

MEMORANDUM OF LAW

DATE: June 22, 1987

TO: Dick Johnson, Property Department  
FROM: City Attorney  
SUBJECT: Alternative Site for Sheraton Torrey Pines  
Hotel - EIR No. 86-0679

By memorandum dated June 11, 1987, copy attached, you indicated that the City's Planning Department has, in connection with the environmental impact report for the proposed Sheraton Hotel at Torrey Pines, indicated that there is a viable alternative location for the hotel southerly of the proposed site.

Attachment 1 to your memorandum is apparently an excerpt from the EIR which describes the alternative site. The Planning Department indicates that "the site is designated for industrial purposes and specifically for scientific research" and further states that in order for the site to be developed as a hotel "it would require a rezone and Community Plan Amendment" and other discretionary approvals.

On the other hand, you have informed this office that the Planning Department's statements are totally incorrect and that the "alternative site" is, in fact, a portion of the improved Torrey Pines golf course and that the site is a portion of unratified Pueblo Lot 1323 and that the property has been dedicated to public park purposes.

If your facts are correct and the Planning Department's facts are incorrect, the "alternative site" is, in fact, not available for hotel development in the absence of a majority vote of the electorate ratifying the site for a lease in excess of fifteen years.

The fact that the property has been officially dedicated to park purposes would not necessarily require a two-thirds vote of the electorate in order to utilize the site for hotel purposes since a hotel use has been found to be a legal park use by the

courts under fact situations where the city council is able to make a good faith determination that a hotel in the area is needed to service the requirements of the park visitors.

However, as stated above, a majority vote of the electorate would be required to make the site available for hotel development since obviously no hotel could be built on the basis of a fifteen year lease.

JOHN W. WITT, City Attorney

By  
Harold O. Valderhaug  
Deputy City Attorney

HOV:ps:731.2.1(x043.2)

Attachment

ML-87-65