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Council Votes to Go Ahead with BAREC Development Plan

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After a nearly eight-hour long meeting – nearly five hours devoted to proposed development at BAREC, the former UC agricultural research station on Winchester Blvd. – Santa Clara City Council voted unanimously to allow the Santa Clara Gardens development plan for the site to proceed. Council Member Jamie McLeod abstained because of a stated conflict of interest.

The vote was a striking defeat for project opponents.

The decision will pave the way for 275 housing units, 165 of which will be below-market senior housing, was more than seven years in the making -- beginning in 1999 with what has been called a "backroom deal" between the state and UC regents to revert the property to the state in return for a \$2 million annual funding increase.

The disposition of the property, owned by the state although it lies in the City of Santa Clara, has been a matter of considerable public debate.

The Santa Clara Gardens plan was developed jointly over the past five years by Santa Clara with developer Summerhill Homes and affordable housing advocates Catholic Charities Housing, and the Santa Clara Methodist Foundation. City staff recommendation is to accept the plan.

The plan includes 165 below-market one bedroom senior housing units and 110 market rate homes. Density will be 9 to 18 units per acre, less than higher density developments like Rivermark.

Freestanding single-family homes, ranging from 2000 to 2700 square feet, will back existing residential streets. Two-story-over-garage "patio" homes, from 1700 to 2000 square feet, will be built inside the development. The senior apartments development includes a landscaped garden. In addition, a one-acre park on the site will be accessible to both Santa Clara and San Jose residents.

Vehicle access to the development will be through Winchester Blvd., with additional emergency vehicle access points.

Save BAREC spearheads the opposition, lobbying to create an urban farm. San Jose officials have promoted a park to serve the west San Jose neighborhood. In addition, Santa Clara resident Brian Lowery, an engineer and member of the Citizen's Advisory Council, has put forward his own development plan.

New Information or Delaying Tactics?

Just when a resolution of five years of discussion seemed finally to be in view, the arrival of two packets of additional information -- including one from M.R. Wolfe & Associates, a San Francisco law firm that has been involved in land use disputes in Monterey County -- raised the question of whether the scheduled public hearing and Council vote would have to be postponed.

This raised the question: Can decisions be indefinitely stalled by ever-new documents to be reviewed? That seemed to be a gray area and the City Attorney had difficulty giving a definitive answer.

Even Mayor Pat Mahan – herself a lawyer – was perplexed. "I'm confused. We've never had a situation like this before. When does this stop? I thought that, prior to this night's meeting, is that what's the public record is what we make our decision on. Not that we'd be taking more information."

It was finally agreed that the meeting and public hearing should go forward as scheduled, with the additional documents referred to City staff for analysis and a report at the July 10 meeting.

"This is an issue that's been in the public conversation since 1999," said Council Member Dominic Caserta. "I'm ready to move forward. I say we move forward tonight."

Santa Clara Gardens: Senior and Market Rate Housing with a City Park

First up was Summerhill Homes' Katya Kannegar. "This is a classic case of infill, smart growth across the street from two regional shopping centers, near a major transit hub. Our plan is implementation of the vision that the city has. It was designed with the goal of integrating best into the fabric of the existing neighborhoods."

"It's ideally located close to public transportation and within walking distance to grocery and drug stores," said Santa Clara Methodist Foundation's Alice Sutton, pointing out that the current wait for below-market senior housing is between two and four years. "It's a unique opportunity for an intergenerational community."

"It's very unusual for senior housing to be very close by to all the amenities," said Charities Housing's Kathy Robinson. "We have incorporated the history of the area and green building in a sustainable area."

Save BAREC: Urban Farmland

Kirk Vartan of Save BAREC presented his group's alternative, "a small scale urban farm. "This land we're all standing on right now, by definition this spot is prime farmland soil." Vartan presented as a model Fairview Gardens in Southern California, "one of the oldest organic farms in the state. It's a non-profit, financially sustainable, 12.5 acres in the middle of an urban setting.

"The real discussion is public use vs. private use," he continued. "Once you privatize public land you remove public land from serving the public good."

Council Member Will Kennedy brought up the question of what happens if the City refuses to rezone the property from agricultural to residential, as BAREC was asking.

"Say we say 'no' tonight? The state has made it abundantly clear that it's not going to sell it for some other farm use," he said, referring to the state's preemptive power to build something like a courthouse or a juvenile detention facility on BAREC.

