

TORREY GLENN HOMEOWNERS ASSOCIATION

5950 La Place Court, Suite 200, Carlsbad, CA 92008, Ph. 760-634-4700

November 19, 2020

Dr. Marian Kim Phelps, Ed.D
Superintendent
Poway Unified School District
15250 Avenue of Science
San Diego, CA 92128

Re: Opposition to Proposed Costco lease on 27.22 Acre PUSD Property at Camino Del Sur/Carmel Valley Road (Black Mountain Ranch Southern/Middle School Site)

Dear Dr. Kim Phelps,

The Torrey Glenn Homeowners Association represents sixty-six (66) homes in the Torrey Glenn community, which is less than one mile to the south of the site given to Poway Unified School District ("PUSD" or the "District") for use as a middle school (the "Middle School site").

Only recently did our community learn of PUSD's advanced plans to lease the Middle School site to Costco for use as a massive commercial warehouse store and 32-stall gas station. Our HOA and community members were both shocked and alarmed at PUSD's apparent efforts to quietly approve this neighborhood-altering development without any significant public notice or engagement. Indeed, it appears PUSD staff attempted to provide minimum public notice, likely on the advice of legal counsel.

As you know, the property in question at the corner of Camino Del Sur and Carmel Valley Road was gifted to PUSD as part of the original Black Mountain Master Plan that was designed to put a middle school in close proximity to the residential communities surrounding it. The property and its surrounds are zoned for residential use and open space. If PUSD approved a Costco at this location it would be devastating to our community. It would completely and irreparably change the character of our quiet safe neighborhood. Many of our children walk or bike to area schools, and many cross Camino Del Sur to get to Westview High School less than a quarter mile from where a Costco would be. The proposed Costco development, which includes additional retail shops and a massive gas station, would also have an undeniable negative environmental impact. It would turn an area originally intended to be a buffer against urban sprawl and protect wildlife corridors into a congested disaster that destroys local lands and trails and threatens protected wildlife.

Since learning of PUSD's plans, the broader community has swung into action to demand information and transparency. Over the ensuing weeks, the HOA has learned that the District's process in handling the Middle School site has been fatally flawed, has potentially violated a number of California laws (including the Brown Act and AB 1486), and threatens to mire the District in years of litigation. You also have not

meaningfully involved the community until after the deal was essentially done, and you did not obtain the community input required by the Education Code Section 17387. Several serious questions remain to be fully answered. Among these are:

- Is the Middle School site still “surplus”? How can we know this if the original committee met more than 8 years ago?
- Has the District followed the proper steps to declare the property “surplus”?
- Is a Costco lease, in this specific location, truly the best use of the Middle School site?
- Has the District’s staff or legal counsel verified that lease revenues are truly treated differently than sale revenues?
 - Has the District’s staff or legal counsel researched whether there are any exceptions to the restrictions on use of sale revenues?
- Did the District explore a lease option with the Cambridge School? Or, advise the Cambridge School of the supposed restriction on use of sale proceeds?
- Did the District comply with the Brown Act in its public announcements regarding the discussion and vote on declaring the best use of the Middle School site?
- Did the District comply with AB1486?
- Did the District take into account that the original master plan for the Middle School site described the land as “proposed Middle School”?
- Was it proper for the District’s Board to have votes on this project recently in light of the apparent failure to reconvene a new 7-11 committee?
- Did the District take into account the following provisions of Education Code section 17387?:
 - “It is the intent of the Legislature that leases entered into pursuant to this chapter provide for community involvement by attendance area at the district level. This community involvement should facilitate making the best possible judgments about the use of excess school facilities in each individual situation.”
 - ***“It is the intent of the Legislature to have the community involved before decisions are made about ...the use of surplus space, thus avoiding community conflict and assuring building use that is compatible with the community’s needs and desires”*** [emphasis added]

Torrey Glenn HOA is deeply concerned about what seems to be a rush to a decision on a project that has been mostly hidden until recent community outrage forced after-the-fact engagement. We deserve transparency. You, as our local District, are uniquely situated to understand and protect our interests, and not pass the buck to a giant corporation or other deliberative bodies that might be asked to consider this development in the future. We understand that your actions have already prompted a lawsuit from a local community group that will be costly, distracting, and undermine the well-intended goal of shoring up PUSD’s budget.

On the substance, our HOA is concerned about the decision that PUSD seems intent upon making to approve a massive Costco development on a site set aside for a middle school to serve area children. PUSD’s answer to that has so far been claims that the District needs the money, though it is far from clear that PUSD has properly considered this question. As we understand it, PUSD intends to enter into a 40-year lease with Costco at a total cumulative rent that sounds high, but is potentially far lower than competing proposals when elementary net present value calculations are applied. We urge the District to compare apples to apples.

On the process, the HOA is concerned about the alleged violations of law, the unanswered questions above, and the lack of community engagement and transparency. We are also concerned the District has

not engaged in a rigorous process to properly attract competing proposals for the Middle School site, which is a highly desirable residential site that we believe could yield a more beneficial offer to PUSD.

As a member of the Torrey Glenn HOA Board, I can understand the situation you might find yourself in. You are no doubt being advised by capable advisors and lawyers who may be assuring you that the Costco project is on the up-and-up. Those same individuals may be telling you the process over the past several years, which some have claimed violated the Brown Act and other laws, was perfectly fine. Those advisors, who may be incentivized to defend their prior guidance to the District and/or protect their involvement in the project going forward, may tell you the community at large is wrong, and does not deserve information, engagement or a voice. But it is not too late to, in a quiet moment, reflect on this project and ask yourself: is what the District is doing is truly right?

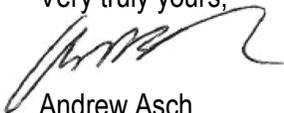
Again, we understand the goal of bridging a budget gap. However, PUSD's solution to district-wide financial difficulty should not overburden our neighborhood, and the others that surround the Middle School site. Litigation has already begun, and more can be expected as the environmental and other impacts of the project become known. In that litigation, your lawyers have already demonstrated an intention to ram through the Costco development and have minimized the interests of community groups such as ours ("[T]he District is not required to substitute the needs and desires of a few vocal community members for the needs of the District..."). As PUSD is well aware from the demonstrations and commentary at recent District meetings, there are more than "a few vocal community members" opposed to this process.

Our community has experienced litigation, and the Torrey Glenn Board understands the costs and distractions that come with it. We have also seen that the District has not always been well advised in the financial arena, as is evident from recent high-profile events that I understand may have preceded your tenure. This can all be avoided through engagement, open dialogue, and rational decision-making which puts area communities, and not a giant corporation, at the forefront.

In sum, we believe building a Costco on the Middle School site will harm the surrounding open spaces and will severely negatively impact the surrounding neighborhoods. We urge you to genuinely open up the process and begin anew. The current negotiations should be suspended, and any approval votes should be delayed or voted down.

You have an opportunity to correct the perception, accurate or not, that the District is attempting to sneak through a proposal that it at odds with thousands of local resident's interests. You also have an opportunity to build goodwill and trust with residents who may be asked to support PUSD candidates and budget initiatives in future elections. Many of us moved into these neighborhoods because of PUSD, and the opportunities it made available to our children. We urge you, please, to do the right thing and stop all further decisions involving Costco.

Very truly yours,



Andrew Asch
Director at Large
Torrey Glenn Homeowners Association

Cc: Poway Unified District Board Members
Michelle O'Connor-Radcliff
Ginger Couvrette
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