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Moraga Referendum On Hold Pending Litigation

By Sophie Braccini

As anticipated, the Town Council certified the signatures verified by the County Elections Department for the referendum petition against Ordinance 252, which adopted zoning code amendments associated with the Moraga Center Homes project on Moraga Way, but took no action to either rescind the ordinance or put it on a ballot for voters' decision due to pending litigation.

The property owner, Russel Bruzzone Inc. and developer City Ventures filed a lawsuit against the town clerk and the town, challenging both the procedural and substantive aspects of the referendum. They argue that the

town clerk should have rejected a petition that did not include all the referenced documents that were part of the ordinance, the procedural aspect of the argument.

On the substantive side, the petition is about an ordinance that aligns the zoning of the Moraga Center Homes' development lot with the Moraga Center Specific Plan that was approved five years ago. The town has the legal obligation to amend its municipal code to match General and Specific Plans when they are approved. That is what ordinance 252 does for the City Ventures lot. Therefore, the developer's point of view is

that rescinding the ordinance would put the town at odds with the law, and it should reject the text of the petition. Charity Wagner, director of development for City Ventures, wrote that this petition comes too late, that it should either have been filed a year ago when the council amended the General Plan to specifically include City Ventures' Town Center Homes project, or in 2010 when the Moraga Center Specific Plan was approved with a 12 to 20 dwelling per acre zoning for that lot.

The town attorney had recommended the council take no action on whether to rescind the zoning ordi-

nance or place the issue on the ballot until a court decides the merits of the legal challenge, which is exactly what the council members did, with not even a word of discussion. In the meantime the project is on hold. The developer's framing of the issue is that a group of wealthy residents is trying to stop somewhat more affordable housing from being built in their backyard. "A small group of wealthy residents can still stop new homes from being built by using fear and NIMBY-ism," wrote Wagner. "The tortured development process in Moraga for this one 36-home, infill, market rate, solar-powered, townhome

project is an emblem for why it is so difficult to find a moderately priced place to live in the Bay Area, and even more so in Moraga."

The residents who circulated the petition and got 1,400 valid signatures, indicated that their purpose is to keep Moraga semi-rural. "We think the proposed project is the wrong concept on the wrong piece of property," said Denise Coane, one of the petition's sponsors. The 36 two- and three-story units are proposed within 12 separate townhome buildings on the empty lot along Moraga Way located next to the fire station 41 at 1280 Moraga Way.

Moraga PG&E to Remove 51 Trees Along St. Mary's Road in Moraga

By Sophie Braccini



Intersection at St. Mary's Road and Rheem Boulevard Photo Andy Scheck

The Pacific Gas and Electric Company's Community Pipeline Safety Initiative, the new program presented to the Moraga Town Council Aug. 26 by PG&E's government relations manager Tom Guarino, will include the removal of 51 trees, most along St. Mary's Road on Central Contra Costa Sanitary District land. Unlike an earlier plan PG&E presented a year ago, Guarino said PG&E is now only targeting trees that are dangerous in the short-term and the utility will defer to local regulations regarding tree replacement. The previous plan, which received backlash from infuriated local governments, had targeted over 200 trees in Moraga that were located above major gas pipelines, and disregarded local rules on tree removal.

"We took the time to re-evaluate

every single tree in Moraga," said Guarino, differentiating between trees on public and private land. Only one tree deemed dangerous is located on public land, along St. Mary's Road next to the Rheem Boulevard crossing. "There is one tree (on town property) we are extremely uncomfortable with and that poses a very high risk," said Guarino.

The 50 other trees are spread along the same arterial, but on CCCSD property, with many bordering the St. Mary's Gardens development.

Staff initially asked PG&E to replace one tree for one tree removed, but town councilmembers Dave Trotter and Teresa Onoda asked that the utility be subjected to the same rules as everyone else and replace each cut tree with two new ones. While PG&E

agreed to the rule, at this time the town has no idea where the replacement trees would go, so suggested creating a tree bank that could be used as beautification opportunities arise.

CCCSD's representative at the meeting said that while the district is technically the owner of the land and the trees, it is stepping out of the tree replacement process, stating that the

town is the best entity to determine where the replacement trees should go, for beautification purposes.

But others may be interested in getting involved. While there were no representatives from the St. Mary's Gardens homeowners association present at the meeting, Bob Kennedy, a resident on the board of another neighboring HOA asked PG&E to

keep them involved, since he believed the trees belong to that HOA. "We have an encroachment agreement with Central San to maintain the landscaping," he said, "so, in fact, we own the trees."

PG&E representatives who were contacted after the meeting indicated that there is no specific date slated at this time for the tree removal.

'Hotel Wandel' ... continued from page A4

The bottom line seemed to revolve around trust. Jennifer Perk who is raising kids next to the infamous house, which was named "Hotel Wandel" on a Facebook page, has been to council meetings before regarding ongoing disturbances, and noted that students who were living at 14 Wandel came to earlier meetings and apologized, but 40 days later they were throwing beer cans into her yard during another party. The house has new tenants now, and parties have stopped, but Perk is concerned the new year will bring the same problems. Others who came to the meeting repeated the same litany of parties till the wee hours, many more students than listed living on the premises, students dancing on

roofs, and litter in garden and the street.

"Previous efforts to enforce the ordinance haven't done the trick," Arth said.

Resident Seth Freeman said he found the new ordinance oppressive to property owners. "There are limits to what a landlord can do," he said, adding that in California it would take six months to expel a tenant. He also regretted that the ordinance did not define what groups are, or who is the responsible person in a multiple tenant situation.

Regardless, the council unanimously passed the ordinance as amended. The text will be enforceable 30 days after the second reading on Sept. 9.

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