

# **BRIGGS LAW CORPORATION**

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*BLC File(s): 2013.00*

5 August 2019

Mayor and City Council  
City of San Diego  
202 "C" Street  
San Diego, CA 92101

Re: Opposition to Item 202 on City Council's Agenda for August 5, 2019 (Preserve at Torrey Highlands)

Dear Mayor and City Council:

On behalf of my client, Protect Our Preserves, Inc., I am writing to urge you not to approve the subject matter of Item 202 on your agenda for August 5, 2019. While my client opposes the proposal altogether, it also wants you to know that approval of the proposal would be illegal unless you simultaneously submit it to the voters and they approve it.

In 1985, the City's electorate approved Proposition A (a copy of which is attached to this letter). Known as the Managed Growth Initiative, it gave voters a say in the future of the North City Future Urbanizing Area with the goal of saving "our shining city by the sea" from becoming "a city with runaway growth, traffic jams, [and] overcrowded schools and parks." To this end, Proposition A included a prohibitory component and a directory component. Proposition A's prohibitory component provided that "[n]o property shall be changed from the 'future urbanizing' land use designation in the Progress Guide and General Plan to any other land use designation and the provisions restricting development in the future urbanizing area shall not be amended except by majority vote of the people voting on the change or amendment at a City wide election thereon." The directory component instructed the City's leaders "to take any and all actions necessary" to achieve the voters' goals, and to do so "forthwith."

Heeding the voters' will, in 1996 the City's leaders eventually brought forward and approved the Torrey Highlands Subarea Plan ("THSP"), through which the community negotiated changes that allowed some development to proceed in parts of the area protected by Proposition A while imposing tighter development restrictions in other parts. The compromise was submitted to the voters through Ordinance no. O-18333 NS, which stated that "approval of this change of designation in no way permits any other portion of the north city future Urbanizing Area to have a change of designation without a separate vote of the people." With the community having worked so hard to strike a workable compromise, and with the assurance that any future changes would be subject a vote of the people, it's no surprise that the voters approved the compromise.

The subject matter of Item 202 falls squarely within the THSP and thus within the scope of Proposition A's prohibition against changes and amendments made without voter approval. By way of example and not limitation, Item 202 proposes to re-designate land in the THSP from "Commercial Limited" to "Employment Center." The former designation contemplates low-impact



uses without ever mentioning any of the high-intensity uses listed for the latter designation. Meanwhile, other designations explicitly contemplate similar high-intensity uses, indicating that the voters and the City understood long before the current proposal that there is a material difference between the “Commercial Limited” and the “Employment Center” designations.

In recent years, the City’s leaders have developed a dismal track record when it comes to siding with the voters. Today you have a chance to show the voters that you still take them seriously. Twice the voters have approved restrictions on the development of land that is the subject of Item 202 and protected by Proposition A – restrictions that the proposal before you today violates.

My client therefore urges you to deny the proposal altogether. If you insist on approving it, however, then you must also require that the proposal be put before the voters for their concurrence. Any additional costs for an election on the proposal should be borne entirely by the applicant so that the taxpayers are fully protected against development they have already deemed unacceptable.

Sincerely,

BRIGGS LAW CORPORATION

*Cory J. Briggs*

Cory J. Briggs

Attachments



City  
of  
San Diego



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Sample Ballot  
& Voter Information Pamphlet

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

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Administered by:

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

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

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

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

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

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

**008**

## CITY OF SAN DIEGO

### Proposition A

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

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

This proposition requires a majority vote.

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

#### **Future Urbanizing Areas**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

These irresponsible actions will result in:

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

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

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

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

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

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

**IT'S YOUR CHOICE!**

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

MIKE GOTCH, Councilman, City of San Diego

JULIA ZALOKAR, President, San Diego League of Women Voters

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

SHERLIE MILLER, President, Friends of Tecolote Canyon

MARK D. ZERBE, Coordinator, San Diego Common Cause

**ARGUMENT AGAINST PROPOSITION A**

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

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

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

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

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

Instead, it's jammed into our existing neighborhoods.

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

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

✓ New houses mean higher taxes.

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

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

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

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

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

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

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

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

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

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

Don't be confused.

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

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

UVALDO MARTINEZ, San Diego City Councilman

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

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

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

BILL LOWERY, United States Congressman, San Diego