TOWN OF MORAGA
PLANNING COMMISSION MEETING

La Sala Building, Hacienda de las Flores — March 16, 2009
2100 Donald Drive
Moraga, CA 94556 — 7:30 P.M.

MINUTES

I. CALL TO ORDER

Vice Chairman Whitley called the Special Joint Meeting of the Planning Commission and the Design Review Board (DRB) to order at 7:30 P.M.

ROLL CALL

Planning Commission

Present: Commissioners Daniels, Driver, Goglia, Levenfeld, Obsitnik, Socolich, Vice Chairman Whitley
Absent: None

Design Review Board

Present: Boardmembers Kuckuk, Murray, Sayles, Chair Kline
Absent: Boardmember Glover

Staff: Lori Salamack, Planning Director
Richard Chamberlain, Senior Planner
Jill Mercurio, Town Engineer
Rob Rees, Fehr & Peers
Rafael Mandelman, Town Attorney's Office

B. Conflict of Interest

There was no reported conflict of interest from either the Planning Commission or the DRB.

II. ADOPTION OF MEETING AGENDA

Planning Commission

On motion by Commissioner Goglia, seconded by Commissioner Obsitnik and carried unanimously to adopt the meeting agenda, as shown.

Design Review Board

On motion by DRB Chair Kline, seconded by Boardmember Murray, and carried unanimously to adopt the meeting agenda, as shown.

III. ANNOUNCEMENTS

Planning Director Lori Salamack announced that she had distributed a copy of a notice for an upcoming Joint Meeting of the Planning Commission and the Design Review Board on March 26 regarding the Moraga Center Specific Plan and the update to the Housing Element. Copies of the announcement were available in the chambers and would also be posted on the Town's website. She explained that the Town Council was interested in having the Specific Plan and the Housing Element processed as soon as possible.

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IV. PUBLIC COMMENTS

Linda Deschambault, Moraga, repeated what she had offered at the last meeting given that Allen Sayles was currently available with respect to bright lights from the garage of the building at 533 Moraga Road, detracting from the scenic corridor.

Mr. Sayles advised that he had read the minutes from the prior meeting and noted in response that he had eliminated three quarters of the lights.

V. ADOPTION OF THE CONSENT CALENDAR

A. None

VI. CONTINUED PUBLIC HEARINGS

A. SUB. 8376 - PALOS COLORADOS - Richfield Investment Corporation (Applicant), Bigbury Company (Owner): Consideration and approval of the Precise Development Plan for the 123-lot Palos Colorados residential development project. The project is located on a 460-acre site with access from the east side of Moraga Road and 600 feet south of Sky-Hy Drive adjacent to the City of Lafayette. The Precise Development Plan is the third step in the three step process for approval of a Planned Development in the Town of Moraga. On May 7, 2007, the Planning Commission approved the Vesting Tentative Subdivision Map (VTM) and Hillside Development Permit for the Palos Colorados project. The property is zoned 1-DUA (One Dwelling Unit Per Acre) and OS-M (Open Space-MOSO [Moraga Open Space Ordinance]). APNs 256-370-004, 005, 006, 007 and 008

Planning Director Salamack advised that the Planning Commission and the DRB had been considering the application for several weeks. She introduced those who were present to respond to any comments from the combined body including Rob Rees of Fehr & Peers who could respond to the question of the signal.

Ms. Salamack clarified that there was no requirement for the Town to address or resolve the signal issue at the Precise Development Plan (PDP) stage. It was required to be addressed prior to the occupancy of the 51st residence. She added that Jill Mercurio, the Town Engineer, was present to speak to light standards and to the Town's standard specifications.

Ms. Salamack referred to the staff report and the attempt to address the issues that had been raised by the Planning Commission and the DRB at the last joint meeting on February 23. She noted that one of the issues of interest was the floor area calculation and the theoretical floor area ratio (FAR) for lots greater than 20,000 square feet. She explained that the formula had been developed to accommodate lots up to 20,000 square feet and slightly larger given its declining nature, which information had also been included in the materials offered to the Commission and the DRB for review.

Ms. Salamack advised that Condition B.PDP.C.VTM.39 as shown on the bottom of Page 15 of the draft resolution should have been relocated in the resolution although it had not. It would now be known as Condition D.PDP.C.VTM.39.

Ms. Salamack added that there were a fair number of corrections needed to the minutes of February 23 which was why the minutes had not been placed on the agenda. She stated that corrections had to do with names of speakers as opposed to substantive issues related to the minutes. The minutes would be offered at a future agenda.

Alicia Guerra, Briscoe Ivester & Bazel LLP, representing the applicant, Richfield Investment Corporation, introduced some of those who would represent the applicant at this time including; Rick Sabella and Debi Chung from Richfield Investment Corporation; Scott Rivers of Robert Hardy Architects; Tom Skinfeld of MTL regarding landscaping; David Franke of DK Consultants; Malcolm Sproul of LSA; and George Nicholson of Omni Means who would speak to the traffic signal and the feasibility of the pedestrian crossings.

Ms. Guerra stated that all of the comments had been addressed in a letter to Ms. Salamack dated March 4, 2009. The letter had addressed the points raised in the joint hearing from both the Planning Commission and the DRB. She commented that the March 4 letter demonstrated how far Richfield Investment Corporation was willing to go to address all of the comments and concerns.

Speaking to the green building issue, Ms. Guerra stated that the PDP was in substantial conformance with the General Development Plan (GDP). She explained that Richfield Investment had attempted to incorporate all of the GDP conditions of approval to the extent they applied to the PDP, and had also incorporated voluntary commitments that Richfield had agreed to at the time of the GDP approval.

Ms. Guerra noted, for instance, that there had been comments submitted by members of the public to which Richfield had agreed in a May 1, 2007 letter to incorporate all the requested voluntary mitigation measures into the project. She also referred to a comment letter from Susan JunFish that was an update to the April 2007 letter.

Ms. Guerra clarified that the PDP was the final step for implementing the GDP and the final step for incorporating all of the conditions of approval from the GDP. The PDP also included the site plan, the landscaping plans, and the engineering plans and in this case plan prototypes for eight plan types which would be the building plans that the Moraga Municipal Code (MMC) contemplated for a PDP. Also included was Chapter 3 of the Palos Colorados Design Guidelines to provide further specificity regarding the landscape guidelines. She understood that staff had recommended a fit matrix for siting the plan prototypes which would also be reviewed by the joint body. She reported that Richfield Investment agreed with all of those conditions.

Scott Rivers, Studio Director, Robert Hardy Architects, offered a PowerPoint presentation and clarified some of the architectural topics that had been raised at the last meeting. Referring to Condition A.VTM.11 which stipulated that the custom residences would require DRB approval, he noted that for the semi-custom residences DRB approval for the prototypes was being requested at this time.

Mr. Rivers presented an overview of the site to identify the location of the custom and semi-custom residences. He referred to 17 MOSO lots, one special permit lot (Lot 106) and three non-MOSO Open Space lots at the entry which would all be custom lots. He also referred to lots over 20,000 square feet in size and lots under 20,000 square feet in size. He stated that the semi-custom prototype plans could be used for any of the non-custom lots.

Mr. Rivers emphasized the desire to offer flexibility to prospective homeowners to allow a custom or semi-custom prototype home. He stated that eight prototype homes had been proposed, each with three elevation styles that would add diversity to the community. In addition, the custom home and the large Plan 7 that had previously been discussed would still require individual DRB review and approval for siting and landscape design.

With respect to the Palos Colorados Design Guidelines, Mr. Rivers stated that a question had been raised as to the difference between the Palos Colorados and the Town Design Guidelines. He explained that the purpose of the guidelines was to guide prospective homeowners, whether for custom or semi-custom homes, to offer instructions as to the architectural aesthetic, landscape site architectural issues as well as identifying some of the conditions of construction.

In every case, Mr. Rivers stated that the Palos Colorados Design Guidelines either complied with or exceeded the Town of Moraga Design Guidelines.

Mr. Rivers stated with respect to green building practices, another issue that had been discussed at length, that green building practices had been incorporated into the PDP. He explained that the project had always included green building practices and the applicant had offered to make reasonable efforts to achieve a 90 point Build It Green rating. He noted that in the past a 60 point rating had been proposed. He emphasized that a 90 point rating represented a way to achieve the individual specifications.

