

BRIGGS LAW CORPORATION [FILE: 2013.00]  
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Attorneys for Protect Our Preserves, Inc.

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego

09/24/2019 at 01:39:09 PM  
Clerk of the Superior Court  
By Megan Dietenhofer, Deputy Clerk

Governor's Office of Planning & Research

OCT 28 2019

STATE CLEARINGHOUSE

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO – CENTRAL DIVISION

PROTECT OUR PRESERVES, INC.,

Plaintiff and Petitioner,

vs.

CITY OF SAN DIEGO; and DOES 1 through 100,

Defendants and Respondents;

THE PRESERVE AT TORREY HIGHLANDS,  
LLC; and DOES 101 through 200,

Real Parties in Interest.

CASE NO. \_ 37-2019-00050800-CU-TT-CTL \_

**VERIFIED COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE  
RELIEF AND PETITION FOR WRIT OF  
MANDATE UNDER PROPOSITION A,  
THE CALIFORNIA ENVIRONMENTAL  
QUALITY ACT, AND OTHER LAWS**

Plaintiff and Petitioner PROTECT OUR PRESERVES, INC. ("Petitioner"), alleges as follows:

**Parties**

1. Petitioner is a not-for-profit corporation formed and operating under the laws of the State of California. At least one of Petitioner's members resides in, or near, the Torrey Highlands community of the City of San Diego, California, and has an interest in, among other things, protecting Torrey Highland's environment and quality of life.

2. Defendant and Respondent CITY OF SAN DIEGO ("CITY") is a "public agency" under Section 21063 of Public Resources Code and a "local government" under Section 30109 of the Public Resources Code. As a "public agency," CITY is required to comply with California environmental Quality Act ("CEQA"), Public Resources Code Section 21000 *et seq.*

1           3. Defendant and Real Party in Interest The Preserve at Torrey Highlands, LLC, is the  
2 applicant for the project that is the subject of this lawsuit.

3           4. The true names and capacities of the Defendants/Respondents/Real Parties in Interest  
4 identified as DOES 1 through 200 are unknown to Petitioner, who will seek the Court's permission to  
5 amend this pleading in order to allege the true names and capacities as soon as they are ascertained.  
6 Petitioner is informed and believes and on that basis alleges that each of the fictitiously named  
7 Defendants/Respondents has jurisdiction by law over one or more aspects of the project that is the  
8 subject of this lawsuit and that each of the fictitiously named Defendants/Real Parties in Interests is an  
9 applicant for the project has some other cognizable interest in the project.

10                   **Jurisdiction and Exhaustion of Administrative Remedies**

11           5. Petitioner seeks review by and relief from this Court under Public Resources Code  
12 section 21168 and/or 21168.5, as applicable; Code of Civil Procedure sections 1060 *et seq.* and 1084  
13 *et seq.*; the California Constitution; and the common law, among other provisions of law.

14           6. Petitioner exhausted administrative remedies to the extent required by law; by way of  
15 example and without limitation, one or more of Petitioner's members submitted written comments to  
16 Defendants/Respondents prior to the close of the August 5, 2019 public hearing on the Project.

17           7. Defendants'/Respondents' conduct in approving this Project without complying with  
18 CEQA and other applicable laws constitutes a prejudicial abuse of discretion because, as alleged in this  
19 pleading, they failed to proceed in a manner required by law.

20           8. Petitioner has no plain, speedy, and adequate remedy in the ordinary course of law, since  
21 its members and other members of the public will suffer irreparable harm as a result of  
22 Defendants'/Respondents' violations of CEQA and other applicable laws. Defendants'/Respondents'  
23 approval of the Project also rests on their failure to satisfy a clear, present, ministerial duty to act in  
24 accordance with applicable laws. Even when Defendants/Respondents are permitted or required by law  
25 to exercise its discretion in approving projects under those laws, they remain under a clear, present,  
26 ministerial duty to exercise their discretion within the limits of and in a manner consistent with those  
27 laws. Defendants/Respondents have had and continue to have the capacity and ability to approve the  
28 Project within the time limits of and in a manner consistent with those laws, but

1 Defendants/Respondents have failed and refused to do so and have exercised its discretion beyond the  
2 limits of and in a manner that is not consistent with those laws.

3 8. Petitioner has a beneficial right and interest in Defendants'/Respondents' fulfillment of  
4 all their legal duties, as alleged in this pleading.

5 9. Venue in this Court is proper because the obligations, liabilities, and violations of law  
6 alleged in this pleading occurred in the County of San Diego in the State of California.

7 **Notice Requirements and Time Limitations**

8 10. This lawsuit is being commenced not more than 30 days after the notice authorized by  
9 Public Resources section 21152(a) was and could lawfully have been filed with the County Clerk.

10 11. Petitioner has caused a Notice of Commencement of Action to be served on  
11 Defendants/Respondents, as required by Public Resources Code section 21167.5. A true and correct  
12 copy of the Notice of Commencement of Action is attached to this pleading as Exhibit "A."

13 12. Petitioner will have caused a copy of this pleading to be served on the Attorney General  
14 not more than 10 days after the commencement of this lawsuit, as required by Public Resources Code  
15 section 21167.7 and Code of Civil Procedure section 388.

