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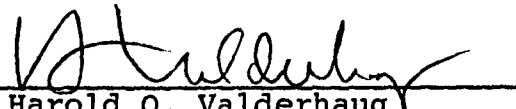
RESOLUTION NUMBER R- 268650

ADOPTED ON JUN 22 1987

BE IT RESOLVED, by the Council of The City of San Diego that it be, and it is hereby certified, that the Findings and Statement of Overriding Considerations dated June 22, 1987, and attached hereto as Exhibit B, have been adopted pursuant to California Public Resources Code, Section 21081, and the State CEQA Guidelines, Sections 15091 and 15093, in conjunction with the approval of the Sheraton Hotel at Torrey Pines which was evaluated in Environmental Impact Report No. 86-0679, as revised.

APPROVED: John W. Witt, City Attorney

By


Harold O. Valderhaug
Deputy City Attorney

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07/08/87
Or.Dept:Clerk
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June 22, 1987

EXHIBIT B

RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF SAN DIEGO

ADOPTED ON _____, 1987

FINDINGS FOR EQD NO. 86-0679

WHEREAS, the applicant, The Sheraton Corporation, proposes to develop a 400-room hotel on the Torrey Pines Mesa with accompanying meeting facilities, restaurants and recreational facilities; and

WHEREAS, the project is to be located on an 11-acre site between the Scripps Clinic and Research Foundation and the existing Torrey Pines Inn; and

WHEREAS, the 11-acre site is owned by the City of San Diego ("City") and shall be leased to the applicant; and

WHEREAS, the Draft Environmental Impact Report No. 86-0679 ("EIR") addressing environmental issues raised by the project was prepared in accordance with the California Environmental Quality Act ("CEQA"), the CEQA Guidelines, and the City's environmental review procedures; and

WHEREAS, written comments were received from the public and responsible agencies during the period of public review; and

WHEREAS, a response was made to such comments and testimony through a responsive comments document and staff report; and

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EXHIBIT B

WHEREAS, the Council of the City of San Diego ("Council") has reviewed all of the environmental documentation prepared to evaluate the proposed project including all elements of the EIR and the record before it and on the basis of this record has modified the EIR:

NOW, THEREFORE, BE IT RESOLVED by the Council that:

1. The Council does hereby certify the EIR as complete and adequate in that it addresses all environmental effects of the proposed project and fully complies with the requirements of CEQA, the CEQA Guidelines, and the City's environmental review procedures.

2. Pursuant to the California Public Resources Code §21081 and CEQA Guidelines §15091, the Council makes the findings below with respect to significant impacts identified in the EIR, together with the finding that each fact in support of the findings is true and is based upon substantial evidence in the record including the EIR. These findings and the facts in support of them are as follows:

FINDINGS

A. NON-SIGNIFICANT EFFECTS

The Council having reviewed and considered the information contained in the EIR and the related documents and the record, finds that certain potential impacts associated with the project are not significant. In this regard, the Council finds that,

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among other effects, safety and land use impacts are not significant.

The Council recognizes that the project site is located within the Accident Potential Zone (APZ) "C" as designated by the NAS Miramar Comprehensive Land Use Plan ("CLUP") which incorporates the Air Installations Compatible Use Zones Study ("AICUZ", April 1976). As a result, the site is identified as a "minimal" risk area for crash hazards. Within this APZ "C," transient lodging (including hotel use) is deemed a "normally unacceptable" use. The EIR, based on the difference of opinion of experts on the issue, has determined that there is a potentially significant safety impact (EIR, p. 4-23).

However, the San Diego Association of Governments ("SANDAG"), acting as the Airport Land Use Commission ("ALUC"), is the public body statutorily vested with responsibility - - under the California Public Utilities Code - - for determining whether a proposed land use is consistent with the CLUP and safe for the public. In December, 1981, SANDAG reviewed the project for consistency with the CLUP at a public hearing. After considering public testimony, including that of aviation experts and the Navy, the ALUC determined that, although the site was indeed "normally unacceptable" for the intended use, the imposition of certain "unusual density restrictions" would mitigate any potential safety impact and make the project compatible with the CLUP and safe for the public. The applicant has agreed to implement those density restrictions as follows:

- (a) the hotel will be limited to 400 rooms.

