



# The Truth About Homes At Deer Hill Road

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**“Yes On Measure L” sent an email with the label ‘Community Alert’ to Lafayette residents.**

**“Yes On Measure L” receives “major funding from Dennis O’Brien including O’Brien Land Company” who is the developer of the Homes at Deer Hill. (stated at the bottom of the email)**

**We have responded to their email because it contains many untrue statements. The discussion is complex and detailed and we have worked diligently to make it easier to understand.**

**The Purple text is from “Yes On Measure L”. The black text is Save Lafayette’s rebuttal with factual sourcing. **Save Lafayette will be voting no for the reasons explained below.****

## From Yes On L:

Subject: Community Alert

Dear Lafayette Friends:

I’m reaching out because this is a tenuous time for Lafayette. Measure L is a referendum coming in June that’s so important to support. (True) Your vote will be crucial. (True) Here’s why. You may have heard about the proposed development on Deer Hill opposite Acalanes High School.

From Yes On L: Quick history: developer proposed/got approval for 315 housing units.....If Measure L fails, the developer can return to the already-approved 315 units”;

## **STATEMENT NOT TRUE**

**The Truth:** The Terraces 315 unit apartment project was NEVER APPROVED and THIS IS AN UTTERLY FALSE REPRESENTATION TO LAFAYETTE VOTERS.

The developer is using false representations to attempt to scare the public into thinking that the 315 apartment project was purportedly approved so they assume they must vote for the flawed homes and field project, with its 1,224 vehicle trips/day adding to gridlocked traffic, air pollution exposure to children, and ridgeline view impacts.

- **The developer suspended the application in January 2014** in the face of “public dissatisfaction”, no support from the Circulation and Design Review Commissions, and the “13 significant and unavoidable impacts on the environment” in the certified Final Environmental Impact Report (EIR). (*City Council 1/13/14 Agenda no. 11A*). The developer reserved a legal claim against the city related to “certification of the EIR” under a Tolling Agreement dated 9/9/13. **THAT’S ALL THAT HAPPENED.**
- **The EIR had 53 significant adverse environmental impacts**, 13 of which would be unavoidable even with permissible mitigation including unavoidable 2 Air Quality issues arising from emissions related to removal of 300,000 cubic yards of soil requiring 30,000 dump truck trips (*EIR Ex. H*). There were 4 unavoidable traffic impacts including that the traffic demand “exceeds the capacity” and “represents jammed conditions”.

**These significant unavoidable impacts were so devastating that the developer and City came up with an alternative plan – The Homes at Deer Hill.**

**IF the developer tried to resubmit the 315 apartments for consideration and vote by the city council in 2018, it could be legally denied.**

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As Mayor Tatzin explained, "the Council has taken no position with regard to the project. All the Council has done is certify the EIR".  
- *City Council Minutes, Sept. 23, 2013, p. 55*

And when the Council decided to shelve the Terraces application, then-Vice Mayor Andersson declared, "there are places where the original 315-unit project would be a great project, but this was not the place and people came out and made that point clearly and overwhelmingly".  
- *City Council Minutes, Jan. 22, 2014, p. 16.*

**From Yes On L:** [C]ommunity opposition led developer to change plans to 44 single homes, plus badly needed sports fields, a dog park, playground. Great community amenities. A neighborhood group called Save Lafayette sued the city to stop any development, lost, then got enough signatures to put the issue as Measure L on June ballot.

## STATEMENT NOT TRUE

**The Truth:** In 2015, Save Lafayette collected over 2,000 signatures from Lafayette citizens to place the approval of Homes at Deer Hill on the ballot. The signatures were certified by the City Clerk on 12/14/15, but the City Council (with guidance from the developer's lawyer) rejected the voter petition.

Save Lafayette sued to force the City to put the referendum on the ballot, and in February 2018, the California Court of Appeal ruled that the City of Lafayette violated state law by denying the vote. This is why we are having an election. **Save Lafayette worked for two years to get your vote back so that Lafayette citizens have a chance to know the truth about the flaws in this project, make up their own minds, and vote on it.**

The "great" community amenities have some serious drawbacks. The level of air pollution from the freeway is exceptionally high. The proposed trail runs along Highway 24, the freeway on-ramp and the congested Pleasant Hill Road. With such poor air quality, should people actually use it?

**From Yes On L:** As I understand it, Save Lafayette hopes to keep this open space ...and will launch another lawsuit to stop that. Defending lawsuits is not a productive use of city funds.

## STATEMENT NOT TRUE

**The Truth:** The **purpose of the vote is to give Lafayette voters the option to modify the project for the better.**

Objectives include a project that:

- **has less traffic impacts** to the Pleasant Hill Road corridor which is gridlocked at rush hour.
- **does not include a dangerous roundabout** on the steep part of Deer Hill that requires the Deer Hill Road to *be closed for months* during construction.
- **does not intrude on the visible ridgeline** the city manager referred to as "high visibility" and "an entryway to the community".
- **does not include \$3 Million of public money** to be spent on:
  - a **children's tot lot** play area right next to the busy, and polluted, Pleasant Hill Road.
  - a **children's sports field** within 500 feet of a busy roadway in an area that would be illegal for public school facilities under state law.
- **is not in a zone** identified by the Bay Area Air Quality Management District (BAAQMD) as having **elevated levels of particulate matter and other air pollutants.**

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We enthusiastically support spending \$3 million on sports fields placed away from major sources of air pollution. There are publicly and privately owned sites available in Lafayette. We think most Lafayette parents and residents agree.

