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## City Council Approves Terraces Process Agreement

By Cathy Tyson

At the second of two meetings held to make a decision on the Process Agreement of the "Alternative Plan" proposed by developer O'Brien Land Company for the Terraces of Lafayette project, opponents came out in force to express their displeasure with the new smaller project. This plan features 45 single-family homes and a unique public amenity component that includes a soccer field, dog park, tot lot and parking area; it's a fraction of the originally proposed 315-unit design that was almost universally disliked. Ultimately, despite the intense anger and frustration in the room, city council members calmly explained their reasoning to approve the agreement.

This authorization gets the ball rolling on an expedited review process for the new smaller proposal; it still requires the project to go through the usual assessment procedures, which includes the Parks, Trails and Recreation, Circulation, Planning and Design Review commissions. At the end of that process, it will go back to the City Council with recommendations from all of those administrative bodies. The City Council can then vote to approve, deny or approve the project with certain conditions. A "no" vote on the process agreement would have meant the original, very controversial 315-unit apartment concept would be re-started along with the probability of an expensive lawsuit, which the developer has made clear.

Some residents saw this difficult choice as "bullying," given the potential for litigation if the process agreement for the alternative plan was not approved. Councilmember Brandt Andersson agreed that the city shouldn't bow to the threat of a lawsuit, but explained that the Housing Accountability Act, "really changes the playing field dramatically." Anderson, who is an attorney in his day job, added, "I'm not saying we're going to lose a lawsuit, but I'm not saying we are going to win either." In his opinion, if the city lost the lawsuit, it could be looking at four to five times as many units as the current 45-home plan calls for.

The Housing Accountability Act, also known as the anti-NIMBY statute, limits the ability of cities to reject proposed housing development projects that are consistent with local plans and zoning regulations.

After the first public hearing on Jan. 13, the City Council asked for more information to be presented at the Jan. 22 meeting about maintenance costs and visibility of the homes on the parcel near Acalanes High School and how well they would be screened. David Gates of Gates and Associates gave a Powerpoint presentation highlighting their multi-zone landscaping plan that included a substantial number of 20-25 foot high trees and large native shrubs. "The goal is instant screening," said Gates, describing mature willows and oaks that would dominate the hillside.

Steven Falk, Lafayette's city manager, outlined expected maintenance costs and how to fund them, primarily through fees that are generated via new development in Lafayette. The estimated amenity maintenance budget includes sinking funds for long term capital investments such as replacing the soccer field at the end of its lifespan. He said a copy of the revenue sources and expected costs will be posted on the city's website, [www.lovelafayette.org](http://www.lovelafayette.org).

Many public comments focused on how the city dropped the ball with the initial re-zoning effort years ago that was not completed prior to receiving the development application for the original 315-unit Terraces project. City attorney Mala Subramanian was asked to comment on this. She confirmed that staff was asked to re-zone the parcel, but clarified that "even if you wanted to change the zoning it would not apply to this project. It's not an option."

On a unanimous vote the City Council approved the process agreement. Traci Reilly recused herself, "out of an abundance of caution," on the advice of the city attorney because she had commented on the Terraces project before she was elected to the City Council.

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