Regarding the DRB conditions, Mr. Rivers agreed that the standard DRB conditions would apply to all semi-custom plan prototypes as far as issuing building permits for the semi-custom residences as outlined in Section J of the resolution.

In response to comments from members of the DRB, Mr. Rivers stated that in images and text the applicant had outlined what was expected in terms of colors and materials for the semi-custom homes. To inspire people with custom homes, he referred to pages from the Palos Colorados Design Guidelines defining the palette of colors and materials intended to be used on the homes in the interest of diversity while maintaining consistent community expression.

Tom Skinfeld spoke to the comments related to the common area landscaping regarding irrigation, driveways, retaining walls, street lighting, trails, access parking and the like, all of which had been addressed in previous submittals or in the most recent letter of March 4, 2009. With respect to the landscaping plans, he stated that all the plans would have to comply with the Town's Design Guidelines. He stated that native, non-invasive, drought tolerant plants would be used with a mix of Mediterranean plants. Tree and shrub species from the Town's suggested plant palette had also been proposed to create a high quality, aesthetically subdued, user-friendly but site compatible design. There would also be a desire to enhance the accessibility of open space with public trail, trailheads, and access parking.

Speaking to the preliminary landscaping, Mr. Skinfeld stated that the Town still had the opportunity to review and make comments on the common area landscaping through the detailed landscape plans to be subject to DRB approval prior to the issuance of the grading permit.

Mr. Skinfeld reported that the PDP landscape scheme was primarily geared to minimize water use and provide a natural looking wet band landscape between homes and natural areas, which was also part of the fire requirement. The proposal complied with all Moraga-Orinda Fire District requirements.

Responding to prior comments with respect to the irrigation and water system, Mr. Skinfeld stated that the irrigation was based on fresh water but could be retrofitted to utilize reclaimed water subject to the Town's extension of a reclaimed water line by two miles to the site. He explained that bioswales had been incorporated to handle runoff and drainage from both the individual lots and from the streets, had maintained the natural features of the site such as ridgelines, ponds and watercourses, preserved sensitive biological areas, would comply with the mitigation measures for any replanting to repair any sensitive biological areas and would utilize native plants and trees.

Mr. Skinfeld offered a presentation of the plant materials to be used that had previously been provided to the DRB to clarify the details of the planting plan. He re-identified the street trees to be used as well as the shrub palette, with a background of the more reliable Mediterranean plants. Some of the disturbed areas would be reseeded with native grasses. Corridors used by wildlife would have native grasses and wildflower mixes.

To the question of permeable driveways and whether or not driveways could be designed with permeable pavers, Mr. Skinfeld stated that could not be done given that the civil engineers had confirmed that the site was unsuitable for permeable pavers given the storm water infiltration and clay soils and the fact that stormwaters were required to be collected and directed into the storm drain system. He added that the project met the strict requirements of Contra Costa County and the Regional Water Quality Control Board.

With respect to retaining walls, Mr. Skinfeld referred to the engineered retaining walls at the back of some of the lots and landscaping retaining walls which had been used at the pocket park and at the entry. He characterized the landscaping retaining walls as decorative, a maximum of two to three feet high, designed to pick up a bit of grade to create a grade elevation difference visually.

Mr. Skinfeld referred to the trails, trail width and materials, and stated that the trails had previously been submitted with the PDP engineering plan and Exhibit B to the March 4, 2009 letter.

As to whether or not pedestrian access could be provided to Campolindo Drive, Mr. Skinfeld stated that could be done. He noted that a pedestrian traffic signal at this time was not warranted given the lack of projected pedestrian volume. He explained that Campolindo Drive had a pedestrian access, provided safe pedestrian sidewalk access and a protected crossing at Moraga Road via the existing signal at the Campolindo intersection. He advised that the report by the traffic engineer had indicated there was no need for a traffic signal at the project entry and Moraga Road based on both the traffic count and pedestrian volume.

Mr. Skinfeld requested that the Commission approve the PDP.

PUBLIC HEARING OPENED

Linda Deschambault, 2066 Donald Drive, Moraga, commented that she did not have a copy of the March 4, 2009 letter and asked for a clarification of some of the details included in that letter. Referring to her comments at the February 23 joint meeting of the Commission and the DRB, she had requested that the size of the homes be addressed. She had also asked why the proposed homes would be larger than the 1999 Settlement Agreement that indicated that the homes would be between 2,800 and 4,800 square feet, and noted the reference to language that had been added that if the applicant was now allowed homes in excess of 5,000 square feet the Town could lose half a million of the $17.5 million promised by the developer. She asked for a clarification of that language and wanted to place an upper limit on the size of the homes more consistent with the 1999 Settlement Agreement without jeopardizing the half million dollars.

Ms. Deschambault stated that the issue of square footage and whether or not the garage had been included in that square footage had also been discussed. She asked for a clarification from the Town Attorney of that situation and whether or not the square footage of the garage would be included in the maximum square footage allowed for the residences.

With respect to affordable units, Ms. Deschambault referred to the 30 secondary units that had been added to allow the Town to meet its affordable housing requirements. Since those 30 units would not likely meet the Town's affordable housing requirement and would instead be considered as moderate units, which the Town did not need, she asked that the 30 secondary units be eliminated from the plan.

Ms. Deschambault stated with respect to green building that there should be some language included to verify the applicant's willingness to meet a 90-point rating under the Build It Green Program. While not able to go back to implement new guidelines, she suggested it was possible to get into some specifics of what was desired at this time, such as all the houses had triple pane windows and all the houses included drought tolerant plants. She took this opportunity to provide a 2003 press release from a homebuilder in Palo Alto related to green building practices.

Ms. Deschambault presented copies of her comments to the joint body at this time.

Bill Durkin, 10 Fieldbrook Place, Moraga, spoke to the environmentally sensitive issues that had been raised at the last meeting and the applicant's willingness to conform to a 90-point rating under the Build It Green Program. He suggested that the project would be marketable with the inclusion of Build It Green features. He emphasized the importance of a sustainable project.

Linda Deschambault asked the Town Engineer to verify whether or not permeable concrete for driveways could be used in the development.

REBUTTAL:

Ms. Guerra stated with respect to the size of the homes that the 1999 Settlement Agreement had allowed for homes 2,800 to 4,500 square feet but did not preclude homes larger than that. She explained that when the Planning Commission had approved the GDP in 2007, it had found the GDP to be in substantial conformance with the Settlement Agreement. One of the conditions of approval of the GDP was to allow for homes up to 5,000 square feet in an effort to address the Town Council's request for the installment to address the loss of the golf course revenue associated with the elimination of the golf course.

Ms. Guerra commented that if the Town decided that a 2,800 to 4,500 square foot home was a fixed constraint, there were plan prototypes that could accommodate that constraint. Plan prototypes had been proposed for the semi-customs greater than 5,000 square feet because that was what the GDP and the conditions of approval of the GDP had contemplated. She stated that whatever the Planning Commission and DRB preferred with respect to the house sizes could be accommodated based on the plan prototypes and the fact that custom homes would require DRB review and approval when there could be smaller homes or larger homes.

As to the issue of whether or not the square footages in the plan prototypes included garages and the secondary units, Ms. Guerra stated that because the 1999 Settlement Agreement expressly stated that garages should not be calculated in the square footage, the PDP did not include garages in the square footage. With respect to the in-law units, she noted that some of the plan prototypes were as large as they were because they did include square footage that would allow for conversion of the guest suites to a secondary unit if that was requested, on a first-come, first-served basis for the 30 secondary units that had been allowed.

Mr. Rivers noted that there was also the option of eliminating the guest suite to reduce the mass of the building.

In terms of accommodating affordable units, Ms. Guerra stated that the secondary units were designed to be whatever was considered to be affordable for Moraga. The developer could not impose a restriction that all the units be very low income units. She stated if the Town wanted the units to be very low income that would have been included in the conditions at the time of approval of the GDP.

Ms. Guerra emphasized that Richfield was attempting to accommodate the interest for secondary units should that be the case and should it facilitate the Town's efforts in meeting its affordable housing requirements. The secondary units would be allowed in the semi-custom and the custom homes.

Speaking to the fact that the developer had voluntarily agreed to a 90-point rating under the Build It Green Program, Ms. Guerra stated that a minimum 60 point rating had been confirmed in the plan prototypes and everything else would be done to accommodate a 90 point rating.

