

**CALIFORNIA COASTAL COMMISSION**

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# Thu 8e

Filed: October 24, 2006  
49th Day: December 12, 2006  
180th Day: April 22, 2007  
Staff: Ellen Lirley-SD  
Staff Report: December 21, 2006  
Hearing Date: January 10-12, 2007

REGULAR CALENDAR  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

APPLICATION NO.: 6-06-017

APPLICANT: City of San Diego/Park and  
Recreation Department

AGENT: Kevin J. Oliver

PROJECT DESCRIPTION: Improvements to the existing public parking lot at the approximately 220-acre Torrey Pines Golf Course, including removal of some landscaping, reconfiguration and repaving of the lot itself, and restriping in a new parking layout, resulting in an increase in parking spaces from 260 to 324.

PROJECT LOCATION: 11480 N. Torrey Pines Road, North City (University Planning Area), San Diego, San Diego County.

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STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

The staff recommends that the Commission approve the proposed parking lot improvements for the existing Torrey Pines Golf Course, a public golfing facility located on the bluffs in the University Planning area of the City of San Diego. A special condition is recommended requiring that future changes in parking lot operations cannot be implemented at the site without an amendment to this coastal development permit or a new coastal development permit. Two other conditions are recommended to address landscaping and stormwater runoff from the parking lot.

This application originally included demolition of the existing clubhouse and construction of a new clubhouse and tournament support building. However, there are unresolved issues regarding those facilities, and the City has urgent need to proceed with the parking lot improvements. Therefore, the application has been bifurcated, and the parking lot improvements, identified by the City as Phase 1 of the overall project, are the only project component currently before the Commission. The remainder of the original application will come forward in the future under a separate application number. Approval of the parking lot improvements independent of the remainder of the total

development will not constrain the Commission's future action on the rest of the golf course improvements, as it is keeping the same use in the same general footprint.

There was also a question concerning coastal development permit (CDP) jurisdiction on this site. According to the City of San Diego draft post-certification maps, the site is bisected, with the easternmost portion being in the City's CDP jurisdiction and the remainder in an area of deferred certification where the Commission retains permit authority. However, based on information recently provided by the City, Commission staff maintains that the entire site is within the deferred certification area, and the previous assumption of split jurisdiction by the City is incorrect. However, in reliance on that assumption, the City approved a CDP for the proposed development in February, 2006, which was subsequently appealed to the Commission.

The matter was recently resolved, on October 24, 2006, pursuant to a map depicting the entire Torrey Pines City Park that was submitted to Commission staff by the City. The map confirms staff's position that the entire golf course (along with some adjacent beach and bluff areas) is an area of deferred certification. The City has now submitted a letter acknowledging that the Coastal Commission has sole jurisdiction in this area, and stating that their coastal development permit is not valid. Thus, the appeal of that permit is also invalid. Exhibit #3, attached, is documentation from a former appellant; most of the material addresses the larger project that will go forward later, but Items (5) and (6)d. on Pages 8 and 9 specifically address the parking lot.

Standard of Review: Chapter 3 policies of the Coastal Act.

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Substantive File Documents: Certified University Community Land Use Plan and City of San Diego Implementing Ordinances; Golf Operations Business Plan, May 2006

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I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

**MOTION:**        *I move that the Commission approve Coastal Development Permit No. 6-06-017 pursuant to the staff recommendation.*

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO APPROVE THE PERMIT:**

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Future Development. This permit is for construction of parking lot improvements including reconfiguring the lot, increasing the number of parking spaces, and adding drainage swales and landscaping. All other development proposals for the site, including adding or removing spaces, charging a fee, etc, shall require review and approval by the Coastal Commission, or its successor in interest, under a separate coastal development permit or an amendment to this permit.

2. Drainage and Polluted Runoff Control Plan. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and approval of the Executive Director final drainage and runoff control plans and supporting calculations for the Torrey Pines Golf Course parking lot that have been approved by the City of San Diego Engineering Department. The plans shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- (a) Selected BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater produced on site by each runoff event, up to and including the 85<sup>th</sup> percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs.
- (b) Runoff shall be conveyed off site in a non-erosive manner.
- (c) Drainage from the parking areas, driveway area, and other impervious surfaces on the site shall be directed through vegetative or other media filter devices

- effective at removing and/or mitigating contaminants such as petroleum hydrocarbons, heavy metals, and other particulates.
- (d) Opportunities for directing runoff into pervious areas on-site for infiltration and/or percolation of rainfall through grassy swales or vegetative filter strips, shall be maximized where geotechnical concerns would not otherwise prohibit such use.
  - (e) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. The plan shall include an identification of the party or entity(ies) responsible for maintaining the various drainage systems over its lifetime and shall include written acceptance by the responsible entity(ies). Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to and during each rainy season, including conducting an annual inspection no later than September 30<sup>th</sup> each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.
  - (f) Sweeping of all impervious parking lot surfaces shall be conducted on a regular basis (e.g., monthly or weekly) using a vacuum regenerative sweeper or equivalent method that removes trash and particulate matter.

The permittee shall undertake development in accordance with the approved drainage and runoff control plans. Any proposed changes to the approved drainage and runoff control plans shall be reported to the Executive Director. No changes to the approved plans shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. Final Landscaping Plans. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval final revised landscaping plans for the parking lot improvements (Phase 1) approved by the City of San Diego. The plans shall be in substantial conformance with the plans submitted with this application by KTUA Landscape Architecture and Planning, dated December 16, 2005, and shall include the following:

- a. All landscaping shall be drought-tolerant and (1) native or (2) non-invasive plant species (i.e., no plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as

may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site). No plant species listed as 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property. The landscaping shall not include Mexican Fan Palms or ice plant species.

- b. Use of pesticides or rodenticides is prohibited.
- c. A written commitment by the applicant that five years from the date of the issuance of the coastal development permit for the proposed development, the applicant will submit for the review and written approval of the Executive Director a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies whether the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and written approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

The permittee shall undertake the development in accordance with the approved landscape plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is legally required.

#### IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The proposed development consists of resurfacing and reconfiguration of the existing 260-space public parking lot, which will result in a new total of 324 parking spaces. The proposed parking lot improvements will require transplanting/relocation of several Torrey Pine trees and removal of several eucalyptus, most other existing species of pine, and one existing dawn redwood tree. Trees being retained in place include Torrey Pine, eucalyptus and Coast Redwoods. The proposed parking lot improvement include adding vegetated swales and a loading area for the adjacent hotel, as well as providing better traffic circulation within the lot. The proposed development will occur within that portion of the approximately 220-acre Torrey Pines Golf Course located closest to North Torrey Pines Road.

The Torrey Pines Golf Course is a municipal golf course that originated in the 1950's, and now includes two 18-hole golf courses. It is located on bluffs overlooking the Pacific Ocean, and is heavily used both by residents and visitors. The golf courses themselves, although part of the overall site, are not affected by the proposed development. The existing clubhouse was constructed around 1990, and the site also includes a number of putting greens and a driving range. Except for the clubhouse, the golf facilities were in existence prior to the Coastal Act, and, as a whole, the site has remained virtually unchanged over time except for ongoing maintenance activities, including some reconfiguration of various areas of the two golf courses.

