



**Date:** September 20, 2011

**To:** City Manager for Council Action

**From:** Director of Planning and Inspection

**Subject:** Response to Written Petition submitted by Kirk Vartan regarding Approved Project at 90 N. Winchester Boulevard (BAREC/Santa Clara Gardens)

**EXECUTIVE SUMMARY:**

Mr. Kirk Vartan submitted a written petition requesting information on the status of the *Santa Clara Gardens* project and clarification of the City's involvement with the purchase of the senior portion of the development. The City Council approved development on the 17-acre site previously known as the Bay Area Research Extension Center (BAREC) in 2007. This property located at 90 N. Winchester Boulevard was formerly used as an agricultural research station by the University of California (UC) and later designated as surplus property by the State of California.

The development applications approved by the City Council include a General Plan Amendment, Tentative Parcel Map to create 3 main parcels (10-acre single family site; 6-acre senior housing site; and a 1-acre park site); Rezoning applications to PD (Planned Development/Low Density Multiple Dwelling and Moderate Density Multiple Dwelling), a Density Bonus, Vesting Tentative Subdivision Map to subdivide the 10 acre parcel into 110 individual residential lots and a new public street; a Development Agreement between the State, the City of Santa Clara, SummerHill Homes as the developer of the single-family site and the City of Santa Clara Redevelopment Agency as the developer of the senior project. Subject to these entitlements, the market-rate housing developer, SummerHill Homes, has indicated it plans to complete purchase of the 10-acre site before the end of this year and develop the property as approved with 110 detached small-lot single-family homes on the westerly side of the site and construct the public loop street and the public park improvements.

The City of Santa Clara Redevelopment Agency entered into a purchase agreement to acquire six acres of 17-acre parcel from the State of California. The City Redevelopment Agency's affordable housing fund would purchase the six acres at a below-market rate as provided in the purchase agreement and assist in the development of the affordable apartments for seniors. The Purchase Agreement states that the City would pay not more than \$11,684,275 (or 59% of SummerHill price, whichever is lower). Approximately \$20 million were allocated over several years from Redevelopment Area Tax Increment Housing Set-aside funds and reside in the adopted Capital Improvement Budget. These monies are available now and there have been no additional monies allocated for the senior project beyond the original set-aside. The terms of the State and Agency purchase agreement call for the senior parcel transaction to occur within 10 days of the close of escrow by the market rate developer. There has been no transfer of funds from the City to the State at this time.

It is our understanding that SummerHill has recently finalized their purchase agreement with the State of California and will close escrow on December 15, 2011. In the interim, SummerHill has worked out with the State as the current landowner the right to initiate some limited improvements on the property in advance of the close of escrow. It should be noted that SummerHill is undertaking these improvements at their own risk. SummerHill has met with City staff and is fully committed to moving forward with the project and desires to start infrastructure improvements at this time. The Building Department has issued a rough grading permit and is

reviewing an underground utilities permit.

At the Architectural Committee meeting of April 2, 2008, the architectural designs of the single family units were reviewed and approved by the Committee. Mr. Vartan was among the public who attended and was involved in the discussion. There have been no changes to the approved design since that action.

The affordable senior housing project is proposed to be built under a partnership with two non-profit organizations: Charities Housing and the Santa Clara Methodist Foundation. There have been no changes to the development proposal since the City Council zoning approval. Final designs for the senior housing proposal are not complete at this time, but will be reviewed by the Architectural Review Committee in the future.

A final park design will come before the Parks and Recreation Commission. The loop street and 1-acre park are public facilities and will require City maintenance, as do other public roads and parks in the City. The residential properties are to be privately maintained, including both the single family homes and the senior project.

In regards to the site cleanup, the City of Santa Clara is fully satisfied with the work completed by Department of General Services (DGS) and Department of Toxic Substance Control (DTSC). Environmental Business Solutions (EBS) of Folsom, California, was the contractor hired by DGS to do the work on site, including both demolition and soil clean up. EBS has over 25 years of site contamination cleanup. The Remedial Action Work Plan (RAW) was followed by the State's workers on site, as well as City staff, DTSC staff, Environ and the DGS staff. During the site cleanup process, DGS and DTSC responded to questions and concerns from residents via email to the entire group of concerned citizens and notified City staff regarding these communications. Additionally, a public information mailing about the RAW process was sent to the "interested parties" and to residents within a 1000 foot radius of the site prior to beginning the site cleanup. The mailing had contact information for all on-site project managers and State representatives. Bay Area Air Quality Management District (BAAQMD) was out to the site several time to monitor and to address complaints received. The District found no violations on the site or by the contractor. On August 11, 2010, DTSC issued a "No Further Action" letter to DGS indicating that the RAW was followed as approved, and that "No further work related to hazardous substances remain," making the site ready for unrestricted for residential development.