Mr. Rivers emphasized that it had been acknowledged in the discussion at the last meeting that the Town's current green principles were not specific enough and the applicant was trying to make an effort to add specificity. In previous letters in 2007 and this year, the applicant had always made an effort to be specific in its direction.

Ms. Guerra stated that had also been included in the Palos Colorados Design Guidelines so that homeowners understood what needed to be done in order to accomplish a 90 point rating.

With respect to the comments related to addressing environmentally sensitive issues, Ms. Guerra stated that Richfield Investment had made every effort to address concerns requested by the public, by the agencies and by the Town. She suggested that the PDP had incorporated all of those issues and demonstrated substantial conformance with the GDP.

Mr. Skinfeld also advised in response to remarks that the plant palette at this time was all drought tolerant planting, whether Mediterranean or native. .

PUBLIC HEARING CLOSED

Vice Chairman Whitley asked about the ability to utilize Permacrete, a permeable concrete for the driveways as earlier requested.

Ms. Salamack expressed her understanding that Permacreate was not banned in Moraga per se although it was not appropriate for use in certain soils conditions. In this case the geologist had indicated that it was inappropriate at the current location because of the clay soils.

Commissioner Levenfeld asked about the secondary dwelling units and the fact that they had been calculated in the square footage of the homes given her understanding that the square footage included either a secondary dwelling unit or a guest suite.

Ms. Salamack advised that on the prototypes themselves the square footage had been identified for the potential secondary dwelling units since the area could be a secondary unit. She stated that the square footage of the homes and the square footage of the secondary dwelling units had been identified where it was appropriate to do that for the prototype. When shown what Commissioner Levenfeld had referenced she clarified that the reference was to the habitable area which would include the secondary dwelling units. There had also been descriptions of the prototypes included in that staff report

With respect to the signalization, Commissioner Levenfeld verified that a decision did not have to be made on the signal at this time given that it would come up later. She asked, however, if it was appropriate to offer direction related to the signal at this time.

Ms. Salamack noted that there may be conditions which could change between now and the 50th residence in which case the Town may have to reserve judgment as to whether or not to have the signal installed. She stated that if forgiving the installation of the signal at this stage it could not be required in the future. From a professional engineering perspective, she suggested that the engineer would have the knowledge of whether or not to advise the Town to wait on the signal.

Ms. Salamack stated that if there was additional development in Lafayette or Moraga there might be circumstances before the construction of the 50th residence that the signal might need to be installed at the developer's expense and not at the Town's expense. She stated that Mr. Rees was very familiar with the potential for development in those areas.

Rob Rees, Fehr & Peers, explained that the vehicle volumes coming in and out of the private driveway were not the concern per se. The concern that he had was that there would be a park and ride lot which implied transit along the corridor which had Contra Costa County Transit Authority (CCCTA) buses, and with the park and ride lot someone could get onto the bus and access the Lafayette BART Station.

When returning, those commuters would have be dropped off and have to cross Moraga Road at a location he pointed out on the map. In addition, people who lived in the area might like to walk down Moraga Road and at some point would have to cross the street.

Mr. Rees stated that his concern was not so much for automobile traffic but for the fact that amenities had been introduced that could attract people across the street. In his opinion, a safe environment would have to be developed for those people to cross the street.

One solution consistent with some of the previous studies that talked about signalization would be a traffic signal with crosswalks and pedestrian signals.

Vice Chairman Whitley clarified that the concern was that signalization tended to make Moraga with its rural character into more of a City with streetlights on every corner. He noted that there was a solution for pedestrians farther down Moraga Road in Lafayette with a pedestrian crossing and warning lights. He asked if that would be a sufficient pedestrian solution for that intersection.

Mr. Rees stated that there would be a variety of pedestrian crossing treatments that could be considered ranging from the very minimum crosswalks in the road up to a pedestrian traffic signal. He suggested that the best solution would be an overhead flashing beacon that would turn on when a pedestrian pushed the button which would allow drivers coming up and down Moraga Road to be warned of pedestrian crossings. He would not place pedestrian flashers at the location because of the curve and grade and a lack of visibility at that location. He suggested that an overhead sign with flashing yellow lights would be sufficient.

Commissioner Levenfeld verified therefore that the reason the final decision on the signal had not been recommended was that it could jeopardize the options down the line if the factors were to change.

Commissioner Obsitnik referred to Page 31 of the draft resolution and the statement that the applicant had the opportunity to demonstrate that the signal was not required. He stated therefore that there was a way for the applicant not to provide the signal if it was not justified.

Ms. Salamack affirmed that was the case and explained that the applicant's engineer had indicated that the signal was not warranted. In terms of the Town's review of that engineer's report, there were other factors that the Town was considering and the Town was not ready to eliminate the possibility for the signal. She clarified that was a consultant recommendation. The determination would have to be made by the Planning Commission.

Ms. Salamack clarified that the signal was a condition from the original environmental document as a mitigation measure and the issue would return to the Planning Commission prior to the occupancy of the 50th residence. She further clarified that the signal had been required a number of years ago when the EIR had been approved. When the Vesting Tentative Map (VTM) had been approved two years ago the condition had been modified "That compliance with this condition will be required prior to occupancy of the 50th residence unless the applicant can demonstrate that installation of the signal is not required due to the elimination of the golf course." She reiterated that the Commission did not have to make a decision on the signal at this time.

It was recommended that the text be modified to show that the applicant would have to demonstrate to the Planning Commission that installation of the signal was not required.

Ms. Salamack clarified that the Traffic Safety Advisory Committee (TSAC) would have to approve the installation of the signal because it was required to review all traffic signal installations.

In response to Commissioner Obsitnik, Chairperson Goglia commented that vehicle and pedestrian traffic signals were both traffic signals. She suggested that the determination of what type of signal was desired be deferred to the occupancy of the 50th residence. She urged that the text be clear that the issue of the signal be reviewed by the Planning Commission and TSAC at that time.

Ms. Salamack clarified that the Town could not require the installation of a signal prior to the occupancy of the 50th residence. She suggested it was in the applicant's interest to not install the signal given the cost involved although the applicant might find that the operation of the intersection was better for Palos Colorados residents with the installation of the signal. She reiterated that the installation of any signal would require the prior review of TSAC. She suggested that if the signal did not work for the Town TSAC would not approve it. The installation of the signal would require TSAC's approval and a decision not to install the signal would require the Planning Commission's approval.

As to what would occur if the Town wanted to install the signal prior to occupancy of the 50th residence, Ms. Salamack stated that currently the applicant had to install the signal unless the Town decided no later than the occupancy of the 50th residence that the signal did not have to be installed.

Commissioner Levenfeld referred to the language in the document and suggested for purposes of clarity that the issue be better articulated with respect to pedestrian flow as opposed to traffic flow.

Vice Chairman Whitley noted his understanding that the condition was almost a direct quote from the environmental document. He suggested that the question was whether or not the language should be changed given that circumstances had changed in that there was now no golf course.

Ms. Salamack clarified that italicized text had been added by staff and approved by the Planning Commission to acknowledge that there was no golf course at the time of the VTM approval. The condition had been taken from the Conceptual Development Plan (CDP) and the conditions had been reorganized by section and time period for compliance. The language in italics had been added to indicate that the signal would be required prior to the occupancy of the 50th residence unless it could be demonstrated that the signal was not required.

Ms. Salamack added that the intent was that the applicant had to demonstrate to the Planning Commission that the signal was not required. Asked if those words could be added at this time, she suggested that could be done.

Ms. Guerra stated in the applicant's interest the applicant would like to know sooner rather than later if a signal would be required. She suggested that the concern at the time of the VTM approval was that a signal could hinder the traffic flow.

Vice Chairman Whitley expressed his preference not to have a traffic signal at the intersection given that it would be out of character with the Town and its infrastructure, quality of life, the way the roads in the Town flowed and the way the Town felt. Having more signal lights and traffic lights was counter to the semi-rural character of the Town. With respect to the traffic engineer's report and the pedestrian safety component, he stated protecting that was in character with the Town's family-oriented, child friendly Town, not necessarily a signal to stop traffic but a pedestrian friendly crossing which would have a lower visual impact on the scenic corridor.

Vice Chairman Whitley expressed a desire to stop consideration of a stop light at this time. He otherwise acknowledged that protecting the Town's interest to make the decision at a later point in time was valid. He did not think the character of the Town could change significantly to require a signal. He requested that the condition be modified to prohibit the installation of a low impact traffic signal to moderate pedestrian traffic.

