



**Town of Tiburon  
STAFF REPORT**

AGENDA ITEM 1

TO: PLANNING COMMISSION

FROM: SCOTT ANDERSON, DIRECTOR OF COMMUNITY DEVELOPMENT

SUBJECT: FILE #30403: TIBURON GLEN PROJECT CONSIDER RECOMMENDATION TO THE TOWN COUNCIL REGARDING A PRECISE DEVELOPMENT PLAN (PD#22) TO CREATE THREE (3) BUILDING SITES ON A 26.03 ACRE PARCEL; REVIEW OF SECOND ADDENDUM TO CERTIFIED EIR; 3700 BLOCK OF PARADISE DRIVE NEAR NORMAN WAY; XANADU PROPERTY HOLDINGS, INC., OWNERS; ASSESSOR'S PARCEL NO. 39-241-01

REPORT DATE: NOVEMBER 21, 2005

MEETING DATE: NOVEMBER 29, 2005

**STAFF RECOMENDATION**

That the Planning Commission recommends conditional approval of the project to the Town Council, subject to conditions and mitigations set forth in the attached Resolution (**Exhibit 1**).

**BACKGROUND**

On December 13, 2004, the Planning Commission considered a four-lot reduced development plan for the 26-acre Tiburon Glen property. The original eight-lot proposal, filed in March 2000, had been the subject of an EIR that was certified in September 2003. The Planning Commission expressed serious concerns with the revised four-lot project, and urged the applicant to reduce project density and impacts. Adopted minutes of that meeting are attached as **Attachment A** to this report. The Commission expressed concerns about the magnitude of the remaining impacts (both visual and biological); about the presence of very tall retaining walls; and about the long roadway and path of disturbance leading to Lot 4. Overall, the Commission concluded that the four-lot project would still result in too much disturbance for the site to be acceptable.

At the request of the applicant at the conclusion of that meeting, the item was continued to allow time for a project reassessment and possible redesign. The

applicants then proceeded to hold meetings with the surrounding neighborhood and other interested persons to receive input on redesigns prior to resubmitting the application. A brief chronology follows:

- February 15, 2005: Neighborhood Meeting No. 1 is held. A summary of Staff's observations of the meeting is attached as **Exhibit 2**.
- April 5, 2005: Neighborhood Meeting No. 2 is held. A summary of Staff's observations of the meeting is attached as **Exhibit 3**.
- May 19, 2005: Applicant files a revised application for three (3) homes, with all homes proposed to the west of Norman Way.
- June 17, 2005: The revised application is deemed incomplete.
- July and August, 2005: Additional information submitted; application deemed complete. Work begins on the second addendum to the certified EIR.
- November, 2005: Second addendum released. Project scheduled for public hearing.

### **THREE-LOT PLAN (July 2005 Plan) PROJECT DESCRIPTION**

The most recent project design submitted by the applicant, herein referred to as the 3-Lot Plan, principally differs from the 4-lot Plan reviewed by the Commission in December 2004 in the following respects:

- The highest elevation proposed lot (Lot 4) and its lengthy driveway and tall, extensive retaining walls have been eliminated.
- Due to elimination of Lot 4 and its driveway, stabilization of the Landslide D/E complex can be accomplished with less disruption to the site while still meeting the provisions of the Town's Landslide Mitigation Policy. This entails a slight relocation of Lot 3 (Lot 2 in the November 2004 Plan) out of the path of the slide complex and slightly closer to Paradise Drive.
- The remaining proposed homes have been increased in floor area from a range of 4,150-4,500 square feet to a range of 4,800-5,400 square feet, but have been redesigned in an attempt to improve visual compatibility with other homes in the vicinity. Revised colors and materials are also proposed and will be posted on the wall at the meeting.
- Tree loss has been reduced from the 339 trees identified in the January 2004 Plan (First Addendum), and 227 trees identified in the November 2004 Plan, to 168 trees under the three-lot plan.
- Fencing has been restricted to Residential Use Areas.

A detailed description of the proposed project (excerpted from the Second Addendum) can be found in **Attachment B**. Additional project application materials in the form of letters dated May 19 and July 15, 2005 from Scott Hochstrasser, IPA Inc., (applicant's representative) are attached as **Exhibit 4**.

The emphasis of the revised application has been to reduce adverse visual and biological environmental impacts associated with project development, design more

compatible homes, limit unnecessary scarring of the land, reduce tree loss, and minimize retaining wall impacts while maintaining an economically viable project. Staff notes that approximately 33% of the tree removal and 36% of the site grading for the 3-lot Plan would result from Town-mandated landslide stabilization and mitigation.

