

Martha Alvarez, MMC

From: Ann Barber <ann@barbersearchgroup.com>
Sent: Tuesday, August 16, 2022 9:17 AM
To: List - City Council
Subject: [EXTERNAL] What Are you Doing? HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

There was a time when city government was a “protector” of our community, residents and what generations of people have cherished to keep MB what it is. I am all for development and enhancement, but why are you allowing our height limit to be overlooked, what has happened to you being “for the people and community”? Environmentally, traffic, noise (which is a major factor in degradation of human health), and the impact on our services are all being overlooked, not to mention our height limit.

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

A 4-story 79 unit apartment complex at the corner of Rosecrans and Highland Ave is an outrageous, out-of-character proposal, and a dangerous answer to the State’s “Density Bonus” law needs. A HighRose overbuild will set a precedent and threaten the future of our city and residents.

HighRose will create gridlock at a major intersection, and the lack of appropriate parking for its residents and visitors will further compound the problem. And with Chevron and NRG on its property lines, a full CEQA analysis should be mandatory. So many environmental and safety concerns demand attention.

Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City’s general welfare on behalf of the residents of our special community.

Sincerely,

Ann Barber

A concerned resident

Martha Alvarez, MMC

From: Chuchen Wang <chuchenwang@icloud.com>
Sent: Tuesday, August 16, 2022 10:31 AM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

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Sincerely,

A concerned resident

Martha Alvarez, MMC

From: Yves-Marc Courtines <ymc@courtines.net>
Sent: Tuesday, August 16, 2022 9:05 AM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

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Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

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Sincerely,

A concerned resident

Best,

Yves-Marc

Yves-Marc Courtines, CFA, CFP®
Manhattan Beach, CA
917-774-0060
ymc@courtines.net

Martha Alvarez, MMC

From: Judy Lang <jalang44@gmail.com>
Sent: Tuesday, August 16, 2022 6:15 AM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

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Honorable City Councilmembers:

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Sincerely,

Judy Lang
Resident 50 years

Martha Alvarez, MMC

From: Dan Brenneman <dannybrenneman@gmail.com>
Sent: Monday, August 15, 2022 9:29 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

This is wrong for our city and if you don't recognize that fact, you shouldn't be representing us.

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

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Sincerely,

Daniel Brenneman

A concerned resident

Martha Alvarez, MMC

From: Debbie Debbie <debbie9050290502@yahoo.com>
Sent: Monday, August 15, 2022 7:21 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

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Sincerely,

A concerned resident

Martha Alvarez, MMC

From: Charlene Harding <charjarhar@icloud.com>
Sent: Monday, August 15, 2022 6:30 PM
To: List - City Council
Cc: Ted Fatuross; City Clerk
Subject: [EXTERNAL] Oppose HighRose

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Mayor and Council,

Please do not allow the high rise development to continue. It does not pass the common sense test. That intersection is already extremely congested. A high rise has no business being built in our town. Our little beach town is changing one decision at a time for the worse. Please don't add this to the list of debacles.

C. Harding

Martha Alvarez, MMC

From: Jon Chaykowski <rideformbef@yahoo.com>
Sent: Monday, August 15, 2022 6:10 PM
To: List - City Council
Subject: [EXTERNAL] Highrose discussion at August 16, 2022 City Council meeting

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Dear City Council Members,

The Highrose situation is extremely important to MB. Our precious town is such largely because of the controls we have on building. I believe that California State actions have jeopardized our City's future.

I also believe the State has overstepped its authority and something can and should be done to reverse the law and reinstate/strengthen local control. Hopefully MB can start action, alone or preferably with other communities, to right the ship.

Maybe delaying/denying Highrose approval may be a useful initial strategy, albeit with possible legal consequences.

Regardless of approach, MB needs to take action to secure the future of our City as a very desirable community with a small town feel.

Sincerely,
Jon Chaykowski

Martha Alvarez, MMC

From: Charlene Harding <charjarhar@icloud.com>
Sent: Monday, August 15, 2022 6:30 PM
To: List - City Council
Cc: Ted Fatuross; City Clerk
Subject: [EXTERNAL] Oppose HighRose

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C. Harding

Martha Alvarez, MMC

From: Martha Alvarez, MMC
Sent: Monday, August 15, 2022 4:16 PM
To: City Clerk
Subject: FW: [EXTERNAL] HighRose distribution

Martha Alvarez, MMC
Assistant City Clerk
(310) 802-5059
malvarez@manhattanbeach.gov

City of Manhattan Beach, CA

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-----Original Message-----

From: Misc <miscsurfing@verizon.net>
Sent: Monday, August 15, 2022 8:03 AM
To: Ted Fatueros <tfatueros@manhattanbeach.gov>
Subject: [EXTERNAL] HighRose distribution

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Pls add me to the High Rose email list. I am opposed.

Carpe Diem

Martha Alvarez, MMC

From: Pat Heaney <pat_heaney@yahoo.com>
Sent: Monday, August 15, 2022 4:43 PM
To: City Clerk
Subject: [EXTERNAL] Objection to Highrose/Verandas

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

I live on Alma Avenue. If you allow this development outside the normal zoning and height restrictions of our community, citing the new "Density Bonus" state law, then can I construct a 20-story structure on my r-2 zoned lot using the same state law? And how soon will there be high-rise buildings all along the Strand?

Our low profile height limits make us different from Santa Monica and Redondo Beach. Let's keep it that way-residential neighborhoods, not high-rise apartments and condos.

Pat Heaney

Martha Alvarez, MMC

From: De'Andre Valencia <dvalencia@bialav.org>
Sent: Monday, August 15, 2022 4:25 PM
To: City Clerk
Subject: [EXTERNAL] Public Comment: Project Verandas - Support
Attachments: Support Letter_Verandas Manhattan Beach 8.12.22.pdf

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Good afternoon,

Please find the attached comment letter supporting Project Verandas, which is set to be heard tomorrow at City Council.

Thank you,



De'Andre Valencia

Senior Vice President & Legal Policy Officer

Building Industry Association of Southern California, Los Angeles/Ventura

email: dvalencia@bialav.org

ph: (626) 393-8519

w: biasec.org

New Mailing Address: 17192 Murphy Ave., #14445, Irvine, CA 92623

Baldy View • Los Angeles/Ventura • Orange County • Riverside County



August 12, 2022

Mayor Steve Napolitano
City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 90266
(Submitted via email: cityclerk@manhattanbeach.gov)

Re: The Building Industry Association's Support for Project Verandas

Dear Honorable Mayor Napolitano and Councilmembers,

The Los Angeles/Ventura Chapter of the Building Industry Association of Southern California, Inc. (BIASC-LAV) is a non-profit trade association of nearly 1,000 companies employing over 100,000 people, all affiliated with building housing for all. On behalf of our membership, we ask you to approve Project Verandas.

Currently, California is facing one of the most drastic housing shortages in the nation. A recent [McKinsey Global Institute report](#) estimated that the State needs 3.5 million housing units to fill this gap. As projected by the [Regional Housing Needs Assessment \(RHNA\)](#), the City of Manhattan Beach, will be responsible for creating nearly 774 new housing units by 2029. This development would provide 79 residential units of much-needed housing. Every new unit of housing in the City helps meet this goal. The project also addresses the affordability shortfall. In addition to market-rate housing, Project Verandas adds affordable housing options to the City's housing stock. This project is a step in the right direction.

There are many added benefits for the City that result from housing production. This includes valuable investments within the community by significantly increasing available public parking in the area and will benefit North End restaurants and businesses. Project Verandas will strengthen the local economy by generating new revenue streams for the City. Estimates show that at least three jobs are produced for each newly created housing unit. This project will create construction jobs during this challenging economic condition, and the infusion of work and future residents will help support local businesses.

We are proud to support these critical efforts in creating housing opportunities. For these reasons, we ask you to approve Project Verandas. I appreciate your consideration of this request. If you have any questions, don't hesitate to contact BIASC-LAV Senior Vice President De'Andre Valencia at dvalencia@bialav.org.



Bill McRenolds, President
BIASC/ LA Ventura Chapter



De'Andre Valencia, Senior VP
BIASC/ LA Ventura Chapter

Martha Alvarez, MMC

From: Martha Alvarez, MMC
Sent: Monday, August 15, 2022 4:16 PM
To: City Clerk
Subject: FW: [EXTERNAL] Re: City Council Meeting: Highrose/Verandas

From: Robert Nall <nalledge@me.com>
Sent: Thursday, August 11, 2022 6:19 PM
To: Ted Faturios <tfaturios@manhattanbeach.gov>
Cc: robert Nall <nalledge@me.com>
Subject: [EXTERNAL] Re: City Council Meeting: Highrose/Verandas

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Ted

I am an interested resident and will be out of town that week.

Please take my perspective into account when representing our town.

I have lived here since 1979 and have purchased two homes over the years. My wife and I live here because of the small town feel and the other obvious benefits of weather and location.

Our town is special. The value of our properties is based on the special attributes of our town that other towns do not have. This type of development is a cancer on our lifestyle - not to mention the obvious greed associated with that project.

Please do your best to represent our community at the meeting.

Sincerely,
Robert Nall
2100 Grandview Ave.



MARTHA ALVAREZ, MMC

ASSISTANT CITY CLERK

(310) 802-5059

malvarez@manhattanbeach.gov

CITY OF MANHATTAN BEACH 1400 Highland Avenue Manhattan Beach, CA 90266

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Martha Alvarez, MMC

From: Martha Alvarez, MMC
Sent: Monday, August 15, 2022 4:16 PM
To: City Clerk
Subject: FW: [EXTERNAL] Oppose the Highrose project

From: Maureen Leral-Denitz <modenitz@yahoo.com>
Sent: Monday, August 15, 2022 1:23 PM
To: Ted Faturos <tfaturos@manhattanbeach.gov>; Steve Napolitano <snapolitano@manhattanbeach.gov>; Suzanne Hadley <shadley@manhattanbeach.gov>; Joe Franklin <jfranklin@manhattanbeach.gov>; Montgomery <montgomery@citymb.info>; Hildy Stern <hsstern@manhattanbeach.gov>
Subject: [EXTERNAL] Oppose the Highrose project

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

We are residents who have lived here over 35 years and we emphatically oppose this high rise development. It's a get rich scheme by the developers using a loophole. Those units with an unobstructed view will go for HUGE rent prices and having 6 low income units will be nothing to this developer. They can find another lot to build on in a less congested area without a view. Please keep El Porto vintage style. We don't want to be like Santa Monica. Also let's not forget there's lots of gases under that area being so close to the Chevron Farm and it's a congested intersection Let's not be fooled by this development... it's all about high rent revenues without worrying about density laws.

Best

Maureen and David Denitz



MARTHA ALVAREZ, MMC

ASSISTANT CITY CLERK

(310) 802-5059

malvarez@manhattanbeach.gov

CITY OF MANHATTAN BEACH 1400 Highland Avenue Manhattan Beach, CA 90266

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Martha Alvarez, MMC

From: Martha Alvarez, MMC
Sent: Monday, August 15, 2022 4:14 PM
To: City Clerk
Subject: FW: [EXTERNAL] Re: City Council Meeting: Highrose/Verandas

From: Dr. Dale Murnane <hshgk1@gmail.com>
Sent: Thursday, August 11, 2022 2:58 PM
To: Ted Faturios <tfaturios@manhattanbeach.gov>
Subject: [EXTERNAL] Re: City Council Meeting: Highrose/Verandas

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Thank you, Ted!!

I will be there and I remain in FULL SUPPORT of PROJECT VERANDAS moving forward for 'the good of the whole' in the City of Manhattan Beach.

I moved into Manhattan Beach as a 22 year old Health Care Professional in 1976 and I chose to leave in 1992 when the 3 story 'Towers' reduced the ambiance of our sweet neighborhoods into electric garage doors and concrete; our views became obsolete without a care; our neighbors were sequestered in their 3 story homes and our friendships annihilated, one by one, due to an abrupt decline in the 'neighborhood' experience. I didn't at all enjoy climbing up to their windy, sunny, 3rd floor kitchen/living room areas and they became too elite to be seen visiting an older (adorable) Manhattan Beach 'Beach House'.

Parking became a 'crisis' in Manhattan Beach in the early 90's. This beautiful project will build a 'rythme' of traffic that WILL be able to flow and is anyone missing the 200+/- off street parking spots that will be developed for this intersection and its residents??

Do the Right Thing; build Project Verandas for the City of Manhattan Beach, for the times that we are all living through, for our first and second responders, young families and others in need of affordable housing who put work before property ownership and for the severe housing crisis in California and around the World.

Make me proud of Manhattan Beach (again).

Looking Forward to meeting you in Person,
Respectfully,

Dr. Dale Murnane

Martha Alvarez, MMC

From: Mark Burton <markfburton@gmail.com>
Sent: Monday, August 15, 2022 3:50 PM
To: Steve Napolitano; Richard Montgomery; Joe Franklin; Suzanne Hadley; Hildy Stern
Cc: Bruce Moe; Quinn Barrow; Liza Tamura, MMC; Martha Alvarez, MMC; Talyn Mirzakhanian; Ted Faturos
Subject: [EXTERNAL] Supplement & Amendment to Burton Appeal re Highrose/El Porto
Attachments: Section 15268 - Ministerial Projects.pdf; Day v. City of Glendale.pdf; Updated Guidelines.pdf

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

SUPPLEMENT & AMENDMENT TO BURTON APPEAL OF PLANNING COMMISSION'S DECISION TO AFFIRM COMMUNITY DEVELOPMENT DIRECTOR'S APPROVAL OF THE FOUR-STORY HIGHROSE LUXURY APARTMENTS WITH HIGH CEILINGS AND OCEAN VIEWS

As a resident and taxpayer in the City of Manhattan Beach, I, Mark Burton (Appellant), do hereby supplement & amend my appeal to the City Council of the decision of the City of Manhattan Beach's Planning Commission, affirming the Community Development Director's approval of the Highrose El Porto, LLC (Applicant) application for a coastal development permit (hereinafter "Development").

PLEASE TAKE NOTICE that the following points and authorities are based on the California Government Code, Title 7, including Chapters 4.2, 4.3 and 4.5; the California Public Resources Code including the California Environmental Quality Act and the California Coastal Act; California Code of Regulations; CEQA Regulations; the Updated Streamlined Ministerial Approval Process, the City's General Plan, the City's Local Coastal Program and the City's Municipal Code.

1. Since the development is located on a site in the coastal zone, the project is not eligible for the streamlined, ministerial approval process.
2. Since the development is not located on a site in a residential zone but in the North End Commercial Zone on two lots that have been, and were intended to be, commercial uses only, the development is not eligible for the streamlined, ministerial approval process. Just imagine 4-Story Luxury Apartments being built where Ponchos is located. All four corners of the intersection of Highland Avenue and Rosecrans Boulevard are zoned

commercial, and they were all intended to remain zoned for commercial uses.

3. The development's proposed height and mass at the site is contrary to the low-profile development commitment in both the City's General Plan and Local Coastal Program. Specifically, the development does not maintain a small-town feel that preserves the unique characteristics of the surrounding neighborhood; the development does not safeguard picturesque vistas of the ocean; the development does not maintain the low-profile development and small-town atmosphere; and the development does not limit height to two stories and does not preserve our low-profile image.

4. Contrary to the California Coastal Act and our Local Coastal Program, the development is out of step with the unique character of El Porto and North MB with its requirements for low-profile development. This 4-story behemoth of a luxury apartment building will dwarf the surrounding 2-story commercial and residential buildings.

5. The Density Bonus statute does not establish an exemption from CEQA requirements and the obligation to complete an EIR. The regulatory concessions that must be offered for a qualifying development cannot include non-compliance with CEQA, which would violate state law.

6. The 15 -bill housing package adopted in 2017, including the density bonus bill, was intended to replace the discretionary conditional use permit process with a "streamlined, ministerial review process". The problem the California legislature was trying to fix were the delays caused by Planning Commissions and City Councils with the discretionary conditional use permit hearing process. Time and again, deserving low-income housing projects with completed EIRs were denied CUPS by Planning Commissions and City Council's.

7. It would be an egregious error to conflate the density bonus's "streamlined, ministerial review *process*" with CEQA's "ministerial *project*". Such a conflation is contrary to the intent and language in all existing state laws regarding low-income housing developments. Simply put, low income housing developments are not exempt from CEQA.

8. Pursuant to 14 CA ADC Section 15268 and *Day v. City of Glendale*, 51 Cal. App. 3rd 817, the development is not a "ministerial project", but discretionary. Specifically, determinations of what is ministerial are made on a case-by-case basis. Examples of actions that are "ministerial" are the

issuance of building permits; the issuance of business licences; the approval of individual utility service connections or disconnections; or the issuance of a Certificate of Compliance. Clearly, the approval of a massive 4-story, 79 unit, behemoth of a luxury apartment building is of a completely different character for CEQA purposes.

9. Pursuant to the City of Manhattan Beach Municipal Code, the development is discretionary with a conditional use permit required.

Based on this appeal and the supplement & amendment thereto, I respectfully request that the Council deny the permit and, further, remand this matter to the Community Development Director with direction to comply with CEQA and complete an EIR.

Day v. City of Glendale

51 Cal.App.3d 817 (Cal. Ct. App. 1975) · 124 Cal. Rptr. 569
Decided Sep 30, 1975

Docket No. 45720.

September 30, 1975.

Appeal from Superior Court of Los Angeles
County, No. NC C5824G, David N. Eagleson,

818 Judge. *818

COUNSEL

Jones Jones and Arthur T. Jones for Plaintiffs and
Appellants.

Evelle J. Younger, Attorney General, Robert H.
O'Brien, Assistant Attorney General, Nicholas C.
Yost and Norman N. Flette, Deputy Attorneys
General, as Amici Curiae on behalf of Plaintiffs
and Appellants.

Richard W. Marston, City Attorney, and Frank R.
Manzano, Senior Assistant City Attorney, for
Defendant and Respondent.

Melby Anderson, Henry Melby, Monteleone
McCrory and Michael Maroko for Real Parties in
Interest and Respondents.

819 *819

OPINION

FLEMING, J.

John and Gertrude Day, residents of the City of
Glendale, appeal the denial of a writ of mandate
sought to compel respondent city to amend its
environmental guidelines and require an

environmental impact report as a condition for
issuance of a grading permit to real-parties-in-
interest Kirst-MacDonald-Hensler, a joint venture.

(1) Real-parties-in-interest Hensler and
MacDonald own 70 acres of undeveloped land in
the San Raphael Hills of Glendale adjacent to the
site of a proposed state highway. They joined with
others to form the joint venture that won the state
contract to construct the proposed highway. In
March 1974 respondent City of Glendale issued a
grading permit authorizing the joint venture to fill
canyons on the Hensler and MacDonald land with
1,556,000 cubic yards of material to be excavated
in the highway construction project. The permit
820 also authorized grading *820 and movement of
343,000 cubic yards of material to be cut from a
ridge to form a notch — 420 feet wide at the top,
70 feet wide at the bottom, and flanked by one-to-
one grade slopes cut from 100 to 200 feet —
which would permit the extension of an adjacent
Glendale street into the leveled Hensler and
MacDonald land.

Although city guidelines did not require
preparation of an environmental impact report
(EIR) for a grading permit, an EIR was presented
with the application for the permit. In their
petition the Days contended that the city
guidelines should have required an EIR, that the
submitted EIR inadequately evaluated the
environmental significance of the grading project
and of available alternatives, that the city allowed
insufficient time for citizen comments on the EIR,
and that it failed to independently evaluate the
project, all in violation of the California

Environmental Quality Act (CEQA). ([Pub. Resources Code, § 21000](#) ¹ et seq.) CEQA applies to discretionary projects approved by public agencies but does not apply to ministerial projects of a similar nature (§ 21080). The trial court found that issuance of a grading permit was for a ministerial project and concluded that CEQA did not apply. The critical issue on appeal is whether issuance of the grading permit was for a discretionary or ministerial project within the meaning of CEQA.

¹ All further statutory references are to the Public Resources Code.

CEQA does not define the term *ministerial*. Instead, [section 21083](#) requires the Secretary of the Resources Agency to adopt guidelines for interpretation by public agencies of CEQA, guidelines which must include criteria for orderly evaluation of projects and for preparation of environmental impact reports consistent with CEQA. [Section 21082](#) requires public agencies, in turn, to adopt their own guidelines and procedures consistent both with CEQA and the guidelines of the secretary.

At the time the city issued the grading permit, the Secretary of the Resources Agency had adopted the following guidelines (Cal. Admin. Code, tit. 14, div. 6):

"15073. Ministerial Projects. Ministerial projects are exempt from the requirements of CEQA, and no EIR is required. The determination of what is 'ministerial' can most appropriately be made by the particular public agency involved based upon its analysis of its own laws, and it is anticipated that each public agency will make such

821 determination either *821 as a part of its implementing regulations or on a case-by-case basis. It is further anticipated that the following actions will, in most cases, be ministerial in nature.

"(a) Issuance of building permits.

"(b) Issuance of business licenses.

"(c) Approval of final subdivision maps.

"(d) Approval of individual utility service connections and disconnections.

"In the absence of any discretionary provision contained in local ordinance, it shall be presumed that these four actions are ministerial. Each public agency may, in its implementing regulations or ordinances, provide an identification or itemization of its projects and actions which are deemed ministerial under the applicable laws and ordinances." Glendale in turn adopted its own guidelines (Environmental Guidelines and Procedures of the City of Glendale):

"[Section 10. Ministerial Projects.](#)

"The following are ministerial projects under the ordinances of the City of Glendale and do not require the preparation of an EIR:

"A. Issuance of building permits.

"B. Issuance of business licenses.

"C. Approval of final subdivision maps.

"D. Approval of individual utility service connections and disconnections.

"E. *Issuance of grading, fill, and excavation permits.*" (Italics added.)

Respondent and real-parties-in-interest contend that the state, through CEQA and its guidelines, has delegated to local agencies the prerogative to determine which projects are ministerial and hence exempt from the requirements of CEQA. Glendale, they argue, deems grading permits ministerial, and consequently CEQA does not

822 apply. This argument, if *822 valid, would eviscerate CEQA, a result clearly not intended by the Legislature. The applicability of CEQA cannot be made to depend upon the unfettered discretion of local agencies, for local agencies must act in accordance with state guidelines and the objectives of CEQA. Their actions must also reflect the stated intent of enabling legislation: "It is the intent of the Legislature that all agencies of

the state government which regulate activities of private individuals, corporations, and public agencies which are found to affect the quality of the environment, shall regulate such activities so that major consideration is given to preventing environmental damage." (§ 21000, subd. (g).)

But, it is argued, issuance of a grading permit was for a ministerial project in this instance, whether or not CEQA gives local agencies absolute power to determine which projects are ministerial. We do not agree. State guidelines implementing CEQA, in consonance with standard legal formulation (see *Johnson v. State of California*, 69 Cal.2d 782, 788 [73 Cal.Rptr. 240, 447 P.2d 352]; *People v. Department of Housing and Community Development*, 45 Cal.App.3d 185, 192 [119 Cal.Rptr. 266]) offer these definitions:

"15024. Discretionary Project. Discretionary project means an activity defined as a project which requires the exercise of judgment, deliberation, or decision on the part of the public agency or body in the process of approving or disapproving a particular activity, as distinguished from situations where the public agency or body merely has to determine whether there has been conformity with applicable statutes, ordinances or regulations.

"15032. Ministerial Projects. Ministerial projects as a general rule, include those activities defined as projects which are undertaken or approved by a governmental decision which a public officer or public agency makes upon a given state of facts in a prescribed manner in obedience to the mandate of legal authority. With these projects, the officer or agency must act upon the given facts without regard to his own judgment or opinion concerning the propriety or wisdom of the act although the statute, ordinance, or regulation may require, in some degree, a construction of its language by the officer."

The Glendale Municipal Code, chapter 23, governs the issuance of grading permits by the city engineer. The code imposes many technical and

clearly ministerial requirements. But it also imposes many requirements *823 that are discretionary. Important for our purposes are the following:

— after visual inspection of the grading site the city engineer may require submission of geological and soil reports with recommendations regarding the effect of geological and soil conditions on the proposed development, and those recommendations approved by the city engineer must be incorporated in the grading plan (§§ 23-15(b) and (c));

— the city engineer may impose regulations with respect to access routes to hillside grading projects "as he shall determine are required in the interest of safety precautions involving pedestrian or vehicular traffic" (§ 23-16(f));

— in granting the permit the city engineer must attach such conditions as may be necessary to prevent creation of hazard to public or private property (§ 23-16(g)(5));

— and if the city engineer determines that the land area for which grading is proposed is subject to geological or flood hazard to the extent that no reasonable amount of corrective work can eliminate or sufficiently reduce the hazard to persons or property, he must deny the grading permit (§ 23-18).

The foregoing, patently, are discretionary items without fixed standards or objective measurements and require the exercise of judgment, deliberation, and decision by the city engineer. At bench, the city engineer did exercise his discretion by attaching numerous conditions to the issuance of the grading permit.

(2) CEQA must be interpreted to afford the fullest possible protection to the environment within the reasonable scope of statutory language. (*Friends of Mammoth v. Board of Supervisors*, 8 Cal.3d 247, 259 [104 Cal.Rptr. 761, 502 P.2d 1049].) A project of mixed ministerial-discretionary character, as was the grading permit here, should

be treated as a discretionary project. As was said in *People v. Department of Housing and Community Development*, 45 Cal.App.3d 185, 194 [119 Cal.Rptr. 266], ". . . CEQA draws a line between purely ministerial and entirely discretionary projects but does not mention those having both characteristics. Statutory policy, not semantics, forms the standard for segregating discretionary from ministerial functions. . . . CEQA is to be interpreted to "afford the fullest

824 possible protection to the environment *824 within the reasonable scope of the statutory language." . . . So construed, section 21080 extends CEQA's scope to hybrid projects of a mixed ministerial-discretionary character; doubt whether a project is ministerial or discretionary should be resolved in favor of the latter characterization."

Moreover, the discretionary-ministerial designation of a project is not necessarily determinative of its environmental impact. We do not believe the Legislature intended to exclude from the ambit of CEQA any project involving, as here, cut, movement, and fill of massive sections of earth. All parties agree that the grading project will have a significant effect on the environment. The issuance of the grading permit is the only point at which the environmental impact of the project may be publicly considered before mountains are moved and 70 acres of canyon are filled.