16 **Background Information**

17 13. In November 1985, CITY's electorate approved Proposition A. Known as the Managed  
18 Growth Initiative, it gave voters a say in the future of the North City Future Urbanizing Area with the  
19 goal of saving "our shining city by the sea" from becoming "a city with runaway growth, traffic jams,  
20 [and] overcrowded schools and parks." A true and correct copy of Proposition A is attached to this  
21 pleading as Exhibit "B."

22 a. Specifically, Section 1 of Proposition A stated: "No property shall be changed  
23 from the 'future urbanizing' land use designation in the Progress Guide and General Plan to any other  
24 land use designation and the provisions restricting development in the future urbanizing area shall not  
25 be amended except by a majority vote of the people voting on the change or amendment at a City wide  
26 election thereon."  
27  
28

1           b.     Section 2(a) of Proposition A stated: "Progress Guide and General Plan shall  
2 mean the Progress Guide and General Plan of the City of San Diego, including text and maps, as the  
3 same existed on August 1, 1984."

4           c.     Section 2(b) of Proposition A stated: "'Change in Designation' or 'change from  
5 Future Urbanizing' shall mean removal of any area of land from the future urbanizing designation."

6           14.    Heeding the voters' will, in 1996 CITY's leaders brought forward and approved the  
7 Torrey Highlands Subarea Plan ("THSP"), through which the community negotiated changes that  
8 allowed some developments to proceed in parts of the area protected by Proposition A while imposing  
9 tighter development restrictions in other parts. The THSP compromise was memorialized in Ordinance  
10 no. O-18333 (New Series): An ordinance submitting to the qualified voters of the City of San Diego  
11 at the Special Municipal election to be held on November 5, 1996, one proposition amending the  
12 official phased development map in the City's Progress Guide and General Plan within Subarea IV of  
13 the North City Future Urbanizing Area to change the designation of the 1,134 acres known as Torrey  
14 Highlands from "Future Urbanizing" to "Planned Urbanizing." According to Ordinance no. O-18333,  
15 "approval of this change of designation in no way permits any other portion of the North City Future  
16 Urbanizing Area to have a change of designation without a separate vote of the people." A true and  
17 correct copy of Ordinance no. O-18333 (New Series) is attached to this pleading as Exhibit "C."

18           15.    As submitted to CITY's voters, the ballot proposition for Ordinance no. O-18333 was  
19 known as Proposition H. In November 1996, CITY's electorate approved Proposition H and the THSP  
20 became effective.

21           16.    On or about August 5 and September 10, 2019, CITY approved Item 202: The Preserve  
22 at Torrey Highlands – Project No. 442880 ("Project").

23           a.     The Project was approved in four sub-parts:

24           i.     Subitem-A (O-2020-29) Introduced August 5, 2019; To be adopted  
25 September 10, 2019: Introduction of an Ordinance changing 11.10 acres located approximately  
26 one-quarter mile south of State Route 56 along the west side of the future planned extension of Camino  
27 Del Sur, within the Torrey Highlands Subarea Plan, in the City of San Diego, California, from the  
28 AR-1-1 Zone to the IP-3-1 Zone, as defined by San Diego Municipal Code Chapter 13, Article 1,

1 Division 6 and repealing Ordinance No. O-18691(New Series), adopted December 9, 1997, insofar as  
2 Ordinance No. O-18691 (New Series) conflicts with this ordinance.

3 ii. Subitem-B (R-2020-37) Adopted as Resolution R-312612: Approving  
4 an amendment to the Torrey Highlands Subarea Plan to re-designate land located approximately  
5 one-quarter mile south of State Route 56 along the west side of the future planned extension of Camino  
6 Del Sur from Commercial Limited to Employment Center.

7 iii. Subitem-C (R-2020-38) Adopted as Resolution R-312613: Resolution  
8 certifying the Environmental Impact Report No. 442880 and adopting the Mitigation, Monitoring, and  
9 Reporting Program for the Preserve at Torrey Highlands, Project No. 442880; Directing the Clerk to  
10 file a Notice of Determination with the Clerk of the Board of Supervisors for the County of San Diego  
11 regarding the project.

12 iv. Subitem-D (R-2020-39) Adopted as Resolution R-312614: Resolution  
13 granting Planned Development Permit No. 2161983 and Site Development Permit No. 1689641 for the  
14 Preserve at Torrey Highlands Project No. 442880 (recession of Conditional Use Permit No. 4915, Site  
15 Development Permit No. 49156, and Planned Development Permit No. 10965).

16 17. In response to Petitioner's written comments and other public comments at the August  
17 5, 2019 City Council Meeting, a representative of the CITY's Planning Department summarily  
18 dismissed Petitioner's concerns without discussion.

19 **FIRST CAUSE OF ACTION:**  
20 **Illegal Approval and Adoption of Project**  
**(Against All Defendants/Respondents)**

21 18. The preceding allegations in this pleading are fully incorporated into this paragraph.