The project site is located within the University Community Plan area of the North City LCP segment. However, the entire site is within an area of deferred certification, where the Coastal Commission retains CDP authority and Chapter 3 of the Coastal Act is the legal standard of review. The City's LCP is used as guidance only.

2. Public Access/Traffic Circulation. The following Coastal Act policies are most applicable to this issue, and state:

**Section 30211**

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

**Section 30212**

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,
- (2) adequate access exists nearby, or,
- (3) agriculture would be adversely affected. ...

**Section 30213**

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

**Section 30214**

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

(1) Topographic and geologic site characteristics. ...

### **Section 30252**

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service ... (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, ...

### **Section 30253**

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard. ...

### **Section 30604**

... (c) Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

The University Community Plan is a subset of the North City LCP segment. The community, for the most part, is heavily developed with light industrial and biological research facilities, company headquarters, and multi-family dwellings, along with the University of California at San Diego (UCSD), a major regional shopping mall, two high-end resort hotels, two multi-plex theaters and several theatrical venues on the UCSD campus. However, most of the northern half of the community located west of North Torrey Pines Road is open space, and includes the Torrey Pines State Reserve and Torrey Pines City Park. The latter is comprised of the golf course, coastal bluffs and beaches. The north course is immediately adjacent to North Torrey Pines Road, while the south course is separated from the road by the two resort hotels and some medical facilities.

Other than Interstate-5 further east, North Torrey Pines Road is the main north-south transportation corridor through the community. The dense development of the community creates serious traffic circulation problems, not only during normal commuting hours but at other times as well. The university facilities, medical facilities, commercial shopping areas, and numerous recreational venues assure a steady stream of traffic throughout the day and well into the evening hours. In addition, North Torrey Pines Road is a major coastal access route, accessing the beaches of La Jolla to the south

and the Torrey Pines State Beach and Del Mar beaches to the north, as well as the subject golf course facility and adjacent resorts.

In addition to continual use by many daily and weekly local golfers and guests at the adjacent resorts, the Torrey Pines Golf Course is host to two major tournaments, the Buick Invitational and the Junior World. The site has also been selected to host the 2008 U.S. Open Golf Championship. According to the City, this upcoming tournament is dictating that the proposed parking lot improvements be implemented expeditiously. However, the existing parking lot is in need of renovations with or without the U.S. Open. All traffic coming from North Torrey Pines Road to either the golf course or the adjacent Torrey Pines Lodge enters through a single driveway, then separates right to the golf course or left to the hotel. The hotel design does not accommodate deliveries through its own parking lot, such that all delivery trucks serving the Torrey Pines Lodge must access the resort through the public golf course parking lot. Currently, the existing parking lot configuration does not facilitate traffic flow very well, particularly when large trucks are making deliveries at the hotel, nor does the existing parking lot use space efficiently to maximize the number of parking spaces. Thus, at times, cars trying to park or exit the parking lot are backed up while trucks try to position themselves to make deliveries to the Torrey Pines Lodge.

The proposed parking lot reconfiguration will address these concerns by providing access to the resort delivery dock outside the areas of regular traffic flow, and will also increase the amount of on-site parking from 260 parking spaces to 324 spaces. On a day-to-day basis, the existing parking lot currently accommodates the numbers of daily golfers, but is inadequate to accommodate all vehicles during tournaments. The additional 64 parking spaces will help, but will still be far less than is needed, although the existing 40-space public parking reserve at the adjacent Torrey Pines Lodge will remain as well. Typically, the golf course utilizes off-site parking and a shuttle service during tournaments, and that provision will still be required after project implementation. Moreover, the site is also served by public transit.

This site is located between the sea and the first coastal road, which is North Torrey Pines Road. There is no public beach access at the golf course, although access exists to the south at the La Jolla/La Jolla Shores beaches and at UCSD, and to the north through the Torrey Pines State Reserve and at the Torrey Pines State Beach. Although the distance between these access points is significantly greater than is typical in the urbanized San Diego area, the bluffs here are nearly vertical and are approximately 300 feet high, such that safe public access to the beach cannot be provided along this particular stretch of coastline whether or not the golf course exists. However, the existing clubhouse has a deck, open to the public, that provides panoramic views of the area and up and down the coast. Moreover, the golf course is itself a recreational destination both for local golfers and visitors to the area, and this municipal facility would be considered a lower-cost facility, for local golfers especially, when compared to many similar facilities elsewhere in California and the nation as a whole. This parking lot has always been available free to the general public, and the current proposal will not change that status. Because future changes to the parking lot may affect public access and the availability of lower-cost

recreational opportunities, Special Condition #1 provides that such an action would require additional Commission review as either a CDP amendment or a new CDP.

In summary, the parking lot improvements will not, in and of themselves, modify the operation of the golf course or impede any existing public access. Nor will the proposed improvements adversely affect traffic on north Torrey Pines Road, although the 2008 U.S. Open is likely to do so. However, although the City needs these improvements in place prior to the 2008 tournament, the condition of the existing parking lot is poor, and the proposed improvements would be needed at some point in any event. Therefore, the Commission finds the proposed parking lot improvements, as conditioned to address paid parking, consistent with the cited Coastal Act policies, and with all other access and recreation policies as well.

3. Visual Resources. Section 30251 of the Coastal Act applies to the proposed development and states, in part:

**Section 30251**

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. ...

The subject parking lot is located directly west of North Torrey Pines Road. There are some views to the west from the street, although a line of mature eucalyptus trees makes the views somewhat sporadic. These are not ocean views, but views of portions of the golf course and open space areas, including the parking lot, which is closest to the road of all on-site facilities. Ultimately, the proposed parking lot improvements will not change the existing viewshed in any significant way since the main improvements are resurfacing the existing paved areas and installing curbs and drainage facilities. Except for the landscaping, all improvements are at ground level, so views will remain essentially as they are today.

The proposal includes a conceptual landscaping that includes planting additional eucalyptus trees along the roadside to make the parking lot screening more effective. Eucalyptus trees are the designated street tree in the certified LUP for this area. Existing trees within the parking lot are proposed for removal and/or transplanting to accommodate the proposed parking lot reconfiguration. In addition, many existing tree roots have protruded through the existing asphalt surface. Approximately 35 new torrey pines will be planted within planter areas scattered throughout the parking lot to break up what would otherwise be large expanses of pavement. The proposed new trees will replace in number all trees being removed, although the species are not all the same, with a greater emphasis on the use of torrey pines.

Special Condition #3 addresses the conceptual landscaping plan. It requires submittal of final plans, and provides that only native or non-invasive species may be used. The condition also addresses long-term maintenance of the landscaping, prohibiting the use of pesticides and rodenticides. Therefore, as conditioned, the Commission finds the proposed development consistent with Section 30251 of the Coastal Act.

