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Council urged to get independent opinion on legality of Plan Orinda EIR

By Sora O'Doherty

Frequent commenter on the activities of the Orinda City Council, retired attorney Nick Waranoff on June 20 urged the council to obtain an independent opinion on the legality of its Plan Orinda Environmental Impact Report (EIR), including the evacuation analysis. Waranoff maintains that the EIR is defective. Orinda is being sued by Orindans for Safe Emergency Evacuation (OSEE), and Waranoff says that he supports their position.

OSEE is seeking a Writ of Mandate from the Contra Costa Superior Court, asking the Court to order the city to vacate and set aside certification for the EIR and comply with the California Environmental Quality Act and the CEQA guidelines. The petition, filed by attorney Jason R. Flanders of Aqua Terra Aeris Law Group, also seeks costs and attorney's fees.

At the end of May the parties entered into a stipulation, which vacated the case management conference and agreed that the hearing on the Parties' briefing be set for Dec. 7. In addition, the parties agreed that the administrative record shall have an additional section solely dedicated to emails produced to Petitioner by the City.

The city is represented by Orinda City Attorney Osa Wolff of Shute, Mihaly & Weinberger, LLP. While it is unusual for litigation to be discussed in the public portion of a city council meeting, the case is available to the public on the Court's website. Discussions of litigation by the city council and its attorney are generally conducted during closed sessions.

OSEE's position is that the city has failed to adequately analyze and/or mitigate potentially significant impacts to wildfire evacuation and emergency response resulting from Plan Orinda, adopted by the council on Jan. 31. While stating that they are not opposed to increased residential development or population in Orinda, OSEE argues that the Plan Orinda EIR fails to analyze or mitigate the impacts on wildfire evacuation of exacerbated traffic congestion resulting from the expected increase in population.

Reach the reporter at: sora@lamorindaweekly.com

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