**ADVANTAGES AND DISADVANTAGES OF ISSUE:**

Not applicable

**ECONOMIC/FISCAL IMPACT:**

Not applicable

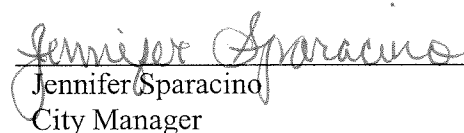
**RECOMMENDATION:**

That the Council note and file the written petition submitted by Kirk Vartan.



Kevin L. Riley  
Director of Planning and Inspection

APPROVED:



Jennifer Sparacino  
City Manager

***Documents Related to this Report:***

- 1) *SummerHill Homes Neighbor Notification letter, dated September 5, 2011*
- 2) *Written Petition from Kirk Vartan, submitted September 13, 2011*
- 3) *Report of Completion of Removal Action, August 8, 2010, and No Further Action letter from DTSC, August 11, 2010*

## SummerHill Homes<sup>SM</sup>

777 California Avenue  
Palo Alto, CA 94304  
Tel: (650) 857-0122  
Fax: (650) 857-1077

September 5, 2011

Re: Neighbor Notification for 90 North Winchester Boulevard

Dear Neighbor:

This letter is to inform you that SummerHill Homes will be commencing construction of the new residential community at 90 N. Winchester Boulevard, the site formerly known as BAREC.

This project approved in 2007, consists of 110 single family homes and 163 affordable senior apartment units.

- Work will commence on or shortly after Monday, September 19<sup>th</sup>
- The site will be graded in accordance with the city approvals for the project
- Grading work is anticipated to last approximately sixty (60) working days but can last longer due to weather conditions or other delays
- The site will be watered daily to control dust as much as possible
- The City approved construction hours for the project are:
  - Weekdays 7:00 a.m. to 6:00 p.m.
  - Saturdays 9:00 a.m. to 6:00 p.m.
  - No work on recognized State and Federal holidays or Sundays

For questions about our activities, please contact SummerHill's Director of Site Development, Mr. Paul Medeiros, at (925) 244-7518.

Sincerely,



Katia Kamangar  
Senior Vice President

Cc: Gloria Sciara – City of Santa Clara



CITY COUNCIL

CITY OF SANTA CLARA  
WRITTEN PETITION

**RECEIVED**

SEP 13 2011

City Clerk's Office  
City of Santa Clara

Please provide the information requested below. When complete, please submit to the City Clerk's Office, 1500 Warburton Avenue, Santa Clara, CA 95050.

Date: September 12, 2011

I, Kirk Vartan, am hereby requesting to be placed on the Santa Clara City Council Agenda for the following purpose: Since SummerHill will be starting construction as soon as September 19, 2011 (see attachment) on BAREC (90 N Winchester Blvd), I would like to ask some questions of the City. I have not heard much about this major development in the City lately, and I think it would be a good time to learn more. I would like to ask the following questions:

1. Where are the sources of the funds for the senior portion of the development (the purchase of the land as well as the building of the structures) coming from and are the funds currently liquid and accessible?
2. Has the City of Santa Clara paid any money to the State of California for this project?  
If so, how much?
3. How much money is still due to the State of California by the City and what is the timeline for payout?
4. What financial area in the City's budget will the purchase of the land be coming out of for the City's portion of land as well as the building construction for the senior portion?
5. Will any City of Santa Clara tax revenue be used for the City's portion of this project?
6. Has all money been reserved and allocated to date for the entire project (for the City's portion)?
7. Where will the maintenance costs be paid from (for the entire development site, including the single family homes)? How much is this expected to be?
8. What are the overall cost impacts to the City based on the revised estimates and lack of positive revenue from the development? Originally, SummerHill stated in writing that the project would generate an excess of over \$70K+ per year for the City. After the election, the City staff has found that this was not the case and that there would be a negative cash flow from this single family development project (including all potential tax revenue). What is the expected financial cost to the City?
9. The numbers used in the past were \$20-26 million for the City's portion, including land acquisition and building of the rental apartments. Can you confirm these numbers or update as needed?
10. Can SummerHill begin construction if the land is in escrow?
11. Does the City of Santa Clara hold title for the seven acres (their portion) of the land?
12. Can you share any details of the development plan for the SummerHill portion of the market rate homes? Other than the attached letter, no details have been shared.
13. Can you comment on the status of the clean-up of the toxins and is the City's satisfied?