4. Water Quality. The following Coastal Act policy is most applicable to this issue:

**Section 30231**

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The proposed project will repave an existing paved parking lot. The development will maintain the same general footprint as the existing lot, but will increase the impermeable surface slightly by paving a corner of the old lot that is now dirt. All drainage from the site, both as it exists today and with the proposed improvements, goes into the municipal storm drain system. No site runoff goes over the bluffs. However, the construction of impervious surfaces can result in impacts to water quality because water runoff from hard surfaces can contain pollutants that eventually drain onto beaches or other coastal waters. In urban areas, runoff can contain oil, gasoline, brake dust, particles of roofing material and construction matter, chemicals, trash and other contaminants. Filters, catch basins, permeable paving surfaces such as modular pavers, grassed parking areas, and permeable pavements can be employed to trap vehicle-generated pollutants and reduce runoff volumes.

The proposed project will increase the impervious surface area slightly and add 64 parking spaces to the site, which could potentially increase the pollutants on the site associated with cars. The applicant is proposing to construct vegetated swales to detain and filter runoff, but has not provided calculations documenting that the design is appropriate/adequate for the size and nature of the parking lot. Therefore, Special Condition #2 has been attached which requires the applicant to submit a Drainage and Polluted Runoff Control Plan that incorporates structural and nonstructural Best Management Practices (BMPs), for Executive Director approval, involving the proposed parking lot improvements. With appropriate BMPs, the potential for polluted runoff from the site making its way to the ocean is reduced. Therefore, as conditioned, the Commission finds the proposed development consistent with the water quality protection policies of the Coastal Act.

5. Local Coastal Planning. The Commission has certified a LUP for the University Community planning area of the North City LCP segment, and the City of San Diego has

assumed coastal development permit authority for the majority of the community. However, the Torrey Pines City Park, which includes the golf course, is an area of deferred certification since there is no master plan yet for the park. The LUP identifies the golf course as a public recreational venue and designates it as open space. The zone for the site is the OP-1-1 Zone. The proposed development is consistent with the certified LUP, and has been found consistent with all applicable Chapter 3 policies of the Coastal Act. The only required local discretionary permit is a Site Development Permit, which was approved by the City on February 1, 2006. Therefore, the Commission finds that approval of the project will not prejudice the ability of the City of San Diego to prepare a fully certifiable plan for Torrey Pines City Park.

6. Consistency with the California Environmental Quality Act (CEQA).

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing public access will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
  
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.



6-06-017

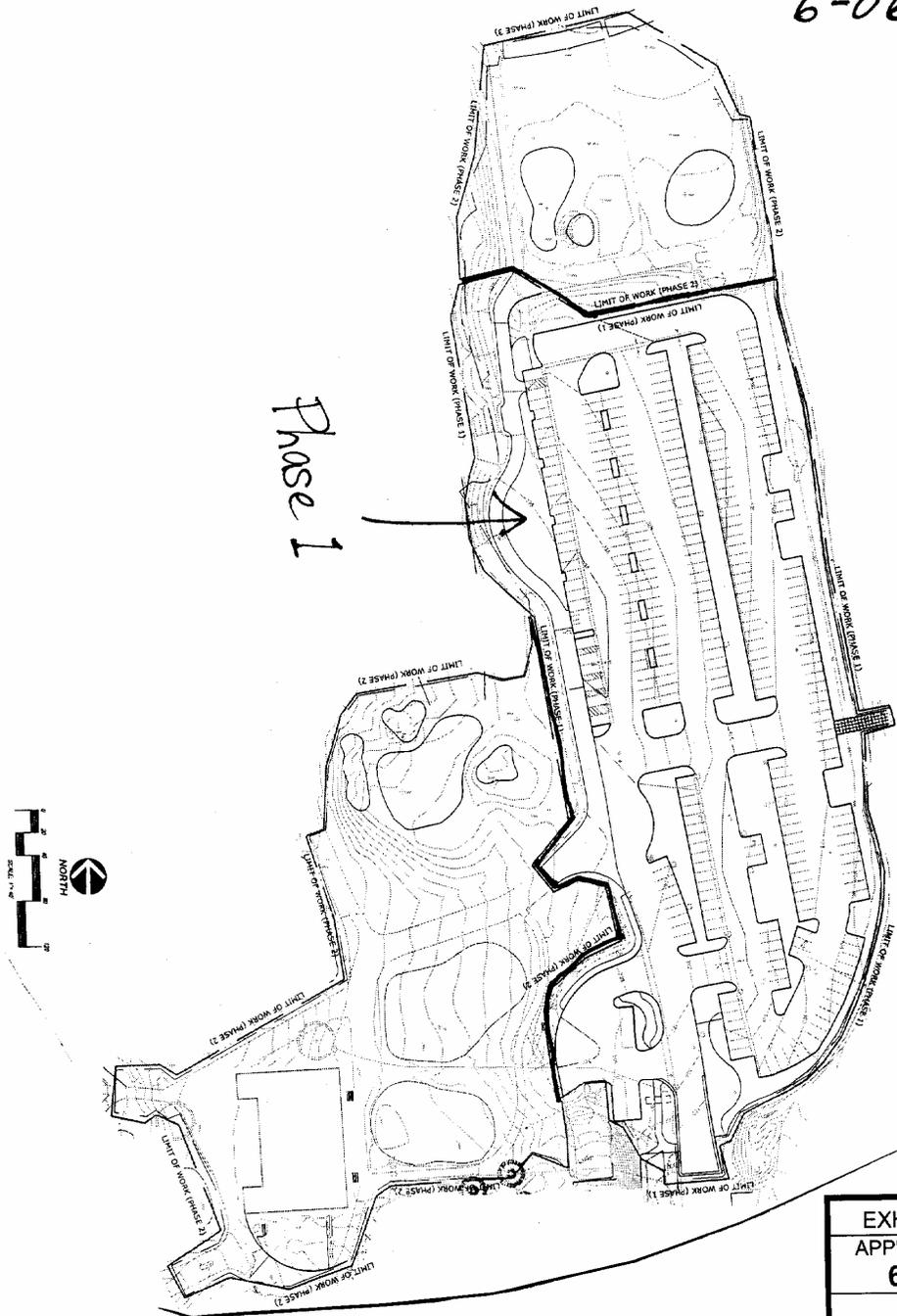


EXHIBIT NO. 2
APPLICATION NO.
<b>6-06-017</b>
Site Plan
California Coastal Commission

RECEIVED

DEC 07 2006

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT**SAN DIEGO MUNICIPAL GOLFERS ALLIANCE<sup>1</sup> SUPPLEMENTAL  
STATEMENT OPPOSING TORREY PINES PROJECTS**

(1) Since the filing of this appeal, the City of San Diego has ignored citizen concerns and implemented plans which favor the affluent in access to coastal recreation in violation of the Coastal Act. Shortly after this appeal was filed, on May 16, 2006, the University City Planning Group became the second citizens' advisory panel to reject the construction plans now under review by this Commission.<sup>2</sup> On May 17, 2006, the Natural Resources Committee of the San Diego City Council voted to remove the proposed Torrey Pines Clubhouse from the capital budget and put the project in a separate fund. Committee Chair Donna Frye noted the relationship between the funding of the clubhouse project and golf fees: "Frye said it's possible the rate structure will be altered, and fees lowered, if it's determined that the extra clubhouse money was part of the original cost calculations."<sup>3</sup> Nonetheless, five weeks later, Mayor Jerry Sanders strong-armed his plan to radically raise fees to local golfers through an ill-prepared-and confused City Council;<sup>4</sup> the clubhouse was not to be built immediately, but the fees to fund it were being charged anyway.