We note that appellants did not request a stay pending determination of this appeal, and we recognize that appropriate remedies to correct substantial error and abuse of discretion may be limited by physical realities. Yet even if the grading project planned by real parties in interest has been entirely completed, the cause must be remanded to the trial court for resolution of appellants' objections to the content of the EIR and their objections to Glendale's guidelines. Under the provisions of CEQA those affected by this major land-moving project are entitled to a full review of its environmental impact.

The judgment is reversed, and the cause is remanded for further proceedings in accordance with this opinion.

Roth, P.J., concurred.

BEACH, J.

I dissent.

The majority declares that "the critical issue on appeal is whether issuance of the grading permit was for a discretionary or ministerial project within the meaning of CEQA." I respectfully disagree for I believe that a more fundamental issue and one dispositive of this case is: "Is the ordinance of the City of Glendale unconstitutional or clearly violative of any statutory prohibition?" In my view no constitutional infirmity and no violation of any statutory prohibition has been

825 demonstrated by appellant or amicus curiae. *825

The basic fundamental law, [Public Resources Code section 21080](#),¹ clearly provides that CEQA shall apply to discretionary projects not to ministerial projects. In the (admittedly nonexclusive) listing of *discretionary* projects, [section 21080](#), subdivision (a), does not include the issuance of a grading permit.² The statute authorizes and provides that guidelines shall be established and adopted by the Resources Agency of California. The guidelines thus adopted by the Resources Agency, 14 California Administrative Code, section 15032, lists projects which in most instances will be deemed *ministerial*. Again the list is not exclusive and the issuance of a grading permit is not listed. The guidelines state:

¹ Unless otherwise indicated all section references are to Public Resources Code.

² As stated in the brief of the Attorney General, "The version of Assembly Bill 889 reported out by the Senate Committee on Governmental Organizations did define ministerial projects to include the issuance of grading and building permits. (A.B. 889, as amended November 16, 1972.)

However, in the final version of Assembly Bill 889 the reference to grading and building permits as being 'ministerial' in nature was deleted. (A.B. 889, as amended November 29, 1972.) Two inferences may be drawn from this fact. One is that the Legislature considered the grading and building permits as neither wholly ministerial or wholly discretionary. The other is that the Legislature intended that the decision whether the issuance of building and grading permits was a ministerial or a discretionary act should be left to the decision of each 'agency' either on a case-by-case basis or by adoption of an all-inclusive rule."

". . . The determination of what is 'ministerial' can most appropriately be made by the particular public agency involved based upon its analysis of its own laws. . . . Each public agency may, in its implementing regulations or ordinances, provide an identification or itemization of its projects and actions which are deemed ministerial under the applicable laws and ordinances." (Cal. Admin. Code, tit. 14, § 14:15073.)

The public agency, the City of Glendale, therefore by the combined operation of statutes and administrative guidelines is not prohibited but in fact authorized to designate what other "projects" are ministerial acts.³ The city declared by its municipal ordinance that the issuance of a grading permit is a ministerial act. (Glendale Mun. Code, 1964, as amended pt. 2, § 10(E).)

³ That there is no difference between an "act" such as issuing a building or grading permit — (giving a piece of paper) and a "project" as a physical activity culminating in physical change to the environment, was at least implied in *Friends of Mammoth v. Board of Supervisors*, 8 Cal.3d 247, at page 265 [104 Cal.Rptr. 761, 502 P.2d 1049], and unquestionably determined in *Bozung v. Local Agency Formation Com.*, 13 Cal.3d 263, at 279 [118 Cal.Rptr. 249, 529 P.2d 1017].

The net effect is that the act of the City of Glendale passed an ordinance which it was not prohibited from doing and which was *826 contemplated by the guidelines written by the legislatively appointed agency. That exercise of its legislative power is not because of any delegation of authority to the City of Glendale by the Legislature as its subservient agency under CEQA, but because of the city's constitutional authority to do so under its charter of 1921.⁴

⁴ We judicially notice the Charter of the City of Glendale.

I agree with the majority that the act of grading especially of the scope and magnitude involved at bench is clearly an activity or project which has a direct effect on the environment. I further agree that the decision of whether or not to issue this particular grading permit viewed by any common sense standards does involve the exercise of judgment and discretion. The majority correctly lists some of the facts illustrating this. I think that reason and wisdom align themselves with the majority in determining that such grading is a significant amount of work and it affects the environment and the issuance of a grading permit for work of this magnitude requires discretion. It would be better if the ordinance did not say that it is merely a ministerial act. But, as I understand the doctrine of separation of powers, that decision is not ours to make. The Legislature has nowhere in CEQA forbidden the City of Glendale or any other municipality to decide by the legislative process what is ministerial. The Legislature could have, by preempting the field of decision with clarity of language, or perhaps by not predicated application of CEQA upon considerations or determinations of ministerial versus discretionary conduct or activity. But, "wisdom or folly," it did so. What the state Legislature has constitutionally enacted and what a municipality has thereby been permitted to supplement by its constitutionally valid enactment are matters of legislative not judicial concern.

Perhaps the acts of the secretary of the Resources Agency under the delegation provided for in [section 21082](#) or the acts of the Office of Planning and Research under the delegation provided for in [section 21083](#), may well be the subject of proper scrutiny under the standards of Government Code section 11374. (See *Eisenberg's W. House v. St. Bd. Equal.*, [72 Cal.App.2d 8](#) [[164 P.2d 57](#)]; *Desert Environmental Conservation Assn. v. Public Utilities Com.*, [8 Cal.3d 739](#) [[106 Cal.Rptr. 31](#), [505 P.2d 223](#)].)

But the review of an adjudication or of a fact finding process of an administrative agency is not before us. The Legislature may properly entrust the task of filling in the details of its statutory ⁸²⁷ scheme to an ^{*827} administrative agency. While the City of Glendale may be an "agency" for the purposes of designating persons or entities to whom CEQA refers that is not to say that it is an "agency" within the meaning of quasi-judicial/quasi-legislative administrative agencies governed by Government Code section 11374. Thus the problem before us is not one where "An unconstitutional delegation of power occurs when the Legislature confers upon an *administrative* agency the unrestricted authority to make fundamental policy determinations." (Italics added.) (*Clean Air Constituency v. California State Air Resources Bd.*, [11 Cal.3d 801](#), [816](#) [[114 Cal.Rptr. 577](#), [523 P.2d 617](#)]; *Morris v. Williams*, [67 Cal.2d 733](#) [[63 Cal.Rptr. 689](#), [433 P.2d 697](#)].) By way of illustration, *People v. Department of Housing and Community Development*, [45 Cal.App.3d 185](#) [[119 Cal.Rptr. 266](#)], is distinguishable on this basis.

People v. Department of Housing and Community Development, *supra*, did not involve the act of a coordinate branch of government. There the act in question was one by the State Department of Housing having the obligation of acting upon an application for issuance of a mobile home park building permit. The court there determined that issuance of the permit had both characteristics and determined that CEQA applied. In reaching that

conclusion the court did not superimpose its determination over that of, and contrary to, the decision of a legislative and coordinate branch of government.

The first part of our inquiry appears to me to be: "Did the City of Glendale have the fundamental power to pass such law?" If so, the second part of our inquiry should be: "Is it constitutionally infirm as violative of a constitutionally protected right?" If not, then we cannot strike down or limit the statute or reconstruct it because of, or to suit, our ideas of legislative purpose.

The majority opinion attacks the content of the Glendale municipal ordinance. The holding in effect says: "Issuance of a grading permit is so clearly (or at least so often) a discretionary act (reasonable minds cannot differ) that you, Glendale, simply cannot say to the contrary." In my view that result or effect, exceeds the scope of our authority even if in our opinion the ordinance is unsound and not helpful to the achievement or the purpose of the fundamental statute, CEQA.

What was said in *Lockard v. City of Los Angeles*, [33 Cal.2d 453](#) [[202 P.2d 38](#), [7 A.L.R.2d 990](#)], about the review of another municipal ordinance is ⁸²⁸ apposite here. ^{*828}

"In considering the scope or nature of appellate review in a case of this type we must keep in mind the fact that the courts are examining the act of a coordinate branch of the government — the legislative — in a field in which it has paramount authority, and not reviewing the decision of a lower tribunal or of a fact-finding body. Courts have nothing to do with the wisdom of laws or regulations, and the legislative power must be upheld unless manifestly abused so as to infringe on constitutional guaranties. The duty to uphold the legislative power is as much the duty of appellate courts as it is of trial courts, and under the doctrine of separation of powers neither the trial nor appellate courts are authorized to 'review' legislative determinations. The only function of the courts is to determine whether the exercise of

legislative power has exceeded constitutional limitations. As applied to the case at hand, the function of this court is to determine whether the record shows a reasonable basis for the action of the zoning authorities, and, if the reasonableness of the ordinance is fairly debatable, the legislative determination will not be disturbed. [Citations.]" (*Lockard v. City of Los Angeles, supra*, at p. 461-462.)⁵

⁵ I acknowledge that decisions of recent years have taken much wind out of the sails of this pilot ship of judicial conduct. However, I deem it still seaworthy.

Where statutory ambiguity prevails and construction is needed, there is no question but that the court performs its proper function to construe and explain words. Here, however, the Legislature did not leave the determination of ministerial versus discretionary projects for the courts alone to determine. By the process explained above, intentionally or unintentionally the Legislature left an opening in this regard with the possibility that it would be filled by the act of the municipal legislative body. That a municipal ordinance might assist in the creating of a law the fundamental outlines of which are established by the Legislature is not prohibited. The municipal council is a coordinate branch of the government. The problems posed by the case at bench illustrate the fact that the present statutory scheme is wobbly and badly in need of major repair. In an effort to assist in strengthening the statutory structure the majority and other cases would discard semantics in favor of statutory policy as the guiding light for the court's reasoning and the court's decision. The words of *People v. Department of Housing and Community Development, supra*, 45 Cal.App.3d 185, 194, are quoted: "Statutory policy, not semantics, forms the standard for segregating discretionary from ministerial functions." The majority continues "moreover the discretionary-ministerial designation of a project is not necessarily *829 determinative of this environmental impact." I

agree with this second observation but unfortunately the Legislature has used that very standard to determine the *applicability* of CEQA. Maybe the Legislature did not intend that all acts should be determined as one or the other but the words are clear "This division shall not apply to ministerial projects proposed to be carried out or approved by public agencies." (§ 21080, subd. (b).)

The majority indicates that the argument, that local agencies have the prerogative to determine which projects are ministerial and hence exempt from the requirements of CEQA, "if valid would eviscerate CEQA, a result clearly not intended by the Legislature." The majority indicates that therefore the actions of local agencies must reflect the stated intent of the enabling legislation. It is precisely because of the possible result envisioned by the majority, that the statutory scheme needs correction. That is however a legislative task. Even if the provision of the act did not affirmatively authorize, nothing prohibits the city from making laws which it deems implement the statute. In seeking to answer the problems in this area the courts cannot ignore rules of judicial limitations in considering legislative acts. The objective of CEQA and the intent of the Legislature reaches far and sweeps broadly. It drastically affects long honored and established rules of ownership of property.

Where the exercise of police power is such that it significantly and drastically makes new inroads upon constitutionally protected rights of private ownership of property, that effect is as equally important a consideration for the court as is any noble purpose of the legislation.⁶ That consideration should persuade the court that in such case rescue from the unexpected and undesired effects of its own statutory scheme is the Legislature's own job.

⁶ Is not all legislation presumably aimed at a worthy purpose?

Justice Sullivan in his scholarly dissent in *Friends of Mammoth v. Board of Supervisors*, 8 Cal.3d 247, said at page 286 [104 Cal.Rptr. 761, 502 P.2d 1049]: "I, as well as the majority, am conscious of the profound need to improve and maintain the quality of California's environment [citation], but settled principles of statutory construction cannot be set aside by the judiciary in order to achieve that high purpose." That *830 statement relative to principles of statutory construction, applies equally well to principles of scope of judicial power.

I would affirm the judgment of the superior court.

A petition for a rehearing was denied October 28, 1975, and the petition of the real parties in interest and respondents Kirst-MacDonald-Hensler for a hearing by the Supreme Court was denied November 25, 1975. Clark, J., was of the opinion that the petition should be granted.

831 *831

Cal. Code Regs. tit. 14 § 15268

Section 15268 - Ministerial Projects

(a) Ministerial projects are exempt from the requirements of CEQA. The determination of what is "ministerial" can most appropriately be made by the particular public agency involved based upon its analysis of its own laws, and each public agency should make such determination either as a part of its implementing regulations or on a case-by-case basis.

(b) In the absence of any discretionary provision contained in the local ordinance or other law establishing the requirements for the permit, license, or other entitlement for use, the following actions shall be presumed to be ministerial:

(1) Issuance of building permits.

(2) Issuance of business licenses.

(3) Approval of final subdivision maps.

(4) Approval of individual utility service connections and disconnections.

(c) Each public agency should, in its implementing regulations or ordinances, provide an identification or itemization of its projects and actions which are deemed ministerial under the applicable laws and ordinances.

(d) Where a project involves an approval that contains elements of both a ministerial action and a discretionary action, the project will be deemed to be discretionary and will be subject to the requirements of CEQA.

Cal. Code Regs. Tit. 14, § 15268

Note: Authority cited: Section 21083, Public Resources Code. Reference: Section 21080(b)(1), Public Resources Code; Day v. City of Glendale, 51 Cal. App. 3d 817.

1. Change without regulatory effect amending Note filed 10-6-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 40).

Updated Streamlined Ministerial Approval Process

Government Code Section 65913.4 Guidelines



**State of California
Governor Gavin Newsom**

**Lourdes M. Castro Ramírez, Secretary
Business, Consumer Services and Housing Agency**

**Gustavo Velasquez, Director
California Department of Housing and Community Development**

**Megan Kirkeby, Deputy Director
Division of Housing Policy Development**

Division of Housing Policy Development
2020 West El Camino Avenue, Suite 500
Sacramento, CA 95833

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The matters set forth herein are regulatory mandates, and are adopted in accordance with the authorities set forth below:

Quasi-legislative regulations ... have the dignity of statutes ... [and]... delegation of legislative authority includes the power to elaborate the meaning of key statutory terms...

Ramirez v. Yosemite Water Co., 20 Cal. 4th 785, 800 (1999)

The Department may review, adopt, amend, and repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, or standards set forth in this section. Any guidelines or terms adopted pursuant to this subdivision shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Government Code section 65913.4, subdivision (j)

Government Code section 65913.4 relates to the resolution of a statewide concern and is narrowly tailored to limit any incursion into any legitimate municipal interests, and therefore the provisions of Government Code section 65913.4, as supplemented and clarified by these Guidelines, are constitutional in all respects and preempt any and all inconsistent laws, ordinances, regulations, policies or other legal requirements imposed by any locality.

Streamlined Ministerial Approval Process Program Guidelines

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INTRODUCTION

Chapter 366, Statutes of 2017 (SB 35, Wiener) was part of a 15-bill housing package aimed at addressing the state's housing shortage and high housing costs. Specifically, it requires the availability of a Streamlined Ministerial Approval Process for developments in localities that have not yet made sufficient progress towards their allocation of the regional housing need. Eligible developments must include a specified level of affordability, be on an infill site, comply with existing residential and mixed-use general plan or zoning provisions, and comply with other requirements such as locational and demolition restrictions. The intent of the legislation is to facilitate and expedite the construction of housing. In addition, as part of the legislation, the Legislature found ensuring access to affordable housing is a matter of statewide concern and declared that the provisions of SB 35 would apply to all cities and counties, including a charter city, a charter county, or a charter city and county. Please note, the California Department of Housing and Community Development (Department) may take action in cases where these Guidelines are not adhered to under its existing accountability and enforcement authority. In addition, please also be aware that these Guidelines do not fully incorporate statutory changes to the law made by Chapter 166, Statutes of 2020 (AB 168) and Chapter 194, Statutes of 2020 (AB 831) at this time, which require, among other things, pre-application tribal scoping consultation. Changes required by AB 168 and AB 831 will be more fully incorporated in a subsequent version of these Guidelines, which are expected to be prepared and circulated in 2021. Developers and local governments using these Guidelines should refer to Government Code section 65913.4 to comply with these new mandates.

Guidelines for the Streamlined Ministerial Approval Process are organized into five Articles, as follows:

Article I. General Provisions: This article includes information on the purpose of the Guidelines, applicability, and definitions used throughout the document.

Article II. Determination Methodology: This article describes the methodology for which the Department shall determine which localities are subject to the Streamlined Ministerial Approval Process.

Article III. Approval Process: This article describes the parameters of the approval process, including local government responsibilities, approval processes, and general provisions.

- 1) Local Government Responsibility – This section specifies the types of requirements localities may require a development to adhere to in order to determine consistency with general plan and zoning standards, including objective standards, controlling planning documents, and parking.
- 2) Development Review and Approval – This section details the types of hearings and review allowed under the Streamlined Ministerial Approval Process, timing provisions for processing and approving an application, denial requirements, and timeframes related to the longevity of the approval.

Article IV. Development Eligibility: This article describes the requirements for developments in order to apply for streamlining, including type of housing, site requirements, affordability provisions, and labor provisions.

Article V. Reporting: This article describes reporting requirements specific to the Streamlined Ministerial Approval Process in the locality's Annual Progress Report on the general plan.

ARTICLE I. GENERAL PROVISIONS

Section 100. Purpose and Scope

- (a) These Guidelines (hereinafter “Guidelines”) implement, interpret, and make specific the Chapter 366, Statutes of 2017 (SB 35, Wiener), and subsequent amendments (hereinafter “Streamlined Ministerial Approval Process”) as authorized by Government Code section 65913.4.
- (b) These Guidelines establish terms, conditions, and procedures for a development proponent to submit an application for a development to a locality that is subject to the Streamlined Ministerial Approval Process provided by Government Code section 65913.4. Nothing in these Guidelines relieves a local government from the obligation to follow state law relating to the availability of the Streamlined Ministerial Approval Process.
- (c) It is the intent of the Legislature to provide reforms and incentives to facilitate and expedite the construction of affordable housing. Therefore, these Guidelines shall be interpreted and implemented in a manner to afford the fullest possible weight to the interest of increasing housing supply.
- (d) These Guidelines shall remain in effect until January 1, 2026, and as of that date are repealed.

NOTE: Authority cited: Government Code section 65913.4(l). Reference cited: Government Code section 65582.1 and 65913.4(n) and (o).

Section 101. Applicability

- (a) The provisions of Government Code section 65913.4 are effective as of January 1, 2018.
- (b) These Guidelines are applicable to applications submitted on or after January 1, 2019, including applications submitted for modification to a development per Section 301(c). Subsequent updates to the Guidelines are applicable to applications submitted on or after the date adopted as shown on the cover page. Nothing in these Guidelines may be used to invalidate or require a modification to a development approved through the Streamlined Ministerial Approval Process prior to the effective date.
- (c) These Guidelines are applicable to counties and cities, including both general law and charter cities, including a charter city and county.

NOTE: Authority cited: Government Code section 65913.4(l). Reference cited: Government Code section 65913.4(k)(6).

Section 102. Definitions

All terms not defined below shall, unless their context suggests otherwise, be interpreted in accordance with the meaning of terms described in Government Code section 65913.4

- (a) “Annual Progress Report (APR)” means the housing element Annual Progress Report required by Government Code section 65400, and due to the Department April 1 of each year, reporting on the prior calendar year’s permitting activities and implementation of the programs in a local government’s housing element.

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- (b) “Application” means a submission requesting Streamlined Ministerial Approval pursuant to Government Code section 65913.4 and these Guidelines, which contains information pursuant to Section 300(b) describing the development’s compliance with the criteria outlined in Article IV of these Guidelines.
- (c) “Area Median Income (AMI)” means the median family income of a geographic area of the state, as determined annually by the Department within the state income limits: <http://www.hcd.ca.gov/grants-funding/income-limits/index.shtml>.
- (d) “Car share vehicle” is an automobile rental model where people rent cars from a car-sharing network, or an exclusive car provided by the project, to be located in a designated area within the project, for roundtrip or one-way, where vehicles are returned to a dedicated or reserved parking location. An example of such a service is Zipcar or car(s) provided by the project. If the project provides an exclusive car, it shall do so at a ratio of at least one car per every 50 units.
- (e) “Density Bonus” has the same meaning as set forth in Government Code section 65915.
- (f) “Department” means the California Department of Housing and Community Development.
- (g) “Determination” means the published identification, periodically updated, by the Department of those local governments that are required to make the Streamlined Ministerial Approval Process available per these Guidelines.
- (h) “Development proponent” or “applicant” means the owner of the property, or person or entity with the written authority of the owner, that submits an application for streamlined approval.
- (i) “Fifth housing element planning period” means the five or eight-year time period between the due date for the fifth revision of the housing element and the due date for the sixth revision of the housing element pursuant to Government Code section 65588(f).
- (j) “Infill” means at least 75 percent of the linear measurement of the perimeter of the site adjoins parcels that are developed with urban uses. For the purposes of this definition, parcels that are only separated by a street or highway shall be considered to be adjoined.
- (k) “Locality” or “local government” means a city, including a charter city, a county, including a charter county, or a city and county, including a charter city and county.
- (l) “Low-income” means households earning 50 to 80 percent of AMI.
- (m) “Lower-income” means households earning 80 percent or less of AMI pursuant to Health and Safety Code section 50079.5.
- (n) “Ministerial processing” or “ministerial approval” means a process for development approval involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely ensures that the proposed development meets all the "objective zoning standards," "objective subdivision standards," and "objective design review standards" in effect at the time that the application is submitted to the local government, but uses no special discretion or judgment in reaching a decision.

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- (o) “Moderate-income housing units” means housing units with an affordable housing cost or affordable rent for persons and families of moderate income pursuant to Health and Safety Code section 50093.
- (p) “Multifamily” means a housing development with two or more attached residential units. This includes mixed-use projects as stated in Section 400(a). The definition does not include accessory dwelling units unless the project is for new construction of a single-family home with attached accessory dwelling units. Please note, accessory dwelling units have a separate permitting process pursuant to Government Code section 65852.2.
- (q) “Objective standards” or “objective planning standards” means an objective zoning, objective subdivision and objective design review standard as those terms are defined in Section 102(r).
- (r) “Objective zoning standard”, “objective subdivision standard”, and “objective design review standard” means standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the applicant or development proponent and the public official prior to submittal, and includes only such standards as are published and adopted by ordinance or resolution by a local jurisdiction before submission of a development application.
- (s) “Project labor agreement” has the same meaning as set forth in paragraph (1) of subdivision (b) of section 2500 of the Public Contract Code.
- (t) “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge a set fare, run on fixed routes, and are available to the public.
- (u) “Public works project” means developments which meet the criteria of Chapter 1 (commencing with section 1720) of Part 7 of Division 2 of the Labor Code.
- (v) “Regional housing need” means the local government’s share of the regional housing need allocation as determined by Article 10.6 of the Government Code.
- (w) “Related facilities” means any manager’s units and any and all common area spaces that are included within the physical boundaries of the housing development, including, but not limited to, common area space, walkways, balconies, patios, clubhouse space, meeting rooms, laundry facilities, and parking areas that are exclusively available to residential users, except any portions of the overall development that are specifically commercial space.
- (x) “Reporting period” means the timeframe for which APRs are utilized to create the determination for which a locality is subject to the Streamlined Ministerial Approval Process. The timeframes are calculated in relationship to the planning period of the housing element pursuant to Government Code section 65588 and are cumulative through the most recent calendar year.
- (y) “San Francisco Bay Area” means the entire area within the territorial boundaries of the Counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma, and the City and County of San Francisco.

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- (z) “Skilled and trained workforce” has the same meaning as provided in Chapter 2.9 (commencing with section 2600) of Part 1 of Division 2 of the Public Contract Code.
- (aa) “Subsequent permit” means any permit required subsequent to receiving approval under Section 301, and includes, but is not limited to, demolition, grading, encroachment permits, approval of sign programs, and tree removal permits, building permits, and final maps, as necessary.
- (bb) “Subsidized” means units that are price or rent restricted such that the units are affordable to households meeting the definitions of very low and lower income, as defined in Sections 50079.5 and 50105 of the Health and Safety Code. A local agency shall not reduce maximum rent below that specified in Health and Safety Code sections 50079.5 and 50105.
- (cc) “Tenant” means a person who occupies land or property rented or leased for use as a residence.
- (dd) “Urban uses” means any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.
- (ee) “Very low-income” means households earning less than 50 percent or less of AMI pursuant to Health and Safety Code section 50105.

NOTE: Authority cited: Government Code section 65913.4(l). Reference cited: Government Code section 65913.4.

ARTICLE II. STREAMLINED MINISTERIAL APPROVAL PROCESS DETERMINATION

Section 200. Methodology

- (a) The Department will calculate the determination, as defined in Section 102(g), based on permit data received through the most recent APRs provided to the Department for the mid-point of the housing element planning period pursuant to Government Code section 65488 and at the end point of the planning period.
 - (1) APRs, as defined in Section 102(a), report on calendar years, while housing element planning periods may begin and end at various times throughout the year. When a planning period begins after July, the APR for that year is attributed to the prior housing element planning period. When the planning period ends before July 1, the APR for that year will be attributed to the following housing element planning period.
- (b) The determination is based on permitting progress toward a pro-rata share of the regional housing need for the reporting period.
 - (1) Determinations calculated at the mid-point of the planning period are based upon permitting progress toward a pro-rata share of half (50 percent) of the regional housing need, while determinations calculated at the end of the planning period are based upon permitting progress towards the entirety (100 percent) of the regional housing need.

- (2) For localities, as defined in Section 102(k), on a 5-year planning period, the mid-point determination is based upon a pro-rata share of the regional housing need for the first three years in the planning period, and 60 percent of the regional housing need.
- (3) The determination applies to all localities beginning January 1, 2018, regardless of whether a locality has reached the mid-point of the fifth housing element planning period. For those local governments that have achieved the mid-point of the fifth housing element planning period, the reporting period includes the start of the planning period until the mid-point, and the next determination reporting period includes the start of the planning period until the end point of the planning period. In the interim period between the effective date of the Streamlined Ministerial Approval Process, until a locality reaches the mid-point in the fifth housing element planning period, the Department will calculate the determination yearly. This formula is based upon the permitting progress towards a pro-rata share of the regional housing need, dependent on how far the locality is in the planning period, until the mid-point of the fifth housing element planning period is reached. See example below.