The scaled-back stabilization needs for Landslides D and E, as proposed in this 3-lot plan, would reduce excavation, disturbed area, and loss of trees. This is achieved primarily by avoiding total excavation of the slide area through installation of a debris catchment basin, retaining/deflection walls to support the driveway to Lot 3, and excavating only the portion of the slide where the driveway would pass, not the much larger upslope areas where extensive tree loss would result. The extent of soil export required for landslide repair would be reduced by 83% from the four-lot plan analyzed in the First Addendum, and the surface area of grading required for landslide repair would be reduced by about 24%. These constitute substantial reductions in environmental impact over the prior plan, as well as reducing overall project density by 25%.

The feasibility of developing two housing units west of the entry roadway with adequate on-site parking spaces was demonstrated in the First Addendum. The July 2005 plans show relatively minor changes to the building envelope and RUA for these lots (Lots 1 and 2), although the proposed homes have been enlarged and redesigned and are slightly closer to Paradise Drive. Submitted drawings include preliminary architectural drawings for all three homes that are illustrative of the types of homes that could be designed consistent with the project’s proposed design guidelines and Town regulations.

The table below summarizes the land use characteristics of the 3-lot plan, including the size of each proposed Residential Use Area (RUA), building envelope and open space area:

**SUMMARY OF LAND USE CHARACTERISTICS IN SQUARE FEET<sup>a</sup>**

<i>Lot</i>	<i>Open Space Conservation</i>	<i>RUA</i>	<i>Building Envelope</i>	<i>% of Lot in Open Space</i>	<i>Lot Area Total</i>
1	92,751	6,628	8,424	86%	107,803
2	60,373	5,649	5,989	80%	75,661
3	278,684	7,680	9,211	93.5%	297,805
Parcel A	652,429	0	0	100%	652,429
<i>Total</i>	<i>+/- 1,084,237</i>	<i>+/- 19,957</i>	<i>+/- 23,624</i>	<i>96% overall</i>	<i>+/- 1,133,698<sup>b</sup></i>

<sup>a</sup> Source: Site Plan revised July 1, 2005.

<sup>b</sup> Note: Due to estimation, number totals do not match precisely.

As proposed in the Tiburon Glen PDP Design Guidelines, the building envelope would restrict where the main building and other habitable structures could be located, while the RUA would limit where other alterations, including accessory structures, could take place. Land outside of the residential use areas, building envelopes, and the site roadways would remain undeveloped and would be

permanently protected as private open space by the establishment of an “open space conservation easement” (OSCE).

The Maximum Floor Area for each of the three remaining lots would increase from that proposed in earlier four-lot proposals. However, the total amount of floor area allowable would decrease by 11% from the November 2004 proposal. A comparison of currently proposed and previously-proposed floor areas for each lot is as follows:

**3-lot Plan: Maximum Floor Area<sup>a</sup>**

<b>Lot</b>	<b>Max. Floor Area</b>
1	6,114
2	5,517
3	6,102
4	0 (eliminated)
Total	17,773

<sup>a</sup> In “gross square feet” (includes garages, but not basement areas).

**4-lot Plan: Maximum Floor Area<sup>a</sup>**

<b>Lot</b>	<b>Max. Floor Area</b>
1	4,890
2	5,140
3	4,725
4	5,130
Total	19,985

<sup>a</sup> In “gross square feet” (includes garages, but not basement areas).

In order to bring the proposed floor area limitations into a standardized format typically employed by the Town of Tiburon in Precise Development Plan approvals, Staff is recommending that the following description be adopted:

*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.*

## ENVIRONMENTAL REVIEW

As noted previously, the July 2005 Plan is very similar to previous lot configurations analyzed in the RDEIR and First Addendum. Based on a review of the information that has been provided, the July 2005 Plan would not result in any new impacts not already analyzed, and would substantially reduce impacts compared to the four-lot January 2004 Plan analyzed in the First EIR Addendum and the November 2004 Plan found unacceptable by the Planning Commission. Staff determined that a second Addendum to the certified EIR was the required document under CEQA to address the 3-lot Plan.

### *Significant Unavoidable Impacts*

The Second Addendum to the FEIR concludes that the July 2005 Plan would result in three tree-loss-related significant and unavoidable impacts, listed in the table below. The impact of the July 2005 Plan on oak-bay woodland (Impact 5.3-4) would remain significant and unavoidable. Consequently, the other two related impacts (cumulative biologic impacts and secondary impacts of grading operations for landslide repair) would also remain significant and unavoidable. The table below lists the significant unavoidable impacts identified in the Second Addendum.