**From Yes On L:** Heads up that you will be bombarded with ugly, negative campaigning.

### STATEMENT NOT TRUE

**The Truth:** Judging by this e-mail which is full of false facts and misinformation, it is the Yes On L side that is and will be doing all the ugly, negative campaigning!

**From Yes On L:** Signs with skull and crossbones already appear claiming cancer risk for sports fields. Lots of “facts” will fly around, don’t believe them without verification. Here’s a link to Fact Check [www.YesOnL2018.org/fact-check](http://www.YesOnL2018.org/fact-check).

### STATEMENT NOT TRUE

**The Truth:** The pollution risks are high for all parts of the Deer Hill site.

The Homes Supplemental EIR dated January 2015, states in the Air Quality section:

“toxic air contaminants (TAC) and PM 2.5 [particulate matter of 2.5 microns] concentrations **generated from State Route 24** would **exceed the BAAQMD significance thresholds**, prior to mitigation”,

- The BAAQMD was not consulted on the tot lot and field use.
- **The EIR found an increased cancer risk** over state standards.
- **Mitigation for the residents?** Answer - “MERV filters” and warnings to residents of “potential health risk” from Highway 24 including diesel particulate matter and PM 2.5 “when the windows are open.” [In other words, residents must keep their windows closed.]
- **Mitigation for field users?** Answer - NO mitigation is possible.
  - The city consultant argued that users of the field would have exposures of only several hours at a time to air that is admittedly in excess of BAAQMD significance thresholds.
  - Yet no authority from any federal, state, or local regulatory agency was cited for this argument.

**Very fine and ultrafine Particulate Matter (1 micron and less; widely regarded as the most penetrating and dangerous) was not even considered!**

On March 26, Mr. James Leach of Sustainable Lafayette was invited by the City Council to make a presentation on increased particulate matter health risks in Lafayette.

- Mr. Leach recited that PM 2.5 microns enters lung tissue, PM 1.0 microns enters the bloodstream through the lungs, while PM 0.1 microns migrates into the body’s cells.
- A person exercising in air that is rated 119 or in the Unhealthy for Sensitive Groups takes in “over 4 million 0.3 micron sized particulates per minute.”
- Children exercising in Moderate or Unhealthy for Sensitive Groups air are breathing in 2 to 4 million very fine particulates per minute! In addition to the larger 2.5 micron particulates.

**Would you want your child to inhale a quarter to half billion fine and very fine PM particles every soccer practice all season long?**



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*There is no mistaking the fact that medical research clearly identifies these risks in spite of the unfortunate reality that most people are yet unaware of them.*

*- Letter from James Leach, Pollution Expert, Sustainable Lafayette to Lafayette City Council, April 2, 2018*

**Save Lafayette will be sending out a separate detailed research note on the pollution concerns in the next few days. Watch out for it – no parent should just rely on the superficial study done by the EIR consultants.**

**From Yes On L:** [An email blast from Save Lafayette with misinformation just went out, so batten down the hatches for lots more.](#)

## STATEMENT NOT TRUE

**The Truth:** The sole purpose of the Save Lafayette e-mail is to inform the voters with the truth. We are a group of concerned residents and our only interest is the well-being of current and future Lafayette residents, particularly the young people. Our goal is to educate voters of the real issues to this development proposal.

**From Yes On L:** [Save Lafayette is a highly organized, well-funded, and publicly verbal.](#)

## STATEMENT NOT TRUE

**The Truth:** You flatter us, but Save Lafayette (No on L) is comprised of a small group of Lafayette residents, 100% dependent on resident donations who became fed up seeing the City being pushed around by well-funded developers and their lawyers. Members of Save Lafayette are extremely invested in the responsible development of Lafayette, we have no special interests, and we are a group of unpaid volunteers who work hard to research the truth. We have been vocal and honest when simply sharing our fact-based observations and research to expose negative issues about The Terraces and Homes at Deer Hill from the beginning. The sole purpose is to protect new and existing residents who are not aware of the issues. In contrast, the Yes On L group is backed by the developer O'Brien Land Company.

**From Yes On L:** [Committee major funding from Dennis O'Brien, including O'Brien Land Company.](#)

**The Truth:** **At least that part is true!**

## What has 'Yes On L' NOT TALKED ABOUT? TRAFFIC IMPACTS!

**The Truth:** Yes On L has not (to date) disputed the **disastrous impacts of the 1,224 vehicle trips per day** generated by Homes at Deer Hill. Gridlocked commute conditions at the intersection of Deer Hill and Pleasant Hill Roads, by the Acalanes High School, are so extreme the EIR ranked it as an 'F' [Fail].

- Residents' request for a right turn lane extension along Pleasant Hill Road to Deer Hill Road was denied; we are trying to drive children to Stanley Middle School, to downtown Lafayette, and to BART.
- The developer will build a **dangerous roundabout on Deer Hill Road**. The grade is too steep; recommended grade is 2% and Deer Hill Road is 14%. Traffic patterns don't support one, but the City **will excavate and flatten Deer Hill Road** and to do so **will close Deer Hill Road for 4 months** during construction! A signal light is sufficient for the ratio of traffic; less than 3% is from Homes at Deer Hill.

**Save Lafayette will be sending out a separate detailed research note on Traffic Impacts in the next few days.**

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