(b) the hotel and associated facilities will cover a maximum of 40% of the site.

The ALUC conducted detailed reviews of the design and plans for the proposed Sheraton Hotel in 1983, 1986, and in 1987 and, subsequent to those reviews, reaffirmed that the proposed hotel complies with the mitigation measures which the ALUC imposed in 1981.

In addition to these ALUC-imposed mitigation measures, a number of other factors insure that there is no significant safety impact associated with the project.

First, the project has been designed so as not to exceed thirty feet in height. It is terraced downward toward the ocean and set into the mesa such that the meeting facilities (which are located at the lowest levels) are actually below the grade of North Torrey Pines Road. In addition, the wings of the hotel are located in an east-west configuration so as to minimize the area exposed to any aircraft.

The purpose of the APZs established by the Navy's AICUZ study is to minimize density in an area so as to maximize the areas of open space where an aircraft in "trouble" could land. This project is unique in that it is virtually surrounded by such open space already - - the golf course, the ocean, the Torrey Pines Reserve. Thus, the intent of the AICUZ is met, to a degree, even without the imposition of density restrictions.

Since the adoption of the AICUZ study in 1976 and the designation of the site as being in APZ "C", a terminal control area ("TCA") has been implemented in San Diego which significantly

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reduces the risk of mid-air collisions in the vicinity of the site. AICUZ properly identified the risk of mid-air collisions between the Navy and general aviation as a serious concern in 1976 and, accordingly, extended the length of APZ C over twice as far as called for by Department of Defense criteria. In 1976, however, general aviation was virtually uncontrolled in the vicinity of the project site and could "wander" into Navy airspace. As discussed in the report provided by Aviation Systems, Associates, Inc. (which is a part of the record before the Council) the imposition of the TCA and other measures has significantly enhanced general aviation safety and reduced this risk of mid-air collisions. Thus, the basis for extending APZ C beyond Department of Defense criteria so as to include the Sheraton site may no longer exist.

^ Further, the CLUP does permit such land uses as movie theaters, office buildings, and restaurants in the same APZ where we are informed by the CLUP that a hotel is a normally unacceptable use. ^ The permitted uses may be as intense uses of the land during daylight hours when most hotel guests have left the hotel grounds. It is during the daylight hours that the vast majority of flights out of NAS Miramar occur.

^ The EIR concludes that there is a significant, unmitigable impact associated with safety because there is a difference of opinion amongst experts. (EIR p. 4-23, 4-24.) The EIR provides that CEQA Guidelines Section 15064(h)(2) requires such a conclusion where experts disagree. Section 15064(h)(2) indicates that where there is a difference of opinion among experts the ques-

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tioned environmental impact should be deemed significant and, thus, an EIR should be prepared. Once the EIR is prepared, however, the mere difference of expert's opinions does not require that the EIR find a significant, unmitigable impact. A final determination is left to the discretion of the decisionmaker based on the evidence in the record.

The Council finds that the evidence in the record indicates that there is no significant safety impact.

With regard to potential land use impacts, the Council recognizes that the project is not consistent with the 1983 University Community Plan in that traffic projections would not accommodate the project, even though the project is consistent with the land use designation for the site. In addition, the site is "normally unacceptable" for hotel use based on the CLUP.

However, the University Community Plan is undergoing substantial revision and will be amended so as to eliminate any inconsistencies between the Community Plan and the hotel project. Traffic projections included in the updated Community Plan will accommodate the proposed project.

While the land-use matrix set forth in the CLUP does identify transient lodging as a "normally unacceptable" land use in APZ "C", the ALUC imposed certain unusual density restrictions upon the project to render the project consistent with the CLUP. The ALUC restrictions regarding density and site coverage discussed above with regard to safety have been incorporated into the project. Accordingly, the project is now consistent with the CLUP.

