

Spaces & Places: Lawsuit delays BAREC plan

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One down, one to go.

Last week, Santa Clarans gave SummerHill Homes and Charities Housing a victory at the polls by approving Measures A and B, which will allow dozens of houses and senior apartments to be built on land near Westfield Valley Fair.

The measures were supported by 60 percent of the electorate - more than 14,200 voters in favor and 9,500 opposed.

But don't look for construction on the 17 acres known as BAREC, Bay Area Research and Education Center, to start anytime soon.

Next, the Palo Alto developer must defend a lawsuit filed by SaveBAREC last August in Santa Clara Superior Court, alleging violations of the state's environmental law in the 1,000-plus page environmental report.

Katia Kamangar, SummerHill's senior vice president, said she is confident that her company will prevail, given the time spent to prepare the report and the approval by the state Department of Toxic Control for the plan to rid the site of toxins.

"It's a common tactic to delay development," Kamangar said about the suit. "We're hoping it's only a matter of months. Once the lawsuit is resolved, we will start remediation."

She credited the city council's support for the project, her company's determination to walk all 43 precincts, as well as a campaign barrage that included direct mail, telephone calls and TV time for the win. SummerHill already agreed to pay \$34 million for 11 acres of the parcel, and the campaign effort cost at least \$600,000, according to campaign statements.

By contrast, SaveBAREC posted a notice on its Web site asking supporters to donate so the group could close its bank account. Kirk Vartan, spokesman for SaveBAREC, said his organization is in debt after spending about \$4,000 on TV time near the end of the campaign. He blamed a low turnout for the failure of the measures.

"Only 19,000 people voted out of 45,000 registered voters; that's less than half," he said. "I bet you that if you contacted the people who voted yes, a majority don't know what they voted on. A majority of people have no idea of the single family homes. And if they do, they don't know the extent."

Vartan said there is no date yet for a hearing on the lawsuit, which alleges that the plan to remove 8,000 tons of dirt poses a risk to nearby residents because it will release toxins such as arsenic and dieldrin into the air.

The suit also raises the historic status of two structures on the property, which was used for decades by the University of California as an agricultural testing site.

Sharon McCray, the historian for SaveBAREC, said the property once served as a home for Civil War widows and orphans, but those structures were demolished by the state in the mid 1960s. Only two buildings from the past remain: a tool shed and a three-story office building, both constructed more than 80 years ago from old-growth redwoods. Both should be preserved as a tribute to the valley's agricultural past, McCray said.

SummerHill, she said, plans to bulldoze the two structures.

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