

Santa Clara activists sue to stop housing near Valley Fair

LAWSUIT FILED OVER LAND NEAR VALLEY FAIR MALL

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A group of activists has worked more than four years to fight a housing plan on Santa Clara's last 17 acres of farmland. They collected thick binders of research, aired their concerns at city council meetings, and - even after council members approved the project - the group collected enough signatures for a potential February ballot measure.

Now they're taking their fight to the courts.

SaveBAREC, a non-profit organization formed by the activists, filed a civil lawsuit Friday that accuses city officials of violating state development rules by drafting an incomplete assessment of the proposal's effects on residents. According to the suit, the document, known as an environmental impact report, failed to:

Address concerns about toxic chemicals and the site's historic and cultural resources.

Evaluate alternatives to the project.

Explore suggestions for addressing the more significant effects of the project and instead declaring these to be "unavoidable."

The group wants work on the project halted while parts of the report are redone in accordance with what it says are legal standards.

In June, the council approved the report and voted to change the zoning of the 13-acre state-owned site across from the Valley Fair mall to allow Palo Alto-based SummerHill Homes to buy 11 acres to build 110 single-family homes. The city plans to buy the rest of the site at 90 N. Winchester Blvd. to help Charities Housing and the Santa Clara Methodist Retirement Foundation develop 160 low-income senior housing units.

The complaint blasts the city's approval of the project, calling it "a prejudicial abuse of discretion and/or arbitrary and capricious in that the city did not proceed in the manner required by law."

Deputy City Manager Carol McCarthy declined to comment on details of the case Monday because she said the city has yet to review the lawsuit.

But in an e-mail to the Mercury News, McCarthy said, "The city's actions in approving the low-income senior housing and private development came only after a laborious two-year environmental review process, during which time SaveBAREC had ample opportunity to, and did, submit numerous comments which were analyzed by city staff and consultants."

For decades, the University of California operated an agricultural research station known as the Bay Area Research and Extension Center, or BAREC, on the land. Supporters of the housing project say the land will meet a critical need for new and affordable housing and that it represents smart growth because it is near malls, grocery stores and transit.

SaveBAREC organizer Kirk Vartan said his group is hoping "to protect residents from a faulty cleanup process and the community from an environmental document that is inaccurate."

Group members say the community loses its ability to shape what happens to public land once it is sold to private groups and the land should be used as an educational farm or garden.

The group also has warned city leaders about the impacts of toxic chemicals in the soil such as arsenic and dieldrin, pesticides that have been banned for decades. The complaint says the city incorrectly concludes that no contaminated soils will remain after the cleanup plan that has been approved.

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