"The state isn't allowed to determine land use," Vartan replied. "They can use it or sell but they can't force you to use for something the city is not comfortable with. We have a resource here that can serve the greatest public good.

"It's sounding like our group is anti-housing, anti-seniors, anti-development," Vartan concluded. "That's not the case. It's *where* the development occurs. If we go to a referendum, that will cost everybody money."

The applause that followed Vartan's presentation -- from an audience packed with supporters -- provoked sharp response from Mayor Pat Mahan, banging the gavel in irritation. "I will not allow booing, hissing, applauding that will intimidate speakers or disrupt the orderly process. If I hear one more outburst I will clear this room."

A Long March of Public Comment

Four hours of public comment followed as about 100 speakers -- most opposing -- made their views known. Widely circulated emails exhorting anti-development speakers to be sure to use their full two minutes, led some people privately to call it a 'filibuster' effort on the part of development opponents.

One after the other, speakers harked back to rural Santa Clara half a century ago, stressing the value of an urban farm -- "a celebration of our agricultural history" -- for teaching children about agriculture and nature, as well as a community garden for "picking fresh produce for a wholesome meal."

Other development opponents broached BAREC's toxic history. For many years insecticides were researched there, necessitating a significant clean-up effort regardless of use. Poisons present in the soil include the insecticides Dieldron, DDT and arsenic.

Neighborhood residents alleged that cancer rates were higher in the area. Some speakers asserted that the Environmental Impact Report (EIR) understated the problem and the ease of clean up. Others claimed that the extent of pollution couldn't be gauged. "We don't even know some of the things that are there," is how one put it.

This line of attack seemed logically inconsistent to Donie L. Key, one of the few pro-development speakers. "If a piece of land is too toxic to live on, how can you grow food on it? Maybe one of the speakers can explain that to me."

Other speakers inveighed against the addition of more cars to already congested area intersections, urban sprawl, petroleum dependency, the social transformation of Santa Clara into Silicon Valley, and even holiday traffic problems on Rosewood Avenue in unincorporated San Jose. Many lambasted City officials for "not listening to the people" and "having their minds made up" from the outset.

None, however, offered to sell their properties at pre-Silicon Valley prices in the interest of returning the area to its former agrarian state.

Unanimous Approval for Development

In the end, Council voted to go proceed with development; with Council Member Pat Kolstad introducing the six necessary motions for EIR approval, zoning changes, and project approval. All passed unanimously.

Council Member Caserta, whom development opponents have perceived as sympathetic, in the end voted to go forward with the project because, "you have given us no solution."

Mayor Mahan pointed out that the state's ownership of the land made this different from other land use decisions in the city.

"The difference between Ulistac [the 40 acre open space park on Lick Mill Blvd.] and BAREC was that the City owned the land," she explained. "[With BAREC], the city made the decision to purchase as much of that land as we could afford at below market prices, and have as much open space as we can afford."

Further, she added, "I think we need to clarify that this was not a farm. It was a research station. They tested insecticides. That's why it's so contaminated."

Mahan also pointed out that most of Santa Clara is built on former orchards. "We wouldn't be living in the houses we're living in if people hadn't [agreed] to tear out those orchards."

At the end of the day – or morning, as in this case -- housing remains a critical problem in the Bay Area.

Silicon Valley Leadership Group's Shiloh Ballard noted that in its annual survey, local business executives named housing as their top business problem. But when it comes to specific projects, she hears a different story.

"We agree at a macro level that housing is a problem, but when we look at specific sites we come up with 101 reasons why we can't build on the site," she said, listing projects that have been scratched in the South Bay and Peninsula because of local objections. "At Bay Meadows – there was 'historic value' to gambling. And then we scratch our heads and wonder why there's no housing."

Postscript: BAREC Will Not Go Quietly

Kurt Vartan isn't lying down after Tuesday's defeat. He's moving ahead with plans to force a referendum on BAREC.

"They just rammed the vote through at 2:30 a.m. when they said they were going to consider [the additional documents]," he says. "The deliberation lasted all of five minutes. Not one council member was interested in doing anything but getting that through."

Save BAREC has already started drafting a referendum to put the question on the ballot, according to Vartan, and expects to start collecting signatures by the end of the week.

When asked about the wisdom of further extending this decision, Vartan replies, "How long it's been going on is irrelevant to the merits."