Example Calculation
For a locality two years into the reporting period, the determination is calculated at two out of eight years of the planning period and will be based upon a pro-rata share of two-eighths, or 25 percent, of the regional housing need, and the following year, for the same locality, the determination will be calculated at three out of eight years of the planning period based upon a pro-rata share of three-eighths, or 37.5 percent, of the regional housing need, and the following year for the same locality the determination will be calculated at four out of eight years of the planning period based upon a pro-rata share of four-eighths, or 50 percent, of the regional housing need. At that point, the locality will reach its mid-point of the planning period and the determination, the pro-rata share, and the permitting progress toward the pro-rata share will hold until the locality reaches the end-point of the planning period.

- (c) To determine if a locality is subject to the Streamlined Ministerial Approval Process for developments with 10 percent of units affordable to lower-income households, or the 20 percent moderate income option if the site is located in the San Francisco Bay Area as defined in Section 102(y), the Department shall compare the permit data received through the APR to the pro-rata share of their above-moderate income regional housing need for the current housing element planning period. If a local government has permitted less than the pro-rata share of their above-moderate income regional housing need, then the jurisdiction will be subject to the Streamlined Ministerial Approval Process for developments with 10 percent affordability or the 20 percent moderate income option if the site is located in the San Francisco Bay Area.
- (d) Local governments that do not submit their latest required APR prior to the Department's determination are subject to the Streamlined Ministerial Approval Process for developments with 10 percent of units affordable to lower-income households or the 20 percent moderate income option if the site is located in the San Francisco Bay Area.
- (e) To determine if a locality is subject to the Streamlined Ministerial Approval Process for developments with 50 percent of units affordable to lower-income households, the Department shall compare the permit data received through the APR to the pro-rata share of their independent very low- and low-income regional housing need for the

current housing element planning period. If a local government has permitted the pro-rata share of their above-moderate income regional housing need, and submitted their latest required APR, but has permitted less than the pro-rata share of their very low- and lower-income regional housing need, they will be subject to the Streamlined Ministerial Approval Process for developments with 50 percent affordability. For purposes of these Guidelines, as the definition of lower-income is inclusive of very low-income units, very low-income units permitted in excess of the very low-income need may be applied to demonstrate progress towards the lower-income need. However, as the definition of very low-income units does not include low-income units, low-income units permitted in excess of the low-income need shall not be applied to demonstrate progress towards the very low-income need.

- (f) To determine if a locality is not subject to the Streamlined Ministerial Approval Process, the permit data from the APR shall demonstrate that the locality has permitted the entirety of the pro-rata share of units for the above moderate-, low-, and very low-income categories of the regional housing need for the relevant reporting period, and has submitted the latest APR.
- (g) The Department's determination will be in effect until the Department calculates the determination for the next reporting period, unless updated pursuant to Section 201. A locality's status on the date the application is submitted determines whether an application is subject to the Streamlined Ministerial Approval Process, and also determines which level of affordability (10 or 50 percent) an applicant must provide to be eligible for streamlined ministerial permitting.

NOTE: Authority cited: Government Code section 65913.4(l). Reference cited: Government Code section 65913.4(a)(4).

Section 201. Timing and Publication Requirements

The Department shall publish the determination by June 30 of each year, accounting for the APR due April 1 of each year, though this determination may be updated more frequently based on the availability of data, data corrections, or the receipt of new information. The Department shall publish the determination on the Department's website.

NOTE: Authority cited: Government Code section 65913.4(l). Reference cited: Government Code section 65913.4(a)(4).

ARTICLE III. APPROVAL PROCESS

Section 300. Local Government Responsibility

- (a) After receiving a notice of intent to submit an application for a Streamlined Ministerial Approval Process, and prior to accepting an application for a Streamlined Ministerial Approval process, the local government must complete the tribal consultation process outlined in Government Code section 65913.4(b). The notice of intent shall be in the form of a preliminary application that includes all of the information described in Government Code section 65941.1.

- (b) A local government that has been designated as subject to the Streamlined Ministerial Approval Process by the Department shall provide information, in a manner readily accessible to the general public, about the locality's process for applying and receiving ministerial approval, materials required for an application as defined in Section 102(b), and relevant objective standards to be used to evaluate the application. In no case shall a local government impose application requirements that are more stringent than required for a final multifamily entitlement or standard design review in its jurisdiction. The information provided may include reference documents and lists of other information needed to enable the local government to determine if the application is consistent with objective standards as defined by Section 102(q). A local government may only require information that is relevant to and required to determine compliance with objective standards and criteria outlined in Article IV of these Guidelines. This may be achieved through the use of checklists, maps, diagrams, flow charts, or other formats. The locality's process and application requirements shall not in any way inhibit, chill, or preclude the Streamlined Ministerial Approval Process, which must be strictly focused on assessing compliance with the criteria required for streamlined projects in Article IV of these Guidelines.

- (1) Where a local government has failed to provide information pursuant to subsection (a) about the locality's process for applying and receiving ministerial approval, the local government shall accept any application that meets the requirements for a standard multifamily entitlement submittal and that contains information showing how the development complies with the requirements of Article IV. The application may include use of a list of the standards, maps, diagrams, flow charts, or other formats to meet these requirements.

(c) Determination of consistency

- (1) When determining consistency with objective zoning, subdivision, or design review standards, the local government shall only use those standards that meet the definition referenced in Section 102(q). For example, design review standards that require subjective decision-making, such as consistency with "neighborhood character," shall not be applied as an objective standard unless "neighborhood character" is defined in such a manner that is non-discretionary.

Example Objective Design Review
Objective design review could include use of specific materials or styles, such as Spanish-style tile roofs or roof pitches with a slope of 1:5. Architectural design requirements such as "craftsman style architecture" could be used so long as the elements of "craftsman style architecture" are clearly defined (e.g., "porches with thick round or square columns and low-pitched roofs with wide eaves"), ideally with illustrations.

- (2) A standard that requires a general plan amendment, the adoption of a specific plan, planned development zoning, or another discretionary permit or approval does not constitute an objective standard. A locality shall not require a development proponent to meet any standard for which the locality typically exercises subjective discretion, on a case-by-case basis.

- (3) Modifications to objective standards granted as part of a density bonus, concession, incentive, parking reduction, or waiver of development standards pursuant to Density Bonus Law Government Code section 65915, or a local density bonus ordinance, shall be considered consistent with objective standards.
- (4) Project eligibility for a density bonus concession, incentive, parking reduction, or waiver of development standards shall be determined consistent with Density Bonus Law.
- (5) Objective standards may include objective land use specifications adopted by a city or county, including, but not limited to, the general plan, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.
- (6) In the event that objective zoning, general plan, subdivision, or design review standards are mutually inconsistent, a development shall be deemed consistent with the objective standards pursuant to Section 400(c) of these Guidelines if the development is consistent with the standards set forth in the general plan.

(A) In no way should this paragraph be used to deem an application ineligible for the Streamlined Ministerial Approval Process when the project's use is consistent with Section 401(a)(3).

- (7) Developments are only subject to objective zoning standards, objective subdivision standards, and objective design review standards enacted and in effect at the time that the application is submitted to the local government.
- (8) Determination of consistency with objective standards shall be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, increased housing supply. For example, design review standards or other objective standards that serve to inhibit, chill, or preclude the development of housing under the Streamlined Ministerial Approval Process are inconsistent with the application of state law.

(d) Density calculation

- (1) When determining consistency with density requirements, a development that is compliant with up to the maximum density allowed within the land use element designation of the parcel in the general plan is considered consistent with objective standards. For example, a development on a parcel that has a multifamily land use designation allowing up to 45 units per acre is allowed up to 45 units per acre regardless of the density allowed pursuant to the zoning code. In addition, the development may request a density of greater than 45 units per acre if eligible for a density bonus under Density Bonus Law.
- (2) Growth, unit, or other caps that restrict the number of units allowed in the proposed development or that expressly restricts the timing of development may be applied only to the extent that those caps do not inhibit the development's ability to achieve the maximum density allowed by the land use designation, and any density bonus the project is eligible for, and do not restrict the issuance of building permits for the project.

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- (3) Additional density, floor area, or units granted as a density bonus shall be considered consistent with maximum allowable densities.
- (4) Development applications are only subject to the density standards in effect at the time that the development is submitted to the local government.

(e) Parking requirements

- (1) Automobile parking standards shall not be imposed on a development that meets any of the following criteria:
 - (A) The development is located where any part of the parcel or parcels on which the development is located is within one-half mile of any part of the parcel or parcels of public transit, as defined by Section 102(t) of these Guidelines.
 - (B) The development is located within a district designated as architecturally or historically significant under local, state, or federal standards.
 - (C) When on-street parking permits are required, but not made available to the occupants of the development.
 - (D) When there is a car share vehicle, (i.e., a designated location to pick up or drop off a car share vehicle as defined by Section 102(d),) within one block of the development. A block can be up to 1,000 linear feet of pedestrian travel along a public street from the development.
- (2) For all other developments, the local government shall not impose automobile parking requirements for streamlined developments approved pursuant to this section that exceed one parking space per unit.

- (f) A local government shall not adopt or impose any requirement, including, but not limited to, increased fees or inclusionary housing requirements, or rent levels other than what is defined for very-low income, lower-income, and moderate-income in Section 102, that applies to a project solely or partially on the basis that the project is eligible to receive streamlined processing.

- (1) A local government shall not deny a project access to local housing funds, including housing trust funds, or state housing funds solely on the basis that the project is eligible to receive streamlined processing.
- (2) This section should not be construed to preclude a jurisdiction from waving, reducing, or otherwise reducing fees and other costs for the project in an effort to facilitate lower project costs.

NOTE: Authority cited: Government Code section 65913.4(l). Reference cited: Government Code section 65913.4(a), (e), and (n).

Section 301. Development Review and Approval

(a) Ministerial processing

- (1) Ministerial approval, as defined in Section 102(n), of a project that complies with Article IV of these Guidelines shall be non-discretionary and cannot require a conditional use permit or other discretionary local government review or approval.
- (2) Ministerial design review or public oversight of the application, if any is conducted, may be conducted by the local government's planning commission or any equivalent board or commission responsible for review and approval of development projects, or the city council or board of supervisors, as appropriate.
 - (A) Design review or public oversight shall be objective and be strictly focused on assessing compliance with criteria required for streamlined projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local government before submission of the development application, and shall be broadly applicable to development within the locality.
 - (B) If a local government determines that a development submitted pursuant to this section is in conflict with any of the objective planning standards, it shall provide the development proponent, as defined in Section 102(h), written documentation in support of its denial identifying with specificity the standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, within the timeframe specified in Section 301(b)(2) below. If the application can be brought into compliance with minor changes to the proposal, the local government may, in lieu of making the detailed findings referenced above, allow the development proponent to correct any deficiencies within the timeframes for determining project consistency specified in Section 301(b)(4) below.
 - (C) When determining consistency, a local government shall find that a development is consistent with the objective planning standards if there is substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective standards. The local government may only find that a development is inconsistent with one or more objective planning standards, if the local government finds no substantial evidence in favor of consistency and that, based on the entire record, no reasonable person could conclude that the development is consistent with the objective standards.
- (3) A determination of inconsistency with objective planning standards in Section 301(b)(3)(A) does not preclude the development proponent from correcting any deficiencies and resubmitting an application for streamlined review, or from applying for the project under other local government processes. If the development proponent elects to resubmit its application for streamlined review under that Section, the timeframes specified in Section 301(b) below shall commence on the date of resubmittal.

- (4) Approval of ministerial processing does not preclude imposing standard conditions of approval as long as those conditions are objective and broadly applicable to development within the locality, regardless of streamlined approval, and such conditions implement objective standards that had been adopted prior to submission of a development application. This includes any objective process requirements related to the issuance of a building permit. However, any further approvals, such as demolition, grading and building permits or, if required, final map, shall be issued on a ministerial basis subject to the objective standards.
 - (A) Notwithstanding Paragraph (5), standard conditions that specifically implement the provisions of these Guidelines, such as commitment for recording covenant and restrictions and provision of prevailing wage, may be included in the conditions of approval.
- (5) The California Environmental Quality Act (Division 13 (commencing with section 21000) of the Public Resources Code) does not apply to the following in connection with projects qualifying for the Streamlined Ministerial Approval Process:
 - (A) Actions taken by a state agency, local government, or the San Francisco Bay Area Rapid Transit District to lease, convey, or encumber land or to facilitate the lease, conveyance, or encumbrance of land owned by the local government, or for the lease of land owned by the San Francisco Bay Area Rapid Transit District in association with an eligible transit oriented development project, as defined pursuant to section 29010.1 of the Public Utilities Code, nor to any decisions associated with that lease.
 - (B) Actions taken by a state agency or local government to provide financial assistance to a development that receives streamlined approval pursuant to this section that is to be used for housing for persons and families of very low, low, or moderate income.
 - (C) Approval of improvements located on land owned by the local government or the San Francisco Bay Area Rapid Transit District that are necessary to implement a development that receives streamlined approval pursuant to this section where such development is to be used for housing for persons and families of very low, low, or moderate income, as defined in section 50093 of the Health and Safety Code.
 - (D) The determination of whether an application for a development is subject to the Streamlined Ministerial Approval Process.
- (b) Upon a receipt of an application, the local government shall adhere to the following:
 - (1) An application submitted hereunder shall be reviewed by the agency within the timeframes required under paragraph (2) below whether or not it contains all materials required by the agency for the proposed project, and it is not a basis to deny the project if either:
 - (A) The application contains sufficient information for a reasonable person to determine whether the development is consistent, compliant, or in conformity with the requisite objective standards (outlined in Article IV of these Guidelines); or

- (B) The application contains all documents and other information required by the local government as referenced in Section 300(a) of these Guidelines.
- (2) Local governments shall make a determination of consistency, as described in Section 301(a)(3), as follows:
 - (A) Within 60 calendar days of submittal of the application to the local government pursuant to this section if the development contains 150 or fewer housing units.
 - (B) Within 90 calendar days of submittal of the application to the local government pursuant to this section if the development contains more than 150 housing units.
 - (C) Documentation of inconsistency(ies) with objective standards must be provided to the development proponent within these timeframes. If the local government fails to provide the required documentation determining consistency within these timeframes, the development shall be deemed to satisfy the objective planning standards and shall be deemed consistent.
- (3) Notwithstanding Section 301(b)(2), design review or public oversight may be conducted by the local government's city council, board of supervisors, planning commission, or any equivalent board or commission, as described in Section 301(a)(2), and shall be completed as follows:
 - (A) Within 90 calendar days of submittal of the application to the local government pursuant to this section if the development contains 150 or fewer housing units.
 - (B) Within 180 calendar days of submittal of the application to the local government pursuant to this section if the development contains more than 150 housing units.
 - (C) Although design review may occur in parallel with or as part of the consistency determination set forth in paragraphs (1) and (2) above, failure to meet subjective design review standards or obtain design review approval from the oversight board shall not in any way inhibit, chill, stall, delay, or preclude a project from being approved for development pursuant to these Guidelines if objective design review standards are met. This means that discussion or consideration of the application shall only relate to design standards that meet the definition of objective pursuant to Section 102(r). If the local government fails to complete design review within the timeframes provided above, the project is deemed consistent with objective design review standards.
- (4) Approval timelines: Local government must determine if an application for a Streamlined Ministerial Approval complies with requirements and approve or deny the application pursuant to these Guidelines as follows:
 - (A) Within 90 calendar days of submittal of the application to the local government pursuant to this section if the development contains 150 or fewer housing units.
 - (B) Within 180 calendar days of submittal of the application to the local government pursuant to this section if the development contains more than 150 housing units.

- (5) Timeframes for determining project eligibility for a density bonus concession, incentive, parking reduction, or waiver of development standards or protections of the Housing Accountability Act (Government Code section 65589.5) shall be subject to the timeframes outlined in paragraph (2) and (3) above.
- (c) Modifications to the development subsequent to the approval of the ministerial review, but prior to issuance of a final building permit, shall be granted in the following circumstances:
 - (1) For modification initiated by the development proponent.
 - (A) Following approval of an application under the Streamlined Ministerial Approval Review Process, but prior to issuance of the final building permit required for construction of the development, an applicant may submit a written request to modify the development. The modification must conform with the following:
 - i. The change is consistent with the Streamlined Ministerial Approval Process Guidelines.
 - ii. The change is consistent with the objective planning standards specified in subdivision (a) that were in effect when the original development application was first submitted.
 - iii. The change will not conflict with a plan, ordinance or policy addressing community health and safety.
 - iv. If the change results in modifications to the concessions, incentives or waivers to development standards approved pursuant to Density Bonus Law, then the modified concession, incentive, or waiver must continue to meet the standards of the Density Bonus Law.
 - v. The local government may apply objective planning standards adopted after the development application was first submitted to the requested modification in any of the following instances:
 - I. The development is revised such that the total number of residential units or total square footage of construction changes by 15 percent or more.
 - II. The development is revised such that the total number of residential units or total square footage of construction changes by 5 percent or more, and it is necessary to subject the development to an objective standard beyond those in effect when the development application was submitted in order to mitigate or avoid a specific, adverse impact, as that term is defined in subparagraph (A) of paragraph (1) of subdivision (j) of Section 65589.5, upon the public health or safety, and there is no feasible alternative method to satisfactorily mitigate or avoid the adverse impact.
 - III. Objective building standards contained in the California Building Standards Code (Title 24 of the California Code of Regulations), including, but not limited to, building plumbing, electrical, fire, and grading codes, may be applied to all modifications.

- (B) Upon receipt of the request, the local agency shall determine if the requested modification is consistent with the local agency's objective standards in effect when the original application for the development was submitted. The local agency shall not reconsider consistency with objective planning standards that are not affected by the proposed modification. Approval of the modification request must be completed within 60 days of submittal of the modification or 90 days if design review is required. A proposed modification shall not cause the original approval to terminate.
 - (C) The local government's review of a modification request pursuant to this subdivision shall be strictly limited to determining whether the modification, including any modification to previously approved density bonus concessions or waivers, modify the development's consistency with the objective planning standards and shall not reconsider prior determinations that are not affected by the modification.
- (2) For modification initiated by the local agency.
- (A) Following approval of an application under the Streamlined Ministerial Approval Process, but prior to issuance of a building permit for the development, a local agency may require one-time changes to the development that are necessary to comply with the objective building standards contained in the California Building Standards Code (Title 24 of the California Code of Regulations), including, but not limited to, building plumbing, electrical, fire, and grading codes, or to mitigate a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without modifying the development. A "specific, adverse impact" has the meaning defined in Government Code section 65589.5(d)(2). Any local standard adopted after submission of a development application, including locally adopted construction codes, shall not be considered an "objective zoning standard," "objective subdivision standard," or "objective design review standard" that is applicable to a development application.
 - (B) A determination that a change is required is a ministerial action. If a revised application is required to address these modifications, the application shall be reviewed as a ministerial approval within 60 days of re-submittal of the application.
- (d) If a local government approves a development under the Streamlined Ministerial Approval Process, notwithstanding any other law, the following expiration of approval timeframes apply:
- (1) If the project includes public investment in housing affordability, beyond tax credits, where 50 percent of the units are affordable to households making at or below 80 percent of the AMI, then that approval shall not expire.
 - (2) If the project does not include public investment in housing affordability (including local, state, or federal government assistance) beyond tax credits, and at least 50 percent of the units are not affordable to households making at or below 80 percent of the AMI, that approval shall remain valid for three years from the date of the final action establishing that approval, or if litigation is filed challenging that approval,

from the date of the final judgment upholding that approval. Approval shall remain valid for a project provided that vertical construction of the development has begun and is in progress. "In progress" means one of the following:

- (A) The construction has begun and has not ceased for more than 180 days.
 - (B) If the development requires multiple building permits, an initial phase has been completed, and the project proponent has applied for and is diligently pursuing a building permit for a subsequent phase, provided that once it has been issued, the building permit for the subsequent phase does not lapse.
- (3) The development may receive a one-time, one-year extension if the project proponent provides documentation that there has been significant progress toward getting the development construction ready, such as filing a building permit application. The local government's action and discretion in determining whether to grant the foregoing extension shall be limited to considerations and processes set forth in this section.
- (e) A local government shall issue subsequent permits as defined in Section 102(aa) required for a development approved under the Streamlined Ministerial Approval Process if the application for those permits substantially complies with the development as it was approved. Upon receipt of an application for a subsequent permit, the local government shall process the permit without unreasonable delay and shall not impose any procedure or requirement that is not imposed on projects that are not approved using the Streamlined Ministerial Approval Process. Issuance of subsequent permits shall implement the approved development, and review of the permit application shall not inhibit, chill, or preclude the development. For purposes of this subsection "unreasonable delay" means permit processing times that are longer than other similar permit requests for projects not approved using the Streamlined Ministerial Approval Process.

NOTE: Authority cited: Government Code section 65913.4(-l). Reference cited: Government Code section 65913.4(a), (b), (c), (d), (g), (h), (j), and (m).

ARTICLE IV. DEVELOPMENT ELIGIBILITY

Section 400. Housing Type Requirements

To qualify to apply for the Streamlined Ministerial Approval Process, the development proponent shall demonstrate the development meets the following criteria:

- (a) Prior to submitting an application for the Streamlined Ministerial Approval Process, the development proponent must submit to the local government a notice of intent to submit an application and the local government must have completed the tribal consultation process outlined in Government Code section 65913.4(b). The notice of intent shall be in the form of a preliminary application that includes all of the information described in Government Code section 65941.1.
- (b) Is a multifamily housing development. This includes mixed-use projects when the project satisfied the requirement under subsection (b). The development offers units for rental or for-sale.

- (c) At least two-thirds of the square footage of the development shall be designated for residential use:
 - (1) For purposes of these Guidelines, the two-thirds calculation is based upon the proportion of gross square footage of residential space and related facilities, as defined in Section 102(w), to gross development building square footage for an unrelated use such as commercial. Structures utilized by both residential and non-residential uses shall be credited proportionally to intended use.
 - (A) Additional density, floor area, and units, and any other concession, incentive, or waiver of development standards granted pursuant to the Density Bonus Law shall be included in the square footage calculation.
 - (B) The square footage of the development shall not include non-habitable underground space, such as basements or underground parking garages.
 - (2) Both residential and non-residential components of a qualified mixed-use development are eligible for the Streamlined Ministerial Approval Process. Additional permitting requirements pertaining to the individual business located in the commercial component (e.g., alcohol use permit or adult business permit) are subject to local government processes.
 - (3) When the commercial component is not part of a vertical mixed-use structure, construction of the residential component of a mixed-use development shall be completed prior to, or concurrent with, the commercial component.
- (d) The development is consistent with objective zoning standards, objective subdivision standards, and objective design review standards in effect at the time of the development application submittal per Section 300 of these Guidelines, provided that any modifications to density or other concessions, incentives, or waivers granted pursuant to the Density Bonus Law shall be considered consistent with such objective zoning standards, objective subdivision standards, and objective design review standards.

NOTE: Authority cited: Government Code section 65913.4(l). Reference cited: Government Code section 65913.4(a) and (b).

Section 401. Site Requirements

- (a) The development proponent shall demonstrate in the application that, as of the date the application is submitted, the proposed development is located on a site that meets the following criteria:
 - (1) The site is a legal parcel, or parcels, located in either:
 - (A) A city where the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or
 - (B) An unincorporated area where the area boundaries are wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.
 - (2) The site meets the definition of infill as defined by Section 102(j) of these Guidelines.

- (3) The site must be zoned for residential use or residential mixed-use development or have a general plan designation that allows residential use or a mix of residential and nonresidential uses.
 - (A) To qualify for the Streamlined Ministerial Approval Process, the site's zoning designation, applicable specific plan or master plan designation, or general plan designation must permit residential or a mix of residential and nonresidential uses by right or with a use permit.
- (b) The development proponent shall demonstrate that, as of the date the application is submitted, the development is not located on a legal parcel(s) that is any of the following:
 - (1) Within a coastal zone, as defined in Division 20 (commencing with section 30000) of the Public Resources Code.
 - (2) Prime farmland or farmland of statewide importance, as defined pursuant to the United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that locality.
 - (3) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).
 - (4) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Government Code section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Public Resources Code section 4202.
 - (A) This restriction does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to Government Code section 51179(b), or sites that are subject to adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.
 - (B) This restriction does not apply to sites that have been locally identified as fire hazard areas, but are not identified by the Department of Forestry and Fire Protection pursuant to Government Code section 51178 or Public Resources Code section 4202.
 - (5) A hazardous waste site that is currently listed pursuant to Government Code section 65962.5, or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Health and Safety Code section 25356.
 - (A) This restriction does not apply to sites the California Department of Public Health, California State Water Resources Control Board, or the Department of Toxic Substances Control has cleared for residential use or residential mixed uses.

- (6) Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist.
 - (A) This restriction does not apply if the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.
- (7) Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency.
 - (A) This restriction does not apply if the site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local government.
 - (B) This restriction does not apply if the development proponent can demonstrate that they will be able to meet the minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.
 - i. If the development proponent demonstrates that the development satisfies either subsection (A) or (B) above, and that the development is otherwise eligible for the Streamlined Ministerial Approval Process, the local government shall not deny the application for the development on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site related to special flood hazard areas.
 - ii. If the development proponent is seeking a floodplain development permit from the local government, the development proponent must describe in detail in the application for the Streamlined Ministerial Approval Process how the development will satisfy the applicable federal qualifying criteria necessary to obtain the floodplain development permit. Construction plans demonstrating these details shall be provided to the locality before the time of building permit issuance, however construction plans shall not be required for the local jurisdiction to take action on the application under the Streamlined Ministerial Approval Process.
- (8) Within a regulatory floodway, as determined by the Federal Emergency Management Agency, in any official maps published by the Federal Emergency Management Agency.
 - (A) This restriction does not apply if the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations.

- (B) If the development proponent demonstrates that the development satisfies subsection (A) above and that the development is otherwise eligible for the Streamlined Ministerial Approval Process, the local government shall not deny the application for development on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site related to regulatory floodways.
- (9) Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), a habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or another adopted natural resource protection plan.
- (10) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).
 - (A) The identification of habitat for protected species discussed above may be based upon information identified in underlying environmental review documents for the general plan, zoning ordinance, specific plan, or other planning documents associated with that parcel that require environmental review pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).
- (11) Lands under conservation easement.
- (12) An existing parcel of land or site that is governed under the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), the Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of Division 2 of the Civil Code), the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code), or the Special Occupancy Parks Act (Part 2.3 (commencing with Section 18860) of Division 13 of the Health and Safety Code).
- (c) The development proponent shall demonstrate that, as of the date the application is submitted, the development is not located on a site where any of the following apply:
 - (1) The development would require the demolition of the following types of housing:
 - (A) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
 - (B) Housing that is subject to any form of rent or price control through a locality's valid exercise of its police power.
 - (C) Housing that has been occupied by tenants, as defined by Section 102(cc), within the past 10 years.

