

PLANNING COMMISSION STAFF REPORT

DATE: September 14, 2006 for the September 18, 2006 MEETING

ITEM: IX.A.

SUBJECT: STUDY SESSION – GENERAL DEVELOPMENT PLAN (GDP) AND RELATED APPLICATIONS FOR THE PALOS COLORADOS PROJECT SUBDIVISION 8378 Richfield Investment Corporation (Applicant), Bigbury Company (Owner)

The Palos Colorados project is a 123-lot residential subdivision on a 460-acre site in the Town of Moraga just south of the City of Lafayette. Earlier this year, the Town of Moraga authorized the processing of this project without a golf course as a General Development Plan (GDP) application in accordance with the Moraga Municipal Code and project Settlement Agreement. This study session will focus on the revised plans, the Moraga Open Space Ordinance (MOSO) and Non-MOSO open space conditional use permit applications, upcoming environmental review and Golf Course Operation Municipal Fund.

REQUESTED ACTION:

Receive a report from staff regarding the revised applications for the Palos Colorados residential development project and request additional information from staff as appropriate. Receive a presentation from the applicant and questions or comments from the public.

PROJECT STATUS:

On August 21 and September 5, 2006, the Town of Moraga Planning Commission conducted study sessions on the revised Palos Colorados submittals. This staff report and study session continues the on-going analysis of this project.

At the City Council meeting of May 24, 2006, the Town of Moraga determined that the Palos Colorados Project General Development Plan and Vesting Tentative Map application were in substantial compliance with the 1999 Palos Colorados Settlement Agreement and that Richfield may proceed with the processing of its application without the golf course. As indicated at the Council meeting and in prior written correspondence to Lafayette and Moraga, Richfield indicated that it intended to honor its obligations under the Settlement Agreement with respect to the payment of the Golf Course Operation Municipal Fund and that it would make the parties whole under the Settlement Agreement notwithstanding the proposed elimination of the golf course.

Accordingly, in response to comments from Lafayette and the Moraga Town Council, the Council directed Richfield to provide information through the application process regarding how it intends to honor its obligations under the Settlement Agreement with respect to the payment of the Golf Course Operation Municipal Fund. Following the Council's determination that the General Development Plan and Vesting Tentative Map applications may proceed without the golf course, Town Staff requested that Richfield provide an expert analysis for calculating the Golf Course Operation Municipal Fund in

order to respond to Moraga and Lafayette's request for further information regarding the estimated amount of the fund.

Pursuant to the Council's direction and in accordance with Town Staff's request for documentation as to the calculation of the Golf Course Operation Municipal Fund, Richfield retained Sydney Firestone, Director in the Forensic & Dispute Services practice of Deloitte Financial Advisory Services and Douglas Main, a specialist in the valuation of golf course ventures, to calculate the estimated amount of the Golf Course Operation Municipal Fund in accordance with the Palos Colorados Settlement Agreement.

The results of this analysis are contained in the "Richfield Investment Corp. Palos Colorados Golf Course Fee Calculation Analysis Expert Report of Sydney M. Firestone" which is attached as Exhibit 1-091806. The analysis provides an overview of the calculation methodology, the projected number of golf course rounds, the determination of the start date of payment and the yearly payment per round based on the agreement. Based on this information and certain assumptions, Deloitte calculated the combined annual payments to Moraga and Lafayette. In order to come up with a lump sum payment, the analysis applies a standard present value or discounting factor. Based on the analysis, Deloitte estimated that a total lump sum payment would be \$2.0 million to be shared equally between Moraga and Lafayette at 50,000 rounds of play per year or \$2.2 million at 55,000 rounds per year.

The Town of Moraga has retained an independent third party peer review consultant to evaluate the Deloitte analysis submitted by Richfield. The results of that independent review will be forthcoming prior to the next Planning Commission meeting on October 2nd. One purpose of the Study Session is to provide the Planning Commission and public with the opportunity to provide comments and ask questions regarding the analysis submitted by the applicant.

No Planning Commission decisions are required at this meeting. Public input is welcome.