As discussed in point (3) below, that fee structure imposes costs which are pricing local golfers off Torrey Pines in order to pay for construction projects which are of little benefit to local resident golfers. The fee structure imposed favors those with the means to lay out thousands of additional dollars to play on Torrey Pines. This distribution of coastal recreational facilities by wealth violates the Coastal Act's mandate in support of low-cost coastal recreation.

<sup>1</sup> SDMGA is an alliance of more than 1,353 local golfers who joined together to oppose the City's plans to dramatically raise golf fees in large measure to pay for the projects that are the subject of this appeal. Our website collects relevant news on San Deigo golf issues and is located at <http://www.sdmga.com/news.htm>

<sup>2</sup> (See Tillman, *University City Planning Group Digs Up Old Issues*, Golden Triangle News, May 25, 2006  
<http://www.sdnews.com/vnews/display.v/ART/06/05/25/44762bbbc1751>.)

<sup>3</sup> T. Leonard, *Council members request more time for golf proposals*, San Diego Union Tribune, May 18, 2006, <http://www.signonsandiego.com/sports/golf/20060518-9999-1s18torrey.html>

<sup>4</sup> See T. Sullivan, *Give City a Bogey on Torrey*. San Diego Union Tribune 2006, <http://www.signonsandiego.com/sports/sullivan/20060704-9999-1s4sullivan.html>

EXHIBIT NO. 3
APPLICATION NO. <b>6-06-017</b>
Letter from Former Appellant
 California Coastal Commission

**(2) Approval of the projects by the City flies in the face of virtually unanimous opposition of the community and the two citizen advisory panels which rejected the projects. .**

The City projects have been rejected by the two citizen advisory panels who considered them: the Golf Advisory Council voted 8 to 3 to reject the City plan on February 21, 2006<sup>5</sup> and as noted above, the UCPG voted down the projects 8 to 1 on May 16, 2006. At public meetings held on January 12, 2006, February 21, 2006, March 1, 2006, March 8, 2006, May 17, 2006 and June 26, 2006, hundreds attended and local residents were unanimous in their opposition to the new clubhouse. Of all of the speakers at all of the meetings, **every citizen-golfer spoke against the clubhouse** (literally hundreds of citizens); the speakers in favor of the Clubhouse were almost all members of the Century Club (an organization whose membership requires personal wealth and which promotes professional golf tournaments) and others who had a business interest in golf. Tom Wornham, listed as vice president of the Century Club and a confidant of the Mayor, advocated that the sacrifice of the recreational interests of resident golfers was necessary to provide economic stimulus for the City as a whole: "the greater good for 1,300,000 San Diegans vs. 10,000 golfers .... Torrey Pines belongs to all San Diegans, not just those who golf."<sup>6</sup> It should be noted that Mr. Wornham was not advocating converting Torrey Pines into a free public park which all San Diegans could use, but only using Torrey for more professional golf tournaments which he assumed would be of economic benefit to the City economy<sup>7</sup> Nor did what he advocated make much sense: the building of the clubhouse and/or the Tournament Support building are unnecessary to attracting professional golf tournaments;<sup>8</sup> he

<sup>5</sup> T. Leonard, *GAC's rejection of contentious Torrey Plan might be only a prelude*, San Diego Union Tribune, February 23, 2006, [http://www.signonsandiego.com/uniontrib/20060223/news\\_1s23citygolf.html](http://www.signonsandiego.com/uniontrib/20060223/news_1s23citygolf.html)

<sup>6</sup> Century Club Vice President Tom Wornham appears to be a contributing author of Mayor Sanders' plan to postpone the construction of the new clubhouse, but charge the higher greens fees necessary to pay for it in advance. See appeal exhibit 7d(2) Email of March 24, 2006 from Tom Wornham to Julie Dubick .

<sup>7</sup> See D. Bauder, *Fat Cats Bully Commoners*, San Diego Reader, October 19 2006, <http://www.sdreader.com/php/cityshow.php?id=1483> (Claims of economic benefits for major sports events are wildly inflated, yielding only about one-tenth of the benefits claimed).

<sup>8</sup> T. Leonard, *Clubhouse no must to stage U.S. Open*, San Diego Union Tribune, March 7, 2006; <http://www.signonsandiego.com/sports/golf/20060307-9999-lz1s7clubhous.html>

was presenting a false choice designed to get what the Century Club wanted and without regard to the welfare of the community. Mayor Sanders and the City Council ignored their constituents and citizen advisory boards and opted for a chimerical financial gain at the cost of public parkland. As Union Tribune Columnist Tim Sullivan put it,

The encroachment of private interests and elitist pricing on Torrey Pines is antithetical to the idea of a public park. Next thing you know, Jerry Sanders will be authorizing condo conversions at Balboa Park.<sup>9</sup>

**(3) Because the golf courses are funded by an Enterprise Fund, and not from general revenues of the City, the necessary effect of the projects will be to increase green fees at Torrey Pines, reducing access to less affluent golfers.** The cost of the project -- \$14 million will be paid out of the Enterprise Fund<sup>10</sup>, -- amounts to an average \$17.50 more per round over five years. Although that may not sound like a great sum, it accumulates over time to a surprising sum for the regular golfer: *A local city resident who plays once a week at Torrey would pay \$4,375 more over the next five years in greens fees to fund these projects; a twice-a-week player would pay \$8,750 more over the next five years.*<sup>11</sup>

<sup>9</sup> T. Sullivan, *Give City a Bogen on Torrey*. San Diego Union Tribune, July 4, 2006, <http://www.signonsandiego.com/sports/sullivan/20060704-9999-1s4sullivan.html>

<sup>10</sup> The City's Five-Year Golf Plan lists capital expenditures for the clubhouse project as follows: FY 2006: 2.5 million; FY 2007: \$5 million; FY 2009: \$6.5 million; this is a total of \$14 million. Golf Operations Business Plan, June 2006, p. 76 [http://clerkdoc.sannet.gov/RightSite/getcontent/local.pdf?DMW\\_OBJECTID=09001451800e0950](http://clerkdoc.sannet.gov/RightSite/getcontent/local.pdf?DMW_OBJECTID=09001451800e0950)