- (2) The site was previously used for housing that was occupied by tenants that was demolished within 10 years before the development proponent submits an application under the Streamlined Ministerial Approval Process.
 - (A) When property with a building that was demolished in the past 10 years has been zoned for exclusively residential use, there is a presumption that it was occupied by tenants, unless the development proponent provides verifiable documentary evidence from a government or independent third party source to rebut the presumption for each of the 10 years prior to the application date.
 - (B) When property with a building that was demolished in the past 10 years has been zoned to allow residential use in addition to other uses, the developer proponent shall include in its application a description of the previous use and verification it was not occupied by residential tenants.
- (3) The development would require the demolition of a historic structure that was placed on a national, state, or local historic register prior to the submission of an application.
- (4) The property contains housing units that are occupied by tenants and units at the property are, or were, subsequently offered for sale to the general public by the subdivider or subsequent owner of the property.
- (d) A development that involves a subdivision of a parcel that is, or, notwithstanding the Streamlined Ministerial Approval Process, would otherwise be, subject to the Subdivision Map Act (Division 2 (commencing with Section 66410)) or any other applicable law authorizing the subdivision of land is not eligible for the Streamlined Ministerial Approval Process.
 - (1) Subdivision (d) does not apply if the development is consistent with all objective subdivision standards in the local subdivision ordinance, and either of the following apply:
 - (A) The development has received, or will receive, financing or funding by means of a low-income housing tax credit and is subject to the requirement that prevailing wages be paid pursuant to Section 403 of these Guidelines.
 - (B) The development is subject to the requirement that prevailing wages be paid, and a skilled and trained workforce used.
 - (2) An application for a subdivision pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410)) for a development that meets the provisions in (1) shall be exempt from the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code). Such an application shall be subject to a ministerial process as part of the Streamlined Ministerial Approval Process.

NOTE: Authority cited: Government Code section 65913.4(l). Reference cited: Government Code section 65913.4(a), (c), (d).

Section 402. Affordability Provisions

- (a) A development shall be subject to a requirement mandating a minimum percentage of units be affordable to households making at or below 80 percent Area Median Income (AMI), based on one of the following categories:
 - (1) In a locality that the Department has determined is subject to the Streamlined Ministerial Approval Process pursuant to Section 200(c), the development shall dedicate either:
 - (A) A minimum of 10 percent of the total number of units prior to calculating any density bonus to housing affordable to households making at or below 80 percent of the AMI. If the locality has adopted a local ordinance that requires greater than 10 percent of the units be dedicated to housing affordable to households making at or below 80 percent of the AMI, that local affordable housing requirement applies.
 - (B) Or, if located in the San Francisco Bay Area pursuant to Section 200 (x), the project may elect to dedicate 20 percent of the total number of units to housing affordable to households making below 120 percent of the AMI. However, to satisfy this requirement and be eligible to proceed under these provisions, the average income of the tenant income restrictions for those units must equal at or below 100 percent of the AMI. A local ordinance adopted by the locality applies if it requires greater than 20 percent of the units be dedicated to housing affordable to households making at or below 120 percent of the AMI, or requires that any of the units be dedicated at a level less than 120 percent.
 - (i) In order to comply with subparagraph (A), the rent or sale price charged for units that are dedicated to housing affordable to households between 80 percent and 120 percent of the AMI shall not exceed 30 percent of the gross income of the household.
 - (C) Developments of 10 units or less are not subject to either affordability provision outlined in subparagraphs (A) and (B), above.
 - (D) A development proponent may satisfy the affordability requirements of this subsection with a unit that is restricted to households with incomes lower than those prescribed under subparagraph (A) and (B).
 - (2) In a locality that the Department has determined is subject to the Streamlined Ministerial Approval Process pursuant to Section 200, subparagraph (e), the development shall dedicate a minimum of 50 percent of the total number of units prior to calculating any density bonus to housing affordable to households making at or below 80 percent of the AMI.
 - (A) If the locality has adopted a local ordinance that requires greater than 50 percent of the units be dedicated to housing affordable to households making at or below 80 percent of the AMI, that local affordable housing requirement applies.

- (3) In a locality that the Department has determined is subject to the Streamlined Ministerial Approval Process pursuant to Section 200, subparagraph (d), the development shall dedicate a minimum of 10 percent of the total number of units to housing affordable to households making at or below 80 percent of the AMI.
 - (A) If the locality has adopted a local ordinance that requires greater than 10 percent of the units be dedicated to housing affordable to households making below 80 percent of the AMI, that local affordable housing requirement applies.
 - (B) A development proponent may satisfy the affordability requirements of this subsection with a unit that is restricted to households with incomes lower than 80 percent of AMI.
- (b) A covenant or restriction shall be recorded against the development dedicating the minimum percentage of units to housing affordable to households making at or below 80 percent of the AMI pursuant to Section 402 (a)(1-3).
 - (1) The recorded covenant or restriction shall remain an encumbrance on the development for a minimum of either:
 - (A) 55 years for rental developments or
 - (B) 45 years for owner-occupied properties.
 - (2) The development proponent shall commit to record a covenant or restriction dedicating the required minimum percentage of units to below market housing prior to the issuance of the first building permit.
 - (3) The percentage of units affordable to households making at or below 80 percent of the AMI per this section is calculated based on the total number of units in the development exclusive of additional units provided by a density bonus.
 - (4) The percentage of units affordable to households making at or below 80 percent of the AMI per this section shall be built on-site as part of the development.
- (c) The percentage of units affordable to households making at or below 80 percent of the AMI per this section is calculated based on the total number of units in the development exclusive of additional units provided by a density bonus.
- (d) The percentage of units affordable to households making at or below 80 percent of the AMI per this section shall be built on-site as part of the development.
- (e) If the locality has adopted an inclusionary ordinance, the objective standards contained in that ordinance apply to the development under the Streamlined Ministerial Approval Process. For example, if the locality's adopted ordinance requires a certain percentage of the units in the development to be affordable to very low-income units, the development would need to provide that percentage of very low-income units to be eligible to use the Streamlined Ministerial Approval Process.
- (f) All affordability calculations resulting in fractional units shall be rounded up to the next whole number. Affordable units shall be distributed throughout the development, unless otherwise necessary for state or local funding programs, and have access to the same

common areas and amenities as the market rate units. Identification in the development application of the location of the individual affordable units is not required for ministerial approval but distribution of units per this subsection can be included as a condition of approval per Section 301(a)(5), and the methods to achieve distribution is recorded through an affordable housing agreement or as part of a recorded covenant or restriction, unless providing location of affordable units at time of application is required by ordinance or as an adopted objective standard.

- (g) Affordability of units to households at or below 80 percent of the AMI per this Section is calculated based on the following:
 - (1) For owner-occupied units, affordable housing cost is calculated pursuant to Health and Safety Code Section 50052.5.
 - (2) For rental units, affordable rent is calculated pursuant to Health and Safety Code Section 50053.
- (h) Units used to satisfy the affordability requirements pursuant to this Section may be used to satisfy the requirements of other local or state requirements for affordable housing, including local ordinances or the Density Bonus Law, provided that the development proponent complies with the applicable requirements in the other state or local laws. Similarly, units used to satisfy other local or state requirements for affordable housing may be used to satisfy the affordability requirements of this Section provided that the development proponent complies with all applicable requirements of this Section.

NOTE: Authority cited: Government Code section 65913.4(l). Reference cited: Government Code section 65913.4(a).

Section 403. Labor Provisions

The Labor Provisions in the Streamlined Ministerial Approval Process, located in paragraph (8) of subdivision (a) of Government Code section 65913.4, contain requirements regarding payment of prevailing wages and use of a skilled and trained workforce in the construction of the development.

The development proponent shall certify both of the following to the locality to which the development application is submitted:

- (a) The entirety of the development is a public work project, as defined in Section 102(s) above, or if the development is not in its entirety a public work, that all construction workers employed in the execution of the development will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area.
 - (1) The Department of Industrial Relations posts on its website letters and decisions on administrative appeal issued by the Department in response to requests to determine whether a specific project or type of work is a “public work” covered under the state’s Prevailing Wage Laws. These coverage determinations, which are advisory only, are indexed by date and project and available at:
<https://www.dir.ca.gov/OPRL/pwdecision.asp>

- (2) The general prevailing rate is determined by the Department of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code. General prevailing wage rate determinations are posted on the Department of Industrial Relations' website at: <https://www.dir.ca.gov/oprl/DPreWageDetermination.htm>.
- (3) Apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. To find out if an apprentice is registered in an approved program, please consult the Division of Apprenticeship Standards' "Apprenticeship Status and Safety Training Certification" database at <https://www.dir.ca.gov/das/appcertpw/appcertsearch.asp>.
- (4) To find the apprentice prevailing wage rates, please visit the Department of Industrial Relations' website at: <https://www.dir.ca.gov/OPRL/PWAppWage/PWAppWageStart.asp>. If you are interested in requesting an apprentice, a list of approved programs is available at: <https://www.dir.ca.gov/databases/das/aigstart.asp>. General information regarding the state's Prevailing Wage Laws is available in the Department of Industrial Relations' Public Works website (<https://www.dir.ca.gov/Public-Works/PublicWorks.html>) and the Division of Labor Standards Enforcement Public Works Manual (<https://www.dir.ca.gov/dlse/PWManualCombined.pdf>).
- (5) For those portions of the development that are not a public work, all of the following shall apply:
 - (A) The development proponent shall ensure that the prevailing wage requirement is included in all contracts for the performance of the work.
 - (B) All contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.
 - (C) All contractors and subcontractors shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided therein.
 - i. The obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the development, by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee through a civil action under Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.

- ii. The payroll record and Labor Commissioner enforcement provisions in (C) and (C)(i), above, shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement, as defined in Section 102(r) above, that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure.
 - (D) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Sections 511 or 514 of the Labor Code.
- (b) For developments for which any of the following conditions in the charts below apply, that a skilled and trained workforce, as defined in Section 102(y) above, shall be used to complete the development if the application is approved.

Developments Located in Coastal or Bay Counties

Date	Population of Locality to which Development Submitted pursuant to the last Centennial Census	Number of Housing Units in Development
January 1, 2018, until December 31, 2021	225,000 or more	75 or more
January 1, 2022, until December 31, 2025	225,000 or more	50 or more

Developments Located in Non-Coastal or Non-Bay Counties

Date	Population of Locality to which Development Submitted pursuant to the last Centennial Census	Number of Housing Units in Development
January 1, 2018, until December 31, 2019	Fewer than 550,000	75 or more
January 1, 2020, until December 31, 2021	Fewer than 550,000	More than 50
January 1, 2022, until December 31, 2025	Fewer than 550,000	More than 25

- (1) Coastal and Bay Counties include: Alameda, Contra Costa, Del Norte, Humboldt, Los Angeles, Marin, Mendocino, Monterey, Napa, Orange, San Diego, San Francisco, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonoma and Ventura.

- (2) Non-Coastal and Non-Bay Counties include: Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Fresno, Glenn, Imperial, Inyo, Kern, Kings, Lake, Lassen, Madera, Mariposa, Merced, Modoc, Mono, Nevada, Placer, Plumas, Riverside, Sacramento, San Benito, San Bernardino, San Joaquin, Shasta, Sierra, Siskiyou, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba.
- (3) The skilled and trained workforce requirement in this subparagraph is not applicable to developments with a residential component that is 100 percent subsidized affordable housing.
- (4) If the development proponent has certified that a skilled and trained workforce will be used to complete the development and the application is approved, the following shall apply:
 - (A) The applicant shall require in all contracts for the performance of work that every contractor and subcontractor at every tier will individually use a skilled and trained workforce to complete the development.
 - (B) Every contractor and subcontractor shall use a skilled and trained workforce to complete the development.
 - (C) The applicant shall provide to the locality, on a monthly basis while the development or contract is being performed, a report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.
 - i. A monthly report provided to the locality pursuant to this subclause shall be a public record under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) and shall be open to public inspection. An applicant that fails to provide a monthly report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code shall be subject to a civil penalty of ten thousand dollars (\$10,000) per month for each month for which the report has not been provided.
 - ii. Any contractor or subcontractor that fails to use a skilled and trained workforce shall be subject to a civil penalty of two hundred dollars (\$200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor Commissioner within 18 months of completion of the development using the same procedures for issuance of civil wage and penalty assessments pursuant to Section 1741 of the Labor Code and may be reviewed pursuant to the same procedures in Section 1742 of the Labor Code. Penalties shall be paid to the State Public Works Enforcement Fund.
 - iii. The requirements in (C), (C)(i), and (C)(ii), above, do not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires compliance with the skilled and trained workforce requirement and provides for enforcement of that obligation through an arbitration procedure.

Department of Housing and Community Development

- (c) Notwithstanding subsections (a) and (b), a development is exempt from any requirement to pay prevailing wages or use a skilled and trained workforce if it meets both of the following:
 - (1) The project includes 10 or fewer housing units.
 - (2) The project is not a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.
- (d) Offsite fabrication is not subject to this Section if it takes place at a permanent, offsite manufacturing facility and the location and existence of that facility is determined wholly without regard to the particular development. However, offsite fabrication performed at a temporary facility that is dedicated to the development is subject to Section 403.

NOTE: Authority cited: Government Code section 65913.4(l). Reference cited: Government Code section 65913.4(a), Subdivision (d) of Section 2601 of the Public Contract Code, *Sheet Metal Workers' International Association, Local 104, v. John C. Duncan* (2014) 229 Cal.App.4th 192 [176 Cal.Rptr.3d 634].

Section 404. Additional Provisions

- (a) A local government subject to the Streamlined Ministerial Approval Process shall allow for a development proponent's use of this process. However, the ability for a development proponent to apply for the Streamlined Ministerial Approval Process shall not affect a development proponent's ability to use any alternative streamlined by right permit processing adopted by a local government, including, but not limited to, the use by right provisions of Housing Element Law Government Code section 65583.2(i), local overlays, or ministerial provisions associated with specific housing types.
- (b) A development qualifying for the Streamlined Ministerial Approval Project does not prevent a development from also qualifying as a housing development project entitled to the protections of the Housing Accountability Act (Government Code section 65589.5).

NOTE: Authority cited: Government Code section 65913.4(l). Reference cited: Government Code section 65913.4(i).

ARTICLE V. REPORTING

Section 500. Reporting Requirements

As part of the APR due April 1 of each year, local governments shall include the following information. This information shall be reported on the forms provided by the Department. For forms and more specific information on how to report the following, please refer to the Department's Annual Progress Report Guidelines at <http://www.hcd.ca.gov/community-development/housing-element/index.shtml>

- (a) Number of applications submitted under the Streamlined Ministerial Approval Process.
- (b) Location and number of developments approved using the Streamlined Ministerial Approval Process.

Department of Housing and Community Development

- (c) Total number of building permits issued using the Streamlined Ministerial Approval Process.
- (d) Total number of units constructed using the Streamlined Ministerial Approval Process by tenure (renter and owner) and income category.

NOTE: Authority cited: Government Code section 65400(a)(2)(B). Reference cited: Government Code section 65400(a)(2)(E).

Martha Alvarez, MMC

From: HUNTLEY, BRIAN N 1st Lt USSF SSC SSC/CGCC <brian.huntley.2@spaceforce.mil>
Sent: Monday, August 15, 2022 3:27 PM
To: City Clerk
Subject: [EXTERNAL] Project Verandas

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Good Afternoon,

I am a first lieutenant in the fledgling United States Space Force and would like to weigh in on the building of Project Verandas in Manhattan Beach. Los Angeles Air Force Base was just named as one of the three Major Commands for the United States Space Force, meaning that many young officers will be assigned here in the upcoming decades. These are college educated, STEM oriented, clean-record young professionals with steady incomes that will be constantly moving to the area and looking for housing. Manhattan Beach is one of the 4 cities bordering El Segundo and thus a natural place for those officers to look when moving to the area. As individuals that have a propensity to serve, a motivation from their occupation to volunteer in the community, and a healthy lifestyle, I believe that it would be to the benefit of the community at large to have more realistically priced housing for these military members. Project Verandas is a great opportunity to accomplish these goals and advance the community of Manhattan Beach through a mutually beneficial venture.

My views are my own and do not represent those of the Space Force at large, but please feel free to reach out to me with any questions you may have for me on the matter.

Very Respectfully,
BRIAN N. HUNTLEY, 1st Lt
Galaxy VII
Space Systems Command
Los Angeles Air Force Base
Cell: (410) 353-4849
SIPR: brian.n.huntley.mil@mail.smil.mil
JWICS: brian.huntley@af.ic.gov

Martha Alvarez, MMC

From: Dr. Dale Murnane <hshgk1@gmail.com>
Sent: Monday, August 15, 2022 2:55 PM
To: List - City Council
Subject: [EXTERNAL] One Page Ad placed by our FORMER MAYOR on Friday 8-12-22...

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

...was filled with false and misleading statements in order to solicit support for his lack of support for Project Verandas moving forward to approval.

Dear Mayor,

Please do not allow such a low blow to affect the approval of Project Verandas. His multiple misleading and fraudulent statements should disqualify any support from non-informed Manhattan Beach Residents.

I would have thought much more of him if he simply stated that..."although (he) is responsible for authoring the legislature that would allow such a Project as Verandas, he has changed his mind and wants his (fanbase) to oppose it as well. THAT WOULD HAVE BEEN FAIR!!!!

Let's remember that, God willing PV is approved, it will be the "first" under legislation authored by him.

His "stunt" has not been lost on me;
Ashamed of him.

See you tomorrow and thank you, in advance, for all of your efforts to do the right thing.

I Love Manhattan Beach,
Dr. Dale Murnane
HSHGK1@gmail.com
(804) 969-5683

Martha Alvarez, MMC

From: Chris Bredesen <christopher.bredesen@gmail.com>
Sent: Monday, August 15, 2022 2:38 PM
To: List - City Council
Cc: Scott Bredesen; Missy Bredesen; Erin Budroe
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

A 4-story 79 unit apartment complex at the corner of Rosecrans and Highland Ave is an outrageous, out-of-character proposal, and a dangerous answer to the State's "Density Bonus" law needs. A HighRose overbuild will set a precedent and threaten the future of our city and residents.

HighRose will create gridlock at a major intersection, and the lack of appropriate parking for its residents and visitors will further compound the problem. And with Chevron and NRG on its property lines, a full CEQA analysis should be mandatory. So many environmental and safety concerns demand attention.

Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,
Chris Bredesen
Missy Bredesen
Scott Bredesen
Erin Budroe

Local Residents on 34th and Highland.

--

Christopher Bredesen
Cell: (310) 292 4395



SERVICES MANAGEMENT LLC
PROPERTY MANAGEMENT • REAL ESTATE •
RESTAURANTS

Confidentiality Statement: This message, together with any attachments, is intended only for the use of the individual or entity to which it is addressed. It may contain information that is confidential and prohibited from disclosure. If you are not the intended recipient, you are hereby notified that any dissemination or copying of this message or any attachment is strictly prohibited. If you have received this item in error, please notify the original sender and destroy this item, along with any attachments.

Martha Alvarez, MMC

From: Dr. Dale Murnane <hshgk1@gmail.com>
Sent: Monday, August 15, 2022 2:35 PM
To: List - City Council
Subject: [EXTERNAL] Approval of Project Verandas: Meeting scheduled for August 12...ITEM 15
Attachments: image002.png; image001.png

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Dear City Councilmembers:

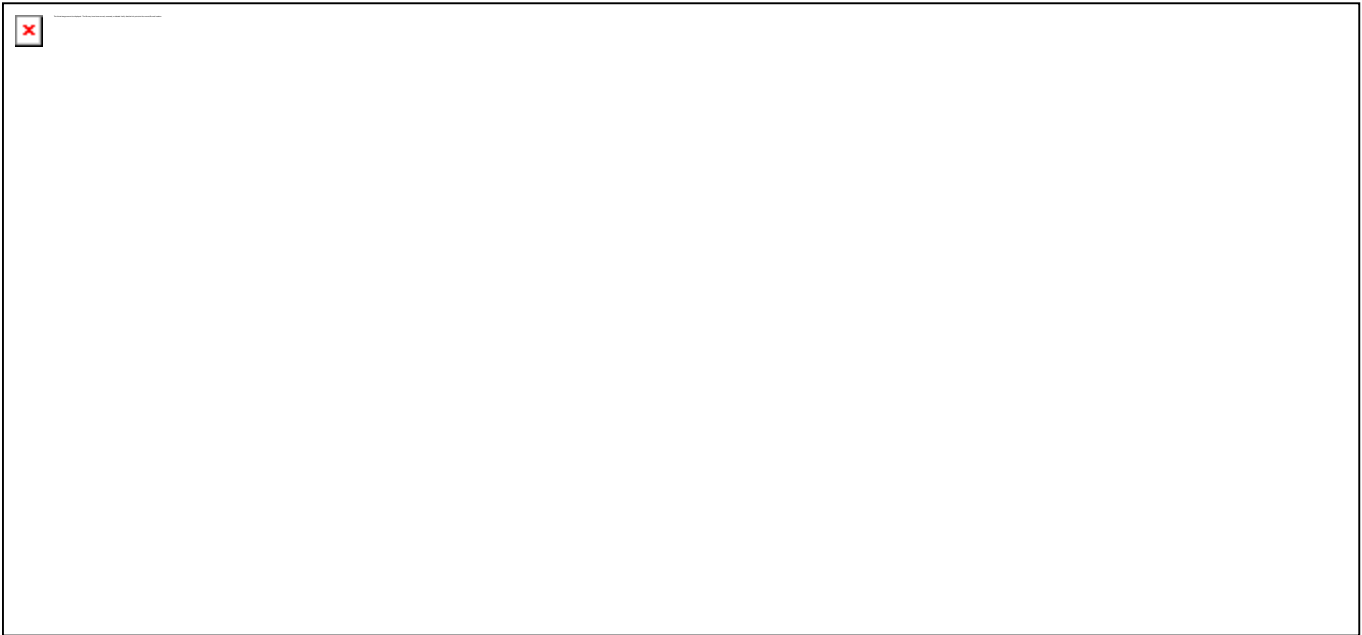
I remain in FULL SUPPORT of PROJECT VERANDAS moving forward for 'the good of the whole' in the City of Manhattan Beach.

I moved into Manhattan Beach as a 22 year old Health Care Professional in 1976 and I chose to leave in 1992 when the 3 story 'Towers', commonly referred to as McMansions, reduced the ambiance of our sweet neighborhoods into electric garage doors and concrete, **wiping out the "small beach town character"** that is referenced in your Mission Statement; our views became obsolete without a care; our neighbors were sequestered in their 3 story 'towers' and our friendships became annihilated, one by one, due to an abrupt decline in the 'neighborhood' experience.

I didn't at all enjoy climbing up to their windy, sunny, 3rd floor kitchen/living room areas and they became too elite to be seen visiting an older (adorable) Manhattan Beach 'Beach House'.

Parking became a 'crisis' in Manhattan Beach in the early 90's. This beautiful project will build a 'rhythm' of traffic that WILL be able to flow and is anyone missing the 200+/- off street parking spots that will be developed for this intersection and its residents??

In the 5th draft of the Housing Element, we had a City goal of a mere 38 units, 5 very low income. We did pretty well in the Above Moderate category, but otherwise failed miserably.



The opposition to the Veranda's project continues to cite its size and height as being the issue, yet we can not dismiss the dozens and dozens of townhomes, which due to the four corner's average requirement, end up being effectively 4 stories. Not to mention the conversion of a 850sf beach cottages to a 5.5K sf 6 bed/5 bath 'mcmansions' that are grossly under parked, provide additional traffic, burden our public services, and inevitably block the views of the its neighbors. Furthermore, according to the U.S. Energy Information Administration, an apartment uses nearly ½ as much energy as a single family home.

In comparison to home living, apartment living is far more efficient in energy usage. [According to the U.S. Energy Information Administration](#), a single household living in an apartment uses nearly half as much energy as they would in a house.

Why do you think the MBUSD student population is down nearly 10% and continuing to trend in that direction? Most assuredly, affordability is an extreme issue, if not the first and main issue for young families who have grown up in MB and attended our school system.



Do the Right Thing! Support this project. Clearly developers have a hard time finding sites that pencil, despite the Density Bonus Laws. My understanding is that SB1818 which is the legislation that allows this project to move forward was adopted in 1978, that's over 42 years ago, and this is the first of its kind proposed in Manhattan Beach; if you're concerned that this will set a precedent, please clarify, because I strongly disagree.

We don't need just affordable housing, we need workforce housing as well, which is what this project provides. 73 units of market rate housing will be available to our first and second responders, City staff, and young families saving for down payments.

Pilots and flight attendants make fantastic tenants; they are gone for 1/2 of every month and they need (and deserve) turn key pied-a-terres, as do all other working professionals that have **chosen a path of service rather than materialistic acquisition**. I have and they do serve the MB elite!!

The property owners are crying about traffic and parking, yet they are not providing any research or data about the statements to support their claims, as far as I have seen and as Project Verandas has toiled to provide.

I'd like to suggest that they have an emotional reaction to change and are therefore in protest.

I will end by quoting Sir George King, D.D. ..."The only thing you can count on in life is change."

Project Veranda is absolutely beautiful in its design and practical layout and supports the times that are a changin'.

Make me proud of Manhattan Beach (again)

Please approve Project Verandas for the good of the whole.

I will be present at the August 16th Meeting if you have any further questions for me.