PROJECT HISTORY:

On September 24, 1996, the Town of Moraga Planning Commission adopted Resolutions 20-96 and 21-96 approving a 146-lot single-family residential development with an 18-hole golf course on a 460-acre site in the Town of Moraga. On October 3, 1996, the City of Lafayette, Sierra Club, and others appealed the decision of the Planning Commission. On October 30, 1996, the Moraga Town Council denied the appeals and adopted resolutions 41-96 and 42-96 approving the 146-lot residential golf course Conditional Development Plan (CDP).

The City of Lafayette thereafter filed a Request for Reconsideration of the project, which was approved by the Town Council on December 19, 1996. The project applicant and property owner, Richland Development Corporation and Bigbury Company, filed a lawsuit, which was ultimately resolved with a Settlement Agreement in 1999.

The Settlement Agreement modified the previously approved CDP by reducing the number of lots from 146 to 123. The 123-lot configuration was depicted in Exhibit 1 to the July 21, 1999 Settlement Agreement. In effect the July 21, 1999 Settlement Agreement Exhibit 1 became the revised CDP by way of the Settlement Agreement.

CURRENT PLANNING COMMISSION CONSIDERATION:

This report provides further analysis of the proposed project. Attached as Exhibit 2-091806 is a copy of the final EIR for the original 146-lot project. At some point in the future the Town will need to adopt an addendum to the EIR to address the project refinements. The Planning Commission will need to consider the original EIR when it acts on the addendum, so by providing a copy of the document to the Planning Commission at this time, the Planning Commission will have plenty of time to read the EIR prior to action on the addendum.

Attached as Exhibit 3-091806 is a copy of the revised General Development Plan and Vesting Tentative Subdivision Map for the project. The GDP has been revised to relocate one lot that the planning staff had concern for from a visibility perspective. Lot 41 has been divided into two lots (41 and 42) and lot 42 has been removed from its prior location to minimize visual impacts. With this change, staff is satisfied that the proposed lot locations pose no new adverse visual impacts. The revised GDP also calls for a reduction in lot sizes for the MOSO lots closest to Lafayette. While these lots were previously proposed to be covered by a conservation easement, now the lots sizes have been reduced and the conservation easement area covers open space land.

Exhibit 4-091806 includes draft resolutions for all of the conditional use permits for the open space lots. Moraga Municipal Code Sections 8.52.040 and 8.52.110 require the issuance of a conditional use permit for a single-family residence in MOSO or Non-MOSO open space. Furthermore, Moraga Municipal Code Sections 8.52.050 and 8.52.130 requires the establishment of precise site standards for development at the time the Planning Commission approves the issuance of a conditional use permit for residential development in MOSO. These site standards are to include lot area, frontage, front, side and rear setback, building height and site coverage. Each draft resolution prescribes the precise site standards for each lot.

While no Planning Commission decisions are called for at this meeting, ultimately the Planning Commission will be required to make a determination as to whether or not the revised project applications are in substantial compliance with the Settlement Agreement and prior Town approvals. This includes a decision on the Golf Course Operating Municipal Fund. Once the Town receives its peer review of the applicant's consultant's analysis, the Town will be in a better position to determine whether or not the proposal is in substantial compliance with the Settlement Agreement.

RECOMMENDED PROCEDURES FOR THE MEETING:

Staff recommends that the Planning Commission:

1. Hear the staff presentation;
2. Ask questions of staff;
3. Receive a presentation from the applicant;
4. Ask questions of the applicant;

5. Receive public testimony;
6. Close the study session.

ATTACHMENTS:

- EXHIBIT 1-091806** Golf Course Fee Calculation Analysis
- EXHIBIT 2-091806** Environmental documents including the:
Draft EIR dated June 7, 1994
Draft EIR Technical Appendices dated June 7, 1994
Final EIR dated February 28, 1995
Modification to the EIR dated April 21, 1995
Second Modification to the EIR dated January 19, 1996
Town Council Resolution 41-96
- EXHIBIT 3-091806** Revised plans
- EXHIBIT 4-091806** Draft resolutions

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