Impact No.	Description of Impact	July 2005 Plan
Impact 5.1-3	Secondary Effects of Grading for Landslide Repair	Significant and Unavoidable
Impact 5.3-4	Loss of Oak-Bay Woodland	Significant and Unavoidable
Impact 5.3-10	Cumulative Biological Impacts	Significant and Unavoidable

It should be noted that while the impacts remain significant and unavoidable, they have been reduced significantly to a point where a replacement ratio of nearly two trees for every tree removed will be attainable. A critical factor in the tree loss impact is the number of trees (41) lost as a result of landslide repair (Landslides G, H, and I) required by the Town that would otherwise remain undisturbed by project development. If these trees were saved as a result of the Town not strictly enforcing its *Landslide Mitigation Policy (Exhibit 9)*, Staff believes that a modest (66 trees total) off-site replanting program on Town-owned land would be feasible, that the 3:1 replanting ratio would be achieved, and all project impacts would be reduced to less-than- significant levels.

### *Revised Landslide Repair*

As reported in the certified EIR, the project site contains eleven (11) landslide areas identified as Landslides A through K, plus potential debris flows areas. The landslide mitigation measures proposed for the July 2005 Plan are similar to those proposed for the plan analyzed in the First Addendum with the major exception in that the extent of grading and disturbance for Landslides D/E complex has been substantially

reduced due to the elimination of the fourth lot and its driveway, and the relocation of the proposed home on Lot 3 out of the slide debris path.

The Town’s Geotechnical Consultant, Scott Stephens of Miller Pacific Engineering, has reviewed the July 2005 Plan and has issued a letter (**Exhibit 5**) stating that the Plan meets the intent of the Town’s landslide policy while minimizing the secondary impacts associated with landslide stabilization.

*Grading and Off-Haul Reductions*

The surface area of grading required for the 3-lot project has been reduced by about 26,000 square feet from the November 2004 Plan, a reduction of 21%. A total of 2.3 acres of the 26-acre site would be disturbed. Excavation for lot development has been reduced by 47%.

The volume of soil export has been reduced by 75% from the November 2004 Plan, leaving only about 1,530 cubic yards of soil to be off-hauled.

The table below provides a comparison of the two plans.

**CHANGES TO GRADING AMOUNTS**

	<b>JULY 2005 PLAN</b>	<b>NOVEMBER 2004 PLAN</b>	<b>CHANGE</b>
<b>Subtotal of surface area grading for LOT DEVELOPMENT</b>	62,575	88,920	-26,345 30% decrease
<b>Subtotal of surface area grading for LANDSLIDE REPAIR</b>	35,680	35,100	+580 2% increase
<b>Total</b>	99,355	125,120	-25,765 21% decrease
<b>Subtotal of excavation volume for LOT DEVELOPMENT</b>	4,680	8,900	-4,220 47% decrease
<b>Fill</b>	4,510	4,450	+60 1% increase
<b>Subtotal of excavation volume for LANDSLIDE REPAIR</b>	5,210	5,480	-270 5% decrease
<b>Fill</b>	3,850	4,330	- 480
<b>Subtotal excavation/fill For Whole Project</b>	9,890 / 8,360	14,780 / 8,780	- 4,890 / - 420
<b>Export volume</b>	1,530	6,000	-4,470 75% decrease

### *Biotic Impacts*

The reduction in graded surface area would also reduce the number of trees impacted by the project, reducing the number of trees lost from 272 in the November 2004 Plan to 168 under the 3-lot Plan.

The mitigation measure identified in the October 2004 (First) Addendum to the FEIR for addressing impact to woodland resources would still apply to the revised July 2005 plan. This measure requires replacement of lost trees at a ratio of 3:1 (replaced : lost), revisions to the *Tiburon Glen Estates- Tree Impact Assessment and Tree Replacement Mitigation Plan* and the applicant-proposed *On-Site Tree Mitigation Plan* (revised July 7, 2005), and funding of a Broom Eradication and Habitat Restoration Program to be developed and implemented by the Town. Staff and the EIR consultant conclude that the number of replacement trees (504 total) needed to meet the 3:1 standard cannot be achieved on-site or on identified Town-owned lands off-site. The EIR consultant estimates that an on-site replacement ratio of 1.9:1 could be achieved, leaving an off-site need for 189 trees. Staff has previously estimated that perhaps as many as 100 trees could be planted off-site at suitable Town-owned locations.

