



**Town of Tiburon  
STAFF REPORT**

AGENDA ITEM 2

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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: JANUARY 19, 2006

MEETING DATE: JANUARY 25, 2006

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**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 November 29, 2005, the Planning Commission considered a three-lot reduced development plan and a Second Addendum to the certified Tiburon Glen EIR for development of the 26-acre Tiburon Glen property. An original eight-lot proposal, filed in March 2000, had been the subject of an EIR that was certified in September 2003. A scaled-back four-lot proposal, along with a First Addendum to the certified EIR, had been reviewed by the Commission in December 2004.

Draft minutes of the November 29, 2005 meeting are attached as **Exhibit 2** to this report. At the request of the applicant at the conclusion of that meeting, the item was continued to allow time for preparation of an off-site broom removal and habitat restoration program, also referred to as an off-site tree mitigation plan, which could feasibly mitigate remaining significant adverse environmental impacts associated with the project to a less-than-significant level. The applicant also agreed to provide financial information regarding the project costs and feasibility.

## OFF-SITE TREE MITIGATION PLAN

The Second Addendum to the FEIR concluded that the three-lot plan would result in three (3) tree-loss-related significant and unavoidable impacts, unless a feasible off-site broom eradication and habitat restoration program could be developed pursuant to Mitigation Measure 5.3-4(c). As no such program had been put forth by the applicant at the time of the November 29, 2005 hearing, the impacts were still considered significant and unavoidable.

In December 2005, the applicants submitted an Off-Site Tree Mitigation Plan (OSTMP) to demonstrate the feasibility of implementing Mitigation Measure 5.3-4(c) (see **Exhibits 3** and **4**). The OSTMP was analyzed by the EIR biologist and EIR consultant, whose findings are contained in a memo dated December 4, 2005, attached as **Exhibit 5**. The location selected for the restoration plantings would be in Town-owned open space off Gilmartin Drive, where invasive French broom has made dramatic in-roads in the past 20-30 years, now covers numerous acres of public open space, and continues to flourish and spread. Town Staff directed the applicant to this general location for several reasons, including:

- This is probably the largest and densest cluster of French broom on public land in the Town of Tiburon.
- It is undisputed that planted coast live oak trees will grow successfully there, based on the survival of nearly all of the coast live oak trees (without care or monitoring) planted along that stretch Gilmartin Drive in 1985 as part of the Del Madera Subdivision improvements. Despite the French broom that engulfs them, these trees appear healthy although small for their age.
- The topography will allow mature tree growth without blocking views.
- The public benefit from broom removal in this area will be large due to reduction of wildland fire hazard potential.
- The magnitude (in acres) of the French broom infestation in this vicinity creates the opportunity for this privately-financed restoration effort to be part of a larger restoration effort (either public or private) in the area.
- Other Town-owned open space sites were either too small or did not contain enough French broom to warrant serious consideration.

The EIR biologist concludes that the OSTMP is feasible and that the proposed off-site location is suitable for the purposes of the mitigation. It cannot be overemphasized that the purpose of the OSTMP was to demonstrate the feasibility of implementing Mitigation Measure 5-3.4(c), and that a detailed Broom Eradication and Habitat Restoration Plan, prepared under contract to the Town of Tiburon by a qualified, independent restoration ecologist selected by the Town. That plan will undergo its own separate public review and approval by the Town Council, as it would occur on Town-owned land.

The Tiburon Fire Protection District has reviewed the OSTMP and provided comments in a letter attached as **Exhibit 6**. The Fire Protection District supports the

concept of the plan, while making suggestions as to restricted use of the “flaming” method that could be used to prevent germination of broom seeds and with respect to the shape and precise location of areas to be replanted. Town Staff agrees that the shape and precise location of broom removal and tree planting will need to be refined during preparation of any BEHR.