22 19. The Project does not comply with all applicable laws. By way of example and not  
23 limitation (including alternative theories of liability):

24 a. The Project violates Proposition A and/or Proposition H. In particular:

25 i. Proposition A was approved by voters in November 1985 and amended  
26 the City of San Diego Progress Guide and General Plan, as it existed on August 1, 1984, to require that  
27 certain land areas which are designated as "future urbanizing" not be re-designated without voter  
28 approval.

1           ii.     Proposition H was approved by voters in November 1996 and amended  
2 the official phased development map in the City's Progress Guide and General Plan within Subarea IV  
3 of the North City Future Urbanizing Area to change the designation of 1,134 acres known as Torrey  
4 Highlands from "Future Urbanizing" to "Planned Urbanizing" while preserving the right of the voters  
5 to approve future changes in designation, consistent with requirements of Proposition A.

6           iii.    On or about August 5, 2019, the City Council approved the Project and,  
7 *inter alia*, approved an amendment to the THSP to re-designate certain land within the THSP from  
8 "Commercial Limited" to "Employment Center" without seeking a majority vote of the people at a City-  
9 wide election.

10          iv.     The re-designation of certain land under the Project is not neutral or more  
11 restrictive in terms of permitting development.

12          v.      The re-designation of certain land under the Project from "Commercial  
13 Limited" to "Employment Center" represents an increase in use intensity.

14          vi.     The subject matter of the Project falls squarely within the THSP and  
15 within the scope of Proposition A's prohibition against changes and amendments made without voter  
16 approval.

17          v.      As a result of Defendants'/Respondents' violation of Proposition A and/or  
18 Proposition H, CITY's voters have been denied their right to vote on a development proposal that the  
19 law requires them to approve for the proposal's approval by Defendants/Respondents has any legal  
20 force or effect.

21          b.      The Project violates CEQA. In particular:

22           i.      CEQA requires that every environmental impact report ("EIR") identify  
23 and analyze the significant adverse environmental impacts of a proposed project, giving due  
24 consideration to both short-term and long-term impacts, providing decision-makers with enough  
25 information to enable them to make an informed decision with full knowledge of the likely  
26 consequences of their actions, and providing members of the public with enough information to  
27 participate meaningfully in the project-approval and environmental-review process. CEQA also requires  
28 that every EIR identify and analyze a reasonable range of alternatives to a proposed project. CEQA

1 further requires that every EIR identify and analyze all reasonable mitigation measures for a proposed  
2 project's significant adverse environmental impacts. In each respect, CEQA mandates that the analyses  
3 contained in an EIR and all decisions of the lead agency based on the report be supported by substantial  
4 evidence in the administrative record.

5           ii.       The Project's EIR fails to provide adequate identification and analysis  
6 of the significant adverse environmental impacts of the Project. Further, neither the analysis of impacts  
7 in the Project's EIR nor Defendants'/Respondents' certification of the EIR in this respect is supported  
8 by substantial evidence in the administrative record.

9           iii.       Additionally and alternatively, the Project's EIR fails to provide adequate  
10 identification and analysis of a reasonable range of alternatives to the Project. Further, neither the  
11 analysis of alternatives in the EIR nor Defendants'/Respondents' certification of the EIR in this respect  
12 is supported by substantial evidence in the administrative record.

13           iv.       Additionally and alternatively, the Project's EIR fails to provide adequate  
14 identification and analysis of measures to mitigate the Project's significant adverse environmental  
15 impacts and fails to eliminate or substantially reduce all such impacts. Further, neither the analysis of  
16 mitigation measures nor Defendants'/Respondents' certification of the EIR in this respect is supported  
17 by substantial evidence in the administrative record.

18           v.       Defendants'/Respondents' failure to provide adequate identification and  
19 analysis of the significant adverse environmental impacts, reasonable range of alternatives, and  
20 mitigation measures for the Project constitutes multiple violations of CEQA.

21           vi.       CEQA requires every lead agency to identify all adverse environmental  
22 impacts of a proposed project that will be significant and determine whether such impacts can be  
23 avoided or mitigated. With respect to any such impacts that cannot feasibly be avoided or mitigated,  
24 the lead agency must make at least one written finding that there are specific overriding economic, legal,  
25 social, technological, or other benefits of the proposed project that outweighs the impacts.

26           vii.       Defendants/Respondents approved the Project based on one or more  
27 written findings that there exist considerations outweighing the Project's significant adverse  
28 environmental impacts, but there is not substantial evidence in the administrative record to support all



such findings. Additionally and alternatively, Defendants/Respondents approved the Project based on one or more non-written findings that such considerations exist. Defendants/Respondents also failed to make all required written findings regarding the Project's impacts as required by CEQA.

viii. Defendants'/Respondents' approval of the Project based on one or more written findings unsupported by evidence in the administrative record and their failure to make all written findings required regarding the Project's impacts constitute multiple violations of CEQA.

ix. As a result of Defendants' / Respondents' violations of CEQA, Petitioner, its members, and the general public have been harmed insofar as the responsible decision-makers were not fully informed about the potential adverse environmental impacts of the Project, and insofar as Petitioner, its members, and the general public did not have an opportunity to participate meaningfully in the analysis of such impacts prior to approval of the Project.