Prior to that, my phone is (805) 969-5683 and my email is HSHGK1@gmail.com

Respectfully,

Dr. Dale Murnane

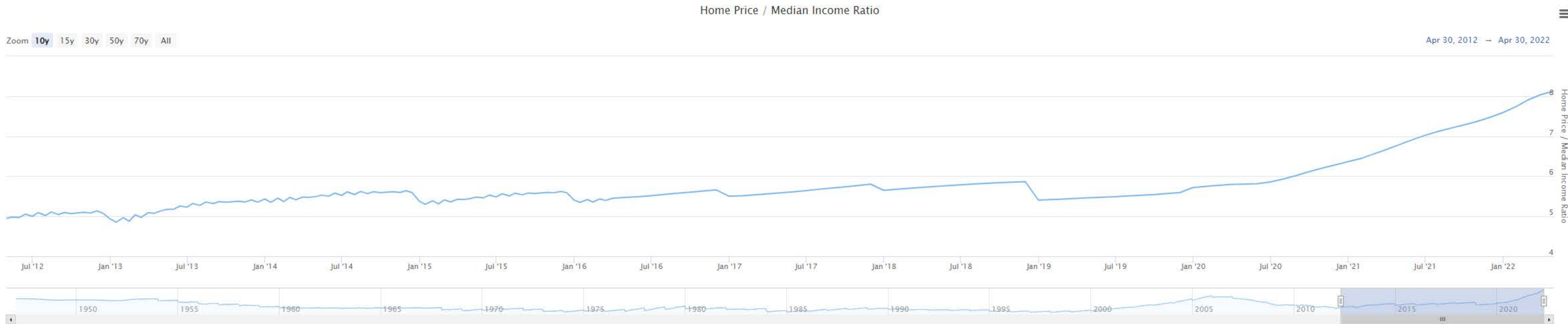
Table 2. Progress in Achieving Objectives for 5th Cycle RHNA (2014-2021)

Program Category	5th Cycle RHNA	Progress 2013-2020
New Construction*		
Extremely Low	5	-
Very Low	5	-
Low	6	-
Moderate	7	-
Above Moderate	15	419
Total	38	419

*Quantified objective and progress for new construction reflect the 2013-2021 period, consistent with the previous RHNA cycle, through December 2020

Home Price to Income Ratio (US & UK)

Home Price to Median Household Income Ratio (US)



Martha Alvarez, MMC

From: Michelle Gillette <getthriving@gmail.com>
Sent: Monday, August 15, 2022 2:05 PM
To: City Clerk
Cc: FRANK Buckley
Subject: [EXTERNAL] In SUPPORT of Project Verandas

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

To whom it may concern:

I'm writing in support of Project Verandas.

In my opinion, Project Verandas will accomplish some important goals for our community:

1. It will increase available public parking in the area - which we desperately need
2. It will create more affordable housing which we also desperately need (for a myriad of important reasons!)
3. It will generate less traffic than other potential uses (like retail ... which we do NOT need more of at this point)
4. It will present a more aesthetically pleasing view than the refinery currently offers
5. I fear that something else that would likely be developed there would NOT be as well thought out or helpful to the South Bay. Careful considerations were taken based on years of studying the situation. Their proposal was thoughtful and thorough. We have no guarantee of that type of assessment/application in any future proposals.

...just to name my top 5 reasons. There are plenty more.

PLEASE consider these salient points when assessing the situation, and support Project Verandas.

Thank you,
Michelle Gillette

South Bay Resident

Martha Alvarez, MMC

From: edward.polhill@gmail.com
Sent: Sunday, August 14, 2022 6:40 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

A 4-story 79 unit apartment complex at the corner of Rosecrans and Highland Ave is an outrageous, out-of-character proposal, and a dangerous answer to the State's "Density Bonus" law needs. A HighRose overbuild will set a precedent and threaten the future of our city and residents.

HighRose will create gridlock at a major intersection, and the lack of appropriate parking for its residents and visitors will further compound the problem. And with Chevron and NRG on its property lines, a full CEQA analysis should be mandatory. So many environmental and safety concerns demand attention.

Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,

Edward Polhill
A concerned resident

Martha Alvarez, MMC

From: Laura Muenchow <pmuenchow@msn.com>
Sent: Sunday, August 14, 2022 1:48 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

A 4-story 79 unit apartment complex at the corner of Rosecrans and Highland Ave is an outrageous, out-of-character proposal, and a dangerous answer to the State's "Density Bonus" law needs. A HighRose overbuild will set a precedent and threaten the future of our city and residents.

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Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Please fight this! Thank you.

Laura Muenchow
Paul Muenchow

1304 No. Ardmore Ave.
Manhattan Beach

Sent from my iPhone

Martha Alvarez, MMC

From: HL Badminton <hlcorp7@hotmail.com>
Sent: Sunday, August 14, 2022 6:47 AM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

A 4-story 79 unit apartment complex at the corner of Rosecrans and Highland Ave is an outrageous, out-of-character proposal, and a dangerous answer to the State's "Density Bonus" law needs. A High-rise overbuild will set a precedent and threaten the future of our city and residents.

HighRose will create gridlock at a major intersection, and the lack of appropriate parking for this will have a very negative effect on the area.
Please stand against this project.

Thank you,

Dean Schoppe
Resident

Sent from my T-Mobile 5G Device
Get [Outlook for Android](#)

Martha Alvarez, MMC

From: D. Sofia <1donna.a@gmail.com>
Sent: Saturday, August 13, 2022 5:20 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

No on the build!!!!

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

A 4-story 79 unit apartment complex at the corner of Rosecrans and Highland Ave is an outrageous, out-of-character proposal, and a dangerous answer to the State's "Density Bonus" law needs. A HighRose overbuild will set a precedent and threaten the future of our city and residents.

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Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,

A concerned resident

Sent from my iPhone

Martha Alvarez, MMC

From: Howard Gershuny <howard@COCOPLUMBGC.COM>
Sent: Saturday, August 13, 2022 5:10 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

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Sincerely,

Howard Gershuny

3412 Manhattan Ave.

Manhattan Beach, CA

Owner and resident for 50 years!

A concerned resident

Martha Alvarez, MMC

From: PAUL THOMPSON <paul.thompson45@verizon.net>
Sent: Saturday, August 13, 2022 3:45 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

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HighRose will create gridlock at a major intersection, and the lack of appropriate parking for its residents and visitors will further compound the problem. And with Chevron and NRG on its property lines, a full CEQA analysis should be mandatory. So many environmental and safety concerns demand attention.

Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,

Paul & Venona Thompson

A concerned resident

Sent from my iPhone

Martha Alvarez, MMC

From: John Burke <ftl023@yahoo.com>
Sent: Saturday, August 13, 2022 3:42 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

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Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,

John Burke
A concerned resident

From 33.88.313N / 118.38.579W

Martha Alvarez, MMC

From: Helena Burke <fufla@yahoo.com>
Sent: Saturday, August 13, 2022 3:36 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

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Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,

Helena Burke
A concerned resident

Sent from my iPad

Martha Alvarez, MMC

From: shannan whalen <sgwhalen@icloud.com>
Sent: Saturday, August 13, 2022 3:35 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

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Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,
Shannan whalen

A concerned resident

Sent from my iPhone
310.344.0944

Martha Alvarez, MMC

From: Erika Schlarmann <erikaschlarmann@gmail.com>
Sent: Saturday, August 13, 2022 1:59 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

A 4-story 79 unit apartment complex at the corner of Rosecrans and Highland Ave is an outrageous, out-of-character proposal, and a dangerous answer to the State's "Density Bonus" law needs. A HighRose overbuild will set a precedent and threaten the future of our city and residents.

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Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,
Erika Schlarmann Pirnazar

A concerned resident

Martha Alvarez, MMC

From: Samantha Kohanzadeh <samantha.kohanzadeh@gmail.com>
Sent: Saturday, August 13, 2022 6:24 AM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

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Sincerely,

A concerned resident

Samantha Scigliuto Kohanzadeh

Samantha Scigliuto Kohanzadeh
PA-C, MSPAS

Martha Alvarez, MMC

From: David Nitka <dnitka@gmail.com>
Sent: Friday, August 12, 2022 10:29 PM
To: List - City Council
Subject: [EXTERNAL] highland/rosecrans project

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

I support this project.
we need more highrise and multifamily dwellings. we need more housing
dont listen to the nimbys. we need housing.

David B. Nitka

Many lawyers have very prolix disclaimers after their signatures. No court has ever considered an E-Mail disclaimer valid or binding.

Martha Alvarez, MMC

From: Eric Otoide <eotoide@hotmail.com>
Sent: Friday, August 12, 2022 7:35 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

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Sincerely,

A concerned resident

Martha Alvarez, MMC

From: Kathlene Miglin <kpmiglin@gmail.com>
Sent: Friday, August 12, 2022 4:50 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

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Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely, kathy and Wally Miglin

A concerned resident

Sent from my iPhone

Martha Alvarez, MMC

From: Alice Fay <afay539@gmail.com>
Sent: Friday, August 12, 2022 4:09 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

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Sincerely,

A concerned resident

Sent from my iPhone

Martha Alvarez, MMC

From: Shannon Knight <shannonmaeknight@icloud.com>
Sent: Friday, August 12, 2022 3:08 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

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Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,

A concerned resident

Martha Alvarez, MMC

From: Adah Duncan <duncanmd@verizon.net>
Sent: Friday, August 12, 2022 1:58 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

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Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,

A concerned resident

Sent from my iPhone

Martha Alvarez, MMC

From: Doug Carstens <dpc@cbcearthlaw.com>
Sent: Friday, August 12, 2022 11:59 AM
To: List - City Council; Bruce Moe; Liza Tamura, MMC; Martha Alvarez, MMC; Carrie Tai, AICP; Talyn Mirzakhonian; Ted Fatuross
Cc: Doug Carstens
Subject: [EXTERNAL] Highrose Appeal Report, Friday August 12
Attachments: 220812-AppealReport-MB.North-Highrose-Final.v2.pdf

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable Mayor Napolitano and Honorable Councilmembers,
Please see the attached appeal of the Highrose project by Mr. Don. McPherson of MB North.
Thank you for your consideration of this appeal.
Best Regards,
Douglas P. Carstens
Chatten-Brown, Carstens & Minter LLP
2200 Pacific Coast Highway, Suite 318
Hermosa Beach, CA 90254
Phone: (310) 798-2400 x 1
Fax: (310) 798-2402
www.cbcearthlaw.com

12 August 2022

Mayor Steve Napolitano
City of Manhattan Beach

Via Email: citycouncil@citymb.info

Subject: Highrose Appeal to the City Council, 16 August 2022

Mayor Napolitano and Councilmembers,

During August 4-13, I will join the family annual backpack in the Sierras.

I have requested attorney Douglas Carstens to file on Friday August 12, the attached Highrose appeal report prepared by MB North, a California nonprofit corporation. Obviously, the report does not reflect information in the city staff report for the August 16 appeal hearing.

In making the administrative filing, Mr. Carstens does not express any opinions regarding the merits of the subject appeal report.

Thanks,

Donald McPherson, President

MB North, a California Nonprofit Corporation, Certificate No. 032776427

1014 1st St, Manhattan Beach CA 90266

mb-north@outlook.com

Distribution: B. Moe, L. Tamura, M. Alvarez, C. Tai, T. Mirzakhania, T. Faturos

HIGHROSE APPEAL TO MANHATTAN BEACH CITY COUNCIL

16 August 2022

Prepared by:

MB North, a California nonprofit corporation, Certificate No. 03277642

1014 1st St, Manhattan Beach CA 90266

mb-north@outlook.com

MB NORTH HIGHROSE APPEAL TO THE CITY COUNCIL

16 August 2022

1.0 SUMMARY: HIGHROSE REQUIRES ENVIRONMENTAL REVIEW.

On 29 March 2022, Community Development ministerially approved the Highrose project with a precise development plan.¹ Ministerial projects do not require environmental review for compliance with the California Environmental Quality Act [“CEQA”]² On June 8, the planning commission improperly ratified the precise development plan, as substantiated below.

Normally, a project the size of Highrose would require environmental review. For certain affordable-housing projects, however, the 2017 Senate Bill SB-35 permits a streamlined ministerial process that sidesteps CEQA. [ibid.]

SB-35 also levies numerous stringent conditions on the ministerial process, in exchange for the fast-track exemption from CEQA and public hearings. Most significantly, SB-35 prohibits ministerial approval of an affordable-housing project in the coastal zone where Highrose located, with this condition:

*“The development is not located on a site that is any of the following: **(A) A coastal zone**, as defined in Division 20 (commencing with Section 30000) of the Public Resources Code.”* [GOV § 65913.4(a)(6)] Emphasis added]

On June 8, 2022, the appeal to the planning commission raised the project to a discretionary process that requires environmental review, per the Manhattan Beach Municipal Code [“MBMC”]:

“A project that is not ministerially or categorically exempt from CEQA and is the subject of an application for a discretionary approval, including but not limited to a General Plan amendment, zoning map amendment, use permit, variance, Specific Plan, PD Plan, or NC Plan shall be subject to environmental review and shall be the subject of a Negative Declaration or an Environmental Impact Report (EIR).” [MBMC § 10.80.020]

More significantly per CEQA Guidelines:

*“Where a project involves an approval that contains elements of both a ministerial action and a discretionary action, the project will be deemed to be discretionary and **will be subject to the requirements of CEQA.**”* [Guidelines § 15268(d). Emphasis added]

Furthermore, the Governor’s Office of Planning and Research [“OPR”] has interpreted streamlined regulations as *“for certain classes of projects - such as small housing developments and infill housing - that typically do not have substantial impacts on the environment”*³.

OPR concludes:

*“**CEQA applies when a governmental agency can exercise judgment in deciding whether and how to carry out or approve a project. The ability to exercise judgment makes the project ‘discretionary.’** (CEQA Guidelines, § 15357.)”* [Emphasis added]

In violation of the above state and city legislation, the June 8 staff report [“PC Report”] concluded that an environmental review not required because the project ‘ministerial’,

“The City has reviewed the proposed project for compliance with the California Environmental Quality Act (CEQA) and has determined that pursuant to Section 21080 of

¹ Permit Approving Precise Development Plan and Related Entitlements; City of Manhattan Beach; 29 March 2022

² Public Resources Code [“PRC”] 21080(b)(1) and CEQA Guidelines [“Guidelines”] § 15268(a)

³ CEQA & Housing; Governor’s Office of Planning and Research; 2022 State of California

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*the California Public Resources Code, **CEQA does not apply to ministerial projects approved by public agencies.***"⁴ [Emphasis added]

With the appeals to the planning commission and now to the city council, however, the project no longer 'ministerial', but rather a discretionary process that requires CEQA review.

Furthermore, the Density Bonus Law ["DBL"] specifically states that environmental review required if the concession or incentive would have a specific, adverse impact on the "physical environment." [Government Code ["GOV"] § 65915(d)(1)(B) & § 65589.5(d)(2)]

At their June 8 appeal hearing, the planning commission failed to consider the mandates by state and city law that Highrose requires environmental review. The Appendix 1 hearing transcript discloses that staff, the city attorney representative, and the commissioners assiduously failed to address CEQA and its provisions. Staff did state several times that CEQA does not apply, without addressing the provisions cited above in city and state law.

The appeal herein requests the City Council to require an EIR for the project. This action lies within the city council discretionary authority, per CEQA Guidelines § 15060(c)(1):

*"Once an application is deemed complete, a lead agency must first determine whether an activity is subject to CEQA before conducting an initial study. An activity is not subject to CEQA if: (1) **The activity does not involve the exercise of discretionary powers by a public agency.**"* [Emphasis added. Please note double negative, which mandates environmental review]

The Highview project constitutes the first major development in the city 6th Housing Element Upgrade ["HEU"] program, which must provide 406 affordable units prior to 2029⁵. As result, per CEQA, the city must prepare a Single-Program EIR:

*"Where individual projects are, or a phased project is, to be undertaken and where the total undertaking comprises a project with significant environmental effect, the Lead Agency shall prepare **a single program EIR** for the ultimate project as described in Section 15168."* [CEQA Guidelines § 15165, Emphasis added]

Consequently, the Highrose Single-Program EIR must evaluate cumulative effects⁶ from all projects necessary to fulfill the 406-unit quota for affordable housing by 2029. That quota corresponds to 68 over-height-underparked projects like Highrose, predominately in the coastal zone for the panoramic ocean views.

This involves evaluating cumulative impacts from the following CEQA factors:
1) Aesthetics [50-foot heights vs 30-foot per code]; 2) Geology and Soils [40-ft retaining walls for Highrose]; 3) Greenhouse Gases from traffic jams; 4) Hazardous Materials [El Segundo refinery for Highrose]; 5) Hydrology/Water Quality; 6) Land Use and Planning; 7) Public Services; 8) Recreation [Coastal access]; 9) Traffic & Parking⁷; and, 10) Utilities and Service Systems. [Appendix 2: CEQA Guidelines Appendix G]

⁴ Staff report, PDF p. 14; Planning Commission, 8 June 2022

⁵ Draft HEU, Resolution No. 22-0015, 1 Feb 2022; , 6th Cycle Housing Element [2021-2029.] The draft HEU unapproved by the city council and delinquent in filing with the state. The EIR for the draft HEU invalid.

⁶ ""Effects" and "impacts" as used in these Guidelines are synonymous," [CEQA Guidelines § 15358]

⁷ Parking a CEQA factor because it does not comply with municipal code. [CEQA Guidelines § 15183]

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Specifically, for traffic and greenhouse gases, the 68 projects with 69 units will increase the number of driving adults by between 18%-36%, assuming one or two drivers per unit, respectively⁸. This will have a significant impact on traffic, parking, greenhouse gases and coastal access not analyzed by the applicant or city.

The Court will also take note that traffic and parking from the 68 developments in the 6th HEU program will profoundly impact beach access and recreation, the Coastal Commission's highest priority:

"The California Coastal Act of 1976 defined the Coastal Commission's mission to protect the coast and to maximize public access to it. (§§ 30001.5, 30330.) We liberally construe the Act to achieve these ends." [Appendix 3: Keen v. MB, p. 1⁹]

For hazardous materials, CEQA Factor VIII(d) questions whether the projected located on a site *"included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5"*. Appendix 4 discloses that the Chevron El Segundo Refinery has a hazardous waste facility permit. Other such records may exist regarding the Highrose site.

In conclusion, each of the municipal code, the Density Bonus Law and CEQA requires the city council to order an environmental review.

2.0 FORTY-FOOT RETAINER WALLS CONCESSION AND FIVE WAIVERS TO ENABLE PROJECT.

The Density Bonus Law permits one or more concessions to the city zoning code, depending upon the number and type of affordable units provided. The project has six very-low-income units, which qualifies it for one concession from the zoning code. [Density Bonus Law § 65915(b)(1)]

For their concession, the applicant has chosen over-height retaining walls in the setbacks. [PC Report, PDF p. 7] The applicant claims that to build the project, they need the following waivers: 1) Floor Area Factor 2.2 vs 1.5 code; 2) 50-foot height vs 30-ft code; 3) Four stories vs. three required by code; 4) Reduced side-yard setbacks; and 5) Over-height retaining walls. [Ibid.]

The five waivers permitted by the Density Bonus Law. [GOV § 65915(e)(1)] The fifth waiver duplicates the concession.

It will take **nearly 70 four-story projects like Highrose** to eliminate the existing 406-unit shortfall from the affordable-housing quota levied on the city by the state.

The Single Program EIR must consider the cumulative impact from all affordable housing projects identified in the draft HEU and provide alternatives that "would avoid or substantially lessen any of the significant effects". [CEQA Guidelines § 15064(h)(1) & § 15126.6(a)]

3.0 ENVIRONMENTAL REVIEW DISCUSSION.

The discussion below addresses: 1) Substantial evidence that the project may have a significant effect on the environment; 2) Alternatives to reduce environmental impacts; and 3) Status of the city unapproved EIR for draft 6th Housing Element Upgrade ["HEU"]

⁸ The 2020 census estimates MB population at 35,610 with 73.3% age 18 or older.

⁹ *Keen v. City of Manhattan Beach*, No. B307538 (Cal. Ct. App. Apr. 6, 2022)

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3.1 Substantial Evidence of Environmental Impact.

As established above, CEQA and the Density Bonus Law require environmental review if substantial evidence of environmental impact exists. Significantly, the municipal code requires CEQA review without establishing substantial evidence beforehand. [MBMC § 10.80.020]

The city has not invoked a categorical exemption, so it unnecessary to establish unusual circumstances as an exception to an exemption. [CEQA Guidelines § 15300.2(c)]

Traffic and Parking Impacts.

The applicant prepared traffic and parking analyses for Highrose. [PC Report Append. H] The city traffic engineer concurs with the conclusion of no impacts. [PC Report Append. I]

The applicant, the traffic engineer and the city have failed, however, to analyze the cumulative traffic and parking impacts from the nearly 70 projects like Highrose necessary to provide the 406-affordable-unit quota, as required by a Single-Program EIR.

This particularly important in the coastal zone where Highrose located, because of traffic and parking impacts on beach access, the Coastal Commission's highest priority.

Height Impacts and Mitigation.

The DBL waiver of four stories versus three improperly results in a 50-foot height compared to the code maximum 30-foot height. The applicant has overly increased each story height from ten feet to 12.5 feet, which exploits ocean views. Reducing story height to 10-feet will lower the building height from 50 to 40 feet, a substantial reduction in bulk, a CEQA factor.

3.2 Alternative 100% Affordable Options.

CEQA requires alternatives in the Single-Program EIR, such as for Highrose:

- 1) A large 100% affordable project on a city-owned 5.4-acre parcel adjoining the MB Mall; and,
- 2) A 100% affordable Highrose project compliant with the municipal code. A 77-unit alternative that removes health and safety impacts in compliance with GOV § 65915(d)(1)(B).

This report focuses on the city-owned 5.4-acre lot, because of its low acquisition cost. Per Exhibit 1, the city owns the two parcels shown in the middle, with the MB Mall on the far left. The city leases the eastern parcel to the Manhattan Country Club. The Marriott Westdrift hotel far right with a golf course and hazard ponds south. Exhibit 2 illustrates that the city 5.4-acre lot essentially unused.

The 5.4-acre lot can accommodate the 406 affordable units mandated by the state. That may, however, result in a development that lacks open space and the low-profile required by the General Plan.

In Exhibit 1, the north-south column of eleven blue and green rectangles west of the Country Club buildings are tennis courts. The city has the right of eminent domain to acquire that area from its tenant, to ensure the affordable housing fits in with the low profile of the adjoining Manhattan Village. The tennis courts not much of a capital improvement so will cost little for the city to acquire the area.

3.3 Status of 6th Housing Element Upgrade EIR.

In February 2022, the city council denied approval of the 6th Housing Element Upgrade for the period 2021-2029 and its EIR.

The unapproved EIR had two fundamental errors:

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- 1) It did not account for cumulative impacts from the many projects that will constitute the 2021-2029 program for implementing the 406 affordable units mandated by the state; and,
- 2) It arbitrarily set a 20-unit per acre maximum density as a “realistic capability.”

The erroneous 20-unit per acre density factor used in the draft 6th HEU EIR penalizes 100% affordable options on large lots. It has no basis in city and state law. The city-owned 5.4-acre lot can accommodate the 406 affordable units required by the state, but only 108 under the bogus 20-unit per acre standard used by the city in the draft 6th-Cycle HEU.

In contrast, CEQA identifies **20 units per acre as the lowest** that qualifies a project to promote higher density infill housing. [CEQA § 21159.24(a)(10). Infill Housing Exemption.]

More importantly, the 20-unit per acre density factor would require purchase of three vastly-more expensive properties to fulfil the 406 unit affordable-unit quota. The city owns only the one 5.4-acre parcel available for affordable housing, a uniquely advantageous situation compared to other coastal cities.

4.0 HIGHROSE APPEAL CONCLUSIONS

- In the coastal zone, the 2017 Senate Bill 35 prohibits ministerially approved projects;
- Environmental review of the Highrose project required by Senate Bill 35, CEQA, the Governor’s Office of Planning and Research, and the city zoning code;
- Highrose deviates from the municipal code, as follows: 1) Four stories vs. three code 2) 50-foot height vs 30-ft code; 3) Floor Area Factor 2.2 vs 1.5 code; 4) Reduced setbacks; and, 5) 51 parking-space reduction from code. Code compliant alternatives exist;
- The required 406 affordable units will require nearly 70 four-story building like Highrose;
- CEQA requires a Single-Program EIR for Highrose that includes cumulative impacts from all individual projects necessary to provide the remaining 406 affordable units required by the state for affordable housing;
- The single-program EIR requires alternatives, with two code-compliant 100% affordable-housing projects considered herein:
 - 1) One large project on one of two sites near Manhattan Mall, as listed in the draft HEU; and,
 - 2) A revised Highrose project with 100% affordable housing and 77 total units;
- The erroneous density of 20 dwelling units per acre used by the city in the draft HEU requires three or four projects in the underused parcels near Manhattan Mall, as listed in HEU Appendix E Table 15. In contrast, parcels with densities of 50 or more dwelling units per acre require only one project to provide most of the units required;
- The city-owned unused 5.4-acre parcel adjoining Manhattan Mall will solve the entire affordable housing problem;
- Substantial evidence of impacts exists, so the city *“may skip further initial review of the project and begin work directly on the EIR process”* [CEQA Guidelines § 15060(d)];
- The city council must require a Single-Program EIR for Highrose that encompasses all affordable housing projects required to comply with state-mandated 406-unit quota; and,
- In deliberately misrepresenting state and city law regarding discretionary projects, the city has once again violated the 6 April 2022 appellate court finding, *“We give simple words their obvious meaning. Contrary interpretations are unreasonable.”* [Appendix 3: Keen v. MB, p. 5]

EXHIBIT 1

5.4 ACRE LOT PROVIDES CITY AFFORDABLE QUOTA OF 406 UNITS

**ACQUISITION OF COUNTRY CLUB LITTLE-USED TENNIS COURTS
HIGHLY DESIRABLE**



EXHIBIT 2.
5.4 ACRE LOT CAN PROVIDE
CITY AFFORDABLE QUOTA OF 406 UNITS



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Speaker 1: Chair Morton, we are live.

Chair Morton: Great. I would like to call the June 8th, 2022 Planning Commission meeting to order. Can I have a volunteer to, uh, lead us in the flag salute?

Ted F.: [inaudible 00:00:22].

Chair Morton: How about you, Commissioner Dillavou?

Commissioner Di...: [00:00:30] Ready? Begin.

Commission: I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

Chair Morton: Great. Thank you very much. Can we call the roll please?

Speaker 1: Yes. Commissioner Sistos?

Commissioner Si...: I'm here.

Speaker 1: Commissioner Dillavou?

Commissioner Di...: Present.

Speaker 1: Commissioner Tokashiki?

Commissioner To...: Here.

Speaker 1: Vice Chair [00:01:00] Ungoco?

Commissioner Un...: Here.

Speaker 1: Chair Morton.

Chair Morton: I am here. Uh, we would like to initiate our annual reorganization of the commission, uh, where I will be stepping down as Chair. Uh, I would like to, uh, nominate, uh, Joseph Ungoco to serve as Vice Chair and Robert Tokashiki, uh ... Excuse me, Joseph Ungoco to serve as Chair following me, and Robert Tokashiki to serve as [00:01:30] Vice Chair in order with, uh ... In line with seniority customs.

