

MEMORANDUM OF LAW

DATE: December 8, 1986

TO: Honorable Mayor and City Council
FROM: City Attorney
SUBJECT: Sander Site; Applicability of Proposition "A"
to Proposed Land Exchange Agreement with United
States Navy

Pursuant to your request at the Rules Committee meeting of November 3, we have examined the contention that Proposition "A" is applicable to future land use decisions regarding certain properties (including but not necessarily limited to the so-called "Sander" Site) which are the subject of the Proposed Land Exchange Agreement between the City and the United States Navy. We have carefully read the arguments in favor of this proposition by Professor Minan in a letter dated October 31, 1986 to Mayor O'Connor. We have also reviewed the views of the Planning Department as set forth in Planning Report No. 86-660. (copy attached and page 5 in particular)

The thrust of the argument in favor of the applicability of Proposition A is that the northern boundary of the Planned Urbanizing area described in the Serra Mesa Community Plan of 1977 was fixed as the alignment of State Route 52 as it was proposed at the time of the 1977 adoption of the Plan. Property under United States Navy jurisdiction immediately to the north of that proposed alignment was then, in one proponent's view, placed in the Future Urbanizing category to which the August 1, 1984 reference date of Proposition "A" should apply.

It seems to us, however, that a complete reading of the Serra Mesa Community Plan adopted in 1977 says (as the Planning Report suggests) that the northern boundary of the Planned Urbanizing area described in the Serra Mesa Plan will be the final fixed alignment of State Route 52, recognizing that in 1977 the alignment would be subject to further adjustment.

We are further advised that the final fixed alignment of State Route 52 by the California Department of Transportation

took place in June 1983, well in advance of the Proposition A reference date of August 1, 1984.

We thus are of the opinion that the Planning Department's views on this issue are legally correct and that Proposition "A" Future Urbanizing criteria are inapplicable to the Land Exchange Agreement or any actions contemplated thereby, including but not limited to the Sander Site.

JOHN W. WITT, City Attorney

By

C. M. Fitzpatrick

Assistant City Attorney

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Attachment

ML-86-138