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Given its consistency with the CLUP, Community Plan, and General Plan, the project's potential land use impacts are found to be less than significant.

B. SIGNIFICANT BUT MITIGABLE EFFECTS

The Council having reviewed and considered the information contained in the EIR and the related documents and the record, finds that changes or alterations are being required in, or have been incorporated into, the project which mitigate or avoid the significant environmental impacts thereof, as identified in the final EIR. Specifically:

1. NOISE.

Significant Effect. Potential single event noise levels and cumulative noise from aircraft operations and vehicular traffic are considered significant. (EIR, pp. 4-30)

Finding The following measures will be incorporated into the project to avoid or mitigate these impacts to a level of insignificance:

1) During the preparation of building plans for the construction of the hotel, acoustical engineering studies will be required to determine the appropriate design and use of materials to reduce interior noise levels (EIR, p. 4-31);

2) Building materials which provide acoustical attenuation including stucco, frame structure design, insulation and drywall will be used in construction (EIR, p. 4-31);

3) Mechanical ventilation and air conditioning will also be required (EIR, p. 4-31);

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4) An acoustical monitoring program will be conducted to determine the precise level of attenuation needed to mitigate significant noise levels (EIR, p. 4-31).

2 TRAFFIC CIRCULATION

Significant Effect.

1) The proposed Sheraton Hotel will generate about 3,200 Average Daily Trips ("ADT"). While the project would add incrementally to the traffic at the intersection of North Torrey Pines Road and Genesee Avenue the level of service at that intersection is already at LOS F, and would not change as a result of the project. The theoretical maximum desirable ADT for a four-lane street has already been exceeded on Genessee Avenue.

2) Although the effect is not found to be significant, the intersection of North Torrey Pines Road and Science Park Road may not operate as well as it does now due to traffic exiting the hotel and turning off of Science Park Road.

Finding. The following measures will be incorporated into the project to avoid or mitigate any significant effects to a level of less than significant:

1) The City Traffic Consultant has recommended a number of traffic mitigation measures (set forth at page 14 of the updated Traffic Analysis for the project dated April 1, 1987), which are designed to address the significant cumulative traffic impacts in the University Community Planning Area.

2) Signalization at the intersection of North Torrey Pines Road and Science Park Road will be completed to raise the level of service at that intersection to LOS A (EIR, p. 4-41).

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3) In addition, the applicant has agreed, even though the project site is not situated within the North University City Facilities Benefit Assessment District, to make a proportionate contribution to the District for purposes of funding community-wide improvements. In addition, the applicant shall make a direct contribution of approximately Three Hundred Thousand Dollars for "special treatment" to be accorded the intersection of Genesee Avenue at North Torrey Pines Road. This will serve to mitigate any incremental impact the project has on the intersection, although cumulative impacts will still remain.

C. MEASURES OUTSIDE LEAD AGENCY JURISDICTION

The Council, having reviewed the information contained in the EIR and the record, finds that none of the changes or alterations required in or incorporated into the project are within the responsibility and jurisdiction of another public agency.

D. ALTERNATIVES AND SIGNIFICANT BUT UNMITIGABLE EFFECTS

The Council, having reviewed and considered the information contained in the EIR and the record, finds that the EIR has described all reasonable alternatives to the project that could feasibly attain the basic objectives of the project (including the no-project alternative), even when these alternatives might impede the attainment of the project objectives to some degree, or would be more costly. Further, the Council finds that a good-faith effort was made to incorporate alternatives into the preparation of the EIR and all reasonable alternatives were considered in the review process of the EIR. The Council further finds

that specific economic, social or other considerations make infeasible the project alternatives and certain mitigation measures identified in the EIR and the record. Specifically:

