

Life in LAMORINDA

Palos Colorados: A Long Time Coming

...continued from page 1.
With Lafayette's objections addressed to its satisfaction, the Palos Colorados project went through the Moraga Planning Commission and Town Council hearing and was approved.

At this point, Falk confirms, "Lafayette felt satisfied. We thought we were done."

Let the Lawsuits Begin

But the project didn't go through as planned. An outpouring of community opposition followed, and after two years of heated public hearing, the Moraga Planning Commission denied the project without prejudice in 1996. Later, in October of 1996, The Town Council overturned the Planning Commission denial and approved the project. In November 1996, a new Town Council was elected and tried to overturn the previous Council's approval by granting a "motion to reconsider" filed by the City of Lafayette. The developer immediately sued the Town of Moraga. The City of Lafayette also sued Moraga.

The project went to Court, which issued a Writ of Mandate saying that the reconsideration was an abuse of discretion on the part of Moraga's new Town Council. The Court ordered the three parties, Moraga, Richfield (then Richland Investments), and Lafayette to come up with an agreement that would allow the Palos Colorados project to move ahead.

That Settlement Agreement was ratified in 1999, and specified 123 units and a golf course. The Settlement Agreement also specified that neither Lafayette nor Moraga could impede the development of the project. For the second time, Moraga's Town Council approved the Palos Colorados subdivision. The project is now under Court Order to proceed. The buzz around the project quieted as the developer went back to the drawing board.

Around 2001, according to Mayor Metcalf, the project became active again. Planning Commission hearings resumed as the applicant returned with their next round of revisions.

At this point, a group of concerned citizens formed Preserve Lamorinda Open Spaces.

The group knew that the project still needed approval from the army corps of Engineers, the Regional Water Quality Control Board, and Fish and Game, because of its impacts to wetlands and wildlife. Says founding member Suzanne Jones, "we realized that it might not be a done deal; community involvement in this project was still possible."

Jones and other like-minded citizens of Moraga, Lafayette, and Orinda wanted to see the project scaled back to minimize the environmental impact of Palos Colorados on wildlife and the ecosystem of the area and to reduce traffic. As Jones explains, "Our interests were in the scale of the Palos Colorados project and its impact on open space. We wanted to protect the character of the towns of Moraga and all of Lamorinda. We wanted to preserve high-quality wildlife habitat and creeks and wetlands. We were concerned about traffic and circulation."

Jones says, "in particular

tremendous amount of grading with a huge impact on water quality and habitat," Jones says. The Regional Water quality Control Board expressed these concerns in several letters to Richland, the applicant.

Concurrently, Preserve Lamorinda Open Space hired attorneys, economists and environmental specialists (see the sidebar on red-legged frogs for an up close and personal view of a key player in the controversy). Those experts presented evidence to the agencies that impact on wildlife, creeks, and ponds violated state and federal environmental laws.

Goodbye Golf Course

The developer considered all the reports and decided to forego the golf course in March 2006, saving, according to Suzanne Jones, close to a million cubic yards of grading while greatly reducing impacts to the red-legged frogs, raptors, and other animals crossing the wildlife corridor from Las Trampas Creek to the

to be to determine, in Metcalf's words, "what was the lump sum value of that golf course fund?"

Enter lawsuit number 3. Lafayette sued the Town of Moraga for agreeing to drop the golf course from its plans for the Palos Colorados development, and argued that their agreement not to impede further development of the project was also no longer valid, since the scope of the project had changed from that of the Settlement Agreement of 1999.

Lafayette Town Manager Steve Falk explains that Lafayette then sued Richfield Developers. Richfield counter-sued the City of Lafayette. The project was at a seeming standstill again, until, says Falk, "the new Moraga Town Council was elected in November 2006. They worked hard to find a breakthrough, and we're gratified for that."

According to Falk, the Lafayette and Moraga councils recognized that spending thousands of taxpayer dollars in law-

will be paid when final plans are approved, perhaps by April 2008.

In exchange for this agreement, in mid-February 2007, Lafayette dropped its lawsuit, Richfield dropped their lawsuit, and —importantly— Lafayette agreed "not to sue as long as Moraga fulfills its requirements," explains Metcalf. The plan will then need to go back through grading permits and final approvals. There could still be complications, but says Mayor Metcalf, "they won't be coming from Lafayette and that's really important. This is a trust issue and Lafayette has shown they believe we are capable of administering this project to everyone's benefit."

Above all, Metcalf is pleased that the development will proceed. "This is a good thing for the Town of Moraga,"

he says, "and it should happen." From his City's perspective, Lafayette Town Manager Steve Falk explains, "Lafayette got a good deal. The developer really extended itself and I cannot speak highly enough of the new Town Council of Moraga. I think they're doing a great job."

For its part, Protect Lamorinda Open Space says it's "about as satisfied as it could hope to be now that the golf course is gone." Suzanne Jones praises the developer, who was "very willing to work with us. And that's the exception not the rule."

Look for frequent updates on the Palos Colorados project in the pages of Lamorinda Weekly.

The General Development Plan is available for public review in the Moraga Planning Offices at 329 Rheem.

pact on the frogs.

In case you happen to meet one, adult red-legged frogs have a red abdomen and legs and a brown, gray, olive, and red-flecked backs. They feed on smaller tree frogs and rodents. Tadpoles are dark brown and yellow and eat algae from established ponds (like the ones in the Palos Colorados area).

For more information about the California red-legged frog, visit the Sacramento Fish & Wildlife Service's website at www.fws.gov/sacramento/es/



animal.spp.acct/red_legged_frog.htm. To see how the Palos Colorados subdivision is accommodating the frog and other wildlife, see the Town's Habitat Mitigation Management Plan at the Planning commission Offices at 329 Rheem Blvd. in Moraga.

Emily Schultheis is a feature writer and a student at Campolindo High School. She has a cat and a dog but no frogs of any color.

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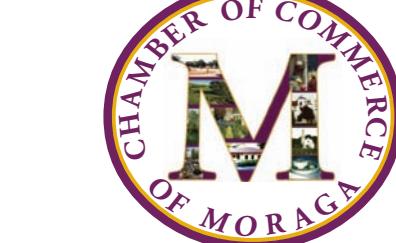
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