Speaker 1: Second. [inaudible 00:01:37]-

Chair Morton: All in favor?

Speaker 1: Mm-hmm. Uh, I'll- I'll call a vote. Uh, Commissioner Sistos.

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Commissioner Si...: Aye.

Speaker 1: Commissioner Dillavou.

Commissioner Di...: Yes.

Speaker 1: Commissioner Tokashiki.

Commissioner To...: Yes.

Speaker 1: Vice Chair Ungoco.

Commissioner Un...: Aye.

Speaker 1: Chair Morton.

Chair Morton: Yes.

Speaker 1: Motion-

Chair Morton: Chair Ungoco, the- the gavel is yours.

Commission: (laughs).

Commissioner Un...: [00:02:00] Well, thank you. I brought my own actually.

Commission: (laughs).

Commissioner Un...: Before we begin, I'd like to take a moment to thank Chair Morton for his extended service as Chair, uh, to this commission, giving us time to acclimate, to, uh, moving from Zoom to hybrid. Um, I want to thank him for providing such a fine example of leadership during this time that was so challenging to many of us. Um, [00:02:30] and I think it's really, uh, it's really wonderful to, uh, be taking over the gavel, um, at this point. Um, are there any other comments from the commissioners that they'd like to share with outgoing Chair Morton? I shouldn't say outgoing. He's-

Commission: (laughs).

Commissioner Un...: ... he's still a commission leader. [inaudible 00:02:51]. No, anyone? No.

Commissioner Di...: I'd like to thank [inaudible 00:02:55]-

Chair Morton: I- I- I really appreciate the warm comments. Thank you very much. It- it means a lot to me.

Commission: (laughs).

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Chair Morton: So, thank you very much.

Director Ty: [inaudible 00:03:05].

Commissioner Di...: Oh.

Director Ty: [inaudible 00:03:06].

Commissioner Di...: Yeah, sure. (laughs).

Speaker 1: We ready to proceed?

Director Ty: Yeah, I'm just going to say a few words.

Speaker 1: [00:03:00] Okay.

Commissioner Un...: We'll proceed in a moment. Uh, Director Ty will be, uh, taking the, uh, microphone.

Director Ty: Sorry about that. We were taking care of some logistic. Thank you, uh, uh, Chair Ungoco. Welcome. And Vice Chair Tokashiki and members of the Planning Commission. On behalf of the staff, as well as the Community Development [00:03:30] Department, I would like to thank, um, outgoing chair, but still remaining Commissioner, Jerry Morton for your leadership, um, as chairperson of the Planning Commission, not just for the previous year, but for the previous two years. Um, because we did have a turnover on the commission, uh, Jerry last year graciously offered to serve a second year as chair and I, and we know that the dedication, the time commitment and the leadership, um, that you put in was, uh, was, uh, the pla- Planning Commission [00:04:00] and the department can attribute, uh, the success of the last, uh, two years to you. So, thank you so much, um, on behalf of the staff. Thank you, Chair.

Chair Morton: Thank you very much. I- I appreciate that greatly. Thank you.

Speaker 1: All right. Our first order of business is the approval of the agenda for today's meeting. Um, do the commissioners have any questions or concerns about the agenda as printed? Um, if not, I'll entertain a motion to approve.

Commissioner Di...: Motion to approve.

Commissioner Si...: I'll second.

Speaker 1: All right. We have a motion from [00:04:30] Commissioner Dillavou, and a second by Commissioner Sistos. I'll call roll. Commissioner Morton.

Chair Morton: Yes.

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Speaker 1: Commissioner Sistos.

Commissioner Si...: Aye.

Speaker 1: Commissioner Dillavou.

Commissioner Di...: Yes.

Speaker 1: Vice Chair Tokashiki.

Commissioner To...: Aye.

Speaker 1: Chair Ungoco.

Commissioner Un...: Aye.

Speaker 1: Motion passes five zero. All right. This is the time for general audience participation. Members of the public are welcome to speak on any item within the subject matter jurisdiction of the Planning Commission for items that are not on the agenda for today. Um, each [00:05:00] speaker is limited to three minutes. Uh, there will be a timer displayed on the screen. Is there anyone that would like to speak on a topic not on today's agenda?

Commissioner Un...: I-

Ted F.: Could we close the curtain so we- we can actually see?

Speaker 1: [inaudible 00:05:20]. We'll tend to that. Thank you. All right. The next order of business is the approval of the minutes for the May 11th, 2022 [00:05:30] meeting. Commissioners, do you have any comments or questions on the minutes?

Commissioner Di...: [inaudible 00:05:37]. Motion to approve.

Speaker 1: We have a motion to approve. Is there a second?

Commissioner To...: Second.

Speaker 1: We have a motion by Commissioner Dillavou and a- a second by Vice Chair, Tokashiki. I'll call roll. Ch-, uh, Commissioner Morton.

Chair Morton: Yes.

Speaker 1: Commissioner Sistos.

Commissioner Si...: Aye.

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Speaker 1: Commissioner Dillavou.

Commissioner Di...: Yes.

Speaker 1: Vice Chair Tokashiki.

Commissioner To...: Aye.

Speaker 1: Chair Ungoco.

Commissioner Un...: Aye.

Speaker 1: Motion passes five [00:06:00] zero. And we're sailing right through to item H, general business. Um, the next, the next item to consider is, uh, the consideration of four appeals of the community development director's decision to approve a precise development plan, coastal development permit, and tentative parcel map for the demolition of the banquet facility in multi-use commercial building and subsequent construction of a 96,217 square foot multi-family residential building with [00:06:30] 79 rental dwelling units with the developer utilizing a density bonus pursuant to state law, inclusive of waivers and concessions at 401 Rosecrans Avenue and three, 3770 Highland Avenue. Uh, is there a staff report?

Director Ty: Yes. Thank you. Uh, Chair Ungoco, congratulations and Vice Chair Tokashiki, congratulations. And a quick thank you to Chair Morton for his leadership. I would like to invite Ted [Fitoros 00:06:56], Associate Planner to make a presentation for this item.

Ted F.: [inaudible 00:07:01].

Director Ty: [00:07:00] Ted. One second, please. Uh, we'd like to also invite our Assistant City Attorney, Brendan Kerns for a quick, uh, note.

Brendan Kerns: Thank you. And congrats, new chair. Thank you, outgoing chair. I'm going to say something very briefly that I know is totally unnecessary for this group and this proceeding, but it's sometimes worth just reminding everybody about. Um, the city and its meetings are governed by rules of civility and decorum, uh, that have been adopted by council. [00:07:30] And it's what you'd expect, right? Basically that we don't want to en- have any conduct here that will disrupt the proceedings, a robust debate about the project, any proposal is totally valid, but we want to make sure everyone's voices can be heard. So, we just ask everyone, you know, direct your comments to the Chair, um, avoid having banners or other things that would disrupt other people's ability to view the proceedings, things of that sort. Again, I say this just as a quick reminder, and I'm confident it won't be [00:08:00] an issue.

Commission: [inaudible 00:08:02].

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Chair Morton: Thank you City Attorney Kerns.

Brendan Kerns: And- and that's actually a good test case.

Commission: (laughs).

Brendan Kerns: Um, so we are going to have comments, um, by whoever is speaking. My name is Brendan Kerns. I'm the Assistant City Attorney for Manhattan Beach. But again, um, everyone will get a chance to speak, but we'd encourage you and we ask you to wait until it's your time before the podium. And that way we just make sure everyone's heard and our decision makers have a chance to reflect [00:08:30] in an orderly manner.

Ted F.: Uh, screen share?

Speaker 1: Yeah, go ahead.

Ted F.: Uh, good aftern- good afternoon, uh, Chair Ungoco and members of the Planning Commission. My name is Ted Fitoros, Associate Planner here with the city's Planning Division. [00:09:00] Uh, and I'm here to present the consideration of four appeals for a precise development plan, uh, and associate entitlements for a project located at 401 Rosecrans Avenue and 3770 Highland Avenue. Um, just as a, um, heads up, this is a longer presentation. Um, there's a lot of ground to cover. As always, you will have the opportunity to ask questions at the end of my presentation. So, I appreciate your patience.

Starting [00:09:30] with some background about the project. Uh, the applicant applied for the precise development plan and associate entitlements on March 4th, 2021. And the project was deemed complete on January 6th, 2022. Uh, the Community Development Director issued an approval decision on March 29th, 2022, over a year after the project was submitted. Uh, in April, 2022, four independent appeals were submitted [00:10:00] to the city. And here we are on June 8th, 2022 for the Planning Commission to consider those four appeals.

Some background on the site. So, the site currently is two lots, 401 Rosecrans Avenue right here, this triangle, and 3770 Highland Avenue. The site is located in the C and E, that's north end commercial zone area district [00:10:30] three, and is in the non-applicable portion of the coastal zone. The total site is over 43,000 square feet. Um, and currently located on 401 Rosecrans Avenue is the Veranda's banquet facility. And at 3770 Highland Avenue is the Tradewood Village commercial building.

I'd like to point out a few things about the site. Um, the city parking structure to the West is- is not part of this development, [00:11:00] as is that Northern parking lot that you see outside of the blue triangle. That parking lot is, um, actually in the city of El Segundo and not part of this project. Um, the site is North of Rosecrans Avenue, East of Highland. Um, and again, is surrounded by

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the public parking to the West, high density residential development, uh, South and [00:11:30] Northwest, and the city of El Segundo to the North and the Northeast.

Um, before getting into some project specifics, I'd like to cover the governing regulations that staff has reviewed the project under. So, um, we considered the general plan and the fifth cycle housing element, uh, state density bonus law, the Manhattan Beach Local Coastal program, and Subdivision [00:12:00] Map Act and chapter 11 of the Manhattan Beach Municipal Code.

So, going through these regulations one by one, uh, we considered the project in light of the general plan and the housing element. Um, the general plan s-, um, calls out this site as a North-end commercial site, which does allow for high density residential uses, such as the proposed project. Um, and also the fifth cycle housing element, which is [00:12:30] part of the general plan has goals, policies, and programs that are meant to facilitate multi-family development in a variety of housing types.

Um, we also reviewed the project in light of state density bonus law. Um, this is a law that is meant to encourage the creation of affordable housing in, uh, in the state. So, the basic idea of it is [00:13:00] if a developer sets aside a certain amount of the units for affordable housing, then the developer's allowed a bonus number of units that are allowed to build on the site that would be otherwise not allowed under traditional zoning regulations. And when it comes to state density bonus law, it is a state law, um, which supersedes local law. The city does have a, um, pa- a part of the local po- coastal program that does discuss [00:13:30] density bonus projects, but the state law supersedes our local ordinances.

So, the way density bonus law works or a project works is that under the traditional zoning code and development standards, you might be able, for instance, in this example to build 32 units, um, and that would meet the development standards. But on a density bonus project, because you're allowed to build extra units or more units [00:14:00] that were, would otherwise be allowed to be built on the site, you can't really fit it in the build-able envelope that's traditionally allowed under the development standards, um, that are part of the normal regulations. So, the density bonus law allows for waivers and concessions, um, to exceed certain development standards, um, in order to fit the number of units in the project and make the project viable.

Um, and that might [00:14:30] raise the question of, what's the difference between a waiver and a concession? Um, a waiver is something that the city grants for, um, a, uh, change to a development standard and without the waiver, it would physically preclude the building of the, of the project. A concession, which is also used interchangeably with the word incentive in the state density bonus law, a concession is given so that, um, otherwise the project, uh, couldn't [00:15:00] be built from a fiscal point of view. It would

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create additional costs that would make it very difficult if not impossible to build the project.

Uh, the ... Another part of the regulatory framework that we reviewed as part of this project is, uh, the Local Coastal program. So, chapter 8.16 of the Local Coastal program spells out that when you propose a residential use in a commercial zone, like in this project here, you use, [00:15:30] um, you defer to the development standards for the RH high density residential zone. In addition to that, the, um, Local Coastal program states that when you have a density bonus project that has a- a lot consolidation where you merge lots, you get, um, extra units on top of what is normally allowed under the state.

Um, another important part of the Local Coastal program is section 8.84010. So [00:16:00] again, the applicant has applied for a precise development plan, which is used for, um, density bonus projects. And that code states, and I'd like to read it, uh, "Precise development plans are intended to encourage the development of affordable housing through a streamlined permitting process. Projects that qualify for a density bonus pursuant to chapter 8.94 shall be eligible for an administrative non-discretionary precise development plan." We're going to get into tha- what that means in just a few slides. [00:16:30] And then of course, um, chapter 8.94, that's the local, um, uh, density bonus rules that the city has adopted.

So, what is the difference between a discretionary project and a non-discretionary project? Um, the commission has heard many discretionary projects, like use permits, variances, et cetera. This project is not, um, a discretionary project. So, I'd like to read the definition of a discretionary project [00:17:00] from the CEQA guidelines. "Discretionary project means a project which requires the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular activity as distinguished from situations where the public agency or body merely has to determine whether there has been conformity with applicable statutes, ordinances, regulations, or other fixed standards. The key question is whether the public agency can use its subjective judgment to decide whether and how [00:17:30] to carry out or approve a project." Again, that's for discretionary projects.

This project is a ministerial project. It requires ministerial review. What is ministerial review? Again, the definition from the state's CEQA guidelines states, "Ministerial describes a government decision involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely applies the law to the facts as presented, [00:18:00] but uses no special discretion or judgment to reaching a decision. A ministerial decision involves only the use of fixed standards or objective measurements. And the public official cannot use personal subjective, uh, judgment in deciding whether or how the project should be carried out." This is very important as we consider the project and the appeals.

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So, diving in now into some of the specifics of the project and what's proposed. Um, the applicant is provid- [00:18:30] has applied for a precise development plan, a coastal development permit, and also a tentative parcel map. Uh, the project includes the demolition of all the existing structures on the site, the merger of two lots, and then the construction of a new 96,217 square foot multifamily structure.

So, this is the site plan of the proj- of the site. Um, what you can see ... And my mouse cursor, [00:19:00] I don't think is showing up here. But, uh, what you can see is that the, um, main ac- the only actually vehicular access to the site is off Rosecrans Avenue. Um, and that goes to a subterranean parking structure where all the parking is. Um, and as you'll see, and I'll point this out in some of the future slides, most of the structures massing is on the Northern part- part of the project, not on Rosecrans Avenue.

[00:19:30] So, the applicant is proposing 79 units, six of which are set aside for the very low income category. The project is four stories tall, um, and is between 37 and 50 feet in height when measured from the average grade. Uh, there is a mix of studio, one, two and three bedroom units proposed. Um, and the project also incorporates a courtyard that is along, um, that fronts Rosecrans [00:20:00] Avenue. The applicant is proposing 114 parking s- ... Um, I'm sorry, 114 standard size parking spaces, 13 compact size parking spaces, seven motorcycle parking spaces and 27 bicycle parking spaces.

As far as the mechanics of how the affordable units are enforced, um, the applicant would be required to enter into an affordable housing agreement with the city that will allow the city to audit, [00:20:30] um, the- the property manager at any time to ensure the unit, the affordable units are indeed being rented out to people that meet the income standards. Um, and those six, um, units are, um, deed restricted for 55 years as affordable units.

So, here is some renderings of the project. Um, this is looking Northwest, um, from Rosecrans. [00:21:00] Again, you'll see there's some massing along Rosecrans, then the building shifts North, where there's that courtyard and pool. And then the massing comes back towards North ran- towards Rosecrans right above the, uh, vehicular access to the site. Uh, here's another angle looking North, Northeast. Again, you see the massing on Rosecrans, the massing pushed North, the courtyard, the vehicular access. [00:21:30] What- what's not shown in this rendering is to the left of the vehicular access are- are two existing buildings. Again, not part of the project, but, um, the bill, the project is tucked behind those two projects that are on Rosecrans and, of course, the city parking structure.

So, I'd like to talk about the height. Um, so the way we determine, um, the maximum height for any project in the city is [00:22:00] we take an average of the property corners and we go up from that average. Um, so in this case here, and I'm going to zoom in on this particular portion here, the highest point of the building measured from the average grade is 50 feet. And that's from the very

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top of the elevator shaft on the roof down to the average of the local grade. However, when you look at different segments of the project, it doesn't mean the entire project is 50 feet up from the [00:22:30] average of, um, from the average grade.

Um, the applicant has provided this graphic, which is an attachment to your staff report, that shows different portions of the building measured from Rosecrans Avenue. And you can see different portions of the building are less than 50 feet, somewhere between 34 feet and 50 feet. Um, and especially on this Western part of the building, you'll see there's, um, it's not just one [00:23:00] flat roof line. There's an articulated roof line, um, that gives, um ... So that there's not all the massing is right at that 50 foot, um, level.

And here's another example from, uh, the Eastern part of the site. Again, I'm going to zoom in on this section here. Um, the Eastern most part of the building is 19 feet when measured from Rosecrans Avenue. And then that elevator shaft, you see that white [00:23:30] portion there, that's from there down to the average grade. That's where the 50 foot is taken from.

So, um, as mentioned, this is a density bonus project, which means the applicant has the ability to request waivers, um, from development standards as allowed under state law. So, the applicant has requested waivers from the build-able floor area, the height requirement, uh, the number of stories requirement, [00:24:00] um, the setback requirement just to possibly place an electronic transformer ... I'm sorry, an electrical transformer in side yard setback, and also a setback regarding, um, building height measured over 24 feet. The applicant has also requested a concession for maximum wall height within the setbacks.

So, the ... As mentioned previously, um, the city when reviewing the project looked [00:24:30] at a whole range of different, um, regulations. One of those regulations to check for consistency with the project and these regulations is a general plan. Um, the- the project is a high density residential development, which is allowed in the North end commercial district. Um, the project is compatible with the surrounding properties. Um, many of which are also multi-family residential structures. And the city also, um, uh, states [00:25:00] in the approval decision letter for the project that the project, uh, meets the housing element goals, policies, and programs.

So, some of those, uh, goals, policies and programs that have been highlighted are housing element goal two, which states provide a variety of housing opportunities for all segments of the community, including various economic segments and special needs groups. And then also, uh, housing element program 5A, provide incentives for housing [00:25:30] affordable to low income households and senior housing. And then also, uh, another one I'd like to highlight is housing element program 5B, which states that streamline the development process to the extent feasible. The streamlining comes from the non-discretionary ministerial review.

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Another thing we looked for is making sure that the project is consistent with the development standards. So, this is a summary of the development standards, uh, for setbacks, parking, [00:26:00] height, et cetera. Now, because of the waivers and concession granted to the development, um, the project is taller than the 30 foot max height, and also exceeds the maximum floor area and the maximum number of stories. However, because the project has been granted waivers for those items, it can be said that the project still meets the development standards under the code.

[00:26:30] Uh, another thing we looked at is subdivision requirements, as there is a tentative parcel map involved. Um, and that would be, um, to make sure that the project is consistent with applicable general plan policies, that the resulting site is- is physically suitable for development and a few other things. Um, we also wanted to make sure the project is consistent with the Local Coastal program. So, the North [00:27:00] end commercial district that's outlined in the Local Coastal program, um, states that, again, uh, residential development is allowed in the North end commercial zone. And we also wanted to be sure that, um, all the coastal access policies are still followed with the project. So the, um, project does not impact access to the coast. All of the vertical and horizontal access ways to the coast are still, um ... [00:27:30] Sorry, we have a zoom technicality here.

Thank you. Um, all the, um, access to the coast is still, uh, maintained. And in fact, one could say it's enhanced because there's a new segment of sidewalk along 38th Street that previously did not exist. The project, um, is because it is ministerial, CEQA states that ministerial projects are not subject to [00:28:00] st- to- to CEQA, the California Environmental Quality Act. So, um, no environmental review is required for this project.

As previously stated, um, there have been four appeals of the city's decision to approve the project. Um, I'm going to be going through the, some of the points of the appellants. Um, later on you will be addressed by each appellant, um, as well. Um, [00:28:30] and per, uh, the Local Coastal program, the planning commission considers appeals of decisions by the Director of Community Development.

So, before we get into the, uh, substance of the appeals, I'd like to remind the commission that, um, the project is subject to an administrative non-discretionary review, which per the Local Coastal program, which means, um, [00:29:00] the review of the project must be based on compliance with objective and applicable development standards. And also state density bonus law states that the word objective means involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark, or criterion available and knowable by both a development applicant or proponent and the public official. [00:29:30] And then the development and ... Or those, um, uniform benchmark criteria we've discussed in, um, previously, in the previous slides.

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So, starting with the first appellant, Don McPherson, um, he states that the project is required to have an EIR. Um, and as we stated, because the project is ministerial, um, it is not subject to CEQA. The appellant also states that, um, there are two [00:30:00] alternative sites in the city where affordable housing could be built. Um, but staff only reviews projects that have been submitted, that have paid fees and have gone through the application process. And there are no other applications like that. Um, the appellant also claims or states, rather, that, um, the average unit size without the waivers or concessions would be 871 square feet.

The app- the, um, appellant has not provided any materials, [00:30:30] plans, studies to, um, to support that statement. The applicant, however, has provided s- has provided substantial evidence, um, for the design, what the design would look like without the waivers and concessions, and can show that the resulting units would be 490 square feet, 490.9 square feet. Uh, the second appellant is Susan Bales and Richard McKenzie. Um, [00:31:00] one of their comments is that, um, that they believe, again, environmental review is required. Um, again, because the project is ministerial, it is not subject to CEQA. They also state that there is not enough parking at the site. Um, however, density bonus law has a different set of parking requirements than what is found in the Local Coastal program. Um, and the- the proposed project actually exceeds those minimum parking requirements, um, found in state [00:31:30] law and also offers alternative, uh, parking for motorcycles and bicycles, which is not even ... Which is not required under state law.

Um, yes. Um, they also say that because the project is bringing more residents, that means more traffic and more congestion. The, um, applicant has provided tr- a traffic analysis, um, which shows that fewer trips are generated by the project than compared to what the existing uses would be. Um, [00:32:00] and also, also alternative uses. I do want to point out that a traffic analysis is not required as part of the review of the project, but the applicant has, um, still provided it. The city's traffic engineer has independently reviewed that analysis and confirmed its findings.

Um, and then finally, as far as, um, congestion and safety and traffic and all those things, again, the, um, applicant is proposing to add new sidewalk on 38th Street, which improves pedestrian safety [00:32:30] and is also creating a rounder corner at the intersection of 38th and 29-, and, um, th- Crest and 38th Street, which will allow, um, the city's public safety vehicles to make that turn easier, which, um, makes responses easier for our, um, public safety, um, employees. The, um, appellant also says that ministerial non-discretionary process that the project is subject to undermines local decision making. [00:33:00] Um, the state, th- the city, um, is required to follow state density bonus law, which does require expeditious review of density bonus projects.

The city requires, as I, as has been said previously, an administrative non-discretionary review of density projects, um, that that density bonus projects that, um, have, that have, um, been a ... That have applied for precise

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development plans. And [00:33:30] these, this requirement that a density bonus project be subject to ministerial review was adopted by the city in 2013. The appellant also states that density bonus law is a loophole for developers to overbuild. Again, the city is required to follow all local and state laws. And furthermore, um, the state density bonus law is designed to set a clear criteria, um, on, to encourage affordable housing. Um, [00:34:00] and the city has concluded that the developer has met that criteria.

The third appeal is geor- ... Or- or I'm sorry, the third appeal was filed by George Bordakas. And, um, one of his comments is that granting waivers means ignoring the code. Um, the applicant has provided reasonable documentation to support the waivers granted, um, and specifically the state density bonus law states that in no case may a city, county [00:34:30] or city and county apply any development standard that will have the effect of physically precl- precluding the construction of a development meeting the criteria of subdivision B at the densities or with the concessions or incentives permitted by this section. So again, the applicant has provided quite a lot of support studies to show that, um, not allowing the waivers would physically preclude the development of the project. Um, the appellant [00:35:00] also states that a height waiver is fundamental to the project-

PART 1 OF 6 ENDS [00:35:04]

Ted F.:

Owen also states that a height waiver is fundamental to the project and exceeds, uh, height allowable and should be reduced to meet the 30 foot limit. Um, tha, again the applicant has provided substantial evidence to show that the 30 foot height limit would physically preclude the construction of the building and therefore the waiver is justified.

The appellant also states that the director does not have the authority to review or approve precise devolvement plans [00:35:30] however, the LCP is very explicit that the community development director shall approve, conditionally approve or disapprove applications with minor exceptions and precise development plans. Um, the appellant also states that the director's findings in granting approval does not justify the variances granted. So I want to be very clear that the applicant has not applied for a variance. Um, state density bonus law allows for waivers and concessions from development standards, [00:36:00] waivers and concessions are not variances.

The fourth and final appellant is Andrew Ryan, um, he, uh, has made several points one of which is the project's proximity to Chevron site, creates a quote "adverse impact on public health." So first that term adverse impact is defined in state law and it means a significant, quantifiable, direct and unavoidable impact [00:36:30] based on objective, identified written public health or safety standards, policies or conditions as they existed on the date the application was deemed complete.

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So the applicant, I'm sorry the appellant Ryan, um, points to an initial study on the neighboring Chevron Site, um, to raise concerns about the environmental impact of the project. Um, however that initial study did not analyze the project site and analyzed [00:37:00] the Chevron Site, and therefore we cannot use that study to determine this project's environmental impacts. The applicant has also provided a phase one environmental side ana- sorry, side assessment that was included as an attachment to the staff report and that showed that no conditions detected on the site pose a threat to human, to the environment or to human health. The appellant also states that a two story deep excavation presents a hazard [00:37:30] and therefore poses a quote "adverse impact on public safety."

Um, so regarding the, um, hazard of construction and the soundness of the structure when any project including this one goes through or applies for a building permit, the city's building safety department, fire department, um, review the project to make sure it meets the building code, the fire code, et cetera. And that's called the plan check process, so a building permit will not be issued [00:38:00] unless, um, it is ensured that the building project meets all the required building codes, safety codes, fire codes. Um, and also in, besides that point the appellant has not met the statutory requirements for demonstrating an adverse impact which was discusses - oops, excuse me - in the previous slide.

Um, another point the appellant makes is that the city cannot grant a quote "incentive" to allow a building site to exceed 20% of the [00:38:30] 30 foot maximum height limit. Um, the applicant has requested a waiver from the height limit, not a concession. Um, and incentives and concessions are not the same thing, as we discussed previously.

