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Controversy, Dispute Envelops Palomar College Construction Site at Indian Burial Ground

by [Andy Cohen](#) on April 16, 2012 · [7 comments](#)

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Palomar Community College District and Pardee Homes' plan to build a four lane thoroughfare over a recently discovered ancient burial ground sparks outrage, desperate fight to preserve local tribes' cultural heritage.

A relatively small area of North San Diego County has become a seething cauldron of controversy. An unincorporated, undeveloped patch of land has become the epicenter of a legal battle on two fronts that has kept the North San Diego County Superior Courthouse in Vista busy and buzzing lately. Lawyers representing the San Luis Rey Band of Mission Indians are suing the County of San Diego, the Palomar Community College District, and Pardee Homes in an attempt to protect land that they say is a crucial part of their cultural heritage. They are fighting a development plan that will plow right over a small portion of that property in order to build a wide thoroughfare; a portion of the property that the Indians say is part of a sacred burial ground, where developers insist that nothing more than a small handful of indeterminate, insignificant artifact fragments have been discovered.

The story begins with Palomar College's plan to build a new satellite campus, the 2003 publication of the Palomar Community College District's "[Master Plan 2022](#)," and the 2006 proposal to use [Prop M](#) funds to carry it out.

According to the "Master Plan 2022," by studying population growth trends and enrollment figures, the district estimated that it would need to be able to accommodate nearly 47,500 students by the year 2022. That figure far exceeded what the 60 year old San Marcos main campus could handle, so in 2002 the district began studying its options.

The basic [choices were relatively simple](#): Build one satellite campus, or perhaps two satellite campuses, each in varying sizes, one near Fallbrook and another in Poway; expand the main campus; or some combination

thereof. Eventually the district settled on a plan to build what it is now calling its North Education Center just to the south of Fallbrook, nestled on property in the northeast quadrant of the intersection of Interstate 15 and State Route 76 (Pala Road).

On November 7, 2006, voters approved Prop M, which allowed the community college district to issue revenue bonds, setting in motion the plans to begin construction on the new Palomar College campus. Plans for the North Education Center began to take shape.



Monitors at Horse Ranch Creek Rd. construction site. From savetomkav.wordpress.com

The expansion of higher education opportunities should be considered nothing if not a good thing for a society that is developing more and more into a knowledge based economy. The idea behind the Palomar Community College District Master Plan was to bring educational facilities closer to those who would make direct use of them. By expanding beyond the original San Marcos campus, it would bring a college education closer to those who found it difficult to make the trip to a campus that was becoming ever more impacted, and would allow the district to better serve its community. The selection of a rather rural piece of property with little development around it seemed a bit odd, though.

The property in question is an unincorporated parcel between Fallbrook and Escondido. Several miles to the east on SR76 are the Pala and Pauma Indian casinos/reservations. Just over 5 miles to the west on SR76 is the town of Bonsall, estimated current population [4,226](#). Directly adjacent to the east of the proposed campus are orange and avocado groves, among other agricultural interests. There is seemingly not much need for a college campus expected to accommodate at least 5,000 students to start in that particular location.

But here's where it gets interesting: Since the inception of the Palomar College plan, developers' interests in the property piqued. In 2007 developers began submitting their own plans to the County of San Diego. Suddenly the North Education Center was to become part of a massive new development on the parcel, including three separate residential developments totaling over 2,000 housing units and a retail shopping complex, complete with a movie Cineplex. It is a fairly grandiose plan that is expected to entice many San Diego area expatriates who work somewhere in San Diego County but live in the Temecula area to move back into the county in order to cut down on their commute time and expenses.

But there's a burr under the saddle of the college district and the developers—well, one developer in particular—that as it turns out was not entirely unexpected.

Sacred Tom-Kav village site

As mandated by the California Environmental Quality Act (CEQA), developers are required to submit an environmental impact report for all development projects to the county government where the project is located for approval. Those reports must include a section on the impacts incurred on significant cultural resources, if any, including Native American sites.