20. There is currently a dispute between Petitioner and Defendants/Respondents over the Project's legal force and effect. Petitioner contends that the Project has no legal force or effect because it violates CEQA and/or one or more other applicable laws. Defendants/Respondents dispute Petitioner's contention. The parties therefore require a judicial determination of the Project's legal force and effect (if any).

## Prayer

FOR ALL THESE REASONS, Petitioner respectfully prays for the following relief against all Defendants/Respondents/Real Parties in Interest (and any and all persons who oppose Petitioner):

A. A judgment determining or declaring that Defendants/Respondents have not promptly and fully complied with the requirements of the CEQA, Proposition A, the California Constitution, and/or one or more other applicable laws as they relate to the Project, that there must be full compliance therewith before final approval and implementation of the Project may occur, and/or that the Project's approval has no legal force or effect until there has been full compliance therewith;

B. A writ of mandate ordering Defendants/Respondents to promptly and fully comply with all applicable laws with regard to the Project; and

C. Preliminary and permanent injunctive relief prohibiting Defendants/Respondents (and any and all persons acting at the request of, in concert with, or for the benefit of one or more of them)



1 from taking any action on any aspect of, in furtherance of, or otherwise based on the Project unless and  
2 until Defendants/Respondents have complied with all applicable laws, as determined by the Court.

3 D. All attorney fees and other legal expenses incurred by Petitioner in connection with this  
4 lawsuit; and

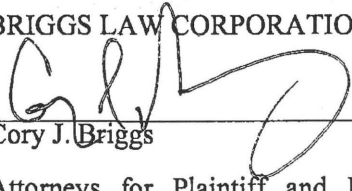
5 E. Any further relief that this Court may deem appropriate.

6 Date: September 23, 2019.

Respectfully submitted,

7 BRIGGS LAW CORPORATION

8  
9 By:

  
Cory J. Briggs

10 Attorneys for Plaintiff and Petitioner Protect Our  
11 Preserves, Inc.  
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### VERIFICATION

STATE OF CALIFORNIA, COUNTY OF San Diego

I have read the foregoing COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND PETITION  
FOR WRIT OF MANDATE etc. and know its contents.

☒ **CHECK APPLICABLE PARAGRAPH**

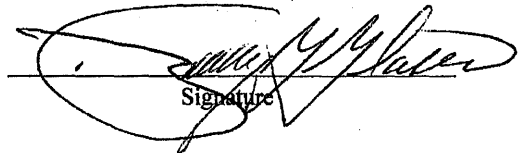
☐ I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

☒ I am ☒ an Officer ☐ a partner \_\_\_\_\_ ☐ a \_\_\_\_\_ of \_\_\_\_\_  
PROTECT OUR PRESERVES, INC.,  
a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. ☒ I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. ☐ The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

☐ I am one of the attorneys for \_\_\_\_\_  
a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on September 23, 20 19, at San Diego, California.  
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Bob Glaser  
Type or Print Name

  
Signature

### PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF

I am employed in the county of \_\_\_\_\_, State of California.  
I am over the age of 18 and not a party to the within action; my business address is, \_\_\_\_\_

On \_\_\_\_\_, 20 \_\_\_\_\_, I served the foregoing document described as \_\_\_\_\_

☐ \_\_\_\_\_ on \_\_\_\_\_ in this action  
by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list:  
☐ by placing ☐ the original ☐ a true copy thereof enclosed in sealed envelopes addressed as follows:

☐ **BY MAIL**

☐ \* I deposited such envelope in the mail at \_\_\_\_\_, California.

The envelope was mailed with postage thereon fully prepaid.

☐ As follows I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at \_\_\_\_\_ California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on \_\_\_\_\_, 20 \_\_\_\_\_, at \_\_\_\_\_, California.

☐ **\*\* (BY PERSONAL SERVICE)** I delivered such envelope by hand to the offices of the addressee.

Executed on \_\_\_\_\_, 20 \_\_\_\_\_, at \_\_\_\_\_, California.

☐ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct. I  
☐ (Federal) declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Signature

\* (By MAIL SIGNATURE MUST BE OF PERSON DEPOSITING ENVELOPE IN MAIL SLOT, BOX, OR BAG)

\*\* (FOR PERSONAL SERVICE SIGNATURE MUST BE THAT OF MESSENGER)

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND PETITION  
FOR WRIT OF MANDATE UNDER PROPOSITION A, THE CALIFORNIA  
ENVIRONMENTAL QUALITY ACT, AND OTHER LAWS**

Exhibit "A"

# **BRIGGS LAW CORPORATION**

*San Diego Office:  
4891 Pacific Highway, Suite 104  
San Diego, CA 92110*

*Telephone: 619-497-0021  
Facsimile: 909-949-7121*

*Please respond to: Inland Empire Office*

*Inland Empire Office:  
99 East "C" Street, Suite 111  
Upland, CA 91786*

*Telephone: 909-949-7115  
Facsimile: 909-949-7121*

*BLC File(s): 2013.00*

23 September 2019

City Clerk Elizabeth Maland  
City of San Diego  
202 "C" Street, 2nd Floor  
San Diego, CA 92101

**Via Facsimile to 619-533-4045**

Re: Notice of Commencement of Action

Dear City Clerk:

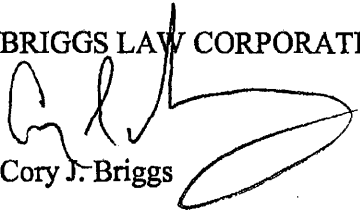
I represent Protect Our Preserves, Inc., and am sending this Notice of Commencement of Action on my client's behalf.