1. No Project Alternative (EIR, p. 5-1).

If the site were not developed as a hotel, it would most likely remain a driving range for the golf course. Any significant environmental effects expected from project implementation would, thus, be eliminated. However, the City would suffer significant adverse impacts if no project were implemented. A significant loss of revenue would commence immediately and continue over the life of the lease. The project applicant is to begin making advance payments on its rent promptly following final approval for the project. The project will bring at least \$880,000 per year to the City and will bring in additional revenues as a percentage of receipts from various hotel operations, as well as hotel occupancy tax, sales tax and property tax. This quantifiable financial loss, coupled with the compelling need for additional hotel facilities to accommodate the vastly increasing scientific research and development activity and corporate headquarters on the Torrey Pines Mesa, render the no-project alternative an infeasible alternative.

2. Alternative Location (EIR, p. 5-2).

Under this alternative, the project site would be relocated to another city-owned site of 7.6 acres which has been identified within the Torrey Pines Mesa sub-area of the University Community Plan. The alternative site is industrially zoned and would require rezoning to permit construction of a hotel. The alterna-

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tive site is outside all APZs, thus eliminating any safety impacts.

Noise impacts might be less, as the alternative site is located further south of the 60 CNEL noise contour of NAS Miramar; however, a full accoustical analysis cannot be conducted without grading plans and elevations.

Traffic impacts would not be appreciably different at the alternative site than at the proposed site (EIR, pp. 5-5, 5-6).

This alternate site would not result in any other appreciably different impacts than those associated with the proposed project.

A number of factors combine to render the proposed alternative site an infeasible alternative. Most significantly, the alternative site is an area of dedicated park land which was so dedicated by the City in compliance with its contractual obligations under a settlement agreement reached in certain litigation filed against the project (De Young v. City of San Diego). In that litigation, the Citizens For Recreational Use of Pueblo Lands sought to protect many of the Pueblo Lots on the Torrey Pines Mesa from development. For the City to propose development of the hotel on this site, therefore, would not only contravene the intentions of the settlement, but would also constitute a breach of the City's contractual obligations under the Settlement Agreement.

Moreover, the alternative site is currently part of the existing south golf course at Torrey Pines. Construction on this site would require substantial interference with the current play

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of the golf course. In the initial Request for Proposals for development of the hotel, the City required that the hotel be built without substantially compromising the existing golf course or interfering with existing play. This goal could not be met were the alternative site to be used.

Given that the alternative site is only 7.6 acres and the existing site is over 11 acres, use of the alternative site would require complete redesign of the hotel facilities and would, thus, force both the City and the project applicant to expend considerable sums of money above and beyond the considerable sums that have already been spent in developing the current design and plans. These sums currently spent by both Sheraton and the City - - including the \$200,000 spent by the City to purchase the Wansa option - - would be effectively lost.

For all of the factors enumerated above, the Council determines that this is an infeasible project alternative.

3. Air Quality.

The EIR indicates that there is a significant cumulative air quality impact based on SANDAG's Series V and VI Growth Forecasts which designate the site as "all-developed." Accordingly, any increase in pollutant emissions results, by definition, in a cumulative air quality impact even though "[t]he project does not directly represent any significant air quality impacts" (EIR, pp. 4-45). Since the cumulative air quality impact is a definitional impact, it is infeasible to mitigate the impact except by virtue of the no-project alternative discussed above. Upon inclusion of,

the project into the SANDAG Growth Forecasts, the project will become consistent with RAQS.

4. NOISE.

Exterior noise levels at the proposed tennis courts located along North Torrey Pines Road are considered to be incompatible with outdoor recreational use and, thus, significant (EIR, pp. 4-20, 4-21). There is no feasible mitigation measure for the exterior noise level except relocation of the hotel to another site or complete elimination of the tennis courts. The tennis courts are an integral element of the project's design and a necessary amenity to the operation of a world-class resort hotel.