The appellant also states that a city wide election is required for a building that exceeds a maximum height limit. So, a referendum is required when we change a development standard for an entire zone, um, specifically the [00:39:00] RH zone, um, this project is not proposing that. This project, er, the referendum requirement does not apply to projects where either the state or local law explicitly allow for an increase in development standards, like a density bonus or a variance. The city is not proposing to change the height limit in the C&E zone and therefore it is not su-, this project is not subject to a referendum.

The appellant also [00:39:30] says that the project does not provide the minimum number of affordable housing units to obtain the 35% density bonus. The city has provided the math of how we calculated the density bonus and the percentage of units that is stipulated by state law is based off the base density of the project. Which is the density, um, allowed with no concessions, or waivers or density bonus. And, that percentage allows for a 35% [00:40:00] density bonus for the very low income category.

Um, the appellant also says that the code only allows for a single incentive, not multiple incentives. Again, the applicant has only requested one incentive, um, even though the, this project was entitled to two incentives under state law.

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The applicant has requested several waivers from development standards, waivers are not incentives and there is not cap on the number of waivers a project [00:40:30] is allowed to have. The appellant also says that, uh, the project's lot merger with result in a lot that exceeds in the maximum 7,000 square foot lot size. However, the LCP is very clear that density bonus projects are not subject to the maximum lot size requirement.

Um, that concludes the appellants, um, points and you will have the opportunity to hear from all of them. I'd like to talk about the public notification [00:41:00] and outreach for the project, um, a notice was mailed out January 6th 2022 about the direct, that the city was considering the project, a decision was made on March 29th which well exceed the seven day minimum noticing period.

Um, a notice for this meeting was mailed on May 26th and also a courtesy notice was placed in the newspaper. Um, in addition to that, staff has been maintaining a web page on our site for the project and there is a tremendous [00:41:30] amount of information there, lots of frequently asked questions, copies of plans, the applicants materials, appellants materials, public comments, um, and how to get in touch with ci- staff about the project. And, we are also maintaining an interested parties email list which has over 300 email addresses where people are periodically notified about, um, milestones in the project.

Uh, we did receive quite a bit of public comment over [00:42:00] the last several months about the project, so between January and May 25th, we received dozens of public comments - mostly against, some in favor. Um, during the noticing period for the meeting, uh, before, between the meeting and the publication of the staff report we received three public comments, all in favor. And, since the staff report was published last, em, on June 3rd we received 13 public comments - one in favor, 12 opposed.

[00:42:30] So, with that, staff recommends that the commission review the project for compliance with the applicable and objective state in local regulations and adopt the resolution upholding the director's decision to approve the project.

Um, I am available for any questions if you have any.

Speaker 2: Excellent, do any of the commissioners have questions?

Speaker 3: No.

Speaker 2: [00:43:00] Commissioner Morton, do you have any questions?

Morton: No questions at this time.

Speaker 2: Thank you. Right is the, uh, applicant present?

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Ted F.: He is, let me pull up his, he does have a presentation, let me pull that up here.

Speaker 4: [00:43:30] Thank you, Ted, that was great and thank you, um, ex-Chairman Morton and new Chairmen Ungog and congratulations to Vice-Chair, um, Takashika. We're excited to be here today and thank you for opportunity to share more details [00:44:00] on the project and answer questions and provide some history. By way of background we were initially introduced to the site by a New York developer seeking capital and he was looking to build a 10 plus story luxury hotel. We used to say that we never wanted to do that deal and we, and it never came to fruition thank goodness.

A year later we put the property into Escrow, with the idea of a more modest boutique hotel, complimented with retail and restaurants much like Matlocks. [00:44:30] After months on analysis it was determined that a mixed use hotel development would not pencil as it would have required developing over the city's parking garage as well as the Chevron easement and furthermore every hotel flag had not interest in the corner. I have a hotel background, we reached out to, um, Bears, to Kimpton, to Viceroy, to Proper, to, um, Marriott. And no one seemed to be as adorned with or in favor [00:45:00] of [add] in the way we were.

Um, some time later the sellers, having been in and out of Escrow multiple times agreed to sell the property at a number that made sense to me and we acquired the property. Uh, if you can go to slide two. Next slide. Oh, I, I can do it? Is it here? Top arrow, which one?

Ted F.: Just scroll

Speaker 4: Oh, just scroll? Great. [00:45:30] Our objectives and considerations were the following, we wanted to develop the tired and legal non-conforming buildings. We wanted to mitigate crime and eliminate the blight that was associated with these buildings and the area. Establish highest and best use, whatever that may be. Build a thoughtfully designed quality project or a longterm hold, optimize public parking, mitigate traffic drips, set back proposed structures [00:46:00] from Rosecrans, and lend to the height fronting Rosecrans.

Speaker 4: After months of analyzing every possible use case, from mixed use retail to office to hotel, we and our experts concluded that multi-family residential was indeed the highest and best use. Why? Because it helps the city reach its housing goals both market rate and middle class. It optimizes [00:46:30] sustainability, by creating proximity to the labor force, between, between the labor force and the work place. It compliments the restaurants and retail businesses located in El Porto and the North End. It has the least traffic impact when compared to alternative developments, which include mixed use retail, hotel and including existing commercial use. It improves access to public parking and it reduces crime by virtue of the fact that you have [00:47:00] 79 residents or units occupied with residents that are obviously concerned with the, with the neighborhood on the corner the intersection.

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There's been frustration over the fact that this project was subject to specific entitlement path that did not require a public hearing or hearings. And therefore resulted in, in less outreach than would be typical. Um, as Ted reviewed this is a ministerial [00:47:30] and non-discretionary process, I didn't write the code, I didn't write the, the, the state density bonus legislation we just simply complied with it. Um, but we did anticipate what we believed to be a concerns that would ultimately be voiced and tried to incorporate those into our design. Upon receipt of the public comments we initiated the following; we developed a project website, um, and concurrently the city developed their own project website that had all our information and schematic design, et cetera.

We [00:48:00] hosted multiple breakfasts, lunches and formal town halls we presented at the rotary club. We asked to present at the chamber in the North End Business Association, we were declined. Um, we made good faith effort to communicate directly with opponents, concerned citizens and appellants. We have listened, we continue listen and will make every effort, every reasonable effort to incorporate comments into the design as we proceed with design development.

Okay, now we get the pretty pictures. These are some [00:48:30] updated renderings viewing the property from the, um, with the, uh, towards the west. The building on the far right there is the fitness center, um, let me move onto the next slide. This is the courtyard that Ted references, you can see how far the building is set back from Rosecrans. And here are some of the slides that kind of inspired or [00:49:00] are inspiring the design. We're very pleased with the feedback we've received from the various folks we've met with, they've appreciated that we did not take full advantage of the State Bonus Density Law allowances. Though the building could have been larger, we did not take advantage of that. Uh, they appreciated we, our quality developers who intend to hold the property long-term, they recognize the thought process that went into the site plan and programming which recesses the property from Rosecrans, maximizes the number of studios. The [00:49:30] unit mix as you all are aware is, has a disproportionate amount of studios and we did that by design as to not have to ask even more build able area and/or height.

Um, we created these California rooms, I'm going to go back one slide, you can see these patios are not the typical balconies that are just attached to the outside of the building that can look a little trashy with the weber and the wet suits and the surf boards. So these are what they call California rooms, they're essentially indoor, outdoor rooms, [00:50:00] um, that, that we think are much more sophisticated and much more useful.

Um, we are proposing, this is, um, some exterior, um, Finnish inspirations which include smooth coat stucco, limestone, uh, natural woods, uh, et cetera. Moving onto the interior, [00:50:30] we are looking at the same thing, you know, very clean coastal, uh, natural light soft tones and what we believe to be kind of a timeless aesthetic.

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So, think montage, the miramar, this is going to be a beautiful project. It is going to be, you know, we're focusing on the middle market. Um, but it is Manhattan Beach and we're very sensitive to ultimately what gets built here and [00:51:00] how the property's tenanted and how it's ultimately operated. Um, that concludes my presentation.

Speaker 2: Um, um, tell me do we move directly to the appellants

Speaker 5: That is correct [00:51:30] we can go through the four appellants, uh, based on, uh, when they submitted their appeals and I believe we will be starting with Don McPherson.

Speaker 2: [00:52:00] Appellants, you will have five minutes to speak.

Don McPhearson: Okay, good afternoon, um, let's see, I request that the planning commission requires an environmental impact report, an EIR for the IRS project for the California environmental quality act, CEQA, the planning commission has that discretionary authority. Um, this is not a ministerial process, this is a public hearing and, uh, Staff [00:52:30] makes ministerial decisions but the planning commission exercises its, um, discretion. And in this particular case, CEQA, is absolutely clear that this, uh, this project is subject to environmental review.

Um per item one

Ted F.: You just press space bar

Don McPhearson: Alter, how do I go back?

Ted F.: Just [00:53:00] hit the [inaudible 00:53:02]

Don McPhearson: Oh, those two, okay, fine, okay. So for item one, uh, the project deviates from municipal code, um, by four stories instead of three. 50 foot height increase versus 30, 79 units versus 51 permitted, a 47% increase in floor area and, uh, a 51 parking space reduction, 29% of the total 178. [00:53:30] All these code deviations for just six affordable units, at that rate it will take over 70 over height projects like Highview for the city to meet its 406 affordable unit quote that the state mandates. Developers will build those 70 over height programs in the coastal zone for ocean views. In 1997, I managed a successful voter initiative that restricts residential heights in the city, 30 feet for the coastal zone. If High Rose approves, [00:54:00] commercial heights everywhere in the city will go up but not residential heights. The city does not have an improved EIR for the sixth housing element upgrade with runs from 2021 to 2029, the city does not have a valid housing element upgrade at this time.

Therefore, Highrows per item number three, CEQA requires what's known as a single program EIR that encompasses the total development of the 460 [00:54:30] units. This EIR must consider cumulative impact factors, by all 70

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projects such as traffic, parking and bulk. The city will manage a contractor to prepare the EIR, it will take well over a year and cost a million or more. The Highrows applicant must pay the cost. CEQA requires alternatives in the single program EIR such as the two identified in item four.

First, a large [00:55:00] 100% affordable project on the city owned 5.4 acre parcel adjoining the Manhattan Beach mall and second, a 100% Highrows project itself which could provide about 50 spaces. They, one on the mall, well can satisfy the entire required 406 spaces, so let's focus on that first. If I can figure out how to [00:55:30] do this. Hmm. See Highrows.

Okay, so, this is an aerial view in the middle is the city lot 5.4 acres and then the country club, 7.5 acres. On the left, on the west side is Manhattan Mall, on the right side is the, um, hotel [00:56:00] with its golf course and everything. Um. The next, let's see, so, hope this works. So, so this is the 5.4 acre lot, it's unused, every time, I've gone there several times, it's never used more than that so it's basically a vacant lot. Um, so the, the lot can accommodate 608 affordable [00:56:30] units mandated by the state, that may however result in a development that lacks open space and low profile required by the general plan.

So note in the middle, there's this, 11 blue and green rectangles which are, um, tennis courts. The city has the right of domain to acquire that area from its tenant to ensure affordable housing fits with the low profile of the adjoining Manhattan Village. The tennis courts, um, [00:57:00] don't have much capital improvement so that's not going to cost very much. In conclusion the planning commission has the authority to make a finding that Highrows requires a single program EIR so please do it. Thank you.

Speaker 2: Thank you.

Ted F.: Oh, there you go.

Speaker 2: [00:57:30] Uh, George Bordokas, you'll have five minutes to speak George.

George Bordokas: Pardon?

Speaker 2: You'll have five minutes to speak.

George Bordokas: Not seven and a quarter like, uh.

Speaker 2: He had five minutes.

George Bordokas: No, the previous speaker had seven and a quarter minutes.

Hi, good afternoon, [00:58:00] wonder why we're here. I'm here because I care about Manhattan Beach, I've raised two children here, they've attended public schools here, I take advantage of the beach and of course the dining and nearby

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fish bar, near this location. Um, I'm also responding to your response to my appeal, in which I asked the developer be held to the 30 feet, 3 story height limit [00:58:30] under the code. Now, um, I know we're under a lot of pressure from the state of California, it isn't like this law is new. It's been around for decades and all of a sudden they're pressuring every city, especially coastal cities to, to, to respond with a plan and also to respond with tangible results.

That's what we're trying to do here, with this, it's a pretty nice development. It's really, looks good, very great, [00:59:00] looks like it will be just really, fit in to the Manhattan Beach style. But, one thing that it doesn't do is that it provides six affordable units and, um, we need 406 as Don just said. And it has 73 very, very, as you say, profitable units for, for the developer. So the developer is paying six units to the state to [00:59:30] make money on 73 units and, um, not abide by local, our local codes.

Now, your response in the staff report to my appeal said, that, uh, uh, I asked and my other question, it wasn't the question up there, whether we could say no to the waivers. And the response was state law does not prohibit a local government from requiring an applicant to provide reasonable documentation to establish eligibility [01:00:00] for a requested density bonus. So that's from the code, well then you concluded that they did provide substantial evidence. Well, what was that substantial evidence? They gave it to you, it was their architect, it was there plan. So, did you question them? Did you say, could you possibly fit, uh, 79 in 30 feet requirement? Did you question it at all? Did you ask for a second opinion, I don't believe [01:00:30] you did. Or did you?

Okay, so what is that substantial proof? It's there proof, do they want to low lower their return on investment? Do they want to have, uh, 52 units as opposed to 79? No, they're going to make a lot of money on a differential. That's why they're building here, why, and also why they're building here is because this is a great place. It's an iconic town, it's a beach town, where people can have there families raised here, [01:01:00] where we can enjoy the character of this town and, and the way that we do that is through the code. But, because of the term waiver, we say if they can't build in the 30 foot height, then, that kills the deal. So, we can't kill the deal so we give them the waiver, right? So, they say they can't do it, so then we have to give them the waiver.

Well that's really great and the other thing is, [01:01:30] this is akin to asking the tobacco industry if cigarette smoking is hazardous to your health. You're asking them to prove that they can't do something, and you're asking the tobacco industry if cigarette smoking kills people. What are they going to say? Of course they said for a long time they didn't, why because it hurt their return in investment. Same thing that's going to happen to them if they abide and adhere to the limits. Boeing 737 Max, will it fly? Will it fly without [01:02:00] hurting people? Sure, it's fine but we had a problem with that, right? So now I ask you to reconsider the waiver for height because they are taking advantage of, uh, us of this community, of our right to control the character of of our town, of our right to have laws that shape that character and also we have rights. We are not

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without rights. We have to [01:02:30] be treated equally, you can't give one group advantages that disadvantage us. That's not equal treatment under the law. You can't do that. Thank you very much for your time.

Speaker 2: Appellant Andrew Ryan you will have five minutes to speak. Oh, it was Susan first, [01:03:00] sorry. Um, Andrew we're going to have Susan go first and then I will ask you to weigh in. Thank you very much. Susan Bales, you will have five minutes to speak.

Susan Bales: Is a Doctor Mackenzie is presenting the, our, our presentation. Richard Mackenzie.

Speaker 2: Oh, Richard will be giving the presentation, okay. Thank you very much.

Richard Mackenz...: [01:03:30] I don't have slides to impress you, I'm going to try and hold your attention with a verbal presentation. I'm a physician by training and by practice so all this building stuff which is very concrete is easy for you to discuss and to argue with. But you can't argue with the affect upon human nature and on the human side of the [01:04:00] equation. This appeal process that we submitted was, uh, uh, represented the thoughts of a group of constituents. Uh, residents who would not be, uh, directly affected by the Highrows project. We are all longtime residents of Manhattan Beach, we are all concerned for the impact of the project not only on the present but also on the future infrastructure and ambiance [01:04:30] of the city.

Our appeal then essentially centers on five issues. Lack of bonafide environmental impact report, an evaluation of its ramifications on existing city infrastructure, this raises the important question as to why immediate housing issues trump environmental concerns. Does not the environment have a standing in protecting itself from [01:05:00] undue harm?

The second issues, is the, uh, inappropriate use of existing public resources. Public parking, already scarce issue in Manhattan Beach will be further decreased. This will impact local residents, visitors and potential consumers to local restaurants and merchants while exacerbating already existing safety concerns.

And the third [01:05:30] issue is the impact on the quality of life. And this is an immeasurable but an assumption, the project will infuse hundreds of new residents into an area of the city that already has limited infrastructure and residential amenities. Imposing this sort of change on existing residents will only detract from the present sense of community and increase subsequent risk for possible criminal activities. [01:06:00] And remember, criminal activities doesn't come from within, it comes from without.

Fourth is an undemocratic process and we raise the question whether Manhattan Beach is not a democracy or is it a democracy. The singular decision

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of an appointed employee in city government to approve the project undermines the informed and responsive judgment [01:06:30] of our duly elected officials. The voters of Manhattan Beach must have the liberty to determine the character and the future of their city.

And the fifth and final is an unrealistic temporary fix. The California Bonus Density Law was designed to increase affordable dwelling units, not to provide a loop hole for developers [01:07:00] to overbuild the community. This project does not address that problem, while disregarding the existing 30 foot code for a precedent setting 50 foot limit it will have 79 units with only six designed for very low income with the remainder being luxury units. Present market rates in affluent Manhattan Beach are beyond the reach of the average wage earner. Not [01:07:30] only to rent but to address their everyday needs. To truly address the mandate by the state, should not the project have 79 for the very low income and six luxury units.

Finally, this project undermines the very charge authority, and legitimacy of the planning commission. Are its codes and enforcements applicable to only some [01:08:00] projects but not to others? If that is the case, how can you plan for the city's future? How can you legitimize your actions to some and not to others? The very notion of planning is eviscerated by this project and the enabling legislation. In our opinion, the Manhattan Beach planning commission must go on record on standing up for its own jurisdiction. [01:08:30] We are concerned not only for the character of our small beach community but also for the potential aspects of environmental impact on public access and safety.

Speaker 2: Thank you, Richard, your time has expired. Richard your time has expired, thank you very much.

Richard Mackenz...: Thank you.

Speaker 2: Appellant Andrew Ryan you'll have five minutes [01:09:00] to speak.

Andrew Ryan: It says my video has been stopped by the host, um, would you like me on video or

Speaker 2: Audio is fine

Andrew Ryan: I don't know

Speaker 2: Audio, uh, video is fine, let me grant you access.

Andrew Ryan: Thanks

Speaker 2: [01:09:30] That's not letting me...Yeah, it's not letting me do it. Okay close first, okay. You should be able to start your video now.

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Andrew Ryan: Thank you. All right. Members of the planning commission, thank you very much for considering my appeal. My name is Andrew Ryan, I'm an attorney in Manhattan Beach and a life long resident of Manhattan Beach. I appreciate, uh, the city's evaluation of my appeal [01:10:00] and I have a couple comments based on that evaluation that I-

PART 2 OF 6 ENDS [01:10:04]

Andrew: ... and I have a couple of comments, uh, based on that evaluation that I'd like to address to the planning commission. Um, I'm gonna focus mostly on the environmental aspect of this, because I feel that in, in my five minutes that I have, uh, the environmental aspect, uh, should be, uh, considered, uh, uh, most, uh, most, most preferentially. So, uh, on the ministerial exemption versus discretionary exemption, and how we are relying upon, it [01:10:30] appears here that sequel does not apply, because this is a ministerial, uh, project where there's no discretion, uh, provided to the planning commission or to the city in improving this project. Uh, uh, I disagree with that in part.

Uh, I believe that the Government Code, uh, specifically Government Code Section 65589.5, uh, the only provision in that code section that allows for discretionary review deals [01:11:00] with environmental impact. And the section I am relying upon and I'll quote to you is subsection D, which says, "A local agency may, um, evaluate based upon a preponderance of the evidence." And in my world, preponderance of the evidence is when you evaluate the evidence to a 51% degree or higher, uh, probability. So that requires discretion on behalf of the planning commission [01:11:30] or city council. And when you are looking at the preponderance of the evidence and the discretion you're supposed to apply, one of those aspects comes down to whether this project has a, "Specific adverse impact on public health and safety."

And going to that public health and safety aspect, I presented with my appeal, a report from September of 2019, from an independent engineer hired by Chevron, [01:12:00] that was, uh, just... that was hired to prepare a report on the toxic, uh, uh... o- on, on the site, because the site has a refinery, and yearly Chevron has to report to the state of California, environmental EPA, or the EPA, for state of California, the, um, conditions of its site. And I quoted to you this issue with a floating petroleum. And I don't think anyone here is gonna [01:12:30] doubt that petroleum is in itself... I- it's a toxic substance, and it could have an impact on public health and safety. And this was based upon, uh, a pretty extensive review, uh, presented to what I said was California EPA, and this report was f- uh, dated September 9th, 2019, I believe, um... Sep- September 5th, 2019.

The [01:13:00] proposed project here, obviously is, uh, attempting to dig down pretty deep, uh, two stories of subterranean parking. Uh, and I didn't see anything on the plans submitted for city approval, as to how far down the support beams for the project will go. Uh, that has not been presented as far as I can tell, in the public record. Uh the Chevron floating petroleum issue goes

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down to the groundwater, uh, in the area. Um, [01:13:30] it's unclear if this project is gonna go down that far, but it's gonna go down fairly deep.

And i- in, in, in the city's analysis of my, uh, appeal and the chevron report, it relies upon the report that, uh, Marlin Equity has presented from Citadel E- EHS, which was dated February 20th, 2020. And this February 20th, 2020, uh, of course, reports are only as good as a data they rely... [01:14:00] they, they are [inaudible 01:14:01] upon. And in this report, it talks about performing, um, ground soil sample. And it says on page 20 of this report that a total of nine soil borings were advanced to depths of 20 or 30 feet along the north property border line.

Now, again, let's look at the site. The site is bordered directly on the Chevron site. Uh, there's no subterranean barrier between [01:14:30] the north property line of the site and the Chevron site. Uh, floating petroleum obviously means that the petroleum is moving, uh, it's not stationary. So there's nothing to indicate that the Chevron site is barricading off the floating petroleum from seeping into the site of the proposed development.

Speaker 6: Thank you, Andrew. Your time has expired.

Speaker 8: [01:15:00] Next we'll... Yes, next, we'll allow an opportunity for the applicant, uh, to rebut the appeals.

Speaker 6: Applicants you will have five minutes to speak.

Speaker 7: Uh, thank you. Uh, I'd like to first address public parking. I'm not sure if you're aware that existing [01:15:30] commercial buildings are legal non-conforming, which is to suggest that they have no parking, the TradeWind's property that has had tenants and, and customers that visit the tenants f- and, and f- for the most part park in the city parking garage. Um, that garage is about 53 spaces as I've counted. Um, when we acquired the property, the Chevron Easement, which is behind our property between us and the Chevron site is about 150 spaces, and that was controlled exclusively by [01:16:00] Verandas. Verandas unfortunately didn't survive the pandemic. So now it's been utilized by the public.

Um, to the extent that this project goes forward, our parking will be provided subterranean. Um, and it will re- relieve the demand on the city parking garage and free up the 150 spaces that are between us and, and the Chevron site. So there's 200 some odd spaces that effectively get freed up to the extent that this project gets developed. So parking in our opinion gets improved. [01:16:30] Um, in terms of criminal activity, I'm not sure, uh... And I'm not addressing these in any particular order, uh, with respect to the appellants, but just taking down notes here. There was a reference to criminal activity being increased as a function of residential development. Um, I don't know if there's data to support that, but certainly the, the buildings that exist today and the, um... and compare that with a brand new, um, completely occupied residential property with...

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that's occupied with families and kids, [01:17:00] and one, one would think that would be, uh, a safer environment than, than what exists there today.

Um, there's reference to the sixth affordable not solving the problems. We understand that. We're not looking to solve the state's housing crisis with this, with this single project. But the state also is looking to just generally provide housing stock across the state, it's not just affordable, they're after. They're after moderate and, and middle income and workforce. And, and, and this project provides not just the six units, but 73 units towards much, you [01:17:30] know, desperately needed housing stock. The average price of a home in Manhattan Beach is, is around \$3 million. To rent a home in Manhattan Beach is 5, 8, 10, 12, \$20,000. I have a friend that rents, rents his home in the Tree Section for 23,000 a month. It's getting ridiculous. Um, we need more rental product that's affordable for young families, otherwise, you're gonna end up like Carmel and just have a bunch of old folks living in Manhattan Beach.

Um, as to whether this project is precedent setting. [01:18:00] Um, you know, in the last housing, housing cycle, we were required to build 54 some odd, very low income units, we built zero. And this housing cycle, I suspect, we're gonna build maybe 10, or 15, or 20. We're not gonna build 450. And the reason for that is because for a site to make sense for it to be feasible, and for it to underwrite, you have to have a willing seller. It has to be zoned correctly. It has to have the right geometry that supports a subterranean garage. You have to [01:18:30] ramp these garages. So you can't just do it on any site, it needs to be at least an acre, and it needs to be relatively square. This site is irregular, and it has a 30-foot slope. So it's very expensive to develop not your problem, our problem, but just a d- a data point.

Um, and so for the entire list of properties, Canada properties that are listed in the sixth housing element, eligible for residential development. I don't know f- f- as a fact, but I can assume that none of those properties have traded since that public... that document [01:19:00] went public. Um, and there's developers out there like me that are looking for opportunities to develop in, in the South Bay, and they just can't get the numbers to work, because you have to have a willing seller. It has to be priced right. It has to be unencumbered. Um, it has to be the right size. And it's just there's... The, the moons really have to align. You have to check a lot of boxes. We got very lucky with this property. We think it's a unicorn. Um, and, um, I feel very comfortable with what we're proposing in this location. Would I be comfortable doing this at Highland [01:19:30] and, and, uh, Manhattan Beach Boulevard? No. But this is next to a refinery. It is, you know, upwind from the main intersection, and the views of [inaudible 01:19:41] the refinery in the transmission lines.

So, um, I live, work, and play in that community band for a long time. I'm very sensitive to what gets developed there, and we've taken this into consideration when we put forth this program and the standards proponents, proponents of this project. Thank you.

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Speaker 8: [01:20:00] At this point we're going to provide an opportunity for the public to comment on this item. Um, [inaudible 01:20:11] Cortez will be managing, uh... calling on people, if you're in the room and intending to speak you should, should, uh, please fill out one of the... Are they still yellow?

Speaker 9: Uh, they're white. I, I do-

Speaker 8: The forms.

Speaker 9: ... have the yellow one, though.

Speaker 8: Uh, just so that we can have your correct information in the, in the record. Um, [01:20:30] okay.