San Diego County is home to more Indian reservations than [any other county in the United States](#), with several of them within a 20 mile radius of where the planned North Education Center would be located, [including](#) the Pala, Pauma, Rincon, and Pechanga reservations. So it should come as little surprise that according to those very environmental impact reports filed with the County of San Diego, studies found a significant amount of Indian cultural artifacts and resources on the property.



Map of Luiseno Territory, from savetomkav.wordpress.com

The people who would come to be dubbed the San Luisenos (or Luisenos for short) by the Spanish Missionaries in the late 1700's had occupied the area near the San Luis Rey River at the foot at what is now known as Monserate Mountain for centuries, possibly even thousands of years.

Tom-Kav, translated from the Luiseno language, means "gathering place," and it was the stopover village along the primary route between the desert and mountains and the Pacific Ocean. Think of it as a loose equivalent of Barstow or Baker for people today who travel between Southern California and Las Vegas, except Native American travelers would usually set up camp in or near Tom-Kav and perhaps stay a while. Tom-Kav was a major hub of activity—the central location for the Luiseno people.

It was also a center for religious ceremonies, and is considered the birthplace of the Luiseno people: It is the site of part of their creation story, where they [learned about mortality](#) through the poisoning death of their spiritual leader, Wyute.

The first major studies of the site were conducted in the 1950's by a group of University of California archaeologists, and included Rosemary Pankey, who along with her husband owned the Pankey Ranch property where the village was discovered. The book entitled "Tom-Kav: A Late Village Site in Northern San Diego County, California, and its Place in the San Luis Rey Complex," co-written by Pankey, was largely used as the basis for much of the archaeological findings in the EIR's filed with the County.

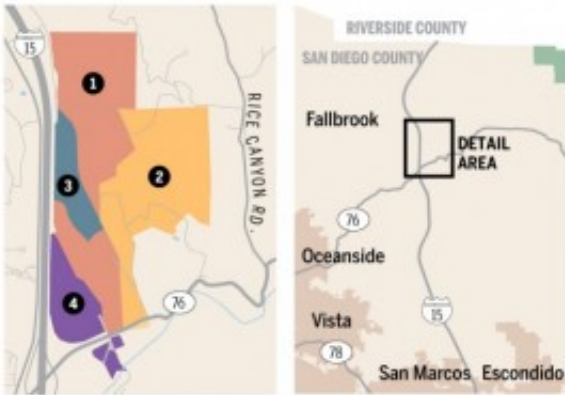
Impacts on cultural resources

Dr. D.L. True, who was the lead archaeologist for the University of California on the initial dig that included Rosemary Pankey, continued to examine the Pankey Ranch site—or Pankey site—extensively through the 1970's and into the early 1980's. However, the area just to the south and west of the main village site remained largely untouched, mostly due to the fact that the main artifacts were found within a contained area of where the main village was thought to exist.

On the site True found various painted rocks with pictographs; tools, including arrowheads carved out of stone and fish hooks carved out of bone, clay cooking pots, and other fragments. There is no doubt that Tom-Kav was the home to a significant population estimated to vary between 5,000 and 8,500 inhabitants in the area.

The environmental impact reports spelled out how the main village area of Tom-Kav would be preserved and protected: The site would be "capped," a technique that places a layer of sand and soil over the top, specific shallow rooted vegetation planted, and the area set aside, precluded from any development or construction activities. In short, the site would be left completely alone and untouched, cordoned off from the rest of the surrounding areas.

GROWTH HEADED FALLBROOK'S WAY



- ❶ **Campus Park:** 230 multifamily, 521 single-family homes, approved May 2011
- ❷ **Meadowood:** 844-886 homes, approved January 2012
- ❸ **Palomar College:** 8,500-student campus, under construction
- ❹ **Campus Park West:** 355 multi-family homes, under review

Source: SanGIS, San Diego County

NCT/CAL

The entire area bounded by Interstate 15 on the west, near Stewart Canyon Rd. on the north, Monserate Mountain and agricultural groves to the east, and extending just to the south of Pala Rd. on the south is scheduled for development. It is divided up essentially into four parcels and four separate developments: Campus Park, Campus Park West, Meadowood, and the Palomar College North Education Center.