Commissioner Socolich disagreed and suggested that the text as shown regarding the signal was fine. He asked the applicant if a path would be installed to connect the staging area to Campolindo Drive.

Ms. Guerra advised that the applicant had voluntarily agreed to do that with the understanding that installing the extension would be feasible.

Commissioner Driver also leaned toward leaving the language intact to keep the Town's options open. He sought more information from Town staff to assess the situation. He preferred that the Town made a recommendation as to what the intersection ought to look like.

Given his minority opinion, Vice Chairman Whitley suggested that the language be left as is or be modified.

Chairperson Goglia recommended a modification to the final sentence of Condition L3.3 as follows: "*The review by the Planning Commission and TSAC prior to the 50th residence occupancy shall consider both pedestrian and vehicular traffic.*"

By consensus, the Commission and the DRB accepted that modified language.

Commissioner Daniels referred to affordable housing and the comment that the Town had sufficient moderate income housing and an insufficient supply of low income housing. She asked for a clarification.

Ms. Salamack commented that was as yet unknown given that the update of the Housing Element had not yet been prepared. She noted that the Town Council at its last meeting had hired a Housing Consultant to work on the Housing Element update. She stated that providing lower income housing was more difficult to satisfy. She stated that Moraga had the opportunity in the Specific Plan to establish a default density of 20 dwelling units per acre which was considered by the State for low income housing. If the Town were to designate the requisite number of acres in the Specific Plan area at that density the low income units could be satisfied. She stated it may be possible that the Town would decide not to do that.

Commissioner Daniels questioned whether or not the Town had enough low income housing to satisfy its requirements. She did not see how the secondary units could be considered to be low income housing.

Ms. Salamack stated that the Town currently did not have a certified Housing Element and the units were not counted in any way at this time. The secondary units would be counted in the Housing Element Update that was being undertaken. She advised that one of the proposed secondary units was 480 square feet in size and it was possible the Town could demonstrate that similarly sized units in the Town could demonstrate that other units of similar size in the area rented for what would be considered a moderate income unit for one person. She clarified, however, that was unknown at this time.

In response to Commissioner Daniels and whether or not the Town could somehow provide affordable units contingent upon the approvals, Raphael Mandelman of the Town Attorney's office noted the difficulty in structuring a condition that would make sense and be enforceable.

Chairperson Goglia suggested that the Commission could stipulate that secondary units had to be demonstrably affordable or low income units. She asked how other communities met their affordable housing requirements when granting an applicant an increase in square footage beyond what would have been allowable in order to accommodate a secondary living unit with the idea that it would contribute to the Town's affordable unit requirement.

Mr. Mandelman was not certain how that could be demonstrated. As to how other communities addressed their affordable requirements, he referred to citywide or town wide inclusionary requirements and similar requirements imposed on particular projects. At this stage with the subject project, the request was not a condition because it did not seem to be immediately related to new information that would not have been available at the GDP.

Vice Chairman Whitley asked why secondary living units had been approved if they did no good.

Ms. Salamack advised that the secondary living units had been approved at the VTM stage when one of the findings had indicated that there would be secondary dwelling units in order to satisfy the Housing Element of the General Plan that there be a range of housing options provided.

Commissioner Driver suggested that aside from the affordable housing issue there were a number of reasons why secondary dwelling unit were considered to be a good addition to the Town. He expressed doubt that the units would result in affordable housing to the Town.

It was suggested in this case that the second unit would be in-law and grandparent units and there would not be a purchase of that unit per se. It was suggested that the units could be leased to Saint Mary's students or nannies, for instance.

Commissioner Levenfeld suggested that the secondary dwelling units would offset the demand for smaller units in the rest of the Town.

Mr. Mandelman explained that the obligation through the Housing Element process was not immediately to produce the affordable units but rather to create the planning conditions in which the affordable units could be created.

Ms. Salamack added that it was unknown how the State would evaluate the units. The Town was hopeful the units would be considered for at least moderate income units and the smaller units had the best chance of being so designated. She added that the Housing Consultant had advised her that if there were units that were occupied by family members, those would be the most affordable of all and could qualify for very low income units. She advised that the target was to submit the draft Hosing Element to the State after June 24, 2009. The State was allowed a two month review of the document, which would then be returned to the Town with comments and requested changes. She contemplated three public hearings and the return of the final document to the State by November 2009.

Commissioner Daniels suggested that the text be modified that the secondary units shall be approved subject to the State's approval as low or moderate income housing.

Mr. Mandelman explained that the State would not be approving the particular units as affordable housing, it would be approving a Housing Element that included the units as part of a menu of things that would result in the Town meeting its fair share obligations.

Given that the proposed prototypes included either a guest suite or a secondary unit in some cases, Chairperson Goglia asked if the Town could require the applicant to either construct a secondary dwelling unit or not to construct it. She wanted to make sure that if allowed, the Town would get the credit for that space.

Ms. Salamack stated that if constructed, it would be constructed as a secondary dwelling unit but not to create a large home with a large guest suite.

Mr. Mandelman suggested that would be a definitional problem to define the features of the second unit that would make it a second unit. When advised that a kitchen defined a secondary dwelling unit, he stated that could be stipulated although he advised that it might be difficult to enforce.

Ms. Guerra noted that the plans had offered the Town the ability for flexibility but if the Town preferred secondary dwelling units the plan prototypes already allowed for those units.

Ms. Salamack pointed out the reference to secondary dwelling units in the draft resolution in Condition A.PDP.VTM.12-R that no more than 30 secondary dwelling units would be allowed.

With secondary dwelling units already defined in the Town ordinances and guidelines it was suggested that issue had already been covered.

DRB Chair Kline noted that the DRB had been asked by the Planning Commission to review five issues: Chapter 3 of the Palos Colorados Design Guidelines; plan prototypes, landscaping, the fit matrix, and massing, color and architectural features.

An unidentified speaker referred to some typos in the document and referred to 3.7 walls and fences where for lots with minimal rear yard access homeowners may create retaining walls within the rear yard. A landscaped wall shall be a maximum of five feet. Retaining walls visible from off site shall be a maximum of three feet.

Mr. Chamberlain explained that was similar to the Town Design Guidelines. Anything three feet or less generally did not require DRB approval while walls between three and five feet generally required DRB review and approval. Anything over five height high, whether visible or not, required DRB review and approval. Anything over three feet was also required to be engineered.

On the discussion of the walls stepping down the grade and a reference to encourage or discourage walls, Mr. Chamberlain noted that he rarely saw a wall stepping down the hill, although a downhill stepping was common with fences. He commented that there was nothing in the Town guidelines on either one of those approaches.

Boardmember Kuckuk referred to Chapter 3 of the Palos Colorados Design Guidelines and commented that her main concern with that section was how it tied in with the square footage issue and the fact that the homeowner had the requirement to install street front landscaping and only street front landscaping. She suggested that the plan models with some of the larger square footages would seem to allow the planting of trees to mitigate off site landscaping.

Boardmember Sayles stated that all his comments centered around square footage. Referring to one of the maps displayed in the room showing the lots greater than 20,000 square feet, which would tend to receive the larger homes, he stated almost without exception those were the lots he would not want to place the larger homes given the proportion of the lots. He described those lots as long, skinny lots; quarter acre lots that had been stretched to be a half acre. He suggested that the width was the concern. He would rather walk away from $500,000 than permit 5,000 square foot homes on those lots.

Boardmember Sayles suggested that there were potentially 30 lots that were appropriate for the larger homes, most of which were not those that had been targeted to receive the larger homes. He added that if the Town could not walk away from the $500,000, the setbacks for those lots should be carefully evaluated.

Boardmember Sayles suggested that 5,000, 6,000 or 7,000 square foot homes should not be put on a 10-foot side yard setback. He supported a guideline to require the setback of second stories a combination of two numbers so that the big homes would not be directly adjacent to each other and so that the applicant could have the flexibility to manipulate the designs for variety.

Boardmember Sayles suggested that the rest of the document, the design review guidelines and the artist's conceptions were well done. He reiterated the need to create setbacks in the second stories. He wanted to avoid a situation where there would be an unbroken row of homes, particularly in the center section. He commented that he was fine with the rest of the items.

