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Zoning Issue Heading to Home Stretch

By Cathy Tyson

Discussion on the controversial proposed downzoning of the acreage commonly known as the Christmas Tree Lot is slowly moving toward a conclusion. With two distinct groups at a recent City Council meeting, those in favor and those against, and a concerned City Council that has to decide the matter, the long simmering debate is reaching a head. Because of recently received documents from attorney for the landowner and developer, Allan Moore, the City Council wanted to take a time out so legal counsel could review and analyze the situation. At the meeting those in attendance were invited to offer comments on the matter, which will be open for more discussion, and ultimately a decision, at a later date.

For the first time ever, the landowner, Anna Maria Dettmer who flew down from the northwest to attend, gave emotional testimony: "I plan to fight to protect my property rights." She grew up in Lafayette, went to Acalanes High School and called the matter "critically important."

"What you are proposing is unconstitutional," declared Moore, attorney for Dettmer and the developer, O'Brien Land Company. Back in March, an application for a 315 unit multi-family housing complex was submitted to the City, additional information was requested and the application was deemed complete in July of this year. The zoning for the parcel is currently APO - Administrative Professional Office that allows up to 35 units per acre to be built. The City is working through the process of changing it to LR-5 - one unit per five acres of land.

The City of Lafayette has been considering re-zoning the parcel, and four others along Deer Hill Road, for some time and finally directed staff to start the process in late April of 2010. Directing the process to start and completing the process are two different things - to date the downzoning has not been finalized.

A number of representatives from area homeowners associations including Springhill Valley, Secluded Valley and Silver Dell stated there was broad support of the proposed downzoning among their many members. Marie Blitz of the Lafayette Homeowners Council noted that since the matter is being continued to a later date, they will comment next time. A parade of residents came forward reiterating the concerns they've had all along about traffic, the visibility of the parcel, aesthetics and the affect on property values.

Longtime opponent Eliot Hudson called the proposed project not consistent with the character of Lafayette and cited case law about a similar matter in Morgan Hill where attorneys decided that maintaining a unique character was a rational reason for re-zoning.

In a dramatic highlight of the evening a resident and land use attorney stated, "I am really unhappy the City is gambling with our tax dollars," he predicted the matter will "go down in flames" for a number of reasons. He advised the City to take careful steps, adding, "you will lose this case," and pointed out the City of Half Moon Bay ended up paying \$50 million in damages.

A quick check reveals the final judgment of a very convoluted case was rendered in federal court by Judge Vaughn Walker for \$36.8 million plus legal fees against the city of Half Moon Bay in 2007 for a dispute over a 24-acre parcel purchased by a developer who planned to build an 83-unit subdivision. That City Council eventually decided to settle with developer Keenan Land Company for \$18 million.

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