5. TRAFFIC

The University Community Travel Forecast Study concluded that significant cumulative travel effects would occur with any future development within the University Community Planning Area. Accordingly, the ADTs generated by the Sheraton Hotel will contribute to this cumulative impact. Given that the Planning Department has indicated that this cumulative impact is, by definition, unmitigable, it is infeasible to mitigate the impact other than by virtue of the no-project alternative.

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STATEMENT OF OVERRIDING CONSIDERATIONS

The Council, having made the findings in Part D, above, hereby adopts this Statement of Overriding Considerations:

The EIR identifies significant, unmitigated impacts associated with noise, traffic, and air quality. These impacts, addressed specifically below, are overridden by the following considerations:

1. The Torrey Pines Mesa area consists mostly of scientific research, corporate headquarters, industrial research and development uses which engender business visitors requiring one or more nights lodging at a convenient distance from the location of their business. The convenience and attractiveness of the Torrey Pines area to such research and development uses which both enhance and are complimented by the presence of the University of California campus, is a major goal of the City of San Diego both for the purpose of encouraging the continued growth and vitality of the City and to assure the appropriate development of the Torrey Pines area.

2. The proposed 400-room Sheraton at Torrey Pines Mesa is designed as a world class resort that will compliment San Diego's reputation as a first class resort destination. The project has been designed to exist in harmony with the scenic and historic terrain that surrounds it while providing a high-quality, full-service hotel facility much needed in the Torrey Pines area. The hotel development team has created a facility that blends with the terrain to become a natural extension of the spectacular landscape.

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3. The City of San Diego is the owner of the land on which the hotel would be constructed. The City would be the beneficiary of \$880,000 per year in base rent, plus a percentage of receipts from various hotel operations, as well as increased hotel occupancy tax, sales tax and property tax.

4. Site specific air-quality impacts resulting from the project directly are not significant. The significant cumulative effect recognized in the EIR is based on the SANDAG Series V and VI Growth Forecasts which describe the project site as "all-developed" and do not allow for any growth whatsoever. Once these forecasts are corrected as scheduled, the impact will no longer be considered significant. Since this unmitigated impact is merely a "definitional" impact, it is far outweighed by the significant benefits to the City derived from the project.

5. Although unmitigated exterior noise levels at the tennis courts may be expected on the project site, such an impact is far outweighed by the benefits of the project. Over 200,000 golfers play the Torrey Pines Golf Course each year and are subjected to similar noise levels. This has proved to be neither a significant concern nor a deterrent to use of the course. In comparison to the significant number of residents and visitors who will benefit from the project in general and the tennis courts in particular, minimal occasional discomfort encountered by the few people using the tennis courts at any particular time should not preclude the development of the hotel.

6. With regard to significant, unmitigated traffic impacts, the only unmitigated impact is the incremental contribution to

cumulative impacts associated with the project. The hotel will generate only 3,200 ADTs, but -- because any addition to traffic is deemed to be an unmitigated, cumulative impact by the Planning Department -- is nevertheless deemed to have an unmitigated impact. It should be noted, however, that there is a difference of opinion as to whether there actually is an unmitigated cumulative impact. The traffic consultant analyzing the proposed hotel, for example, indicates that with the ultimate improvements along Genessee Avenue and the North Torrey Pines/Genessee Intersection the cumulative impacts associated with this project will be mitigated to a level of less than significant. Given that the unmitigated impact is one of "definition" rather than magnitude, and given that the evidence in the record could support a conclusion that there is no unmitigated cumulative impact, the Council finds that the project's significant benefits outweigh any such unmitigated impact.

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Passed and adopted by the Council of The City of San Diego on.....**JUN 22 1987**.....
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
William Jones	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Celia Ballesteros	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

.....**MAUREEN O'CONNOR**.....
Mayor of The City of San Diego, California.

(Seal)

.....**CHARLES G. ABDELNOUR**.....
City Clerk of The City of San Diego, California.

By *Charles G. Abdelnour* Deputy.

Office of the City Clerk, San Diego, California	
Resolution Number <u>R-268650</u>	Adopted <u>JUN 22 1987</u>