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Laguna housing overturned

BY BRUCE ROBINSON

It's back to square one for the most controversial development project to come before the Sebastopol City Council this year. The city's approval for the 29 home Palm Terrace subdivision was cancelled October 28, when Sonoma County Superior Court Judge Laurence K. Sawyer ruled that the city should have required a new environmental impact report for the project.

"The use permit is null and void and if they want to proceed with the project, they have to do an EIR and start all over again," said Juliana Doms of Laguna Today and Tomorrow, the local environmentalist group that formed to press the suit against the subdivision. "Whether they're going to do that or not, I don't know."

George Young, who acted as the spokesman for the project as it moved through the public review process early this year, could not be reached for comment, nor could other representatives of Llano Partners, the development group backing the subdivision.

The nine acre property on the east side of the ridgetop behind Palm Drive Hospital has been targeted for more intensive development in the past. Previous city approvals for an 80 unit condominium complex on a portion of the property had expired before the subdivision proposal came forward. The new project relied extensively on the environmental impact report that was prepared for the earlier development proposal in 1981, but critics of Palm Terrace complained that the seven year old document was inadequate to assess the impacts of a substantially different project that was being proposed in a changed environment.

Realtor Harry Polley, who represented the prior owner of the property at a hearing on the Palm Terrace project, called the judge's decision "unfortunate." He said, "The developer jumped through hoops for the city and provided information beyond the original EIR."

Judge Sawyer's ruling is directed at the city council more than the developer, and said the council "committed a prejudicial abuse of discretion" in not requiring an EIR when the project came before them. The amount of public controversy that arose from the development proposal was enough by itself to justify an environmental review, the judge wrote, but additional issues such as traffic and sewer impacts also supported the call for an EIR.

Sawyer's writ states that the city should have weighed "new information" developed over the past seven years, including the city's Laguna Advisory Committee report, before the approval was granted. Most critical of all, he concluded, "The evidence is very sketchy as to how much the respondents [the city and the developer] even considered the information in the 1981 EIR."

Susan Brandt-Hawley, the attorney who represented Laguna Today and Tomorrow in the suit, called the decision "very helpful" in ensuring proper review of environmentally sensitive development proposals in Sebastopol in the future. "If we had not won this case, it would have left the door open to other such developments in the Laguna," she said.

Dom was delighted that Judge Sawyer accepted most of the arguments raised by

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the environmentalists. "Our main argument was that the information was not comprehensive enough to make a valid decision," she said, pointing to three large deficiencies: increased traffic throughout Sebastopol, the presence of the recently installed emergency helicopter landing pad at Palm Drive Hospital, just a few dozen yards from some of the homesites, and occupancy levels at local schools. "The old EIR stated that the schools were declining in enrollment and they're not now," Doms said.

In addition, Doms cited the city's Laguna study as a new factor in the assessment of any project fronting the Laguna, as Palm Terrace does. Young and his associates specifically pressed the planning commission and later the city council to take action on their proposal before the Laguna study findings were adopted as city policy, apparently anticipating that the

committee's recommendations would complicate their plans, or possibly preclude the development altogether.

As proposed, the subdivision plans did incorporate one of the Laguna Advisory Committee's most controversial ideas, employing a "no net fill" grading plan to elevate the low-lying portions of two of the 29 lots in the proposed subdivision where they dipped below the 76 foot elevation that defines the Laguna's flood level.

The city's formal adoption of most of the Laguna report last month would make those policies now apply clearly to the Palm Terrace project if it is resubmitted, but another change in the past six months could prove even more significant. Two of the four votes that approved the project were cast by Gwen Anderson and Howard Reeser, councilmembers who are no longer sitting. Their successors, Richard Johnson and Nick Stewart, have been outspoken in their desire to protect the Laguna,

and it is widely expected that they would be more critical in assessing the impacts of a new subdivision at the Laguna's edge than the prior council was.

"I would never approve it again," said Sebastopol Mayor Anne Magnie, who was alone on the council in arguing and voting against the proposal last spring, adding that she was "real pleased" by the judge's decision, which she termed, "a real validation of our system of due process."

Magnie said the city's inappropriate zoning of the property, which dates back to the 1981 project, was the root of the problem. That PC (planned community) zoning is inconsistent with the city's General Plan and is "a real death knell for any level of appropriate development down there," Magnie said. If the developers withdraw the current proposal from the site, Magnie said she would press for a city-initiated zone change to address the problem.