Please be advised that an action is to be commenced by my client in San Diego County Superior Court against your agency. The action will challenge your agency's approval of the project that was the subject of Item 202 on the City Council's August 5, 2019 agenda and Item 54 on the City Council's September 10, 2019 agenda (The Preserve at Torrey Highlands – Project no. 442880), on the grounds that the approval violated the California Environmental Quality Act (PUB. RES. CODE § 21000 *et seq.*). The action may also challenge your agency's approval of the project based on one or more violations of other laws.

If you have any questions, please feel free to contact me.

Sincerely,

BRIGGS LAW CORPORATION

  
Cory J. Briggs



# **BRIGGS LAW CORPORATION**

*San Diego Office:*  
4891 Pacific Highway, Suite 104  
San Diego, CA 92110

*Telephone:* 619-497-0021  
*Facsimile:* 909-949-7121

*Inland Empire Office:*  
99 East "C" Street, Suite 111  
Upland, CA 91786

*Telephone:* 909-949-7115  
*Facsimile:* 909-949-7121

## **FACSIMILE COVER SHEET**

Recipient: City Clerk Elizabeth Maland

Recipient's fax number: 619-533-4045

Date: Sept. 23, 2019 BLC File: 2013.00

Total Pages (including cover sheet): 2

Sender: Cory J. Briggs

Sender's fax number: 619-515-6410 ☒ 909-949-7121

Message: Please see the attached Notice of Commencement  
of Action. Thank you.

Original Document to Follow? Yes ☒ No

### **CONFIDENTIALITY**

The document accompanying this facsimile transmission contains information that may be either confidential, legally privileged, or both. The information is intended only for the use of the recipient(s) named on this cover sheet. If not done by or at the direction of the recipient(s), disclosure, copying, distribution, or reliance on any of the contents of this transmission is strictly prohibited. If you have received this facsimile transmission in error, please notify us immediately by telephone so that we can arrange for its return at no cost to you.

*Be Good to the Earth: Reduce, Reuse, Recycle*



TRANSMISSION VERIFICATION REPORT

TIME : 09/23/2019 09:58  
NAME :  
FAX :  
TEL :  
SER.# : 000M3J198110

DATE, TIME	09/23 09:57
FAX NO./NAME	16195334045
DURATION	00:00:45
PAGE(S)	02
RESULT	OK
MODE	STANDARD

**BRIGGS LAW CORPORATION**

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4891 Pacific Highway, Suite 104  
San Diego, CA 92110

*Telephone: 619-497-0021*  
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**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND PETITION  
FOR WRIT OF MANDATE UNDER PROPOSITION A, THE CALIFORNIA  
ENVIRONMENTAL QUALITY ACT, AND OTHER LAWS**

Exhibit "B"



City  
of  
San Diego



**Sample Ballot**  
& Voter Information Pamphlet

**GENERAL MUNICIPAL ELECTION**  
**TUESDAY, NOVEMBER 5, 1985**

Administered by:

CHARLES G. ABDELNOUR  
San Diego City Clerk  
202 C Street  
San Diego, California 92101  
(619) 236-6420

POLLS OPEN AT 7 A.M. AND CLOSE AT 8 P.M.

To simplify voting on Election Day, take your pre-marked sample ballot to the polling place shown on the back cover.

**THE LOCATION OF YOUR POLLING PLACE  
IS SHOWN ON THE BACK COVER**

Spanish translations of voting materials are available upon request from the Registrar of Voters.

Materiales para votar están disponibles en español previa petición al Registrador de Volantes.

**008**

## CITY OF SAN DIEGO

### Proposition A

(This proposition will appear on the ballot in the following form.)

**A CITY OF SAN DIEGO INITIATIVE MEASURE. AMENDS THE CITY OF SAN DIEGO PROGRESS GUIDE AND GENERAL PLAN.** Shall the City of San Diego Progress Guide and General Plan be amended by adding restrictions requiring that land areas which are designated as 'future urbanizing' not be redesignated without voter approval?

This proposition requires a majority vote.

Add to the Progress Guide and General Plan for the City of San Diego, Document Number 764585, at page 35 immediately following the caption "Future Urbanizing Areas" the language of the proposed initiative measure which is underlined.

#### Future Urbanizing Areas

Land within the future Urbanizing designation which is zoned agricultural or low density residential-recreational use for extended periods of time should be given tax relief through preferential tax assessments. This can be accomplished through the use of the Williamson Act which requires the designation of land as an "agricultural preserve" or as open space pursuant to the General Plan or specific plans based on the overall program to guide growth. The designation of land in this category is not permanent; it is an interim or urban reserve designation. Its purpose is to preclude premature development and to guide urbanization.

Section 1. "No property shall be changed from the "future urbanizing" land use designation in the Progress Guide and General Plan to any other land use designation and the provisions restricting development in the future urbanizing area shall not be amended except by majority vote of the people voting on the change or amendment at a City wide election thereon."

