



# CITY OF SAN JOSÉ, CALIFORNIA

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PIERLUIGI OLIVERIO  
COUNCILMEMBER, DISTRICT 6

October 20, 2008,

Dear Neighbors,

The purpose of my letter is to share information with you regarding the former Bay Area Research Educational Center (BAREC) located on the west side of Winchester Boulevard in the City of Santa Clara.

The 17 acre former BAREC site was sold in the late 1990's by the State of California to Summer Hill Homes. The developer is proposing to build affordable senior housing, market rate housing and a one acre park.

As you may know, I am not supportive of the proposed development by Summer Hill Homes at the former BAREC site. Since my campaign for elective office in 2006, I have advocated to keep the 17 acres of BAREC as open space. I spoke against development of this site in front of the Santa Clara City Council along with other members of the public. In addition my staff attended and spoke against this development at another Santa Clara City Council meeting the same night I had a city of San Jose council meeting. I, along with others, attended a meeting by Kathryn Matheson of "Save BAREC" to discuss alternative uses other than development for this site.

I met with City of San Jose staff (including the City Attorney's office, Public Works, Planning, Parks and the Department of Transportation) to see what legal recourse and/or other alternatives the City of San Jose may have to stop the development in Santa Clara. Or, at the very least, change the entrance/exit for the development so that traffic would not enter/exit into the City of San Jose. Unfortunately, the time for the City of San Jose to oppose this project was by March 1, 2007. I was sworn into office on March 20, 2007. Between January of 2007 and March 20, 2007 the District 6 office did not have a council representative.

I would like to provide background information for you regarding this issue. In 2004, an Environmental Impact Report (EIR) was drafted, along with the plans for the residential project. Issues relating to the EIR residential project included the modification of the Forest/Winchester signal. The proposed modification would allow signalized access from Winchester Boulevard, and line up opposite of Forest Avenue. Public hearings and community meetings were held to gather comments from residents and agencies about the site. Many members of the public were not supportive of this development. As a result, a group called "Save BAREC" (who I support) was successful in calling for an election for the residents of the City of Santa Clara to vote on this issue. Unfortunately, the residents of Santa Clara voted to allow the development on the former BAREC site to move forward.



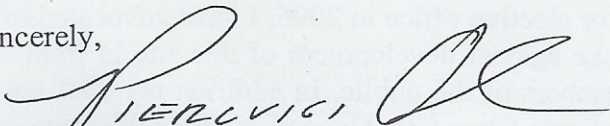
"Save BAREC" also opposed the EIR, and brought a lawsuit forward, arguing the toxics at the site would be harmful to the residents. In July 2008, a judge found that that the EIR was complete and found nothing wrong with its conclusions. Thus, the opinion of the group "Save BAREC" was not supported.

During the time of the EIR circulation in 2004, the City of San Jose's Councilmember (in office at that time), *did not* express opposition to the EIR traffic modification; therefore no direction was given to staff to find alternatives to deny the request. Therefore, the City of San Jose used the information that was provided by the traffic study prepared by Fehr and Peers which supported the traffic signal change and proceeded in the assessments of modifications to the traffic signal at intersection of Forrest and Winchester. Enclosed, please find a snapshot timeline.

On September 10, 2008, the issue arising from the EIR regarding the traffic signal at Winchester Boulevard and Forest Avenue was heard at a Rules and Open Government Committee. The action that was given was for City Staff to work with the Attorney's office to find funding regarding traffic calming for the area, but that the traffic signal will be modified.

Although I will continue to express my opposition for the proposed development at the former BAREC site, the San Jose City Attorney advised me that the City of San Jose does not have any legal authority over the BAREC site. As a result, any further efforts to stop this project will need to come from private citizens.

Sincerely,



Pierluigi Oliverio  
Councilmember, District 6  
City of San José

cc: Christine Shippey, Assistant City Manager, City of San Jose  
Rick Doyle, City Attorney, City of San Jose  
Katy Allen, Director, Public Works Department, Deputy Director, City of San Jose  
Timm Borden, Deputy Director, City of San Jose  
Kirk Vartan, Founder, Save BAREC  
Joseph Head, Vice President, Summer Hill Homes



## TIMELINE - BAREC SITE DEVELOPMENT

### CITY OF SANTA CLARA – BACKGROUND ON “BAREC” SITE<sup>1</sup>

In the late 1990s, the State of California decided to declare surplus the 17-acre property at 90 N. Winchester, and to sell it. At that time, there was an agricultural research facility, the Bay Area Research and Extension Center (BAREC), using the State's property. The City did not have sufficient funding nor have as a goal to purchase the entire property from the State to retain the agricultural research facility. The City's Redevelopment Agency Affordable Housing Fund was able to propose the purchase of six of the 17 acres at a below-market rate to acquire the land and to help pay for a portion of the construction of an affordable senior housing project. By law, affordable housing funds must be used for affordable housing purposes; these funds cannot be used to purchase property for other purposes such as open space in general, public parks, or agricultural facilities.

