Exhibit A

Correspondence Regarding Visual Impacts

EXHIBIT A

Correspondence regarding visual impacts

Attached are several documents regarding compliance with conditions C.VTM.37 and C.GDP.2-R-VTM.

C.VTM.37 requires that the Applicant demonstrate that the rooflines of homes on Lots 22 through 27, E, F, G and 29 do not protrude above the elevations of the existing skyline behind them as viewed from the platform of the Lafayette BART Station.

Compliance with this condition was analyzed by the City of Lafayette and it was determined that the roofline breaks the horizon. However, with respect to each lot, this condition is obstructed by background vegetation so it does not appear to break the horizon when viewed from the platform of the Lafayette BART station. For this reason, staff recommends that the project as proposed is in compliance with the condition of approval. The City of Lafayette recommends further grading so that the actual roofline does not break the horizon. Staff does not agree with this recommendation because the condition is substantially satisfied by the fact that the horizon does not appear to be broken when viewed from the Lafayette BART station due to the location of background vegetation. Given that the Moraga General Plan expresses a preference for less grading, staff does not concur with the Lafayette recommendation that the site be further graded to prevent the roofline from breaking the horizon.

Condition C.GDP.2-R-VTM requires that the Applicant demonstrate compliance with the limitations on building height set forth in this condition. Again this condition was analyzed by the City of Lafayette for lots 13, 14, 15,16 and 83 and it was determined that the proposed building heights are in compliance with the condition of approval.

With respect to lot 106, however, the applicant is proposing a condition of approval that calls for the installation of story poles and verification that the residence is not visible from the Lafayette BART station prior to the issuance of a building permit for the particular lot. This condition is necessary because the lot is currently visible from the station but may not be in the future after screening landscaping has had an opportunity to mature and a site sensitive residential design has been proposed. This new condition is necessary because Condition C.GDP.2-R-VTM requires screening landscaping or modifications to the design of the residence to fully mitigate the visual impact if the proposed residence is visible from the Lafayette BART station which it currently would be.

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January 5, 2009

Ms. Lori Salamack, Planning Director
Town of Moraga Planning Department
329 Rheem Boulevard
Moraga, California 94556

Re: Palos Colorados Precise Development Plan

Dear Lori,

We understand that the Town of Moraga ("Moraga") Planning Commission will be considering the proposed Palos Colorados Precise Development Plan ("Project") at its upcoming meeting of February 2, 2009. In anticipation of the February 2nd Planning Commission meeting, on behalf of my client, Richfield Investment Corporation ("Richfield"), the purpose of this letter is to supplement our September 10, 2008 letter addressing prior comments from the Planning Commission and Design Review Board (DRB). This letter also incorporates our November 7, 2008 responses to prior comments from the City of Lafayette ("Lafayette") regarding the Precise Development Plan and documents Richfield's proposal to address Lafayette's comments concerning Lot 106.

Our letter dated September 10, 2008 to you and the Town documents Richfield's position concerning the traffic signal at the Moraga Road/Project Access, the public facilities at the private pocket park and hiking trail, the design of the entry bridge, and the mailbox clusters. Following submittal of our September 10th letter Richfield submitted the attached letter to the Postmaster regarding the alternate 6-location mailbox clusters and the proposal was acceptable based on the Postmaster's cursory review. (See **Exhibit 1**). As to the remaining items, all other points addressed in our September 10th continue to apply with the exception of the items noted below.

Photosimulations and Landscaping of Lot 106

We understand that you have requested that we update the Planning Commission regarding the photosimulations from the Lafayette BART station platform. Despite numerous efforts over the past year to address Lafayette's concerns regarding the BART viewshed photosimulations, the City of Lafayette informed Richfield in its November 3, 2008 Staff Report

for the November 10th City Council meeting regarding the Palos Colorados Precise Development Plan: *Compliance with the Conditions in the Settlement Agreement relating to visual impacts* that the City continued to have several concerns regarding the photosimulations. In response to Lafayette's comments, our letter dated November 7, 2008 to Ms. Niroop Srivatsa explained how Palos Colorados Precise Development Plan complied with the 2007 Palos Colorados Settlement Agreement and the associated General Development Plan (GDP) and Vesting Tentative Map (VTM) (see **Exhibit 2**).

Following the City Council meeting, Richfield proposed that Moraga consider approving the Precise Development Plan with a condition deferring the building permit for Lot 106 (see email to Lori Salamack from Debi Chung dated November 18, 2008). As part of this condition, Moraga would require a photosimulation when the screening landscaping has matured sufficiently to screen the views. In that way, the photosimulations would represent actual landscaping conditions. Because the 2007 Settlement Agreement does not actually specify a time for completion of the photosimulations, deferral of the photosimulations until a later time when the landscaping has matured would provide a more accurate representation of the views. Richfield's proposal obviates Lafayette's requests for additional conditions including the need for the landscaping mitigation plan to be included in the PDP, the deed restriction, the landscape maintenance agreement and the condition regarding the timing of landscape installation as set forth in the November 3rd Staff Report for the November 10th City Council Meeting.

Notwithstanding Richfield's proposal, Lafayette suggested that a Landscape Maintenance Agreement also be required in conjunction with the approval of the Precise Development Plan because of an alleged concern that following building permit issuance someone might remove the landscaping. In response, Richfield believes is premature and unnecessary to enter into a Landscape Maintenance Agreement at this point in conjunction with the approval of the Precise Development Plan because Richfield is willing to defer obtaining a building permit on Lot 106 until the critical trees that are needed specifically for screening have matured irrespective of the number of years it takes for the landscaping to mature. At the point when the critical screening trees have matured and are determined to adequately screen Lot 106 from views (to be demonstrated in a photosimulation and /or a tree survey depicting the actual landscaping condition), the Town would have substantial information identifying the actual planted tree locations prior to issuance of the Lot 106 building permit. Only at that time, would it be appropriate to record a Landscape Maintenance Agreement for only those trees needed for landscape screening mitigation prior to Richfield obtaining a building permit. To enter into a Landscape Maintenance Agreement at this point in time creates more confusion because:

1) Richfield would not be able to precisely identify the trees that would provide the actual screening of the home on Lot 106 which would most likely be a custom home lot;

2) Richfield has not obtained the USFWS Biological Opinion which could conflict with or impose additional requirements for Open Space Management on common area lots; and

3) Moraga retains the opportunity to review the landscaping prior to issuance of a building permit on Lot 106.

For these reasons, we believe that it is unnecessary to condition the Precise Development Plan on a future Landscape Maintenance Agreement when Richfield has effectively proposed to defer the building permit for the residence on Lot 106. This recommended solution complies with the Palos Colorados General Development Plan, the Vesting Tentative Map, the 1999 Palos Colorados Settlement Agreement and the 2007 Settlement Agreement.

We appreciate your consideration of our letter and prior correspondence with Moraga and Lafayette in response to the questions raised at the prior Commission and DRB meetings. We are prepared to respond to any questions concerning the matters set forth above. We look forward to the Planning Commission's approval of the proposed Palos Colorados Precise Development Plan at its upcoming meeting of February 2, 2009.

Please feel free to contact myself or Debi Chung if you would like to discuss this further. We appreciate your consideration of this request.

Sincerely yours,

BRISCOE IVESTER & BAZEL LLP

Alicia Guerra

cc: Margaret Goglia, Chair and Members of the Planning Commission
Michelle Kenyon
Rick Sabella
Debi Chung