<sup>11</sup> These figures are based on averages. Actual financial impact on particular individuals depends on the complex greens fees structure and what days a resident plays. For example, a senior golfer who played once a week on Fridays pays \$25 more per round in 2007 (and up from there each year) because the City Plan started charging weekend rates on Fridays and there are no senior rates on weekends. This senior would pay more than \$6,250 more just to play on Friday! An even more extreme case is that of the San Diego County Golfer. Prior to the new plan, County Golfers were paying \$65 per round on weekends on the South Course. Under the City Plan, they will be paying \$229 per round by 2011, a difference \$164 per round. A once-a-week county golfer who could afford to pay these rates would pay close to \$41,000 more over a five-year period. The real effect of the elimination of county rates is to deny access to all but the most affluent county golfers. The fee schedule for the golf courses for 2007 through 2011 is set out in the Golf Operations Business Plan, June 2006, pp. 39 (Torrey North) and 42 (Torrey South). <http://www.sandiego.gov/park-and-recreation/pdf/golfbusinessplanwithstrikeout.pdf>

The impact of the fee structure is already apparent. City Golf Manager Mark Woodward recently confirmed that the fee structure has had the effect of reducing access; according to Woodward, "rounds played have been down slightly at Torrey Pines this fall, but revenue is up.... helped, ...by the new advance reservation system, which charges residents \$25 and out-of-towners \$35 [per person in addition to green fees] to make tee times from 8 to 90 days in advance."<sup>12</sup> It should be noted that this advance reservation system would cost the once-a-week resident golfer \$1,250 more per year or \$6,250 more over five years.

Thus, what is at stake in this permit application is the affordability of golf for local residents. Approval of the projects for which permits are requested will raise golf fees an average of \$17.50 per round which amounts to thousands of dollars in increased fees for locals who have lived in San Diego, paid their taxes and had reasonable expectations that their municipal golf course would remain affordable. In terms of the policies of the Coastal Act, the permits would have the effect of raising the cost of golf to San Diego residents, financially deterring us from playing Torrey in violation of the Coastal Act policy protecting low cost coastal recreation. Torrey Pines is a unique municipal facility which heretofore had low enough rates to allow local golfers to play there regularly; because of its proximity to the ocean, the climate is mild and allows seniors and others to walk the course year round, even when temperatures soar away from the coast. Building the structures proposed will inevitably raise the cost of golf at the coast, financially deter many locals from playing and thereby decrease local access to this fine coastal facility.

**(4). The Tournament Support Building creates unneeded locker facilities from which the general public is excluded; cedes public parkland to an organization whose membership is restricted to the affluent and which has facilitated the diversion of \$3.5 million in U.S. Open revenues from the City to the individual members of the Friends of Torrey Pines, all the more troubling because of extensive ties between the Century Club, The USGA and the Friends of Torrey Pines; the Tournament Support Building will increase the costs of golf to public golfers with no benefit to us.**

SDMGA vigorously opposes the Tournament Support Building as (a) an unnecessary intrusion of building on open space parkland; (b) the donation of

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<sup>12</sup> T. Leonard, *\$4.8 million proposal goes to City Council*, San Diego Union-Tribune, Nov. 21, 2006 <http://www.signonsandiego.com/sports/golf/20061121-9999-lz1s21locgolf.html>

public park land to the Century Club of San Diego, an organization whose membership is restricted to the wealthy and with serious conflicts of interest; and (c) the inappropriate imposition of costs of the facility on local golfers.

**(a) Tournament Support Facilities Unnecessary.** The primary reason used to justify building the Tournament Support facility is to provide locker rooms and other amenities for professional golfers when they visit the facility for a one-week golf tournament. Currently, whatever such facilities are necessary are provided by tents which are constructed for the tournament and removed when it is over. The idea that world class golfers, all of whom stay in nearby hotels or private homes would use the locker facilities to shower or change clothes seems fanciful (does the Century Club really believe that Tiger Woods would be taking showers in a public locker room?). But these facilities will be permanently on the golf course taking up what was formally open space in a public park. Would the lockers be available to the general public? No! Only tournament players would be allowed to use the facility. While the definition of "tournament player" might be expanded to include use by non-professionals who compete in amateur tournaments, the daily public golfer would be barred from the locker facility.

The Tournament Support Facility does plan to create a large meeting room for use by the general public. There is limited meeting room available in the current facilities. So this is a potential benefit to local golfers. However, renovation of the current clubhouse could provide adequate facilities.

A major portion of the Tournament Support Building would be allocated to Century Club's offices and would include some space the Century Club's junior golf administration and some limited space for junior golfers. For an operation that is focused primarily on two one-week golf tournaments per year, there is no need for it to have a permanent home on the Torrey Pines Golf Course. Its offices in Mission Valley or other office space off the golf course is perfectly adequate. What ever small benefits for junior golf<sup>13</sup> are afforded in the new facility are

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<sup>13</sup> Despite the Century Club's claimed support of junior golf, the Century Club voted to approve the original Golf Business Plan which would have tripled junior greens fees at Torrey and would have prevented all but affluent students from participating in school golf teams. See A. Tillman, *Golfers demand fees freeze at Torrey Pines; Residents ask for more access, hammer plan for new clubhouse*. La Jolla Village News, March 3, 2006. <http://www.sdnews.com/vnews/display.v/ART/2006/03/03/4409394ede642>. This ill-advised plan was averted only by advocacy from the public and the SDMGA with no support from the Century Club which was actively lobbying for buildings, but not for fees that would allow juniors on Torrey.

hardly a justification for this intrusion on open space and only represent a small portion of the facility.

**(b) The Century Club is a Restricted Membership Organization and a Power Broker with Conflicts of Interest that Should Preclude it From Being on Public Land**

The Century Club website is silent about its membership criteria, other than to note that "The Century Club was so named because individual memberships were initially priced at \$100 each" (<http://www.centuryclubofsandiego.org/>), but it announces that it has 65 regular members, 5 provisional members, 11 associate members and 28 honorary members. What is clear is that although literally hundreds of ordinary citizens pay money to help out with the Buick Invitational Golf Tournament, **none of these volunteers are invited to be members of the Century Club.** *Century Club membership is reserved for the wealthy high-rollers who have the power and connections to advance the Club's hidden agendas.*

According to the Century Club website, proceeds from the Buick Invitational have over the years gone to support junior golf in San Diego and with the success of the golf tournament have expanded to support other worthwhile charities. Although no audit is provided, there seems little reason to doubt that the Century Club has been the conduit for some substantial funds going to local charities. What the website does not describe are some of the more questionable activities of the Club. Clearly the most troubling is its role and that of its offshoot, the Friends of Torrey Pines, to **divert millions of dollars funds that should be going to the City of San Diego from the U.S. Open into the pockets of individual members of the Friends of Torrey Pines.**

The Century Club website tells the beginning of the story:

In 2002, the Friends of Torrey Pines, a group of interested citizens and avid golfers led by Century Club members raised over \$3 million to have the South Course at Torrey Pines restored by noted golf course architect Rees Jones with no cost to the City.

