

Opponents dig in over Fremont land

Groups on both sides of Measure K say their plan is more eco-friendly

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FREMONT — Its backers say that Measure K will prevent a massive development that will harm Fremont's environment and weaken its quality of life.

Their opponents counter that their housing and commercial plan is more eco-friendly than the initiative, which they say might leave taxpayers vulnerable to multimillion-dollar lawsuits filed by the land's owners.

How you vote depends on who you believe in the complicated — and sometimes contentious — debate continuing over the citizen initiative.

Authored by a grass-roots group, Friends of Coyote Hills and Fremont, Measure K would rezone about 520 acres of land east of Coyote Hills Regional Park from "restricted industrial" to "agricultural" uses. It also would stop a subdivision of at least 800 homes and 900,000 square feet of commercial development planned by the Patterson family, which owns 428 acres east of the park.

In its place, the initiative proposes the land be divided into nine private 80-acre lots. In

addition, the measure would prevent nonagricultural development on a 92-acre parcel owned by Cargill Salt just south of the Patterson land.

The Patterson family's proposed development includes up to five city parks, 120 affordable homes, a church, new trails, and a public school paid for by the developers.

Most of the development would be clustered on both of sides of Ardenwood Boulevard, on the eastern side of the property. That location would set it farther away from Coyote Hills than even the initiative's proposed nine private estates, said San Mateo planning consultant Richard Frisbie, a Patterson family representative.

But leaders of Friends of Coyote Hills and Fremont say the development would create more pollution in the area, adding 18,000 daily car trips to Fremont streets. There is also the potential for freshwater runoff — stemming from any future construction on the Cargill land — emptying into marshes in the nearby San Francisco Bay National Wildlife Refuge.

"Rain could wash all the sludge and other materials into the refuge and damage it," said Carin High, who lives in Fremont's Glenmoor neighborhood.

Titled the Northern Plain Planning Area Initiative, the measure would maintain the natural buffer between the north Fremont land in question and Coyote Hills Regional Park, its supporters say. It would protect wetlands, willow groves, scenic views of the park and "the rare mosaic of habitats that support a diverse array of species," said Jana Sokale, a member of the environmental group.

Representatives of the landowners disagree.

It is a misguided, misleading initiative, said Robert Douglass, a Cargill property manager. Had they had the courtesy to meet with us beforehand, they would know that.

Potential lawsuit damages

Fremont taxpayers should be worried if Measure K passes, said Douglass, a Fremont resident. That is because the initiative may cause lawsuits that would force the city to return about \$50 million in combined settlements to Cargill and the Patterson family.

Initiative proponents call the assertion scare tactics with inflated figures intended to give unnecessary pause to voters in Fremont, which already is grappling with depleted public safety and maintenance services.

But the threat is real, according to Douglass and former Fremont Mayor Gus Morrison, now a political consultant hired by the Patterson family.

For about 20 years, Cargill has paid more than \$8 million in property taxes with the expectation that it would recover those costs with a future development. If the initiative passes and the land is rezoned to agricultural uses, then the city may owe the international corporation the property taxes — plus interest and inflation. That could raise the repayment sum to roughly \$20 million, Douglass said.

The scenario is possible, according to the city attorney.

The initiative likely would subject the city to litigation, City Attorney Harvey Levine writes in the impartial analysis that will appear in the Fremont voter pamphlet. Referring to Cargill Salt's claims, Levine states: The owner has been and will continue to be assessed by

the city for its share of completed infrastructure improvements. The city could face refund claims if the owner loses the benefit of the assessment by being designated (from 'restricted industrial' to) 'agriculture.'"

Morrison also asserts that the initiative would sever a pre-existing agreement between the city and the Patterson family, which has owned the property in question since 1868.

The family granted an open-space easement to the city on about 140 acres at Patterson Ranch in 1983. In exchange, Morrison states, the city allowed the family to sell density credits from that parcel to developers or to transfer the density credits from that land to other property in Fremont.

The value per unit was set in the contract at 20 times the standard fee paid by developers for each house built. Today, the figure is \$15,666 per unit, according to Morrison. Given that there are 93 remaining density credits still unsold on the 140-acre parcel, their total value now is nearly \$30 million, Morrison said.

Should (the measure) pass, there is no way for the family to resolve the issue without pursuing legal action, Morrison added.

Friends of Coyote Hills and Fremont concede that lawsuits are possible. But they accuse the landowners of using scare tactics by exaggerating the legal threat.

We feel these (financial) numbers are extremely inflated, Sokale said. They're trying to undermine the confidence of voters to the greatest extent possible. That scenario (of a \$50 million lawsuit payment) is 99 percent unfeasible. It's only intended to frighten people away, to confuse the voters.

The opposition is trying to create fear, uncertainty and doubt in the minds of voters, Friends of Coyote Hills member Elaine Szeto told The Argus.

City and regional viewpoints

All of Fremont's five City Council members oppose Measure K. It's not a good initiative, Fremont Mayor Bob Wasserman said. They should let the planning process take its course. My big fear is that it could end up costing the taxpayers a lot of money. That's not definite. But the potential is certainly there.

It doesn't mean I'm for the proposed project, said Councilmember Anu Natarajan, explaining her opposition to Measure K. But I'm against ballot-box planning. The normal city process allows for community and council input to address concerns and tweak developments where needed, Natarajan added.

Instead, Douglass laments that if the measure passes, it will impose agricultural uses on Cargill land that is too impregnated with salt to be used for agriculture or livestock.

But members of Friends of Coyote Hills and Fremont say the land could house a number of low-intensity commercial uses, including animal care facilities, art and photography studios, nature study facilities or camping sites or bed-and-breakfast accommodations.

Environmental community

Friends of Coyote Hills and Fremont collected nearly 12,000 certified signatures to get the measure on the November ballot.

The grass-roots group counts nearly 10 endorsements from environmental organizations, including the Sierra Club, Greenbelt Alliance, Ohlone Audubon Society and the League of Conservation Voters of the East Bay.

But not all environmental leaders are on board, said Donna Olsen, who opposes Measure K. Olsen, chair of the Tri-City Ecology Center, emphasizes that the Fremont-based environmental group she helps lead is remaining neutral on the initiative. Uncertainty about Measure K's consequences caused the groups to reach no real consensus, Olsen said.

However, she and two other Tri-City Ecology Center members of the group's 10-member board have signed the ballot argument opposing the measure.

We're doing that as individuals, not representing the organization, Olsen said. It has been a divisive issue among the region's environmental groups.

Not true, Sokale said. Besides the Tri-City Ecology Center, every other environmental group we've asked to endorse us has said yes, she said.

Meanwhile, Cargill Salt representatives believe that Measure K backers added Cargill's property to the initiative — joining the Patterson parcel — because state law prohibits using the initiative process from targeting a single landowner.

Members of Friends of Coyote Hills and Fremont strongly deny this.

We included all the land in front of Coyote Hills (Regional Park) because to leave it out of the initiative would open Coyote Hills to a massive impact of further industrial development encroaching on the park, Sokale said. Another industrial campus (near Coyote Hills) would block the park's scenic views, and it would diminish the habitat and increase the human footprint closer to the park.

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