Due to the limited availability of lands suitable for off-site replacement tree planting, the Second Addendum to the FEIR concludes that the impact would remain significant and unavoidable. The applicant has offered a lump sum payment to the Town of \$25,000 as a public benefit to be spent on the Tiburon Peninsula for broom removal and oak woodland habitat restoration. While this would not serve as a mitigation measure per se, it would provide a public benefit in terms of fire safety, aesthetics, and habitat restoration.

### *Visual Impacts*

Visual impacts of the 3-lot project are discussed in the Second Addendum and are represented in two photosimulations. The 3-lot project would reduce the visual impacts of the project over prior plans, as discussed below.

#### *Viewpoint 1 (Exhibit 5.2-3, page 5.0-13 of the Second Addendum to the FEIR)*

Impacts from this viewpoint were determined to be mitigable in the First Addendum when analyzing the 4-lot Plan. Under the 3-lot Plan from this viewpoint, all three homes are visible, with the home on Lot 2 being most plainly visible. The largely intact tree canopy behind and around the homes still largely preserves the greater overall visual sense of the property, and the Second Addendum concludes that although visual change would occur, the visual impacts would be less-than significant.

*Viewpoint 2, (Exhibit 5.2-5, page 5.0-15 of the Second Addendum)*

Impacts from this viewpoint were considered significant and unavoidable with the 8-lot plan and the January 2004 Plan, but mitigable under the November 2004 Plan. With the elimination of Lot 4 and its long, disruptive driveway, visual impacts from this viewpoint are further reduced. The Lot 3 home shows prominently in the foreground but the tree canopy backdrop is intact and no longer broken by the presence of the Lot 4 home. The Second Addendum concludes that although visual change would occur, the visual impacts would be less-than significant.

The 3-lot project substantially reduces the magnitude of adverse environmental impacts associated with the 8-lot and both 4-lot plans previously reviewed. However, it is noted that significant unavoidable impacts would result from implementation of the July 2005 3-lot Plan, as described above.

*Retaining Walls*

As with any site characterized by steep slopes and landslides, numerous retaining walls will be necessary to develop the project. Total length of retaining walls on the site has been reduced by 22% from the November 2004 plan; and the highest of the retaining walls have been eliminated. The November 2004 plan required walls as high as 17 feet, with others proposed at 15 feet, 13 feet, and several at 12 feet. The 3-lot plan shows most walls varying from 4-7 feet in height. Three walls are shown to be higher. The first is a short stretch of wall W5 located at the rear of the Paradise Drive right-of way cut-out (where the access roadway to Lots 1 and 2 begins) that could reach a height of 12 feet at its tallest point. This wall also forms the protective barrier for the debris catchment area below Landslides D and E. Because this section of wall is at the rear of the cut-out area, it is only briefly visible from Paradise Drive and would not show in either photosimulation. According to the *Tree Mitigation Plan*, several large-canopy trees are proposed to be planted in the line of sight between Paradise Drive and this wall segment. Portions of wall W5 as high as 10 feet tall near the house on Lot 2 are clearly visible in the photosimulation of *Viewpoint #1*. Much of the wall is hidden behind the home on Lot 2. Wall W6 on Lot 1 may be visible briefly high above Paradise Drive, as would several 4-5 foot high walls installed as landslide repair devices on Lot 1 and at the base of Landslides H and I.

Portions of wall W5 on Lot 3 are clearly visible in the photosimulation of *Viewpoint #2*. The wall is approximately five feet high in this location. Other portions of this wall may be briefly visible along Paradise Drive at the project entry roadway.

*Environmental Conclusion*

The California Environmental Quality Act (CEQA) recognizes that a public agency has an obligation to balance a variety of public objectives, including economic, environmental, and social factors in determining whether and how a project should be approved. CEQA requires that an agency shall prepare a statement of overriding considerations as described in Section 15093 of the CEQA *Guidelines* to reflect the

ultimate balancing of competing public objectives when the agency decides to approve a project that will cause one or more significant effects on the environment.

A list of project benefits is attached as **Exhibit 6**. Among the project benefits are at least three exactions:

1. A 7.49-acre conservation easement granted to the Town of Tiburon above any beyond the 50% open space required to be set aside in *Tiburon 2020*.
2. Dedication of a public pedestrian easement connecting Paradise Drive to the Tiburon Middle Ridge Open Space and the Tiburon Ridge Trail.
3. Physical installation of, or cash payment in-lieu of, installation of a traversable trail within the public pedestrian easement.

Staff considers these exactions to be meaningful and valuable contributions to the open space character and public trails system of the Town of Tiburon, and suitable material for a Statement of Overriding Considerations for the project.