While all three of the residential or mixed use developments included the same cultural resources information in their respective environmental impact reports, only one development was to be built directly around and adjacent to the Tom-Kav village site. Pardee Homes had purchased the portion of Pankey Ranch where Tom-Kav was located, and it was their Meadowood development that would require mitigation plans to preserve Tom-Kav.

The North Education Center is due to be built well away from Tom-Kav, and therefore its construction will have no direct affect on the village site. However, per the purchasing agreement, the Palomar College District was assigned responsibility for the construction of the Horse Ranch Creek Road, the main artery that will ultimately extend from Pala Rd. all the way to Pankey Rd. and Stewart Canyon Rd. on the northern edge of the project. While the design of the Meadowood project accounts for the preservation of the main Tom-Kav village, it is the construction of Horse Ranch Creek Rd. through the Meadowood property—the former Pankey Ranch—that has become problematic.

Archaeologist report and mitigation plan, warnings of further potential finds

The archaeologist report identified three “loci” of significant finds from Tom-Kav. From the Meadowood environmental impact report:

In summation, only three small areas of intact cultural deposits were identified through archaeological testing on the Meadowood project property, one in the south central portion (Locus A), a second in the southeastern corner (Locus B), and the third (Locus C) north along the base of Rosemary’s Mountain. Loci A and B are both pockets of midden deposit that appear to be less than 300m² in size.

Midden deposits, for archaeological purposes, are patches of soil that are stained from cooking ashes or animal fats that dripped into the ground from cooking fires. In other words, it’s significant evidence of ancient human activity in the area. It can be deduced from the report that “Locus C” is where the most significant Tom-Kav artifacts were found, and thus is the site of the main village.

The original EIR and subsequent updated versions also noted the potential likelihood that further deposits or artifacts will be found during the construction process, and that Native American monitors and archaeologists should be available on site “to observe all grading and earth moving activities to ensure that no potentially CRHR (California Register of Historical Resources) eligible resources are discovered and inadvertently impacted.”

In accordance with CEQA, it continues, “the lead agency should make provisions for historical or unique archaeological resources accidentally discovered during construction....In the event that previously unidentified potentially significant cultural resources are discovered, the archaeological monitors shall have the authority to divert or temporarily halt ground disturbance operations in the area of discovery to allow evaluation of potentially significant cultural resources.”

Not unexpectedly other significant archaeological finds would be uncovered during the initial phases of construction of Horse Ranch Creek Road, the main thoroughfare that would connect all four developments. In January 2011, crews removing an oak tree in the Meadowood project area discovered human skeletal remains. The county coroner was called in, the remains examined, and it was determined that the person was buried sometime in the early 19th century and that the most likely descendents were the tribes descended from the Luiseños, including the Pala, Pauma, La Jolla, and Pechanga tribes.

This is where the real controversy begins. Monitors began to suspect that the areas between Loci A and B were part of a burial ground directly associated with Tom-Kav. But there was only one full set of skeletal remains discovered. That being the case, once the coroner’s work was done and archaeologists completed an examination of the area where the remains were found, authorities deemed it okay to continue on with construction of the road.

New remains discovered

In 2006, Pardee Homes commissioned the archaeological dig that would ultimately become part of the original environmental impact report. As a result of that study by archaeologists from [ASM Affiliates](#), what was originally thought to be the Tom-Kav village boundary was expanded to include some new discoveries.



