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Future of Terraces apartments still undecided

By Pippa Fisher

The Lafayette City Council has yet to make a final decision on the controversial Terraces apartment project, following an almost nine-hour meeting, with over 50 members of the public weighing in. The matter is to be continued to an Aug. 24 meeting.



The proposed location of the Terraces Photo courtesy city of Lafayette website

The council met to hear afresh the application on an appeal, called for by Council Member Cam Burks who said he believed the decision to be of such profound importance to the city that it should be heard by the full council. The Planning Commission reluctantly approved plans last month.

The application proposes 315 apartments, in 14 two- and three-story residential buildings on a 22-acre parcel on Deer Hill Road, adjacent to the freeway. First proposed in 2011, the application was suspended in 2014 in favor of alternative plans for a scaled back development of 44 single-family homes. Local preservationist group Save

Lafayette sued the city, resulting in a referendum on the future of the revised project. With the defeat of Measure L in 2018, the developer, O'Brien Homes, resumed the original application for the 315-unit apartment project under the process agreement. The project includes 20% (63 units) offered as low-income housing and as such has protection under the Housing Accountability Act.

It was a meeting that got off to a tense start with all council members reading statements of impartiality, prompted by the applicant's objection to Vice Mayor Susan Candell's participation in the meeting. Attorney for the developer Bryan Wenter has publicly called for Candell to recuse, accusing her of bias because of her previous public position in opposition to the development, saying she had "crossed the constitutional line," and that they would only answer questions from her under protest. For her part, Candell stated she was coming to the matter with an open mind. "I'm here to listen," she said.

Following presentations from the traffic consultants TJKM, the meeting went from tense to sometimes hostile, as Burks called the fire evacuation plans for the schools, mobilizing 22 buses from County Connections in Concord to evacuate students "absurd."

"This modeling is honestly third-grade modeling," he said.

Burks was also dogged in his questioning of Dave Baker, project manager for the Terraces and particularly of Wenter, asking if he had met with State Sen. Nancy Skinner, or had anything to do with a letter to the council received from her in December urging the city to approve the project. When repeatedly pushed on the subject, Wenter refused to answer, saying it had no relevance to the matter at hand.

The council heard four hours of public comment which continued past 1:30 a.m. the following morning and reflected much of what was said in prior meetings, with many residents - especially those in the northeast section of the city already badly impacted by traffic - voicing their concerns over wildfire evacuation safety.

SL Attorney Richard Drury, pointed to what he described as "new significant impacts" to birds, air quality, the 2019 designation of the area as Very High Fire Severity Danger which were not present during the original environmental impact report and which he said comes before HAA considerations.

A statement from SL Founder Michael Griffiths summarizes their view: "Save Lafayette continues to believe that serious health and safety issues have not been properly addressed, that the city needs to do a full EIR to address wildfire risk and evacuation, air pollution, traffic congestion, wildlife endangerment and noise pollution, so as to properly protect the citizens of Lafayette."

However those against the project, once clearly in the majority, now find their voices countered by a growing pro-housing group, with many residents speaking in favor of the diversity that low-income housing units could provide, both racially and socioeconomically. A group called Inclusive Lafayette, started by two young men, Jeremy Levine and his brother Benji, has attracted many followers in a short time looking to address social justice.

Addressing comments made during the meeting, Jeremy Levine says that CEQA does not provide valid grounds to deny an HAA-protected project like the Terraces. He points out too that Lafayette is lagging in providing sufficient low-income housing as required by the Regional Housing Needs Allocation.

"We are supposed to approve 78 low-income units by the end of 2023. The Terraces, with 63 units marked for the low-income category as defined by state law, will contribute approximately 80% of the units our city is supposed to approve in that category," Levine said.

"The council has a straightforward decision to make," added Levine, "a decision I am confident they will make based on available evidence and the law. No public commenter identified anything remotely close to a 'specific, adverse impact on the public health and safety' based on available evidence as required to deny the Terraces proposal under the HAA."

A statement issued by Wenter on behalf of O'Brien Homes after the meeting read, "We are pleased with the council's thorough discussion of the Terraces application and we appreciate the hard work by city staff and consultants. We were also encouraged to hear so many community members speak passionately in support of new rental housing in Lafayette and look forward to the city's final decision in two weeks."

Whatever the outcome of the city's final meeting, it is almost certain the matter will end up in litigation. Wenter has previously warned that litigation could cost as much as \$15.75 million if courts find the city acted in bad faith in denying the project.

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