off-hauling by hand) shall be used during the removal process to avoid impacts to sensitive biological resources.
16. Fire apparatus turnaround areas shown on Lots 1 and 3 shall be recorded as easements on the parcel map to the satisfaction of the Town Engineer.
17. 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. Prior to the approval of subdivision improvement drawings for the project, the Design Review Board shall review all aspects of the proposed roadway lighting. In its review of individual homes, the Design Review Board shall carefully review all proposed lighting to minimize its visibility from surrounding properties and Paradise Drive.
18. Where feasible and appropriate in the opinion of the Town Engineer, guest parking areas for each lot shall be composed of permeable surfaces.
19. Appearance and vegetative screening of all retaining walls in excess of forty-two (42) inches in height shall be subject to review and approval by the Design Review Board. Bonding or other monetary security for maintenance and replacement of retaining wall landscaping for the lifetime of the retaining walls shall be secured by the Town prior to recordation of the parcel map. The amount of monetary security shall be acceptable to the Director of Public Works and the terms of the maintenance and replacement shall be acceptable to the Town Attorney.
20. Applicant shall pay the sum of \$25,000 to the Town as a public benefit of the project to off-set tree loss. Said funds shall be used exclusively for invasive removal/habitat restoration on the Tiburon Peninsula.
21. At least 50% of the "Large Canopy Trees" shown on Sheet 1 of the *On-Site Tree Mitigation Plan* shall be upgraded to 24" box trees (from 15-gallon trees) in order to provide more immediate strategic screening of retaining walls, homes, and other site disturbance.
22. The landscape plan associated with subdivision improvements shall be reviewed and approved by the Design Review Board, with special attention paid to the strategic location of larger-canopy trees for maximum screening of project improvements from Paradise Drive.

23. This Precise Development Plan approval shall be valid for thirty-six (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.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the Town of Tiburon held on _____, 2005 by the following vote:

AYES:

NOES:

ABSENT:

JIM FRASER, VICE-CHAIRMAN
Tiburon Planning Commission

ATTEST:

SCOTT ANDERSON, SECRETARY

Tiburon Glen 3-lot pceso.doc

EXHIBIT “A”

Project Benefits for Statement of Overriding Considerations

1. Approximately 16.67 acres or over 64% of the property is being set aside as open space easement in accordance with the Town of Tiburon General Plan and Zoning regulations, adding to the Town’s open space inventory.
2. Approximately 7.49 acres (about 32%) of the property is voluntarily being offered to the Town for open space and conservation easement furthering the Town goals and community objectives to reduce development density and preserve to the maximum extent feasible rare, threatened plant species and all of the unique bunchgrass areas. This voluntary offer substantially improves and increases Town of Tiburon open space inventory in upper reaches of the Tiburon Ridge.
3. All told, about 96% of the 26.03-acre property would be permanently preserved as open space, including all of the upper reaches of the property near Tiburon Ridge.
4. A public trail easement will be dedicated to the Town that would connect Paradise Drive to the Middle Ridge area of the Peninsula and to the Tiburon Ridge. The trail shall either be installed by the applicant or the costs of installation fully funded by the applicant.
5. On-site habitat restoration will remove all invasive exotic plants from the property and reduce their spread both on and off-site.
6. A financial contribution of \$25,000 would be made to the Town for the purpose of habitat restoration off-site but on the Tiburon Peninsula. The purpose of this contribution would be for (primarily) broom removal with replanting of oak trees where feasible.
7. Several landslides with high potential for causing damage off-site will be eliminated or stabilized.
8. Undersized drainage structures within and downstream of Paradise Drive will be required to be upgraded as necessary to accommodate peak flow discharges.
9. A bicycle and pedestrian refuge area along Paradise Drive will be created in the vicinity of the project entry.
10. Construction of three housing units will assist the Town with meeting its Regional Fair Share Housing allocations.