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## Judge Rules Against Moraga Petitioners

*By Sophie Braccini*

Scott Bowhay for the Friends of Semi-Rural Moraga expressed disappointment Oct. 28 at the Superior Court of Contra Costa County ruling that invalidates the referendum petition his group filed. The group of Moraga residents, who is opposing Moraga Center Homes, a City Ventures building project of 36 housing units on the 2.6-acre empty lot next to the fire station on Moraga Way, was seeking to overturn the rezoning of the property that the town council had approved in May. Although enough signatures were gathered to put the question to a popular vote, the judge agreed with the applicant and property owner that the referendum was illegal.

"We assumed that the developer might try something, but we thought we were on solid ground," said Bowhay. "When we heard their arguments, we felt there was good case law protecting the referendum, so we were surprised by the judge's interpretation, and because of long standing judicial policy to err on the side of protecting the people's right to petition, which the judge ignored." David Bruzzone and City Ventures filed litigation on two grounds: the voters may not adopt a zoning designation inconsistent with the Specific Plan, which would happen if the voters invalidated the zoning ordinance; and the referendum did not include the full text of the ordinance, including the environmental documents.

The parcel is located on an area regulated by the Moraga Center Specific Plan that was adopted in 2010. The town is required by law to modify its zoning ordinance to conform to general plans and specific plans; it had not yet done so for that parcel. The referendum was asking to rescind the ordinance that had been adopted to conform the zoning to the Specific Plan, a strategy that could have stopped the City Ventures' proposed development, but would have put the town at odds with its legal obligation.

Bowhay added that the group was considering all of its options, which might include an appeal of the court's decision, or an initiative to deal with the problem of the Specific Plan and possibly other growth issues in Moraga.

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