Signed:

NAME: Kirk Vartan  
ADDRESS: 598 N Henry Ave, San Jose, CA 95117  
TELEPHONE:\* 408-247-5423

DATE: September 12, 2011

\*NOTE: This is a public document. If your telephone number is unlisted or if you do not want it to be public,



Linda S. Adams  
Secretary for  
Environmental Protection



## Department of Toxic Substances Control

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Maziar Movassaghi  
Acting Director  
700 Heinz Avenue  
Berkeley, California 94710-2721



Arnold Schwarzenegger  
Governor

August 11, 2010

Mr. Ron Small  
California Department of General Services  
707 Third Street, Suite 6-130  
West Sacramento, California 95605

Dear Mr. Small:

The Department of Toxic Substances Control (DTSC) has received the Removal Action Completion Report dated August 2, 2010 for the Former UC Bay Area Research Extension Center site located at 90 North Winchester Boulevard, Santa Clara, California. DTSC provided guidance and oversight for the development and implementation of a removal action plan for this site along with the following additional documents: Health and Safety Plans, and a Community Profile.

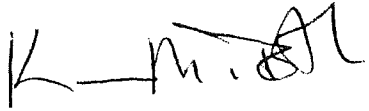
Our review of the Removal Action Completion Report indicates that the work has been conducted in accordance with the approved RAW and that the remediation goals have been achieved. DTSC hereby approves the Completion Report as the final report.

With completion of this remediation, the BAREC site does not pose a threat to human health or the environment under any land use, including unrestricted residential development and is safe for occupancy for single family homes. Therefore, DTSC determines that no further action is necessary with respect to investigation and remediation of hazardous substances at the site. As with any real property, if previously unidentified contamination is discovered at the Site, additional assessment investigation and/or clean up may be required.

Ron Small  
August 11, 2010  
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If you have any questions regarding this approval, please contact me at (510) 540-3834.

Sincerely,

A handwritten signature in black ink, appearing to read "K. M. Toth". The signature is stylized and somewhat cursive.

Karen M. Toth, Unit Chief  
Brownfields and Environmental Restoration Program – Berkeley Office

cc: Ms. Anne Wooster Gates  
Environ  
6001 Shellmound Street, Suite 700  
Emeryville, California 94608

Report of Completion  
of  
Removal Action

1. Site Name:

Bay Area Research Extension Center

2. Site address:

90 North Winchester Boulevard  
Santa Clara, California

3. Type of Site:

RP-lead                     NPL (listed or proposed)  
 DTSC-lead                 RWQCB-lead  
 EPA-lead                    Local Agency-lead

4. Size of Site:

Small                         Medium  
 Large                         X-Large

5. Names of Responsible Parties:

State of California  
Department of General Services

6. Role of DTSC in Removal Action (RA):

DTSC implemented RA directly.  
 DTSC provided oversight/guidance to RPs or other  
state, local or federal agency for RA.

7. Description of RA:

The RA consisted of shallow excavation of soils contaminated with arsenic and dieldrin from a former agricultural research facility. In most areas, excavation went to between 1 and 3 feet below ground surface. The excavation under the former Building 100 basement went to 11 feet. Approximately 6,000 cys of soil was excavated and removed. Approximately 840 tons (from Hotspot #3) of this soil was disposed of as California (non-RCRA) hazardous waste at Clean Harbors Buttonwillow LLC. Approximately 12,532 tons were disposed of as nonhazardous waste at TriCities Recycling and Disposal Facility, in Fremont, California. During excavation activities in Field 4, an approximately 2,000 gallon underground fuel storage tank (UST) was found.

The UST was drained, washed, removed and disposed under oversight of the Santa Clara Fire Department. Dust monitoring was conducted on an hourly basis at the perimeter of the site as well as within the excavation and loading areas while contaminated soils were being handled.