[http://www.centuryclubofsandiego.org/city\\_sd.php](http://www.centuryclubofsandiego.org/city_sd.php). But what the Century Club does not say is that the maintenance of the South Course is claimed by the City to be more than double what it costs to maintain the North Course and that golfers, not the Century Club or the Friends of Torrey Pines, are paying for that maintenance. Even more significantly the Friends of Torrey Pines "led by Century Club members," negotiated the contract with the U.S.G.A to bring the U.S Open to Torrey in 2008 and that it diverted \$3.5 million in revenues that would normally go to the City to the pockets of the members of the Friends of

Torrey Pines. Under the contract with the U.S.G.A., the City of San Diego gets only \$500,000 in compensation for its use of the two Torrey golf courses during the U.S. Open and the Friends of Torrey Pines receive up to \$3,500,000 in proceeds from corporate tent sales. (It appears that the compensation for the host course at U.S. Open is normally around \$4 to \$5 million; thus the money taken by the "Friends" appears to come directly out of the City's share.) When questioned by SDMGA about this unsavory arrangement, Richard Gillette of the Friends stated at a meeting in Mayor Sanders office that the money was being returned to the individual members of the Friends and that there was a plan to contribute up to \$325,000 to facilities at Balboa. (Meeting on April 5, 2006 at Mayor Sanders' Office; SDMGA Co-Founder and Attorney Paul Spiegelman in attendance). The diversion of the money that should go to the City is particularly troubling because the corporate tents at the U.S. Open at Winged Foot in New York during the 2006 U.S. Open did substantial damage to the East Course at Winged Foot (roads were cut into the golf course for 18-wheel trucks to construct and service the tents) and similar damage can be anticipated here.<sup>14</sup> The City stands to lose substantial revenue during the period that it takes to repair the damage done by the tents (even if the U.S. Open pays for the repairs, which is by no means clear.)

The arrangement is one which cries out for relief from the U.S.G.A. but Century Club members are so well positioned at the U.S.G.A that it is in serious conflict of interest in hearing requests by the City to right this wrong. Here is listing of the interlocking relationships between the Century Club and the U.S.G.A. and the City:

- Cameron Jay Rains – Century Club member; USGA Executive Committee, Point man for "Friends of Torrey Pines" who put up money for South Renovation and engineered 2008 open bid.
- Dean Knuth – Century Club member, former USGA Senior Director Handicap Department
- Dirk Kingma – Century Club member, USGA Committeeman for Regional Affairs
- Ray Knowles – Century Club member, USGA Committeeman for Senior Amateur
- Scott Peters – "Honorary" Century Club member, President San Diego City Council (honorary members of CC get this title for "distinguished support")
- Barbara Warden – Century Club member, former San Diego City Council member, lobbyist for Mayor Sanders

<sup>14</sup> Century Club Director Tom Wilson concedes that the corporate tents will damage the North Course, but claims, without explaining how the Winged Foot Problems will be avoided, that the damage will only take a few weeks to be repaired with no more than 10 days interruption at the North Course after the Open. See D. Bauder, *Fat Cats Bully Commoners*, *supra*, note 7.

- Richard Gillette, Century Club Member and San Diego Chair 2008 U.S. Open.<sup>15</sup>

The bottom line is that the Century Club's restricted membership, its dubious role in the diversion of \$3.5 million U.S. Open proceeds from the City of San Diego and its posture as a partisan against San Diego municipal golfers make it a wholly inappropriate permanent presence on the Torrey Pines parkland. Allowing it on Torrey Pines will inevitably lead to near-total privatization as it pursues its own hidden agenda to favor the affluent while clothing itself in philanthropic garb..

**c. Cost of facility will be borne by golfers**

That Tournament Support Building is being financed through a dubious funding gimmick. As a matter of public relations, the City and the Century Club are claiming that the Century Club is paying for the construction of the facility. In fact, while the Century Club is advancing the funds for construction of the facility, it is seeking rent credits for its construction costs so that it may never pay rent on the office space it is gaining at Torrey through this gimmick. The Enterprise Fund will also bear the costs of maintenance, utilities and other running expenses of the Tournament Support Building, a structure which is of little benefit to the local public golfer. The City has not budgeted any of the operating costs of either the new clubhouse or the Tournament Support Building; thus, the additional costs for local golfers of these facilities is not known. The Tournament Support Building should not be permitted to be constructed in a way that its costs are borne by local public golfers.

**(5). The parking renovations are in major part a subsidy to the Lodge at Torrey Pines and will be paid for by increased greens fees to the local resident golfer.** The Lodge's design encroaches on golf parking by placing its truck delivery entrance in the current parking lot and whose guests use golf parking to avoid paying parking fees to the Lodge; remediation of the flaws in the Lodge's design should be at the expense of the Lodge, and not at the expense of local golfers as the permit application proposes. Ironically, the Lodge was supposed to provide additional parking for golfers, but it has assigned spots on the roof of its facility which are impractical for local golfers with bags and push carts who have to exit through the hotel or wind their way through five stories of ramps in the parking facility. Local golfers simply do not use these spaces, but innumerable Lodge guests use golf facility parking. Finally, whatever improvements are needed to the parking lot, this is not a \$5,000,000 problem and

<sup>15</sup> See [http://www.buickinvitational.com/cc\\_members.php?menu\\_id=7](http://www.buickinvitational.com/cc_members.php?menu_id=7); The SCGA 2006 directory of golf page 69; [http://www.usga.org/aboutus/leadership/executive\\_committee.html](http://www.usga.org/aboutus/leadership/executive_committee.html)

can be accomplished without increasing the amount of impervious surface in violation of the UC Plan p.101.

**(6) Although SDMGA believes that the Coastal Commission should deny the permit application in its entirety, we submit that if the Commission is inclined to approve any portion of the projects, it should impose the following conditions to protect low-cost access to coastal recreational facilities:**

a. that the proposed clubhouse be funded in ways that do not raise local golfers' fees by (i) rolling back resident golf rates to the FY 2005 level (plus a 4% COLA adjustment per annum); (ii) restoring weekday rates for seniors and other residents on Fridays; (iii) restoring county rates so that local golfers who do not live in the City are not priced off of Torrey Pines; (iv) eliminating the advance reservation system for residents<sup>16</sup> which allows local golfers to pay \$25 more per round to get preferential tee times (or reducing the program from 12% of the tee times down to 4% of tee times);

b. that residents be afforded access to 70% of the finishable golf rounds without paying premium rates;

c. that tee times be restored to the Torrey Pines Men's and Women's Clubs to insure low-cost access to amateur tournament play which has been the practice at Torrey for the past 50 years;<sup>17</sup>

d. that the portion of any parking lot improvements attributable to improving access to the Lodge at Torrey Pines delivery entrance be paid by the Lodge and not golfers;

e. that the Century Club not be allowed to be a tenant in the Tournament Support Building unless it removes wealth restrictions from its membership requirements and allows full voting membership to volunteers and other members of the public

f. if the Century Club meets condition e, above, that it be allowed to be a tenant only if it pays full market rents for this office space without any rent credits for construction costs.

g. that the cost of construction of the Tournament Support Building not be borne by golfers and that rents for such building be set at levels that cover the full cost of maintaining the building.

h. that locker facilities and other amenities of the Tournament Support Building be made available to the general public golfer when the facilities are not in use for scheduled golf tournaments.