In December 2005, Staff mailed hearing notices and copies of the OSTMP to approximately 30 property owners in the vicinity of the Gilmartin Drive open space, covering properties on Gilmartin Drive, Round Hill Road, Via Paraiso East and Via Paraiso West. One letter (**Exhibit 7**), from the owners of 90 Gilmartin Drive, expresses concern about erosion, soil instability, and offers suggestions for addressing these issues as well as the proposed pattern and specific location of broom removal and ongoing maintenance and tree success. Staff met with Mr. Heller after the letter was submitted to assure him that these issues would need to be addressed in any Broom Eradication and Habitat Restoration Plan that would be prepared. These issues have been incorporated into Condition No. 20 of the draft Resolution.

Staff sees the BEHR plan as a valuable first step toward implementing Open Space Management policies set forth at pp. 3-20 and 3-21 of the General Plan Open Space and Conservation Element (see **Exhibit 8**), particularly Policy OSC-46 and Program OSC-g. The Council is establishing a reserve fund for open space management that could be used to augment any applicant-sponsored or grant-related restoration efforts.

## **VISUAL ISSUES/HOUSE SIZES**

Commissioner Collins has submitted a letter (**Exhibit 9**) received January 9, 2006 recommending to the Commission specific modifications to proposed conditions of approval in the draft Resolution that would address issues of house height and size as they relate to General Plan consistency and visual impacts.

## **ENVIRONMENTAL STATUS**

The EIR consultant and EIR biologist have concluded that implementation of the proposed OSTMP would reduce the three remaining significant environmental impacts of the 3-lot project identified in the Second Addendum to less-than-significant levels. Therefore, no statement of overriding considerations would be required to approve the project. A revised Mitigation Monitoring Program is attached as part of the Resolution.

Staff has received suggestions from interested persons that more French broom removal and less oak tree planting in the Gilmartin Drive area would be preferable or more beneficial to the Tiburon Peninsula as a whole. While there may be merit to this suggestion, failing to both remove the broom and plant the replacement oak trees would likely mean that significant unavoidable impacts would remain. In that event (for example, if the Town Council ultimately finds the OSTMP concept infeasible or unacceptable), then the project would likely need a statement of overriding

considerations and a finding that all other development alternatives that could further reduce impacts are infeasible, before the 3-lot project could be approved. While this scenario would allow the Town and applicant to devise a plan calling for more broom removal and fewer new trees on Town open space, it would return to the forefront the thorny issue of economic feasibility of a particular project design or development alternative. As of the writing of this report, economic information on the project has not yet been submitted by the applicant, who has indicated that it should arrive on Monday, January 23, 2006. Staff will alert the Commission at such time as the information arrives.

## **AGENCY COMMENTS**

The Town has also received letters (**Exhibits 10 and 11**) from the Marin Municipal Water District (MMWD) and the Marin County Open Space District (MCOSD). The MMWD letter sets forth standard conditions for providing water service to the property, while the MCOSD repeats its desire for a trail easement over the property.

## **CONCLUSION**

With the conclusion by the EIR consultant and EIR biologist that all significant impacts would be mitigated to less than significant levels, the Planning Commission is in a position, should it so desire, to move forward with a recommendation to the Town Council for conditional approval of the 3-lot project without the need for a statement of overriding considerations or the requirement to find all other project alternatives that would reduce environmental impacts infeasible. The Planning Commission would need to find that the project is consistent with the goals and policies of the Tiburon General Plan and Zoning Ordinance.

## **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. Planning Commission minutes of November 29, 2005 meeting.
3. Cover letter and text for Off-Site Tree Mitigation Plan by Scott Hochstrasser, IPA Inc. (applicant's representative), dated December 21, 2005.
4. Off-Site Tree Mitigation Plan drawing (one sheet) prepared by Don Blayney & Associates, dated December 20, 2005.
5. Memorandum from Nichols-Berman and Live Oak Associates dated January 4, 2006 regarding the Off-Site Tree Mitigation Plan.
6. Letter from Tiburon Fire Protection District dated January 13, 2006.
7. Letter from Robert and Emily Heller dated January 17, 2006.
8. Excerpts from Open Space and Conservation Element.
9. Letter from Commissioner Collins dated January 5, 2006.
10. Letter from Marin County Open Space District dated January 3, 2006.
11. Letter from Marin Municipal Water District dated December 29, 2005.

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