DRB Chair Kline commented that he was not at all worried about Chapter 3 of the Palos Colorados Design Guidelines as long as there was a statement that the Town of Moraga Design Guidelines would prevail. When asked, DRB Boardmember concurred.

DRB Chair Kline verified with the DRB that there were no comments from the other members of the Board on the fit matrix or the landscaping.

Commenting on the fit matrix, DRB Chair Kline reported that he had made an alternate proposal to Ms. Salamack based on the idea that the applicant and not the Town should manage compliance. He urged that the Town be careful with the guidelines but should not place specific houses on specific lots. While he suggested that the fit matrix had been helpful to clarify the issue he did not believe that it should be approved or disapproved. He suggested that the two conditions the fit matrix had attempted to cover was the size of the lot versus the size of the house and consistency with the design guideline that there should be no more than two, two-story homes in a row.

Ms. Salamack clarified that the fit matrix had also been prepared to consider the applicant's proposals for which homes would fit on the lots, a footprint issue relative to lot width.

DRB Chair Kline urged the Commission to carefully consider the conditions and allow the Planning Department to approve the semi-custom homes within those conditions without the need to strictly follow the fit matrix. He noted that Boardmember Sayles had raised another subject related to the guidelines of the narrow lots.

Boardmember Kuckuk commented that she had significant issues with respect to square footage. She agreed with Boardmember Sayles' comments, particularly for the center section where there could be large prominent residences. She commented that she was torn, did not want to impose any restrictions that were not a benefit to the Town but wanted to give the applicant some flexibility.

Boardmember Kuckuk questioned how the square footage and the visibility off site could be approached. She suggested that some of the issues might be addressed through siting and setbacks and requiring DRB review of homes in excess of 5,000 square feet.

DRB Chair Kline verified with Ms. Salamack that the setbacks had been specified in the GDP and could not be changed at this point.

Ms. Salamack suggested it was possible with the prototypes to address Boardmember Sayles' issue with respect to the second story.

Ms. Salamack referred to Plan 4 which included a secondary dwelling unit on the second floor and where the second floor in that case was set back from the first floor. Plans 5 and 6 included a second unit above the garage which was the only second story element. As such, if not allowing secondary dwelling units on Plans 5 and 6, there would be no second stories. She explained that the same was not true of Plan 7.

Ms. Salamack stated that the Commission could only approve Plan 4 if wanting to approve a secondary dwelling unit and address the issue raised by Boardmember Sayles. She noted that the point Boardmember Sayles had raised was that the second story be set back from the first floor.

With respect to landscaping, Boardmember Sayles stated that he liked the landscaping.

Boardmember Kuckuk referred to the conceptual landscape plan and the issue of the larger structures and a potential requirement that the landscaping require DRB review and approval, with the DRB to mitigate front yard landscaping against the massing visible off site.

DRB Chair Kline suggested that landscaping broke down into three components; public landscaping that had been addressed by staff and which would be submitted to the DRB at a later time, the requirement that the landscape plan be reviewed by the DRB for the larger homes, and agreeing that the Planning Department shall approve the landscaping for the remainder of the semi-custom homes consistent with the Town Design Guidelines.

With respect to massing, color and architectural features, Boardmember Murray suggested that the designs had been well done as were the individual prototypes. He did not necessarily like a couple of the elevations for Plan 5A and 7A with two stories along the length of those elevations. In general, he agreed that the designs were attractive and well done.

Boardmember Kuckuk agreed with the attractiveness of the units, the neutral colors and the great effort to break up the lines and the massing of the homes. She had no issue with the prototypes themselves. She reminded those assembled that there were eight different prototype floor plans some with and without guest suites and a possible three architectural finishes offering 24 different looks to each different home. Her issues had more to do with which lots could accommodate the individual floor plans offering the best fit for the site.

DRB Chair Kline referred to Plan 7 of 5,300 square feet excluding the garage. He had recommended the elimination of that plan, which was when the proposal to use the landscaping review of the siting of that house had come up.

As to the DRB's discretion as to how the residences would look and the setback of the second story, DRB Chair Kline cited the Town Design Guidelines where the DRB could vary the front setbacks.

Mr. Chamberlain explained that the DRB would also have discretion given the design guideline that if there was an end wall height along the side property line that was higher than 20 feet the second story would have to be set back one foot additional for every foot above 20 feet, which was often the case when there was a gable at the end wall.

DRB Chair Kline suggested that if eliminating 5,000 square foot homes, Plans 6 and 7 could also be eliminated.

It was also verified that the DRB had discretion over the custom homes associated with the development, how they would look and how the homes would fit into the neighborhood, among other factors.

Vice Chair Whitley asked whether or not the comments from the DRB would be incorporated into the process.

DRB Chair Kline referred to Condition J.PDP.7 on Page 29 of the draft resolution and recommended a modification to eliminate the reference to the prototype plotting plan, with the condition to read:

> *Prior to the issuance of a building permit for any semi-custom residence, the Planning Director shall verify compliance with the Moraga Design Guidelines, Area Limit Table and approved prototype designs.*

DRB Chair Kline clarified that the Area Limit Table was the column out of the matrix for the lots under 20,000 square feet.

Vice Chairman Whitley referred to Attachment 1 which referenced lots larger than 20,000 square feet. He did not know if that had been recommended.

On the question if there were other issues to address other than the floor area issue, Commissioner Driver commented that he did not find Condition J.PDP.7 to be specific enough and he did not know what the approved prototype plotting plan was, or which version was being addressed. He suggested that the prototype designs needed to be discussed. He suggested that one of the larger issues were the prototype designs themselves. He was undecided if there was a need to get into an approved prototype plotting plan.

DRB Chair Kline suggested that the prototype drawings needed to be defined.

With respect to Attachment 1, Ms. Salamack stated that was the calculation of what the maximum floor area would be if the table extended beyond 20,000 square feet. Once past the 21,600 square feet, she explained that the actual square footage allowed the residence to get smaller.

Vice Chairman Whitley agreed that process was illogical given that the larger the lot the smaller the residence that would be allowed. He suggested that the next step was the intent of the FAR and why it converged at 21,600 square feet. He referred to Boardmember Sayles' comments with respect to square footage, placement on lots, the bulk of buildings on those lots and the types of lots in the Town in general, which were all a fairly standard width.

Vice Chairman Whitley suggested that as the lots became larger, larger houses would be placed on the lots and little of the lot would be visible since most of the lot extended behind the house. He added that the setbacks had been fixed. As to why 21,600 square feet had been selected as a maximum square footage for lots in the Town, he suggested that appeared to be the maximum that the Town had wanted the lots to be He stated that the calculation did not work although the logic of the maximum FAR did work. He suggested that the question was how to extend it beyond 21,600 square feet.

Vice Chairman Whitley noted that for every 200 square feet increase in lot size the maximum floor area would increase by an additional .8 square foot per jump, which worked out more or less to a foot per jump. At the 20,000 square foot level, he stated there was a decreasing amount of increase in maximum FAR. Effectively at the 20,000 square foot level, the floor area would increase by 5 square feet for each 200 square feet of parcel area increase. He suggested that if the lot size should be 4,600 square feet and if extending the lot size 200 square feet for every 20,000 square feet, the maximum FAR would be increased by 5 additional feet extending the maximum floor area as the parcel size increased, extending the calculation of maximum FAR consistent with the intent.

Stating that he had created a new table for all the square feet above 20,000 square feet, Vice Chairman Whitley stated that he had also taken the lots, the number of lots and the square feet of lots and had created a table that he provided to the joint body. It was based on 5 square feet of floor area for every 200 square feet of site.

Vice Chairman Whitley commented that most of the lots were in excess of 20,000 square feet and he suggested that the maximum FAR should apply if just above 20,000 square feet in size. He agreed with Boardmember Sayles' comments and stated that the chart would place limitations on all of the lots above 20,000 square feet. He commented that there were potentially five lots over 20,000 square feet in size. Lot 88 with 40,000 square feet had a 5,120 square foot residence plotted on it.

Vice Chairman Whitley suggested that given the width of that lot it should not be restricted. He commented that the same might apply to Lot 108 given its size and shape.

Vice Chairman Whitley added that he had looked for a rationale way to extend the FAR to reach the intent of what had been attempted with the floor area calculation in the Town. He noted that his calculation had suggested that for each lot above 20,000 square foot the proposal was that there would be no limitation on the maximum square footage on the lot. He asked if that should be done and he suggested that it should be limited. He proposed that each of the lots referenced be limited to the square footage shown in the new calculations.