<sup>16</sup> SDMGA has no objection to the advance reservation system for non-residents which allows tourists to pre-book golf times fit their vacation plans.

<sup>17</sup> See N. Canepa, *Mayor is huge handicap to crowd of upset golfers*, San Diego Union Tribune, June 27, 2006. <http://www.signonsandiego.com/sports/canepa/20060627-9999-1s27canepa.html>

**(7). Action by the Coastal Commission is needed to protect the access of local citizens because the San Diego City government is directed by a Mayor and City Council who have demonstrated a penchant to accommodate developers, campaign contributors and power brokers, but not ordinary citizens and have used strong-arm tactics and deceptive statements to do so.**

(a) **Backroom, Strong-arm tactics.** The history of the process by which the City handled the issues at Torrey Pines demonstrates that the Coastal Commission action is necessary to protect the Coastal Zone and low coast recreational facilities. From its initiation, the day the City tried to push its plan through without public notice,<sup>18</sup> to the ignoring of unanimous public opposition without a single substantive response, to the way Mayor Sanders invoked his powers as strong Mayor to take the issue out of the public process, to the disinformation campaign engaged in by the Mayor's office to disguise the true nature of his plan to move inexorably toward privatization of Torrey Pines, to the back-room, strong-arm tactics the Mayor used to preclude the City Council members from a real debate on the issues, and to the to the one-sided solutions which neither acknowledged or addressed public concerns, the City government has made it clear that its actions are not entitled to deference.

Union Tribune columnist Tim Sullivan described the tactics used by the Mayor's office in pushing through its plan as follows:

The way Sanders' five-year golf plan was shoved down the throats of the city's most avid golfers, it's a wonder every local duffer doesn't need dentures. Maybe the mayor is more than a caddie for the Century Club, and certainly there's a case to be made for reducing tee time entitlements at a public course, but the whole initiative was conducted so clumsily that it's probably best that Sanders recuses himself from airport and stadium issues.

A really strong mayor is not the one who makes up his mind and then ducks out of the room during dissent. He's the one who rules by reason rather than by the arm-twisting of his aides. Jerry Sanders pledged transparency during his campaign, but what he delivered last week was standard back-room politics.<sup>19</sup>

<sup>18</sup> T Leonard, *Plans for city golf courses due for review at meeting*, San Diego Union Tribune, January 12, 2006, [http://www.signonsandiego.com/uniontrib/20060112/news\\_1s12citygolf.html](http://www.signonsandiego.com/uniontrib/20060112/news_1s12citygolf.html)

<sup>19</sup> T. Sullivan, *Give City a Bogeey on Torrey*. San Diego Union Tribune, July 4, 2006, *supra* note 2, <http://www.signonsandiego.com/sports/sullivan/20060704-9999-1s4sullivan.html>

**(b) Deceptive Statements Have Been Used to Justify the City Plan.**

In seeking public and City Council support for City's Plan, Mayor Sanders made a number of representations which were either inaccurate or highly misleading:

**(i) Clubhouse shelved, but paid for by golfers.** First, the Mayor announced that the City would not seek to build the clubhouse until after the U.S. Open, but did not say that the fees necessary to build the clubhouse were part of his plan.

**(ii) Plan reduces, it does add not to, rounds available to daily public golfer.** Second, the Mayor claimed that the plan added 15,000 rounds per year for local golfers by cutting tee times to "vested interests, such as hotels, clubs and brokers."<sup>20</sup> What he did not mention was that all of the tee times taken from hotels, the pro shop and brokers were put into an advance reservation system which reserved 19,320 preferential tee times for non-residents and that the 6,700 tee times taken from the Torrey Pines Women's and Men's club tournaments were put into another preferential pool of 19,320 tee times for which local golfers would have to pay \$25 more per round (\$6,250 over five years for the once-a-week golfer) to gain a preference over other local golfers who cannot afford the extra money. Thus the claim of additional tee times was false: no new tee times were made available to the public and indeed there was a net loss of 12,620 tee times to the daily public lottery from which golfers who could not pay a premium get their times.

**(iii) City stonewalls local golfers' pleas for fair share of finishable rounds.** Third, the Mayor accurately stated that the plan would have a 70 percent to 30 percent split of resident and nonresident tee times; what he did not say was that the issue the public golfer had been raising was that with all the preferences given to hotels and affluent non-residents, local golfers were not getting on the course at times when they could finish a round (under the City plan the 70-30 ratio included rounds started in the late afternoon where only a few holes could be played as a round of golf and counted the same as rounds started in prime time when the customary, 18-hole round of golf could be completed.) The City totally rebuffed the community's call for our share of the prime times and refused to provide

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<sup>20</sup> T. Leonard, *Mayor promotes golf plan*, San Diego Union Tribune, June 24, 2006  
[http://www.signonsandiego.com/uniontrib/20060624/news\\_1s24mayor.html](http://www.signonsandiego.com/uniontrib/20060624/news_1s24mayor.html)

accessible data for auditing compliance, but the Mayor trumpeted this stonewalling of our requests and interests as a benefit to local golfers!

(iv) **Local Golfers are Funding Clubhouse Projects.** But perhaps the most misleading and disingenuous of the City claims has been that the fees charged to local golfers only represented “what golf operations says it costs to prepare the courses for a round of golf” and that therefore none of the fees charged local golfers are paying for the facilities to be built under this permit application.<sup>21</sup> A close look at this claim demonstrates that it is both false and misleading for the following reasons:

**[A] Local golfers are paying for the projects for which permits are being sought.** Beneath the surface of all the number-crunching, one common sense fact makes the complex easy to understand: Golf operations are funded by an Enterprise Fund; as long as the Fund covers the costs of golf (including necessary capital improvements), its mission is accomplished. Thus, if the costs of the unnecessary projects for which permits are sought are eliminated, the money saved really has only one place to go – to lower fees for golfers. Thus, any argument by the City that the local residents do not pay for capital improvements is specious.

**[B] Prior to the radical increases in greens fees, the Enterprise Fund was running a huge surplus.** In Fiscal 2006, the Enterprise Fund paid a fictitious \$1,621,792 “rent” to the city for the use of the land on which the Torrey Pines and Balboa golf courses sit as well as making bond encumbrance payments (for bonds taken out by the city for projects having nothing to do with the golf courses) of \$891,629, but still ran an estimated surplus estimated \$11,472,696.<sup>22</sup> Thus, prior to the rate increases instituted by the City, golf was subsidizing the City. More significantly, even paying this subsidy, the Enterprise fund was making a large profit after also not only paying operating expenses, but also capital improvements. Thus, the need for fee raises was occasioned largely by the costs of the projects for which a permit is being sought.