8. Cost of RA:


The cost of the removal action is unknown.

9. Date of RA:


The removal action began on May 10<sup>th</sup> and was completed on June 30, 2010.

10. Work Remaining to be done at Site:

No further work related to hazardous substances remains.

  
\_\_\_\_\_  
Karen M. Toth P.E. - Unit Chief

8/9/2010  
Date

  
\_\_\_\_\_  
Barbara J. Cook, P.E., Performance Manager

8/10/2010  
Date



REMEDIAL ACTION CERTIFICATION FORM

1. Site Name and Location:  
Bay Area Research Extension Center, 90 North Winchester Boulevard, Santa Clara, California
- A. List any other names that have been used to identify sites: N/A
- B. Address of site if different from above: N/A
- C. Assessor's Parcel Numbers: 303-17-053

2. Responsible Parties:  
Name: State of California, Department of General Services  
Address: 707 Third Street, Suite 6-130, West Sacramento, California 95605

3. Brief Description and History of the Site:
- Since the 1920s, the 17-acre Bay Area Research Extension Center site was used as an agricultural research station. The agricultural activities at the site involved the use of various pesticides and insecticides. It was closed in July 2002 and is currently owned by the State of California. Prior to the 1920s, the entire area was orchards.

4. Type of Site: (Check appropriate response)
- Included in Bond Expenditure Plan?
- Yes        No   X
- |                         |               |                  |               |
|-------------------------|---------------|------------------|---------------|
| RCRA-Permitted Facility | <u>      </u> | Bond-funded      | <u>      </u> |
| RCRA Facility Closure   | <u>      </u> | RP-funded        | <u>  X  </u>  |
| NPL                     | <u>      </u> |                  |               |
| Federal Facility        | <u>      </u> |                  |               |
| Other:                  | <u>      </u> | Explain Briefly: | <u>      </u> |

5. Size of Site :( Based on Expenditure Plan definition of size)
- Small        Medium        Large   X   Extra Large

6. Dates of Remedial Action
- Soil: 5/10/2010 Completed: 6/30/2010
- GW: n/a Completed:

7. Response Action Taken on Site: (check appropriate action)

- Initial Removal or Remedial Action (site inspection/ sampling)  
 Final Remedial Action  
 RCRA enforcement/closure action  
 No action, further investigation verified that no cleanup action at site was needed.

A. Type of Remedial Action (e.g. Excavation and re-disposal on-site treatment):

The removal action consisted of soil excavation and offsite disposal of eight areas where dieldrin or arsenic was above unrestricted cleanup goals.

B. Estimated quantity of waste associated with the site (i.e., ton/gallons/cubic yards) which was:

- 1a.  treated (gw) Amount: \_\_\_\_\_  
1b.  treated (soil) Amount: \_\_\_\_\_  
2.  untreated (capped sites) Amount: \_\_\_\_\_  
3.  removed (soil) Amount: 6,000 cubic Yards

8. Cleanup Levels/Standards

- a. What were the cleanup standards established by DTSC pursuant to the final remedial action plan (RAP) or workplan (if cleanup occurred as the result of a removal action (RA) or interim remedial measures (IRM) prior to development of a RAP)?

The soil cleanup goal for arsenic was a ceiling of 20 milligrams per kilogram (based on background) and 30 micrograms per kilogram of dieldrin.

- b. Were the specified cleanup standards met? Yes

c. If "no", why not: \_\_\_\_\_

9. DTSC Involvement in the Remedial Action:

- A. Did the Department order the Remedial Action?

Yes \_\_\_\_\_ No X Date of order VCA

B. Did the Department review and approve (check appropriate action and indicate date of review/approval if done):

X  Sampling Analysis Procedures Date:  10/19/2007

X  Health & Safety Protections Date:  4/15/2010

X  Removal/Disposal Procedures Date:  10/19/2007

C. If site was abated by a responsible party, did the Department receive a signed statement from a licensed professional on all Remedial Action?

