

City of Lafayette Staff Report

For: City Council
By: Steven Falk
Niroop K. Srivatsa
Date Written: April 18, 2006
Meeting Date: April 24, 2006
Subject: **Palos Colorados Revised General Development Plan**

Purpose

To determine whether the revised Palos Colorados General Development Plan complies with the terms, conditions and intent of the 1999 Settlement Agreement.

Background

In October 1996, the Town of Moraga certified the EIR for the Palos Colorados project and approved a Conceptual Development Plan for 146 homes and a golf course. The 460-acre project is located off Moraga Road, immediately south of the Lafayette border. The City of Lafayette, concerned that the project's traffic, visual, grading and drainage impacts had not been fully mitigated, filed a Request for Reconsideration, which was approved by the Town of Moraga in December 1996. The project applicant, Richland Development Corporation, filed a lawsuit against the Town of Moraga, which was ultimately resolved with a Settlement Agreement in 1999. Lafayette was named a party to the lawsuit and became involved in negotiating the terms of the Settlement Agreement. This agreement modified the previously approved Conceptual Development Plan by reducing the number of lots from 146 to 123 and included conditions addressing Lafayette's concerns with the project. A copy of these conditions is attached (*Attachment 1*). The revised and approved Palos Colorados Plan, which is an exhibit to the Settlement Agreement, contains 123 single-family homes, an 18-hole golf course, a two-story clubhouse with attendant parking and facilities, a network of public trails and permanent open space.

In 2001, Richland submitted an application for General Development Plan approval from the Town of Moraga and began working with the City of Lafayette to address the conditions of the Settlement Agreement. Richland also filed for permits with the Army Corps of Engineers, the California Regional Water Quality Board, and the U.S. Environmental Protection Agency. The response from these regional agencies indicated that changes to the project's design (including the elimination of the golf course) may be necessary to secure the permits.

In 2005, at the request of the Town of Moraga, Lafayette staff met with Richland's representative and Moraga staff to discuss an alternative design that would not include a golf course. Lafayette staff expressed initial concerns about the design because the Settlement Agreement did not anticipate that the golf course would be eliminated and furthermore required that funds from the golf course revenues be used in perpetuity to mitigate the project's traffic impacts on Lafayette and Lamorinda. However, Lafayette staff agreed to continue with the negotiations and offered an alternative mitigation package for Richland's consideration.

In February 2006, Lafayette staff was invited to another meeting with the Town staff and a new developer – Richfield Investment Corporation. Richfield indicated that given the regional agencies concerns about project's environmental impacts, it intended to file an amended application that did not include a golf course. Lafayette staff once again reiterated the need for the developer to come up with a proposal that would fully mitigate the project's impacts on Lafayette, consistent with the Settlement Agreement. The alternative mitigation package was discussed and there appeared to be consensus amongst all parties.

Revised General Development Plan

In March 2006, Richfield filed applications for revised General Development Plan and Tentative Subdivision Map approval with the Town of Moraga (Cover letter dated March 15, 2006 is attached as *Attachment 2*). Lafayette staff received copies of these applications in April. Upon initial review, Lafayette staff concluded that the applications could not be deemed complete because they lacked information required by the Settlement Agreement and ignored the negotiations that had recently taken place. A letter was sent to the Moraga Planning Director on April 13th requesting that the application be deemed incomplete until all the information required by the Settlement Agreement was provided (*Attachment 3*).

On April 14th, the Moraga Planning Director deemed the application incomplete, citing amongst other things, the failure to state how and when the developer would reimburse Lafayette for the funds it had spent improving the Moraga Road corridor. In her letter, the Planning Director also states that she intends to (1) find that the Revised Plan (i.e., without a golf course) is consistent with the Settlement Agreement and (2) process the Revised Plan as a General Development Plan and Vesting Tentative Subdivision Map application (*Attachment 4*). Given the limited time to appeal these decisions, Lafayette staff took the following steps:

1. Forwarded a letter to the Town of Moraga expressing disappointment that the developer has failed to accommodate any of Lafayette's interests in the revised Plan (*Attachment 5*).
2. Agendized this matter for the City Council's consideration on April 24, 2006.

Staff Comments

It is staff's belief that the revised and incomplete application does not comply with the terms, conditions and intent of the Settlement Agreement. The reasons for this conclusion are cited in the City Manager's letter (*Attachment 4*). If the Developer does not respond to this letter by Monday's City Council meeting, and due to the limited time to appeal, staff recommends that

the City Council exhaust its administrative remedies and otherwise consider the full range of tools and options available to compel the Developer to comply fully with the terms and intent of the Settlement Agreement.

Recommendation

Review and discuss.

Attachments

1. Exhibit 2 of the Settlement Agreement and Revised Palos Colorados Map
2. Cover letter to the revised application from Richfield dated March 15, 2006
3. Letter to Moraga dated April 13, 2006
4. Letter from Moraga to Richfield investment Corporation dated April 14, 2006
5. Letter from Steven Falk, Lafayette City Manager to the Town of Moraga dated April 20, 2006