Section 2. Definitions. "For purposes of this Initiative measure, the following words and phrases shall have the following meanings:

(a) "Progress Guide and General Plan shall mean the Progress Guide and General Plan of the City of San Diego, including text and maps, as the same existed on August 1, 1984".

(b) "Change in Designation" or "changed from 'Future Urbanizing'" shall mean the removal of any area of land from the future urbanizing designation".

(c) "Amendment" or "amended" as used in Section 1 shall mean any proposal to amend the text or maps of the Progress Guide and General Plan affecting the future urbanizing designation as the same existed in the Progress Guide and General Plan on August 1, 1984 or the land subject to said designation on August 1, 1984, except amendments which are neutral or make the designation more restrictive in terms of permitting development".

Section 3. Implementation. "The City Council, City Planning Commission, and City staff are hereby directed to take any and all actions necessary under this initiative measure, including but not limited to adoption and implementation on any amendments to the General Plan and zoning ordinance or City Code, reasonably necessary to carry out the intent and purpose of this initiative measure. Said actions shall be carried forthwith".

Section 4. Guidelines. "The City Council may adopt reasonable guidelines to implement this initiative measure following notice and public hearing, provided that any such guidelines shall be consistent with the intent and purpose of this measure".

Section 5. Exemptions for Certain Projects. "This measure shall not prevent completion of any project as to which a building permit has been issued pursuant to Section 91.02.03(a) of the San Diego Municipal Code prior to the effective date of this measure; provided, however, that the project shall cease to be exempt from the provisions of Section 91.02.0303(d) of the San Diego Municipal Code or if the said permit is suspended or revoked pursuant to Section 91.02.0303(e) of the San Diego Municipal Code".

Section 6. Amendment or Repeal. This measure may be amended or repealed only by a majority of the voters voting at an election thereon.

Section 7. Severability. "If any section, subsection, sentence, phrase, clause, or portion of this initiative is for any reason held to be invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this initiative and each section, subsection, sentence, clause, phrase, part of portion thereof would have been adopted or passed irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional."

#### **ARGUMENT IN FAVOR OF PROPOSITION A**

##### **SUPPORT THE CITIZEN'S RIGHT TO DECIDE**

San Diego is at a crossroads: a shining city by the sea or a city with runaway growth, traffic jams, overcrowded schools and parks.

Influenced by narrow **special interests** a City Council majority has **consistently violated** our adopted Growth Management Plan. Unable to say "no" to powerful development interests, the Council has allowed the exception to become the rule.

Our current Growth Management Plan sets aside thousands of acres to provide job opportunities and housing as they are needed - both now and in the future. Yet, since 1979 the City Council has **squandered more than half** of this precious resource.

These irresponsible actions will result in:

- **RUNAWAY GROWTH**
- **TRAFFIC JAMS**
- **POLLUTED AIR**
- **OVERCROWDED SCHOOLS**
- **HIGHER SERVICE COSTS**

The citizens must **regain control** of San Diego's future!

**PROPOSITION A** provides needed checks on the influence of special interests and assures accountability of our elected representatives. Just as government was unwilling to curb spending prior to Proposition 13, government is now unwilling to prevent the "Los Angelization" of San Diego.

Don't be misled by the expensive media campaign waged by our **opponents** who seek to **bulldoze precious canyons and increase traffic congestion**. The fact is, San Diego's current community plans provide for a **surplus of housing** beyond the year 2000, and the Chamber of Commerce confirms that **thousands of acres** of land for job producing industry are **currently available** in our city.

**PROPOSITION A** does not change the existing public review process. The City Council could still say "no" to requests to violate our Growth Management Plan but if they say "yes", **YOU WILL HAVE THE FINAL VOTE**. The undersigned represent a bipartisan citizen's effort to **save our neighborhoods and prevent urban sprawl**.

To maintain our quality of life, support the citizen's right to decide!

#### **IT'S YOUR CHOICE!**

**NO "L.A."! VOTE YES ON A!**

MIKE GOTCH, Councilman, City of San Diego

JULIA ZALOKAR, President, San Diego League of Women Voters

DAVID KREITZER, Past Chairman, Rancho Bernardo Planning Board;  
Chairman, San Diegans for Managed Growth

SHERLIE MILLER, President, Friends of Tecolote Canyon

MARK D. ZERBE, Coordinator, San Diego Common Cause

#### **ARGUMENT AGAINST PROPOSITION A**

----- **DANGER** -----

**Don't Let Them "Los Angelize" Our Neighborhoods**

**Vote No on 'A'. It's the wrong way!**

#### **Proposition 'A' Will Force Growth Into Our Neighborhoods**

With 'A', new growth isn't stopped.

Instead, it's jammed into our existing neighborhoods.

It will force unwanted development of vacant lots, canyons and open spaces.

### **We'll Pay Higher Taxes**

✓ New houses mean higher taxes.

Overcrowded neighborhoods mean we must pay for more parks, streets, sewers, traffic lights, police and fire protection.

The Mayor's own Task Force Report on Growth Management says San Diego will get 100,000 new homes over the next 15 years. If 'A' passes, almost all new housing will be forced into existing neighborhoods.