Yes  X  No   Dates  08/2/2010

D. Did a registered engineer or geologist verify that acceptable engineering practices were implemented?

Yes  X  No   Dates  08/4/2010

E. Did the Department confirm completion of all Remedial Action?

Yes  X  No   Dates  August 2010

(i.e. manifest, sampling, demonstrated installation and operation of treatment)

F. Did the Department (directly or through a contractor) actually perform the Remedial Action?

Yes   No  X  Name of Contractor: \_\_\_\_\_

G. Was there a community relations plan in place?

Yes  X  No

H. Was a removal action plan (RAW) developed for this site?

Yes  X  No

I. Did DTSC hold a public meeting regarding the draft RAW?

Yes  X  No

J. Were public comments addressed?

Yes  X  No

Date of DTSC analysis and response:  10/19/2007

K. Are all of the facts cited above adequately documented in the DTSC files? Yes  X  No.

If no, identify areas where documentation is lacking \_\_\_\_\_

10.  EPA Involvement in the Remedial Action:

A. Was the EPA involved in the site cleanup? Yes   No  X

B. If yes, did EPA concur with all remedial actions?  N/A

C. EPA comments  N/A

EPA staff involved in cleanup:  No

11. Other Regulatory Agency Involvement in the Cleanup Action:

Agency:	Activity:
_____ RWQCB	_____
_____ BAAQMD	_____
_____ CHP	_____
_____ Caltrans	_____
<u>X</u> City of Santa Clara	<u>UST Removal</u>

Name of contact persons and agency: Doug Hansen, City of Santa Clara Fire Department

12. Post-Closure Activities:

- A. Will there be post-closure activities at this site? (e.g. Operation and Maintenance) Yes  No   
If yes, describe: \_\_\_\_\_
- B. Have post-closure plans been prepared and approved by the Department? Yes  No   
The Operation and Maintenance Plan was approved on \_\_\_\_\_.
- C. What is the estimated duration of post-closure (including operations and maintenance) activities? \_\_\_\_\_ years
- D. Are deed restrictions proposed or in place?  
Yes  No  Not required   
If "yes" have deed restrictions been recorded with the County recorder?   
If "no", who is responsible for assuring that the deed restrictions are recorded? n/a  
Who is the Division contact? \_\_\_\_\_  
Name/Phone Number
- E. Has cost recovery been initiated? Yes  No   
If yes, amount received: \$ 129,034.23
- F. Were local planning agencies notified of the cleanup action? Yes  No   
If yes, the name and address of agency:  
City of Santa Clara Planning Department, 1500 Warburton Avenue, Santa Clara

13. Expenditure of Funds and Source:

(Information to be supplied by Toxic Accounting Unit.)

Funding Source and amount expended:

_____	HWCA	\$ _____	_____	HAS	\$ _____
_____	HSCF	\$ _____	_____	RCRA	\$ _____
_____	RP	\$ _____	_____	Other	\$ _____
_____	Federal Cooperative Agreement		_____	\$ _____	

14. Problems Encountered Which Caused Major Delays:

Project was on hold for several years due to a lawsuit on the CEQA document (City of Santa Clara lead) and a toxic tort case.

15. Accomplishments Unique to this Project:

None

16. Final Use of Site:

The site will be sold and redeveloped in housing, a senior living facility and a 1-acre open space.

17. Certification Statement: Based upon the information which is currently and actually known to the Department,

The Department has determined that all appropriate response actions have been completed, that all acceptable engineering practices were implemented and that no further removal/remedial action is necessary.

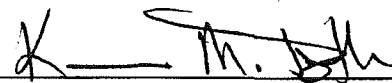
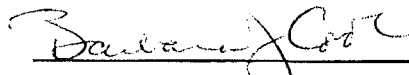
\_\_\_\_\_ The Department has determined, based upon a remedial investigation or site characterization that the site poses no significant threat to public health, welfare or the environment and therefore implementation of removal/remedial measures is not necessary.

\_\_\_\_\_ The Department has determined that all appropriate removal/remedial actions have been completed and that all acceptable engineering practices were implemented; however, the site requires ongoing operation and maintenance (O&M) and monitoring efforts. The site will be deleted from the "active" site list following (1) a trial operation and maintenance

period and (2) execution of a formal written settlement between the Department and the responsible parties, if appropriate. However, the site will be placed on the Department's list of sites undergoing O&M to ensure proper monitoring of long-term clean-up efforts.

18. Certification of Remedial Action:

I hereby certify that the foregoing information is true and correct to the best of my knowledge.

1.  8/9/2010  
Unit Chief Date
  
2.  8/10/2010  
Branch Chief, P.E. Date