DRB Chair Kline suggested an alternative by increasing the FAR limit based on the width of the lot.

Commissioner Socolich emphasized that if applying the new calculations the Town could lose the $500,000. He recommended a trade-off with a limit of 5,100 square feet for the lots greater than 20,000 square feet.

Vice Chairman Whitley agreed with Boardmember Sayles' previous comment and concurred that he would rather give up the $500,000 and put the right house on the lot as opposed to heavily impacting the neighborhood.

Commissioner Obsitnik reiterated his question related to the amount of discretion the DRB had over custom homes versus semi-custom homes and the size of the lots.

Boardmember Murray noted that for lots over 20,000 square feet in size, the DRB's control was arbitrary, although the DRB could impose a limit. It was also noted that there were a number of other limitations including setbacks, lot coverage and the like. He explained that currently there were many residents adding on to their homes an area that exceeded the current FAR.

Chairperson Goglia urged some decision to offer guidance to the DRB in that without guidance there was no basis for a decision other than an approval. She commended the Vice Chair for his chart and agreed with the proposed 5 square foot increment as a reasonable approach.

Commissioner Obsitnik verified that Boardmember Sayles had not previously seen the chart created by the Vice Chair. Using the calculations in the chart, and commenting that he did not want to lose the $500,000, he questioned the difference between a 4,600 square foot house and a 5,050 square foot house on those lots.

DRB Chair Kline commented that once there was an approved limit, the homes would not require DRB approval and the homes would have to be approved by the Planning Department.

Ms. Salamack clarified, when asked, that there were eight different prototypes for the semi-custom lots. In order for the Town to receive $500,000 at least one prototype in excess of 5,000 square feet of habitable area would have to be approved. For the 61 lots that were more than 20,000 square feet in size, if there was only one prototype approved, with three different elevations, she would be concerned with the distribution of residences unless further conditions were added related to the separation of identical elevations. She clarified that the prototype would be allowed on all lots over 20,000 square feet in size.

Commissioner Levenfeld asked whether or not there would be a significant visual impact from the street if the Palos Colorados Design Guidelines were approved and with the established setbacks whether or not a reduction of 400 square feet would really make a difference..

In response, Ms. Salamack stated that with those standards, the only prototypes allowed on the lots would be Plans 1, 2, 3 and 4, without the guest suite and none of the secondary dwelling units for those lots, and Plans 5, 6 and 7 would not be plotted. She stated that Plan 4 had the second story centered in the middle of the building and it would do what Boardmember Sayles had suggested, moving the building mass away from the property line offering a greater sense of spaciousness.

Ms. Salamack commented that she would need to determine if the language would obligate the applicant to pay the Town the $500,000 given that the applicant had not proposed a prototype that was just over 5,000 square feet. The smallest prototype was 5,300 square feet.

Vice Chair Whitley noted that the concept of limiting the residences over 20,000 square feet was a new concept and the applicant had not had an opportunity to address that concept. He did not want to do anything without allowing the applicant to weigh in with respect to the issue after some thought. He favored the proposal from a theoretical viewpoint but wanted to hear from the applicant.

Ms. Salamack explained that in order to have the Town be eligible to receive the additional $500,000, the Town would have to approve prototype Plan 5. The Town did not need to approve Plans 6 and 7.

Commissioner Socolich verified with Ms. Salamack that if the applicant decided to place a 4,500 square foot house on a lot larger than 20,000 square feet that would be the applicant's choice and have nothing to do with the $500,000.

Commissioner Socolich clarified that there was a prototype plan that was over 5,000 square feet and that the custom houses could be any size subject to the approval of the DRB. He did not want to lose the $500,000. He supported a limit slightly over 5,000 square feet to satisfy the condition for the $500,000.

Ms. Salamack suggested that it would be advisable for the Town to identify a square footage limit for custom residences if a semi-custom residence was not placed on one of the lots although she did not believe that the condition required the Town to specify the maximum size for a custom residence on one of the lots greater than 20,000 square feet as part of the PDP. She referred to the language in the condition and noted the statement "for which the applicant proposes to build such residences as part of the Precise Development Plan for the project." She clarified that the applicant did not propose to build custom residences as part of the PDP. While 5,000 square feet had to be allowed now, it did not have to be allowed if it was a custom residence in order to receive the $500,000.

When asked, Mr. Mandelman agreed that there had to be a semi-custom option greater than 5,000 square feet to comply with the requirement for $500,000.

Ms. Salamack reiterated that Plan 5 was 5,300 square feet in size.

Vice Chairman Whitley suggested that each one of the lots would have to be allowed for 5,000 square feet and that a semi-custom prototype over 5,000 square feet had to be allowed on each lot, although Ms. Salamack reiterated that a condition could be added that no two identical elevations shall be plotted within.

Vice Chairman Whitley suggested that a suite of semi-custom homes could be adopted with one home over 5,000 square feet. With a condition that three of the same plan could not be placed in a row, he suggested that some of the lots would not have a 5,000 square foot unit.

Ms. Salamack clarified that there would be other factors that would come into play and the applicant would be able to make some decisions as to the placement of the homes given the no two-story units in a row consideration and the identical elevations consideration.

Mr. Mandelman suggested that to receive the $500,000, the Town would have to allow the possibility that on each of the lots proposed for semi-custom homes that were over 20,000 square feet, a prototype greater than 5,000 square feet had to be allowed.

Commissioner Obsitnik suggested that the issue was a question of risk mitigation and if two houses of the same elevation could not be placed next to each other, there were no greater than 5,000 square foot homes that were one story.

As a result, those units could not create, without DRB acceptance, a string of 5,000 square foot homes unless they were custom homes.

The avoidance of "McMansions" was emphasized.

Vice Chair Whitley declared a recess at 10:00 P.M. and reconvened with all members initially shown as present and absent at 10:05 P.M.

Ms. Salamack referred to the staff recommended plotting presented at the last meeting given her concern for five Plan 5's in a row. She noted that when the plotting had been prepared the lots had been broken out to avoid the placement of more than two, two-story residences in a row. She explained that Lots 110, 111 and 112 were all greater than 20,000 square feet in size but only Lots 110 and 111 would be allowed Plans 5 and 6 and there would have to be a single story residence on Lot 112, or a custom single story residence greater than 5,000 square feet. She noted that the applicant had not taken exception to that plotting.

Ms. Salamack suggested that the Commission might want to consider that plotting or a custom single story less than the number of square feet contemplated or something just over 5,000 square feet if the Commission was interested in retaining the $500,000. She stated that staff could work on that language to make that happen.

Vice Chairman Whitley referred to potential limitations of square footage and the question of the $500,000. He asked the joint body if it was interested in preserving the $500,000 at the expense of increasing the square footage to the 5,000 square foot level.

Chairperson Goglia suggested there was insufficient information as a Planning Commission to base a decision on the Town's budget. She pointed out that all of the numbers that had been discussed in terms of square footage would be without the garage which could add another 600 square feet. She suggested that what was being discussed were huge buildings while the lots were not commensurately huge and would not be allowed anywhere else in the Town except for the Settlement Agreement. She recognized that the Town Council could override the Commission's decision.

Commissioner Obsitnik supported a solution to allow the Town to retain the $500,000.

Commissioner Levenfeld suggested that the Commission should look more appropriately at the sizes of the building mass and potentially forego the $5,000.

Boardmember Murray recommended a solution that would resolve both issues.

Boardmember Kuckuk agreed with the need to identify a solution to resolve both issues.

DRB Chair Kline wanted to reopen a dialogue with the applicant

Boardmember Sayles suggested that there were solutions that could accomplish the retention of the $500,000 and make the buildings feel as if they belonged and were not over scaled.

Vice Chairman Whitley agreed that the Commission's responsibility was to ensure that the planning situation was appropriately addressed and that the $500,000 was an issue to be addressed by the Town Council. He acknowledged an almost even split of those who supported the retention of the $500,000 and those who would be willing to lose the $500,000 to ensure an appropriate planning solution. He suggested that the sentiment was that planning was important and if the $500,000 could be saved that would great. He asked if staff could work with the Town Council to come up with a proposal to meet the concern of oversized houses and perhaps allow the preservation of the $500,000 agreement.