After the State decided it would be selling the parcel, the City's Redevelopment Agency and the State entered into land purchase discussions in 2002 and were close to finalizing the purchase of the six acres in 2004, when a last minute bill in Sacramento placed the sale on hold. The legislation temporarily halted the State's long-standing practice of allowing land sales to public agencies at a below market rate for specified uses of this type. When this State bill expired on June 30, 2005, the City's Redevelopment Agency was able to complete the purchase of the six acres, with the assistance of Senator Elaine Alquist, as well as the support of the Santa Clara Chamber of Commerce, the Silicon Valley Leadership Group, and the Santa Clara City Council and its Redevelopment Agency, strong advocates of the affordable senior housing project.

Since 1999, the reuse of the property at 90 N. Winchester (BAREC) has been discussed by the City of Santa Clara at numerous City Council meetings in public sessions. It has been discussed at community outreach meetings of the City of Santa Clara's Planning Commission, held conveniently at Valley Village near the site, and at a subsequent Planning Commission meeting at City Hall. Santa Clara public meeting schedule on the BAREC site for 2002 – 2007 is attached.

### CITY OF SAN JOSÉ, SANTA CLARA & SUMMER HILL – BACKGROUND ON “BAREC” SITE

March 18, 2003	San Jose City Council directed Parks, Recreation and Neighborhood Services staff to work with the City and County of Santa Clara to explore funding opportunities including, but not limited to, submission of a joint application for a Land and Water Conservation Fund Grant from the State of California to assist in purchasing portions of the BAREC property, located in the City of Santa Clara, to allow for continued agricultural/open space uses.
FY 2003 - 2004	San José is unable to identify funding opportunities to assist the City and County of Santa Clara in purchasing portions of the BAREC property, located in the City of Santa Clara.
June 2003	Summer Hill proposes residential development on BAREC site (date approximate, City of Santa Clara can provide actual dates of application)
March 9, 2006	City of Santa Clara releases Draft “Santa Clara Gardens//BAREC” EIR
April 21, 2006	City of San José sends memorandum with comments on Draft EIR to City of Santa Clara (Memorandum attached)

<sup>1</sup> Background excerpt from EIR



August 7, 2006	City of Santa Clara re-circulates Draft EIR
September 2006 – May 2007	City of San José, as part of standard review process, meets with engineering firm(s) representing SummerHill Homes to discuss technical issues cited in the EIR relating to the traffic signal at Winchester Blvd. and Forest Ave and consider proposed solutions. Summer Hill Homes conducts community outreach to present/discuss development progression
June 21, 2007	Santa Clara City Council approves project/EIR
Summer 2007	SaveBAREC, an organization opposing the residential development, leads successful petition drive to put the issue before voters (date uncertain)
February 5, 2008	Santa Clara voters ratify the residential development
Spring 2008	SaveBAREC legally challenges EIR (date uncertain)
February 29, 2008	Kirk Vartan submits Public Records Act (PRA) to City of San José requesting documents, including emails & memorandum, relating to the traffic signal at Winchester Blvd. and Forest Ave
March 6, 2008	City of San José provides PRA documents requested noting that, typical of standard review process, the City does not take meeting minutes for technical review sessions with development firms, therefore some documents requested did not exist
June 5, 2008	City of San José receives first draft plan submittal on the traffic signal at Winchester/Forest for Technical review
June 2008 - current	City of San José technical review process in progress – multiple iterations of the following items: Traffic Signal Modification, Street Lighting, DOT Operations, DOT Maintenance
June 20, 2008	Kirk Vartan submits additional/supplemental PRA to City of San José detailing specific questions relating to the Winchester/Forest traffic signal modification and requesting further documentation related to public outreach for SummerHill development
July 2, 2008	City of San José responds to PRA providing all existing information/ documentation requested, noting that recently submitted draft signal modification plans are available for review at City Hall.
July 18, 2008	Santa Clara Superior Court rules EIR complete and in compliance with EQA mandates
August 6, 2008	Kirk Vartan, following discussions with the San José's City Manager's Office, requests that the City Clerk place the Winchester/Forest Traffic Signal item on the Rules Committee, under the Public Record Agenda, for placement on City Council agenda
August 20, 2008	Rules Committee refers Kirk Vartan's request to staff for evaluation
September 10, 2008	The Rules Committee votes to accept staff's recommendation to <u>not</u> forward the traffic signal at Winchester Blvd. and Forest Ave. to City Council