Archaeologist examines excavation pit on Horse Ranch Creek Rd. construction site.
From savetomkav.wordpress.com

According to Merri Lopez-Keifer, the attorney representing the tribes and herself a tribal member, ASM archaeologists were prevented by Pardee Homes from examining the entire site. As she described it, loci A, B, and C formed a triangle, and while the loci themselves were to be protected, the area in the middle of the triangle was never examined for artifacts. It was that area where Horse Ranch Creek Road was to be built. “We were never notified by ASM that they didn’t dig in the road’s pathway,” Lopez-Keifer said. The landowner, she said, had told the archaeologists that there were irrigation pits in the way, and that it was not necessary to dig there.

According to Luiseño culture, the dead were cremated in hearths and the ashes and remaining bone fragments were gathered together and buried. But when the missionaries came in and took charge of the area, they forbade the Indians from cremating their dead. According to Catholic tradition at the time, cremation was forbidden, and so Luiseño tradition was cast aside. Many of those cultural biases remain.

Once the coroner’s report was completed, the Meadowood project was given the green light, and construction on Horse Ranch Creek Road began. On that first day, January 7, 2012, more human remains were found, but only bone fragments. Construction was stopped, and ASM archaeologists were once again called in to do some digging on the site. According to court documents, throughout January and February—and as recently as February 22nd, 2012—more human remains were unearthed between 25 and 50 feet from where the full set of remains was discovered in January, 2011. Shortly after he began his work, archaeologist Micah Hale discovered three hearths in the area that had previously gone unexamined. “You could work on 50 or 100 jobs and not come across three hearths,” said Lopez-Keifer.

But because there were only fragments discovered, would that be considered a burial ground under state law?

See Part II: The Battle to Save Tom-Kav tomorrow.

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Jack [April 16, 2012 at 7:38 am](#)

Great report Andy...I have not read anything near as complete, nor heard much of anything else on the subject, other than initial fragmented here-we-go-again reports blaming the indigenous people for holding up progress. Progress in this case as Pardee Homes dressed up in an educational sheep-skin.

I will be interested to read where this leads.

[Reply](#)



[Andy Cohen April 16, 2012 at 8:13 am](#)

Working on it.....It’s really a very big story that’s much more involved than the NC Times or UT San Diego have bothered to report out. There are as of yet no resolutions (construction is continuing, however Palomar College says that no more grading will be done in the area where remains have been found, although the road will still be built there.....more on that to come), but the last three months have been VERY eventful.

[Reply](#)



Frank Gormlie [April 16, 2012 at 2:44 pm](#)

This report is staggering. First of all, it is the most up-to-date account of this controversy in ANY news source in Southern California; second, the details and history that Andy has included force the reader to grapple with the reality of what is actually going on- and it is worse than I had originally thought – and this report lays out the travesty that is occurring under our watch. Third, it's well documented with maps and links that provide depth. Fourth, it blows apart the lack of attention given this controversy by mainstream, corporate press in this area.

Congrats, Andy, excellent piece that is one of our best for this year. Like Jack, I await the next installment. Even after the installment, the controversy won't be over, but at least we and our readers will be very informed on it.

[Reply](#)



Ted G [April 16, 2012 at 4:32 pm](#)

Great job on this article Andy. As an original reader of the OB Rag many years ago, I am happy that there is a bastion of meaningful investigative journalism in this City. Please continue to follow this story, as there are tales yet to tell.

[Reply](#)



[Andy Cohen](#) [April 16, 2012 at 5:14 pm](#)

Part II should be up tomorrow morning. Stay tuned.....

[Reply](#)



[Anna Daniels](#) [April 16, 2012 at 5:00 pm](#)

Andy- this truly is a staggering report. I just finished reading it a second time. The “Move along, there is nothing to see here” attitude unfortunately works all too well. There is a great deal to be seen here. Kudos.

[Reply](#)



judi Curry [April 16, 2012 at 5:15 pm](#)

Great article Andy. This sure notches up the reports that I have been able to read on the subject. You are exposing a new history that needs to be looked at very carefully. Eagerly awaiting the next installment.

[Reply](#)

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