Ms. Salamack suggested it would be worth getting feedback from Boardmember Sayles with respect to Plan 5A and Plan 6 and eliminating the secondary unit given his preference that the second story be set back. On the question of whether or not that would preserve the $500,000, she recommended a condition that would allow Plan 5 with the second unit to be constructed as one of the 30.secondary units.

Boardmember Sayles noted that Plan 5 with the secondary unit would be 5,300 square feet and without it would be 4,800 square feet.

As to how that would achieve the goal of setting back the second story, Ms. Salamack stated at 4,800 square feet it was still larger than many of the square footages but it would be an improved design because it would not take the building mass on the second story as close to the property line and offer more variety in the prototypes. With a condition where the second unit would only be allowed under the limit of 30 and be sited either next to a single story or Plan 4 where the second story was set back, that would increase the area between the second stories. She stated it could be over 5,000 square feet with the second unit. Plan 6 would be over 5,000 square feet. The construction of the second unit would not be precluded. In that case there would be two instead of three prototypes greater than 5,000 square feet.

Ms. Salamack added that the applicant did agree to a condition for Plan 7 to be subject to a condition requiring DRB review and approval, or the elimination of Plan 7.

Boardmember Sayles commented that would move in the direction he wanted to go. While not opposed to Plan 7 he urged care in where it would be placed. He suggested that if Plan 7 was adjacent to open space it would have less impact. He suggested that the unit over the garage substantially stepped the ground floor with the second floor in the right combination. Stepping the upper floor would take the impact of the size away or scale the house down to take the size away. He suggested that both would achieve the goal of ensuring that the residences would not be too massive adjacent to each other. He did not want to restrict the opportunities.

On the question of a solution, Ms. Salamack suggested that the Commission could approve plotting A or B, eliminate Plan 7, prohibit the secondary dwelling unit on Plan 6 and only allow the construction of the secondary dwelling unit on Plan 5 when constructed as a second unit, counting towards the allowed 30 secondary dwelling units. That would also allow the 480 square foot second dwelling unit on Plan 5 the potential to qualify as an affordable unit. That would also offer the possibility of two plans over 5,000 square feet. With that, she suggested that would preserve the $500,000.

When asked, Ms. Guerra suggested there was a simpler option, which was that Mr. Sabella was amenable to requiring plans over 5,000 square feet to require DRB review and approval for siting appropriateness, similar to what the DRB had recommended for Plan. 7. She suggested that the prototype plans less than 5,000 square feet could be approved at this time with the plans greater than 5,000 square feet to require DRB approval. That would preserve the $500,000 to the Town and not require such a convoluted process.

Debi Chung, Richfield Investment, pointed out that the topography would lend itself to the fact that not all of the big homes would be plotted on the main street. She explained that there was a 57-foot grade differential from Lot 106 to Lot 123 and the homes would not be perceived to be on a level street side by side. The homes would be stepped back up and down and many would not be visible given the landscaping planting that would mitigate the concern related to the massiveness of the homes.

Ms. Chung added that while Plan 5 had the largest square footage, its footprint was the most compact of the prototype plans that had been proposed. She suggested that eliminating the second unit on the rear of the house would give the impression of one third of the house as single story. She stated that would be taken into consideration when offering the houses to prospective buyers and big houses would not be encouraged side by side in a row.

Ms. Guerra advised that Mr. Sabella had indicated that all of the square footages that the Vice Chair had identified for the custom lots were acceptable.

Vice Chairman Whitley expressed doubt that action could be taken on the application. He noted that this was the third hearing on the PDP and the considerations of quality of life, house sizes and what would be built on what he characterized as a particularly pristine piece of Moraga soil that was at this point in time unbuilt was a concern. He asked if the Commission was ready to adopt something or if additional staff time was needed to have the Town Council vet what the Commission intended to adopt.

Ms. Salamack reported that she had been given direction by the Town Council at its last meeting to have the Planning Commission make a decision on the matter that would then be appealable to the Town Council since there were other matters that the Town Council was desperate to have the Commission consider. She clarified that this was the sixth meeting on the subject since February 2.

Chairperson Goglia clarified her understanding that the applicant had no objection to the chart which she described as very explicit and which gave guidance.

On the question of whether that chart applied to the custom lots or the semi-custom lots, Ms. Guerra clarified that the applicant would accept the chart for the custom and the semi-custom lots. She clarified that would preserve the $500,000.

Ms. Salamack also clarified the Commission's determination that the square footage would not include the garage. Given that the square footage would be in addition to a three-car garage, she recommended that the Commission set a limit on the size of the garage.

Chairperson Goglia verified that the square footages were the maximum and the residences could be smaller.

Commissioner Levenfeld wanted to ensure that there would be sufficient prototypes to ensure variety.

Boardmember Kuckuk verified that if incorporating the modified FAR over 20,000 square feet there would be four prototypes with three different architectural styles which she suggested was minimal for variety of a subdivision of the proposed number of lots. She suggested if possible the calculations should be modified slightly from 5 feet to 6 or 7 feet, which would open the window for another prototype.

Vice Chairman Whitley suggested that specific prototypes could be allowed as approved adopting his chart as a limit unless using a prototype, but if using the prototypes there would be five different plans that would not be bound by the maximum. A custom home would be bound by the maximum.

Vice Chairman Whitley suggested that the problem could be that the largest prototype would be preferred and used over and over again.

Speakers noted that there would, however, be other constraints such as two-story homes, setbacks and the like, and whether or not the square footage would include a secondary dwelling unit.

Speaking to a maximum amount of space to be considered for a garage, Boardmember Sayles stated that the minimum size for a garage stall was 200 square feet, 10 by 20 feet, although a practical size would be 12 by 25 feet times three for the three-car garage, or 900 square feet.

It was noted that the largest garage in the plans was 770 square feet. A maximum 800 square foot garage for the prototype plans was suggested.

Vice Chairman Whitley commented that his concern was for the lots over 20,000 square feet.

Boardmember Sayles suggested if there was a concern for diversity, four or five plans could be approved and the applicant could return with one, two or three additional prototypes given the new parameters, to be reviewed by the DRB to expand the number of prototypes as part of the package.

Chairperson Goglia emphasized that each prototype had three exterior design options making the same elevation appear significantly different in style. As such, there could be twelve different options.

Boardmember Kuckuk noted the discussion that prototype Plans 1 through 4 had been supported, with Plan 5 at 4,820 square feet which would be 5,300 square feet with a secondary unit, which she suggested would be reasonable. Plan 6 without a secondary living unit would be 5,220 square feet. That would eliminate Plan 7 and offer two prototypes greater than 5,000 square feet.

On the applicant's suggestion that anything over 5,000 square feet would require DRB approval for lots over 20,000 square feet, Vice Chairman Whitley suggested that if approving a prototype there would be no desire to have the applicant require DRB review for anything over 5,000 square feet since the prototypes would already have been approved for the semi-custom lots.

As to the siting of the building on the site, it was noted that could be controlled through the review of the landscaping.

For the maximum garage sizes for the custom lots, Boardmember Sayles explained that the DRB would be reviewing those plans at any rate.

Vice Chairman Whitley recommended a limitation of 800 square feet for the garage. On the discussion, an allowance was recommended to be able to decrease the square footage of the house to be able to increase the square footage of the garage, if desired.

Ms. Salamack spoke to the changes that would have to be made to the resolution, and in discussions with the Planning Commission the following modifications and additions were recommended:

- ***J.PDP.7:*** *Prior to the issuance of a building permit for any semi-custom residence, the Planning Director shall verify compliance with the PDP approved prototype plotting plan A and approved prototype designs 1, 2, 3, 4 4 [NGS], 5 with or without the secondary dwelling unit and 6 without the secondary dwelling unit. Prototype 7 is not approved as a semi-custom residence*. [With drawing numbers and dates to be specified and with the plotting plan to be attached.]

- For Condition **J.PDP.6**, the references to prototype 7 shall be eliminated. The last sentence in that condition shall be eliminated.

- To correct a numbering error and accommodate a new condition, a new condition **J.PDP.8** would read as follows:

  Custom residences on lots greater than 20,000 square feet shall not exceed the floor area limits indicated on the table approved by the Planning Commission attached hereto, plus an 800 square feet limit for the garage.