<sup>21</sup> In the City’s scenario, only non-residents who pay substantially higher greens fees than local residents, are paying for the new facilities.

<sup>22</sup> See National Golf Foundation Consulting, *Operational Review and Recommendations For City of San Diego Golf Operations*, February 2006, p.153. <http://www.sandiego.gov/park-and-recreation/pdf/golfdraftreport.pdf>

**[C] The radically increased fees were clearly motivated by the need to fund the capital improvements which are the subject matter of this application.** Given the surpluses being run prior to the increases, the conclusion is inescapable that the fee increases were motivated by the need to pay for these capital improvements. Indeed, the City engaged a consultant “for the purpose of providing the Mayor, City Council and potential investors with information needed to make informed decisions with respect to the adequacy of revenues to develop the Torrey Pines Clubhouse and related projects.”<sup>23</sup> The rationale that the fees being charged locals were set to cover the cost of a round of golf surfaced only after the Golf Advisory Council rejected the City’s Plan in large part because resident fees were raised in relation to benchmarking to fees at privately owned golf courses.

**[D] The concept of the average cost of a round is an accounting fiction devoid of much practical meaning.** The City defines a round of golf as any time an individual initiates a round of golf, regardless of how many holes he plays. A person who tees off in the afternoon and plays nine holes counts the same as one who tees off in the morning and plays 18 holes. But the average cost of round is a fraction whose denominator is the total number of all these rounds initiated regardless of their length. The rate schedule for the golf courses is a complex of resident and non-resident fees, weekday and weekend rates, senior and junior rates and regular and twilight rates based on market conditions, fairness and policy.<sup>24</sup> The City’s rhetoric has never even stated which resident rate it is comparing to its calculation of the average cost of a round of golf.

**[E] Assuming that the City is referring to the resident rate for a full round of golf, the fees charged residents under the City plan are not in fact geared to the cost of a round of golf.** For example, the City claims that it costs \$27.91 to produce a round of golf on Torrey North, but would charge far more for the weekday resident golfer -- \$40 per round by 2011 (and would charge the weekend resident golfer \$50 at that time; similarly, the weekday resident golfer on Torrey would pay \$76 in 2011 for a round of golf that the

<sup>23</sup> See Memorandum of March 6, 2006, to Natural Resources and Culture Committee from Christine Ruess [attached as Exhibit A to non-electronic copy]

<sup>24</sup> See Golf Operations Five Year Business Plan, p 29. <http://www.sandiego.gov/park-and-recreation/pdf/golfbusinessplanwithstrikeout.pdf>

city claims would cost \$56.50 to produce.<sup>25</sup> In contrast, at Balboa, the fee set by the plan is \$27 in FY 2007 and \$32 in FY 2011, all below the \$35.21 cost of a round claimed by the City. Thus, even a cursory examination of the fees being charged shows that the claims that fees are being charged to reflect the average cost of a round played are not true.

**[F] The factual support for what it costs to produce a round of golf is insufficient.** The City, because of scandals involving false representations of its financial condition, has been unable to produce an audit of its finances since 2002. Yet its sole back up for its claims is in an opaque, un-audited, one-page sheet<sup>26</sup> that is impossible to decipher; requests for detailed itemizations or accountings have been rebuffed. Without itemization and accounting data, the City's claims are simply unsubstantiated. As has been discussed, the City has shown itself capable of spinning its dissemination of information to support its position even when this distorts reality. As the City's pension scandal illustrates, financial data is subject to a wide variety of manipulations. The City's supporting data for its claim here is simply not a credible basis for its assertions.

**[G] *The bottom line is that the fees for local golfers have been raised to pay for the projects under appeal. The City has made a policy decision to make Torrey Pines more upscale at the cost and with the purpose of interfering with a low-cost recreational facility and moving Torrey Pines toward a private, affluent-only destination. Its attempts to disguise this choice with accounting rhetoric are unconvincing. This Commission has the authority and the duty to protect low-cost recreational facilities. If this Commission turns down the projects, the inevitable result will be lower costs for golfers on Torrey Pines.***

<sup>25</sup> See Golf Operations Five Year Business Plan, p.72 for the City's presentation of the cost of a round on Torrey Pines; p. 70 for its estimates of the cost of a round on Balboa. Fees schedule is on p. 32; Torrey North Fee Schedule on p.39 and Torrey South Fee Schedule on p. 42. <http://www.sandiego.gov/park-and-recreation/pdf/golfbusinessplanwithstrikeout.pdf>

<sup>26</sup> See Golf Operations Business Plan, *supra note 24*, p. 73. . <http://www.sandiego.gov/park-and-recreation/pdf/golfbusinessplanwithstrikeout.pdf>

## CONCLUSION

The issue of whether it is permissible to transform a dedicated public park on the coast which offers low-cost recreational facilities into what is claimed will become a revenue center<sup>27</sup> for a financially mismanaged city deserved more careful consideration than Mayor Sanders allowed. Reasoned discussion would have revealed that it was possible to preserve the municipal character of Torrey Pines without sacrificing the ability to hold occasional professional golf tournaments there and without unnecessary buildings eating up scarce open space; SDMGA even suggested a fee structure that would have generated the revenue the City sought while preserving affordable rates for City residents, county residents, juniors and seniors.<sup>28</sup> And the claims that building new facilities were necessary to attract golf tournaments are demonstrably false.

Normally, it is for the City to determine its policies on running municipal facilities. But when those decisions are made in violation of the Coastal Act and by a process so flawed and so dominated by cronyism, special interests and the disregard of the interests of ordinary citizens, the Coastal Commission must intercede to protect the policies of the Coastal Act and the rights of ordinary citizens to fair and reasonable use of public parklands in the Coastal Zone. The proposed projects violate the Coastal Act, threaten a historic public park with privatization and should be rejected in their entirety by the Commission.

Respectfully Submitted,

Paul J. Spiegelman, Co-Founder SDMGA

On behalf of myself and as Attorney for SDMGA, John Beaver, Ellsworth Burwell and Paul J. Spiegelman

December 6, 2006

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<sup>27</sup> Recall that the revenue is not golf operations revenue, but general economic activity generated by major sports events and that promoters' claims about the magnitude of such activity are inflated ten-fold (D. Bauder, note 6, *supra*), and that the clubhouse projects are unnecessary to attract the golf tournaments that are claimed to generate this revenue. See T. Leonard, *Clubhouse no must to stage U.S. Open*, note 7, *supra*

<sup>28</sup> See e.g. SDMGA: Comparison of City's 5 year Golf Plan and SDMGA Golf Plan Projected Annualized Revenues. <http://www.sdmga.com//revenuecompare.htm>