COUNCILMEMBER DONNA FRYE
Council District Six
City of San Diego

MEMORANDUM

DATE: **July 30, 2008** **08-27**

TO: **Bill Anderson, Director, City Planning and Community Investment**

FROM: **Councilmember Donna Frye** Donna Frye

SUBJECT: **Draft Candidate Findings of Fact and Statement of Overriding Considerations Regarding Final Environmental Impact Report for University Towne Center Revitalization Project, July 29, 2008**

I am writing to express my deep concern and to request an explanation regarding the timing of the release of the above document.

This important environmental document was delivered to my office – and, I presume, those of my Council colleagues – at midday on July 29, 2008, immediately before the City Council began a long, complex and contentious public hearing on a proposed expansion of University Towne Center.

Chapter 12, Section 128.0310 (a) of the San Diego Municipal Code, "Final Environmental Document Distribution" states:

"At least 14 calendar days before the first public hearing or discretionary action on the project, the Development Services Director shall make all final environmental documents, including EIR Candidate Findings and Statements of Overriding Consideration if applicable, available to the public and decision makers and shall also mail copies of final environmental documents to the officially recognized community planning groups and members of the public who commented on the draft documents. Failure to provide this 14-calendar day review period shall not be treated as a procedural defect and shall not preclude discretionary action on the project when necessary to avoid conflict with time limits imposed by law. The Development Services Director shall provide a final EIR to any public agency that commented on the draft consistent with CEQA."

As "decision makers," the City Council had no time to analyze and review this detailed, 71-page document. Furthermore, it is extremely unlikely that community planning groups, governmental agencies or any other interested public parties – including the scores of project proponents and opponents who testified at the hearing – even had an opportunity to see this document, much less read it thoroughly.

The intent of the Municipal Code section at issue is to assure a thorough and careful public review of supplemental environmental documents. Therefore, I would like an explanation of how the July 29, 2008, release of this Draft Candidate Findings of Fact and Statement of Overriding Considerations complies with the law in letter or spirit.

If it is your position that the failure in this case to provide a 14-day review period should "not be treated as a procedural defect" and did "not preclude discretionary action on the project," please explain why the distribution of this document on the day of the Council hearing was "necessary to avoid conflict with time limits imposed by law."

Thank you for your prompt response.

CC/ Honorable City Councilmembers
Honorable Mayor Jerry Sanders
City Attorney Michael Aguirre
Kelly Broughton, Director, Development Services Department
Andrea Tevlin, Independent Budget Analyst

DF/cb