- ***J.PDP.3****: Prior to the issuance of a building permit for any new residence and prior to final approval of the same permit, the Town shall verify compliance with the green building requirements of condition A.VTM.16. The applicant shall demonstrate reasonable efforts to reach a 90 point rating.*

- ***J.PDP.5****: Prior to the issuance of a building permit for Lots 16 through 32 and Lots 122 and 123, the applicant shall obtain approval from the Planning Commission to amend the conditional use permits to conform to the Precise Development Plan.*

Vice Chairman Whitley verified with the Town Engineer that the Town had standard specifications for streetlights that would apply to the project.

On the question of green point rating, Ms. Salamack advised that the Town's current standard for green point rating was 50 and the applicant had agreed to a 90 point rating, almost twice the Town's current standard. She suggested that there would be 14 points just from the design. A number of individual techniques would be employed to reach a 90 point rating.

When asked whether or not the document needed to verify the applicant's willingness to pay the $500,000 to the Town, Vice Chairman Whitley suggested that did not need to occur since the Commission would be approving prototype plans over 5,000 square feet in area meeting the requirement to receive the $500,000.

Mr. Mandelman agreed that would be the case in that the obligation was related to the Town of Moraga authorizing construction of primary residences in excess of 5,000 square feet on all lots in excess of 20,000 square feet for which the applicant proposes to build such residences. He noted that the applicant had accepted the proposal in the approval and the conditions to that $500,000 were being met.

Commissioner Driver commented that he was still struggling on the issue of limiting the size of some of the residences. While some of the massing issues would be addressed he suggested that the residences were still fundamentally large and he expressed concern that they would be sited in an appropriate way.

Speaking to Condition L.III.4, Commissioner Driver referred to signage related to public transit and the on-site park and ride lot. He did not recall discussions for a location of a bus stop at the front entrance to the community. If there was no bus stop, he requested that the applicant be required to work with the CCCTA to locate a bus stop at that location to tie into the park and ride and into the discussion of the traffic signal.

Ms. Salamack advised that the bus stop was currently in front of the church.

Asked if that bus stop could be moved, Town Engineer Jill Mercurio explained that the CCCTA was amenable to moving the bus stop at the request of the Town. She stated that was not a detailed process. As to whether or not a bus shelter or a bench could be included, she stated that the CCCTA did not provide the shelters. Whatever amenities were provided were provided by others.

Commissioner Driver asked if there was a possibility of getting a bench or a shelter included as part of the project.

Chairperson Goglia verified that the Town did not have a standard design for a bus shelter. She was advised that there was one in the Gates Report.

Vice Chairman Whitley asked if the issue was something that was classically paid for by a developer, the Town or the transit district. When advised that the only other shelter in Town had been provided by a developer, he recommended a condition to require the developer to install a bus shelter with a bench at the same time the signal would be required, by the occupancy of the 50th residence.

- *The applicant shall install a bus shelter, with a bench, prior to the occupancy of the 50th residence*.

Commissioner Daniels asked if the applicant's willingness to install a pedestrian access to Campolindo Drive had been included in the conditions, to which Ms. Salamack stated that had not been done since the applicant had voluntarily made that offer.

Vice Chairman Whitley requested that the pedestrian access be included as a condition.

- *The applicant shall install a pedestrian access to Campolindo Drive*.

On the question, it was noted that a cluster of four mailboxes had previously been approved.

Boardmember Sayles referred to the monument at the entry and noted that the applicant had voluntarily lowered that monument to 16 feet. He remained concerned with that element.

Vice Chairman Whitley advised that the monument issue had been discussed at the last meeting.

As to whether or not the DRB would be able to review that element, Ms. Salamack suggested that the condition with respect to common area landscaping could be modified to include a review of the entry monuments, as follows:

- ***D.I.14***: [Last sentence] *The common area landscape plan, including the entry gateway shall be approved by the Design Review Board prior to the issuance of any grading permits.*

When asked, Ms. Salamack clarified that with an approval at this time the semi-custom lots would only require a building permit from the Town prior to construction. The custom lots would require DRB review and approval.

Design Review Board

On motion by Boardmember Sayles, seconded by Boardmember Kuckuk to recommend that the Planning Commission adopt the resolution approving the Precise Development Plan (PDP) for the Palos Colorados project with the Conditions of Approval, as amended. The motion carried by the following vote:
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Ayes:	Boardmembers Kuckuk, Murray, Socolich, Kline
Noes:	None
Abstain:	None
Absent:	Boardmember Glover

Planning Commission

On motion by Commissioner Socolich, seconded by Commissioner Obsitnik to adopt Resolution next in number to approve the Precise Development Plan (PDP) for the Palos Colorados Project with the Conditions of Approval, as amended:

- ***D.I.14***: [Last sentence] *The common area landscape plan, including the entry gateway shall be approved by the Design Review Board prior to the issuance of any grading permits.*

- ***J.PDP.3****: Prior to the issuance of a building permit for any new residence and prior to final approval of the same permit, the Town shall verify compliance with the green building requirements of condition A.VTM.16. The applicant shall demonstrate reasonable efforts to reach a 90 point rating.*

- ***J.PDP.5****: Prior to the issuance of a building permit for Lots 16 through 32 and Lots 122 and 123, the applicant shall obtain approval from the Planning Commission to amend the conditional use permits to conform to the Precise Development Plan.*

- For Condition **J.PDP.6**, the references to prototype 7 shall be eliminated. The last sentence in that condition shall be eliminated.

- ***J.PDP.7:*** *Prior to the issuance of a building permit for any semi-custom residence, the Planning Director shall verify compliance with the PDP approved prototype plotting plan A and approved prototype designs 1, 2, 3, 4 4 [NGS], 5 with or without the secondary dwelling unit and 6 without the secondary dwelling unit. Prototype 7 is not approved as a semi-custom residence*. [With drawing numbers and dates to be specified and with the plotting plan to be attached.]

- To correct a numbering error and accommodate a new condition, a new condition **J.PDP.8** would read as follows:

  Custom residences on lots greater than 20,000 square feet shall not exceed the floor area limits indicated on the table approved by the Planning Commission attached hereto, plus an 800 square feet limit for the garage.

- **Condition L3.3**: "*The review by the Planning Commission and TSAC prior to the 50th residence occupancy shall consider both pedestrian and vehicular traffic."*

- *The applicant shall install a bus shelter, with a bench, prior to the occupancy of the 50th residence*.

- *The applicant shall install a pedestrian access to Campolindo Drive*.

The motion carried by the following vote:
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Ayes:	Commissioners Daniels, Levenfeld, Goglia, Obsitnik, Socolich, Whitley
Noes:	Commissioner Driver
Abstain:	None
Absent:	None

Ms. Salamack advised that there was a ten day right of appeal for anyone wishing to appeal the decision of the Planning Commission to the Town Council by filing a letter stating the grounds for the appeal and through the payment of an appeal fee, through the Planning Department.

VII. NEW PUBLIC HEARINGS

A. None

VIII. PUBLIC MEETING

A. None

IX. ROUTINE & OTHER MATTERS

A. None

X. COMMUNICATIONS

A. None

XI. REPORTS

A. Commission

Commissioner Daniels advised that she had been the Commission Liaison at the last meeting of the DRB. She presented a report of that meeting.

Commissioner Driver presented a report on the last Liaison meeting.

Commissioner Socolich advised that he would not be able to attend the special meeting scheduled for March 26 for the Moraga Specific Plan.

B. Design Review Board

Chair Kline advised that he would not be able to attend the DRB meeting scheduled for March 23.

C. Staff

Ms. Salamack explained that the Town Council was very interested in having public meetings regarding the Specific Plan and the Housing Element. She would provide the Commission with the dates of those meetings.

XII. ADJOURNMENT

On motion by Commissioner Goglia, seconded by Commissioner Socolich to adjourn the Planning Commission meeting at approximately 11:30 P.M. to a special joint meeting of the Planning Commission and the DRB on Thursday, March 26, 2009 and thereafter to the regular meeting of the Planning Commission on Monday, April 6, 2009 at 7:30 P.M. in the La Sala Building at the Hacienda de las Flores, 2100 Donald Drive, Moraga, California.

DRB Chair Kline adjourned the meeting of the Design Review Board at approximately 11:30 P.M. to a regular meeting of the Design Review Board on Monday, March 23, 2009 at 7:30 P.M. in the La Sala Building at the Hacienda de las Flores, 2100 Donald Drive, Moraga, California.

A Certified Correct Minutes Copy

Secretary of the Planning Commission