That means overburdened streets, crowded schools and more people in our neighborhoods than anyone ever planned on.

'A' will create the very 'Los Angelization' it was supposed to stop.

### **There's a Better Way Than 'A'**

Proposition A tries to offer solutions, but in the process it causes far bigger problems, problems its supporters never even thought about.

Says the TRIBUNE: "It goes too far. It is not reasonable and responsible. It may not be constitutional. It will certainly lead to a court battle and could be nullified."

The TIMES' San Diego edition, in opposing 'A', calls it "cumbersome" and suggests other solutions for managing growth.

In response to the Mayor's Growth Management Task Force Report, our City Council already is drafting tough, new controls on growth that take into account many of the concerns raised by 'A'.

More than 25 citizen-planning leaders - ordinary citizens from throughout San Diego who help the city in the planning of their neighborhoods - urge "No on 'A'".

Don't be confused.

Unfortunately, Proposition 'A' does exactly what it says it won't - it puts San Diego on the road to 'Los Angelization'.

### **VOTE NO on 'A'. It's the wrong way!**

UVALDO MARTINEZ, San Diego City Councilman

DOROTHY LEONARD, Former Chair, San Diego Planning Commission;  
Former Chair, Navajo Community Planners

LEE GRISSOM, Mayor's 1984 Growth Management Review Task Force Member

ERNEST W. HAHN, Steering Committee, Citizens for Community Planning

BILL LOWERY, United States Congressman, San Diego

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND PETITION  
FOR WRIT OF MANDATE UNDER PROPOSITION A, THE CALIFORNIA  
ENVIRONMENTAL QUALITY ACT, AND OTHER LAWS**

Exhibit "C"

ORDINANCE NUMBER O-18333 (NEW SERIES)

ADOPTED ON AUGUST 5, 1996

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO AT THE SPECIAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 5, 1996, ONE PROPOSITION AMENDING THE OFFICIAL PHASED DEVELOPMENT MAP IN THE CITY'S PROGRESS GUIDE AND GENERAL PLAN WITHIN SUBAREA IV OF THE NORTH CITY FUTURE URBANIZING AREA TO CHANGE THE DESIGNATION OF THE 1,134 ACRES KNOWN AS TORREY HIGHLANDS FROM "FUTURE URBANIZING" TO "PLANNED URBANIZING."

WHEREAS, by Ordinance No. O-18325, adopted on July 29, 1996, the Council of The City of San Diego called a Special Municipal Election to be held in the City on November 5, 1996, for the purpose of submitting to the qualified voters of the City one or more ballot propositions; and

WHEREAS, in 1985, the voters of the City adopted the Managed Growth Initiative, known as "Proposition A," which amended the Guidelines for the Future Development Section of the Progress Guide and General Plan of the City of San Diego by requiring approval of the voters before changing the designation of lands from "Future Urbanizing" to "Planned Urbanizing"; and

WHEREAS, a 1,134 acre property known as "Torrey Highlands" is located in Subarea IV of the North City Future Urbanizing area and is currently designated as "Future Urbanizing" on the Official Phased Development Map in the City's Progress Guide and General Plan; and



WHEREAS, the Subarea IV Plan, which includes that 1,134 acres, was prepared and is entitled the "Torrey Highlands Subarea IV Plan"; and

WHEREAS, the Torrey Highlands Subarea IV Plan provides that at least 250 acres of open space and a wildlife corridor connecting Penasquitos Canyon and Black Mountain Open Space Park are permanently preserved; and

WHEREAS, the Torrey Highlands Subarea IV Plan was approved by the Community Planning Board of the neighboring community of Rancho Penasquitos and was adopted by the San Diego City Council; and

WHEREAS, Torrey Highlands is located on the western boundary of Rancho Penasquitos and is identified in Figure 1-2 in the Torrey Highlands Subarea IV Plan on file in the office of the City Clerk as Document No. RR-287749 adopted by Resolution No. R-287749 of the City Council on August 5, 1996; and

WHEREAS, implementation of the Torrey Highlands Subarea IV Plan requires that the designation of Torrey Highlands be changed from Future Urbanizing to Planned Urbanizing; and

WHEREAS, implementation of the Torrey Highlands Subarea IV Plan requires the Poway Unified School District to concur with school siting, phasing and financing provisions set forth in the Torrey Highlands Subarea IV Plan in order to fully compensate the school district for impacts the development may have on schools; and

WHEREAS, approval of this change of designation in no way permits any other portion of the North City Future Urbanizing

Area to have a change of designation without a separate vote of the people; NOW, THEREFORE,

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. One proposition amending the Official Phased Development Map in the City's Progress Guide and General Plan to change the designation of the 1,134 acres known as Torrey Highlands with Subarea IV of the North City Future Urbanizing area from "Future Urbanizing" to "Planned Urbanizing" is hereby submitted to the qualified voters of the City at the Special Municipal Election to be held November 5, 1996. The proposition is to read as follows:

In 1985, the voters of the City adopted the Managed Growth Initiative, known as "Proposition A," which amended the Guidelines for the Future Development Section of the Progress Guide and General Plan of the City of San Diego by requiring approval of the voters before changing the designation of lands from the Future Urbanizing designation.