## **GENERAL PLAN & ZONING**

Since review of the November 2004 Plan, the Town of Tiburon has adopted an updated General Plan, *Tiburon 2020*. While the planned residential land use designation and maximum 0.3 dwelling unit/acre density for this property did not change in the updated General Plan, new policies were adopted as part of *Tiburon 2020* against which this project had not previously been analyzed.

The Tiburon Zoning Ordinance has not been amended since this project was last analyzed for conformance.

An analysis of policy consistency is contained in Section 4.0 of the Second Addendum, and is included separately as **Attachment C** to this report. The analysis concludes that the project would be consistent with most of the relevant *Tiburon 2020* goals and policies, with the major exceptions being that the development would affect 2.3 acres (168 trees) of oak-bay woodland and that a 100 foot setback from the seasonal drainageway on Lot 1 would not be achieved. Staff concludes that, on balance, the project is consistent with and furthers the goals and policies of the Tiburon General Plan and Tiburon Zoning Ordinance.

## **ISSUES**

### House Design Compatibility

Proposed maximum house sizes are 5,400 square feet for Lot 1 and 4,800 square feet for Lots 2 and 3, with an additional allowance of 750 square feet for garages. These

could be large homes and it will be critical that their design is compatible with other homes in the vicinity and that trees surrounding the homes be preserved to the extent feasible. The Commission may wish to consider requiring that photosimulations of each proposed residence and its ancillary improvements are required to be submitted at the time of Site Plan & Architectural Review application, with the simulations taken from the same location as depicted in the Second Addendum to the EIR. Review of landscape plans and potential tree removal will also be critical. Medium to dark tones that will minimize visual obtrusiveness will be essential.

### Retaining Wall Landscape Screening

The appearance of all visible project-related retaining walls, both in terms of their original design, colors and materials; and the initial planting and continuing success of screening landscaping for the retaining walls is of great importance. Staff has included a condition that would require Design Review Board approval of all retaining walls over 42 inches in height, and the approval of their screening landscaping and the permanent (bonded) maintenance of the screening landscaping.

### Replacement Trees

Staff has included a condition that at strategic locations along Paradise Drive and project roadways from which retaining walls and project improvements could be prominently visible, larger (24" box) big-canopy trees shall be required. The Design Review Board shall review the landscape plan associated with the subdivision improvements as well as individual homes to ensure that trees are strategically placed.

## **CONCLUSION**

The Tiburon Glen project has evolved over the past 5 ½ years from a poorly-designed 8-lot project with extreme environmental impacts and considerable visual degradation to a sensitively-designed project that reasonably minimizes impacts given a very constrained and challenging property. Staff believes that the goals and objectives of the Town are adequately achieved with this project and that approval is in order.

## **FUTURE ACTIONS REQUIRED**

The Planning Commission's approval of this project would be in the form of a recommendation to the Town Council for project approval. The Town Council would then hold a separate public hearing to consider the project and its environmental documentation.

If the Precise Development Plan is approved by the Town Council, subsequent Town permits would include a Tentative Subdivision Map, Parcel Map, Subdivision Improvement Drawings, and Site Plan and Architectural Review approval and Building Permits for individual lots.

## **EXHIBITS**

1. Draft Resolution and Mitigation Monitoring Program.
2. Memo summarizing first neighborhood meeting of February 15, 2005.
3. Memo summarizing second neighborhood meeting on April 5, 2005.
4. Written application materials submitted by from Scott Hochstrasser, IPA Inc. (applicant's representative), dated May 19, and July 15, 2005.
5. Letter from Scott Stephens, Miller-Pacific Engineering Group (2 pages), dated September 20, 2005.
6. List of Project Benefits.
7. Letter from Fire Marshal dated July 21, 2005.
8. Revisions to Lot 2 basement area by Joe Farrell dated August 8, 2005.
9. Landslide Mitigation Policy, Town Council Resolution 52-2004.

## **ATTACHMENTS**

- A. Planning Commission Minutes of December 13, 2004
- B. Project Description section from Second Addendum to EIR
- C. Policy Conformance section from Second Addendum to EIR

### **Previously Distributed to Planning Commission:**

Tiburon Glen Revised Draft EIR, May 2003

Tiburon Glen Final EIR, August 2003

Addendum (First) to Tiburon Glen EIR, October 2004

Addendum (Second) to Tiburon Glen EIR, November 2005

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. (Full-size and Reduced 11" X 17" sets)

Design and architectural drawings for each residence (6 sheets total) prepared by Joseph Farrell Architect, dated May 18, 2005