A 1,134-acre property known as "Torrey Highlands" is located in Subarea IV of the North City Future Urbanizing area and is currently designated as "Future Urbanizing" on the Official Phased Development Map in the City's Progress Guide and General Plan.

The Subarea IV Plan, which includes that 1,134 acres, was prepared and is entitled the "Torrey Highlands Subarea IV Plan."

The Torrey Highlands Subarea IV Plan provides that at least 250 acres of open space and a wildlife corridor connecting Penasquitos Canyon and Black Mountain Open Space Park are permanently preserved; and

The Torrey Highlands Subarea IV Plan was approved by the Community Planning Board of the neighboring community of Rancho Penasquitos and was adopted by the San Diego City Council.

Torrey Highlands is located on the western boundary of Rancho Penasquitos and is identified in Figure 1-2 in the Torrey Highlands Subarea IV Plan on file in the office of the City Clerk as Document No. RR-287749, adopted by Resolution No. R-287749 of the City Council on August 5, 1996.

Implementation of the Torrey Highlands Subarea IV Plan requires that the designation of Torrey Highlands be changed from Future Urbanizing to Planned Urbanizing.

Implementation of the Torrey Highlands Subarea IV Plan requires the Poway Unified School District to concur with school siting, phasing and financing provisions set forth in

the Torrey Highlands Subarea IV Plan in order to fully compensate the school district for impacts the development may have on schools.

Approval of this change of designation in no way permits any other portion of the North City Future Urbanizing Area to have a change of designation without a separate vote of the people.

NOW, THEREFORE, the People of The City of San Diego do hereby amend the City's Progress Guide and General Plan, specifically by amending the Official Phased Development Map, on file in the office of the City Clerk as Document No. RR-267565-1, to change the designation of 1,134-acres known as "Torrey Highlands" from "Future Urbanizing" to "Planned Urbanizing," provided that the City Council does not amend the Torrey Highlands Subarea IV Plan to preserve any less than 250 acres of open space or reduce or eliminate the wildlife corridor which connects Penasquitos Canyon and Black Mountain Open Space Park.

The People of the City of San Diego hereby further ordain that the City shall not approve any application for the rezoning of property or approve any permit applications to increase density entitlements for those

properties within the area identified in Figure 1-2 in the Torrey Highlands Subarea IV Plan unless and until the Owner/Applicant of such land executes a School Facilities Funding and Mitigation Agreement, which is substantially similar in form and substance to the form of agreement set forth in Appendix A of the Torrey Highlands Subarea IV Plan.

The People of The City of San Diego further ordain that the City shall not approve any application for the rezoning of property or approve any permit applications to increase density entitlements for those properties designated as school sites in the Torrey Highlands Subarea IV Plan, unless the Poway Unified School District Board determines that such school site is no longer needed.

The People of the City of San Diego further ordain that the City shall not approve any application for the rezoning of property or approve any permit application to increase density entitlements for those properties within the area identified in Figure 1-2 in the Torrey Highlands Subarea IV plan unless or until the City has adopted a public facilities financing plan that

requires the applicant to pay a fair share of the cost of necessary public facilities.

The People of the City of San Diego further ordain that the maximum number of residential dwelling units which may be permitted within the area identified in Figure 1-2 of the Torrey Highlands Subarea IV plan shall not exceed the total number of units for the subarea as set forth in paragraph 4.5 of the Torrey Highlands Subarea plan as of August 5, 1996.

Section 2. On the ballot to be used at this Special Municipal Election, in addition to any other matters required by law, there shall be printed substantially the following:

<b>PROPOSITION ____.</b> AMENDS THE PROGRESS GUIDE AND GENERAL PLAN OF THE CITY OF SAN DIEGO.	YES	
Shall the Official Phased Development Map in the Progress Guide and General Plan of The City of San Diego be amended to change the designation of the 1,134 acres known as Torrey Highlands from Future Urbanizing to Planned Urbanizing, provided that the Torrey Highlands Subarea IV Plan permanently preserves 250 acres of open space and a wildlife corridor connecting Penasquitos Canyon and Black Mountain Open Space Park?	NO	

Section 3. An appropriate mark placed in the voting square after the word "YES" shall be counted in favor of the adoption of this proposition. An appropriate mark placed in the voting

square after the word "NO" shall be counted against the adoption of the proposition.

Section 4. The City Clerk is directed to insert the effective date of this ordinance, once known, in the space provided in the last ordaining clause in the ballot proposition.

Section 5. The City Clerk shall cause this ordinance to be published once in the official newspaper.

Section 6. Pursuant to section 17 of the San Diego City Charter, this ordinance relating to elections shall take effect on August 5, 1996, which is the day of its introduction and passage.

APPROVED: JOHN W. WITT, City Attorney

By

*Cristie C. McGuire*

Cristie C. McGuire  
Deputy City Attorney

CCM:jrl:smf:cdk:pev  
07/29/96 COR. COPY 1  
07/30/96 COR. COPY 2  
08/20/96 REV. 1  
08/20/96 REV. 2  
Or.Dept:C&NS  
Aud.Cert.:9700026  
O-97-9  
Form=O+t