Speaker 6: Uh, Kevin Culvert. Kevin, you'll have three minutes to speak.

Kevin Culvert: Hi, my name is Kevin Culvert. Uh, thank you for having me today. Uh, as background, I've spent my entire life in the South Bay, in the last 27 years as a resident of Manhattan Beach. I [01:21:00] know the site location very well as I lived in the North San Section for 25 years, until recently moving to the Poet's Section. Uh, I blame my two young kids for that. Uh, I have, um... And, and I've also was a former, uh, environmental engineer. So I'm not an expert, but some, some understanding of the project. I have two toddlers entering Manhattan Beach schools and plan to live the, the rest of my life in Manhattan Beach. Um, perhaps I'll even have the, um, the honor of serving on this commission someday.

[01:21:30] Um, I love Manhattan Beach. Um, even though I, I support this project, I respect everyone's, um, opinion and love seeing my neighbors getting involved. Um, I do realize people tend to show up to oppose more, more than in favor. Um, and I do believe that many of my neighbors who couldn't take off work today to be here feel the same way as I do. As much as I would love Manhattan Beach to stay the same way it is forever, um, I realize it's naive to think that an acre of [01:22:00] relatively undeveloped land near the beach will stay vacant, uh, it will be developed. Uh, after reviewing the various options for the property, I do believe that this project represents the best use and is good for the city.

Um, I've been both a renter and homeowner, uh, uh... homeowner in Manhattan Beach, and very attuned to the, um, the extreme lack of affordable housing. I was lucky enough to take advantage when I was younger and move here and afford it. Um, not only does this project allow younger families and [01:22:30] lower income residents the ability to live in our wonderful city. It also helps address the statewide mandates to add more affordable housing. The push for these types of mandates only seems to be increasing, and I worry at some point that the city will be, um, forced into less desirable ways to address these mandates.

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Uh, the proposed residential use seems to have the least negative impact of other uses, particularly new retail. Um, also, I believe one of the key things that's kept Manhattan Beach so special and different from [01:23:00] other cities all these years is that it's maintained its small town family-oriented residential field, which is u- pretty unique. And in this regard, I believe people should... you know, I believe that people should be living, you know, near the beaches, and retail should be limited to select areas and more generally located towards inland towards Sepulveda.

Uh, the project seems to have several additional benefits. It helps existing local businesses, decreases traffic and in... [01:23:30] adds much needed parking. Lastly, it gives me personally a lot of comfort that the developer is a local resident, plans to hold this investment a long time, and is generally aligned with making our city better. Um, I believe [inaudible 01:23:43]-

Speaker 6: Kevin, your, your time has expired.

Kevin Culvert: Great. Thank you much so much.

Speaker 6: Kate Hirsch. You'll have three minutes to speak.

Kate Hirsch: Hello, [01:24:00] commissioners. My name is Kate Hirsch, and I'm here to speak in support of Project Verandas. I've been a South Bay resident for 18 years now, and I've spent 14 of those years as a renter in three different apartments in North Manhattan Beach, close to the Veranda site, first on Manhattan and Marine, next on Rosecrans and Highland, right across from the Veranda site, and most recently at 29th in Manhattan, right by Bruce's Beach. You know, none of those apartments were class A products they were all built in the '60s and '70s, [01:24:30] and not well maintained, and two of them had been taken off the rental market and converted into single family homes. But they were close to the beach, so it was worth the compromise. I was also Nextdoor Middle Strand neighborhood lead until 2019 and helped Nextdoor actually create the boundaries in that section of town. So I'm very familiar, um, with the area.

I love North Manhattan because not only of the community, but because I've always commuted to work, [01:25:00] and it provides easy access to the 105 and the 405 freeways and the West Side. I'm sensitive to traffic and adding congestion to the neighborhood and fellow commuters. I'm in support of the Verandas Project, because it's providing new high quality rental units in North Manhattan Beach. It's providing the opportunity for people like me to be able to move to Manhattan Beach and enjoy our beach community. It's doing so in a thoughtfully designed way, and it's not creating traffic... increasing traffic. [01:25:30] I worry that if we don't support high quality projects like the Verandas Project, we will not encourage growth and diversity of our population. And if I was moving here today, I would be priced out of this market and du- due to the lack of availability of rental units and the community that I'm lucky to call home. Thank you.

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Speaker 6: Luke Henriksen.

Luke Henriksen: Hello, [01:26:00] my name is Luke Henriksen, and I'm here today in support the project. As a resident of North and Manhattan Beach, I pass by this property every day and see how under utilized this law is, I believe the current use of this land is depriving Manhattan beach's residents and businesses the growth they deserve. We hear so often of the parking crisis and housing shortage crisis is in Manhattan Beach. But if we do nothing about this, then these are just words that are forgotten, and the impact is felt by our [01:26:30] residents. I believe we have the solution in front of us, this project will not only help alleviate the current housing and parking shortage crisis, but do so in an elegant way while elevating Manhattan Beach to a better fu- better future. Thank you.

Speaker 6: Nick Grasu?

Nick Grasu: [01:27:00] Well, I was definitely expecting everybody to be opposed to this project. So a lot less stress for me, knowing that I support and I have some other people that are supporting it as well. So a little bit about myself, uh, moved to Manhattan Beach, uh, actually in El Porto about five years ago, and quickly it became a neighborhood, a community, something that I've never experienced anywhere. I've lived in London, Tokyo, Los Angeles and have not had that same experience. So it really is [01:27:30] all about the people. And, uh, it's not really about what it looks like, the buildings that go up or anything like that.

The fact that we have a program here, that is going to promote investment in our neighborhood that is going to attract young families that can actually become part of our community, I don't even think that we realize how good of an addition that's gonna be in our community, and it's gonna, it's gonna last going into the future. Um, I wish I could say [01:28:00] more about the legal aspects as to what's going on. But I think staff did a pretty killer job with everything. Um, I think you're, uh, you're doing a job here that's pretty much thankless, always, no matter what it's like basically running Yelp, where you're only gonna hear the negatives and nobody will ever be completely satisfied. You won't be thanked ever, but the work that you do is absolutely essential to, to this community. So good job, keep up the good work and, uh, good luck.

Speaker 6: [01:28:30] Gary Horowitz.

Gary Horowitz: Thank you for the opportunity to speak. Um, I recently moved a couple miles south, but for 26 years I lived two blocks south of this, uh... In the Tree Section of the project. So know, [01:29:00] know the site very well. Um, as I think logically about the project, and listen carefully to all the objections raised in online and today, um, I think about the possible uses. I mean, the reality is we can't go back to 1920. It's not gonna be vacant land. I don't see any scenario that this is gonna become a park. Um, it's gonna get developed. And when you think [01:29:30] of the possible uses, besides this one, it's gonna be a hotel. It's gonna be office space. It's gonna be heavily used retail.

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So given the fact that it's going to get developed. My conclusion is this is the best and highest use for it and really the least impactful and the least disruptive of every other possible use that I think will make sense from the development perspective. Obviously also serving a need [01:30:00] for housing. Um, so I believe it's gonna be a very positive addition to the community, and absolutely has my support. Thank you. Thank you.

Speaker 6: Ronald Shindel... Shandall.

Ronald Shandall: Thank you. So I've not lived here my whole life, but I've probably lived here all your life.

Audience: (laughs).

Ronald Shandall: (laughs), I moved [01:30:30] here in 1971, and, uh, first place was in El Porto very close, and now I live in a Tree Section, also, uh, very close, walking distance to the property. Uh, I think we need to get a little focused here. The objections to the project are not to kill the project or to have no apartments there. It's the height, which would stick out like a sore thumb. And that's all based [01:31:00] on a waiver, and the only, uh, reason a waiver is was evidence produced by the developer themselves, that the project could not be built within the 30 plus 20% 36 foot height limit. I think it's hogwash, that has to be challenged. Um, the first thing.

The second, uh, point I wanna make was, uh, traffic. The Highland to Vista Del Mar is a major commuter route. And I think we all remember, [01:31:30] when Vista Del Mar went down to one lane, what a disaster that was. So the thing about apartments and all the additional apartments by the additional floor is the traffic being people who live there and go to work. While the average traffic may be less than, say a business or restaurant or whatever, that traffic is exactly during the commuting hours, when it is most impactful, [01:32:00] and the traffic during a commuting hours is gonna be much higher with residential units than it would be with other businesses. So that's another, uh, just aside. The main thing is the height. I think most of the people who are objecting, don't object to apartments being there, and a nice, uh, complex like that being proposed, we just want it within the allowable height limit, and a waiver is just, uh, unsupported. [01:32:30] Thank you.

Speaker 6: John Dumbacher.

John Dumbacher: Good evening, I'm John Dumbacher, and I live in 44th Street in North Manhattan Beach near the proposed project. Let's show our community and those outside of Manhattan Beach that we care. Number one, we care [01:33:00] about our community, valuing reasonable density at current height requirements, versus a community of mega projects. Let's have developers of mega projects, go to Redondo Beach, and other areas, and who wants Redondo Beach in Manhattan Beach. We care about our safety, realizing that proposed [01:33:30] congestion

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is not safe. Fewer available parking spaces and more traffic accidents. And third, we care enough to keep our height limits in place. More is not always better. We must remain strong, unified, and persistent to protect our community. Yes to development with care. [01:34:00] Let's say no when changes to the height are required. Let's say no, thank you.

Speaker 6: Rod Parsley.

Rod Parsley: I'm gonna see most of my time because most of my comments are completely redundant to those of Garry Horowitz, a prior speaker about this being, [01:34:30] uh, the highest and best use for this property. But, but quickly, um, as some of you know, I'm in the agriculture space, and when we evaluate a farm, um, we always ask ourselves that same question, "What's the highest and best use for this property? Do we wanna do something simple and easy like, uh, corn or wheat with re- relatively low returns and mediocre nutritional value, or do we wanna take some risks and deploy some meaningful capital and do something in the super-food space almonds, avocados, [01:35:00] blueberries, uh, potentially generating significantly higher returns, but also generating a product with much higher nutritional value?" So win-win for both us and, and our consumers.

Um, when I think about the highest and best use for this property, "What does this community really need?" And, uh, and I'm truly speaking here with my community hat on. I have no vested interest in this development. Um, but, you know, i- one of the comments earlier was about this community not turning into a Carmel, and it's become harder and [01:35:30] harder to attract young families into this community. If you've been to La Jolla in the last few years, you know, it's very hard to see someone walking down the street who's not over 85 years old.

Um, uh, uh, uh, we need young vibrant communities i- uh, in this c- i- i- in Manhattan Beach, in our school systems. Um, and I think this is a great way to help attract those types of families into our community. And, um, I fully support this initiative. Thank you

Speaker 6: [01:36:00] Mike Janice.

Mike Grannis: Thank you, commission. Uh, my name is Mike Grannis. I've, uh, lived in this community my entire life, not as long as a gentleman, but, (laughs)...

Audience: (laughs).

Mike Grannis: Um, I'm also a local real estate commercial real estate developer and I've been integral in a lot of the projects in the community, [01:36:30] uh, specifically the recently approved Sunrise Senior Living on Sepulveda and the El Torito site, which is now a hotel. Thank you for that. Um, I wanna bring up a couple points. So there's been discussion about alternative uses for the site. Um, having been

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involved with the site from when it was sold to Maryland, uh, with the previous owner, there was little to no interest from commercial or, um, retail developers. All the interest came from hotel developers and some residential developers.

[01:37:00] So the... that being said, the applicant has decided to work diligently to create a thoughtful, well-thought-out residential plan to create the project that fits within the community and provides much needed housing to the city. In addition, the housing that's being built will offer units that can be more affordable to the average, local, uh, employee or young professional. Uh, in addition, the applicant is working well within the confines of the state density bonus that has been created to help cities find a way to build additional housing, the city is well behind [01:37:30] to develop that goal, and, uh, this will help show the state that the city is serious about reaching these, uh, milestones.

Um, also, there's been a lot of talk about reducing the height and density of this project. Uh, I can share that given the cost of land and the cost of build today it's nearly impossible for development to continue without, uh, allowing some density bonuses. Aside from this project, it wasn't till the council approved the 40-foot height limit on Sepulveda, that it made it financially feasible for the hotel to come through. And the city really [01:38:00] wanted that project, and it's been embraced by the community and had a 5-0 vote by council and planning. So, um, the site's been well designed, it doesn't infringe on any view corridors. It's gonna reduce traffic in comparison to what's there today, and also it'll increase the property tax revenue to provide the city with reliable and sustainable income [inaudible 01:38:19] a general fund. So because of these reasons, I'm asking that the council or the commission support this project and, uh, work with the applicant. Thank you very much.

Speaker 6: [01:38:30] City Attorney [inaudible 01:38:32], uh, the appellant George Bourdakos wants to provide comment as, uh, uh, resident is... are we going to allow for another three minutes?

Speaker 8: All appellants have had five minutes to speak on the matter. And so that- that's their time for speaking. Thank you very much.

Speaker 6: Uh, Philip Cook.

Philip Cook: Thank you, Philip Cook, uh, resident [01:39:00] of Manhattan Beach 45, almost 50 years. And I built my house here in town. And I built an office building on Manhattan Beach Boulevard, [inaudible 01:39:08] my office and, and some tenants. I would have been embarrassed if I tried to skirt the laws of this city and the rules, the height limits, so I could make a bunch of money. Of course, if... I guess, if it was enough money, I wouldn't mind it, I guess. I guess, I could be less embarrassed. But these guys are private equity, they're venture money. They, uh, uh... I heard him [01:39:30] say that they intend to be long term owners. That's just not gonna happen, because the money that comes from, uh, from their backers, [inaudible 01:39:37] turnaround a, a fairly quick, very nice

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profit. And so they don't stay, they- they're not gonna be invested in this community.

Now there might find ways to, uh, ways to make it look like they still own the property, but they won't. I can promise you that. Um, uh, 100... 79 units really equals [01:40:00] what, uh? 148, 79, 148, uh, people in the, in the, in the building, a, a minimum of the that. To live in Manhattan Beach, it's expensive. So the way I cut my costs out, I bring in roommates, I bring in spouses, I bring in significant others, I bring in people that will help me afford to live in a place like that. So there won't be just 79 cars, there'll be 150 cars. And, and, uh, I'm shocked at the, [01:40:30] the fact that the city traffic engineer said i- that won't be impacted there, by, by all these cars. That just blows me away. Because, uh, while I'm not a traffic engineer, I can't really say, but it just... it seems contrary to common sense. Because I know how th- pack this, this building is gonna be with individuals, and every one of them has a car. Philip Cook, thank you very much.

Speaker 6: Scott Floyd.

Scott Floyd: How [01:41:00] you doing? Thanks. Uh, so I'm Scott Floyd, um, I have lived in the same house in... on 35th and Poinsettia for 20... 21 years now. Um, I was able to buy that house because I had a little place in Hermosa sold, and luckily, I was able to get that one. Um, so fully get like this is probably the best use for the s- for the space, for the project, right? But here's the problem, and some of the [01:41:30] other folks that said it too. It's like, we hear words like... Sorry, Ted, no, no offense. We hear words like waivers and concessions and acquiesce and do this and do that, like people start going, "Oh, wait, wait. What's going on here? Like, why are we, why are we bending to do a project that's certainly noble?" And certainly, I wish there could be more than six units that we could do for low, uh, income housing.

But I guess the, the problem like when peo- people hear that and then it goes to like something like this, and it's like, "Oh, well, it's got this, and it's got that, and this is the reason why we're gonna [01:42:00] like kind of give this waiver, but it's not a waiver, it's a concession. Boy, it's not a concession, it's a waiver." And it's like, [inaudible 01:42:06] stop. Can't we just abide by the rules and the code and law that we have here? If that means the project have to... has to be 53 or 59, or whatever it is, why can't that work? Why can't 53, or 59 work and then still use six or still use five or four for the lower, um, income?

To me, it seems like there's gotta be some common sense that looks at this project and go, Okay, "We've got a lot of folks here in Manhattan [01:42:30] Beach that wanna keep it, you know, manage, wanna keep things that, you know, uh, a great place to live and be, uh, you know, uh, a good partner or c- you know, with what the state wants us to do for the l- for the low income housing, uh, kind of mandate or, you know, project," if you will.

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Um, but I just think that if you look at this from a common sense perspective, and then look at... Like, I've got no dog in this hunt, I don't b- For me, it's just like, I just live here and I drive by that corner every day and the way to my office up in Central City to-and-from, but if you, [01:43:00] if you think about, how can we appease everybody that wants to keep Manhattan Beach an awesome place to live, be accepting and be, um, something for... You know, like, how do we give people like me an opportunity to buy a place here, um, and then, you know, understand what the, the folks over here are trying to do? There's gotta be some middle ground here to make this a winnable situation. So that's what I wanna say. Thanks, guys. Good luck on vote.

Speaker 6: John Wilcox.

John Wilcox: [01:43:30] Good afternoon, commissioners. Uh, my name is John Wilcox. I live at 462 Rosecrans Avenue directly across from the proposed project location. And Scott, thank you for your comments there. Um, but as someone who lives across the street, um, I kind of take to offense to some these comments about, um, view obstruction and that the only views that are [01:44:00] gonna be obstructed are that of the refinery and power lines. Because right now I have a pretty nice view of the ocean from where I live. And when that five storey building goes up, that, that view goes away. Uh, for me and my neighbors, um, the neighbor to the east of me, uh, spent about three and a half million dollars on the home that they just purchased, and she can't be here right now, but, um, that view goes away for them.

Um, so that's just [01:44:30] one issue that I wanted to address, which is the selfish issue. Um, I have concerns about the waiver of the EIR, because, obviously with the... as the one appellant, um, brings up a very valid point about proximity of the Chevron refinery and, um, petroleum. Um, so that- that's a huge concern, that I think... I know it's not required, but I think common sense would state that it should be done for the safety of our community and the health, and the, the one gentleman talked [01:45:00] about healthy products. So it's, you know, it's...

PART 3 OF 6 ENDS [01:45:04]

John Wilcox: ... talked about healthy products that it's, you know, it's the prudent thing to do while let's, let's do, uh, an E- EIR to protect the health of our community. Traffic, um, traffic backs up going westbound all the way to my address in the morning during the commuter hours. So how are people gonna make a left hand turn onto Rosecrans in the morning as they try to get to the 405 southbound. Um, those cars are gonna back up [01:45:30] into the subterranean parking lot because they, they're gonna have to wait, um, you know, uh, uh, who knows how long, but it's solid, it's solid traffic trying to make that left hand turn. And there's not gonna be a traffic light there. So, that, that's another concern I have.

Crime, I've lived at my address. I've owned my property for 20 years. I have no knowledge of any crime that's having take place at the current location. So, um,

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that, that really isn't a valid point in my mind, uh, because there has been [01:46:00] no crime in the last 20 years on, on record that I know of. And I know that the police department has concerns as well about the, the traffic, um, issue on Rosecrans, 'cause I've talked to someone over there. Um, and then, uh, it's funny in the presentation, it talked about this property being compatible with surrounding properties. There is no such e- existing property in North Manhattan Beach. So [01:46:30] how can that be? Uh, (laughs) and then, uh, last, I wanted to... I have some pictures. Um, there's-

Fel Cortez: John, your time has expired.

John Wilcox: Okay. I'll, I'll-

Fel Cortez: Thank you very much.

John Wilcox: ... present these to the, the project, um developer.

Fel Cortez: Thank you very much.

John Wilcox: Thank you for your time.

Speaker 10: Thank you.

Fel Cortez: Are there any other members of the public that have not gotten a chance to speak? [01:47:00] For the members that are in Zoom, I will be calling you next after we complete everyone in the room here. Okay.

Speaker 11: Um-

Fel Cortez: [inaudible 01:47:07].

Speaker 11: Resident for 50, 50 years, and, um, the one... a couple of things that came up. And this is, uh, I think the, uh, traffic study is faulted. I think that, uh, I agree with several people that they will be, um, major backups in this area. Oh, there're already backups now and there aren't 179 units. And a, uh, one comparison somebody [01:47:30] made is comparable. There is nothing comparable. I don't even know, what is the largest unit that's in that area, within, uh, five, 10 blocks? I don't know of anything that's 79 units. I don't think there's anything that's over five units. So we're having a... it's a major real re-development. But one of the major things is we haven't even met our housing element approval from the state of California. We didn't get it in, in time. And when, and, there's no, uh, [01:48:00] message that we're going to g- be approved on that. So any decision that's made on this project should be made after our housing element is approved, and that would be per state law.

So I think that we're precluded from making any more decisions until we do that. I think this is like the wild west, those with the wagon fastest get out there

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and get the biggest homestead. I think you're going against what the state of California has said and that's a simple matter that we don't even have to consider anymore if all the other things that have already been mentioned.
[01:48:30] Thank you.

Fel Cortez: Any other members of the pu- uh, in person still wanna speak? All right, I will move on to Zoom.

Speaker 12: Uh, Fel?

Fel Cortez: Yes.

Speaker 12: Before we do that, I believe the commissioners would like a little bit of a break.

Fel Cortez: [inaudible 01:48:47]

Speaker 12: So if we could take a five minute break? Yes? And we'll resume afterwards.
Thank you.

Audience: [inaudible 01:49:02]

Speaker 13: Commissioners, there's drinks and snacks in the back.

Speaker 12: I'm gonna-

Audience: [inaudible 01:49:09]. You stole my speech from me. (laughs)

Fel Cortez: Chair, [02:05:00] we're live.

Speaker 12: Okay. At this point I'd like to reconvene the meeting. Um, Fel, would you like to continue with... um, actually, we should check if anybody's arrived to, to speak in person, and if not go ahead and move to the Zoom participants.

Fel Cortez: Um, sorry. Okay, we're good. Uh, is there any members of the public in person that would [02:05:30] like to speak that has not spoken yet? All righty. We will move on to the Zoom. Dan Stern, please unmute yourself and you can, uh, address the commission.

Dan Stern: Hi, can you hear me?

Fel Cortez: Yes, sir.

Dan Stern: W- can y- I'm sorry, can you hear me?

Fel Cortez: Yes, Dan, we can hear you.

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Dan Stern: Okay. [02:06:00] So, um, let's see... uh, I'm not sure how it's relevant but, uh, I've lived h- here for 57 years, and having moved to the north end El Porto before it was annexed and now the north end, uh, since '65. Look, and I also served as mayor so I know something about discretionary and ministerial. Ministerial si- addresses open space, [02:06:30] uh, setbacks, things that are quantifiable, not compatibility. The planning department found that the 79-unit building with 50-foot height over the mean, the average height point was compatible because there are lots of duplexes around. El Porto has multifamily, uh, [02:07:00] rental stock but it doesn't... in fact, the city doesn't have any 79-unit apartment buildings. So that seems to me to be a, a judgment, and it's discretionary.

Um, let's see. I don't object to the building an apartment building there. That's not a problem. But the logic that's being used is flawed, and it can be easily demonstrated. [02:07:30] The, the number of low-income housing units, uh, required is six, independent of the size, because it's based on the base stock, independent of what's proposed. So we could propose a 200-unit apartment building, ten stories, 110 feet and say it has to be... it can't be done. You can't get 200 units without the 10 stories, [02:08:00] so we have to allow it. Uh, it isn't going to play. You would have great views, I might add, from the upper stories. I mean the ocean views would be just ama- amazing.

Um, the, the big issue is the height. And th- the developer who I don't blame at all for what he's doing, but I would like [02:08:30] to size it down a bit, (laughs) is not showing views from Highland, and the reason he's not showing views from Highland is because it's going to be 50 to 60 feet above Highland. And, and that is not compatible with the, with the city. That it just doesn't work. There's no reason that the, that the project can't go ahead when the 30 or 36-foot height, [02:09:00] three stories-

Fel Cortez: Thank you, Dan, your, uh, time has expired. Lenie Ramos, please unmute yourself and address the Commission.

Lenie Ramos: Yes, hi, thank you so much for, um, the opportunity to speak. Um, my name is Lenie Ramos. I live on 35th and Bay View, so I am about a block and a half away from the, uh, proposed site. Um, I've been [02:09:30] living here for about 20-plus years. Um, I'm not opposed to a building being cr- , um, created there. I'm opposed to, um, the height of it, and I'm also very, very concerned about the current, the traffic that it's going to create. Currently there is only one way in each direction, uh, north, south, east, west, uh, for traffic to flow. [02:10:00] It is, it... I've, I cross that street, I cross Highland almost every single day, and it is taking my life into my own hands crossing that street.

Um, it is very dangerous because many people, uh, do not see a lot of the traffic signs. Um, it's also very backed up, then people get irritated, aggravated at how long it takes to turn left on to [02:10:30] Rosecrans or, um, just to cross, uh, Rosecrans and to continue on to Highland. Um, I really am concerned about what traffic, uh, study has been done to support, um, the approval of this, uh,

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building. Um, I'm also concerned that it's not done during rush hour, during the summer times, during weekends when many people are in, um, Manhattan Beach [02:11:00] and populating our streets. Um, I'm also concern if we approve this, what next?

The commercial building that is on the cor- northwest corner of Rosecrans and Highland, is that gonna then be turned into, um, another apartment building that is large and consuming that then has so many, um, low-income housings that meets all the criteria? I'm very concerned about [02:11:30] what it's going to do for the current residents, and how we do not have a voice in the matter. And that's it. Thank you so much for you time.

Fel Cortez: Thank you. Zack Dean, you'll have three minutes to address the Planning Commission.

Zack Dean: Hello, uh, Planning Commission, thank [02:12:00] you for giving me a chance to comment. Uh, I'm just a resident and I, I am calling in to support this project. Uh, a lot of the other people who supporting it are a lot more, were a lot more eloquent than I am, so I'll just make this quick. Um, I've had recently have had a lot of friends move away because there's not enough housing and that really negatively impacts my quality of life. So it has, like, a personal touch to me, as it does for a lot of people.

Um, and, uh, [02:12:30] I'd also say that, uh, we're in the middle of a statewide housing crisis. So, uh, we need all the housing we can get. And, uh, I really think we should be encouraging the developer to add units, not trying to stop the project, but to add even more units to this. Uh, I think that's... um, some people are saying that the height should be reduced. But I mean if you reduce the height then... say you reduce the height by 10 feet, then you're, you're eliminating like 20 homes, right?

[02:13:00] So my question to those folks who want to reduce the height is where are those 20 families supposed to live then? Do, do you have like an alternative plan, an alternative housing plan for those 20 people whose homes that you'd like to eliminate? I mean remember when we're talking about the height, we were talking about how many homes there are. So, you, you're eliminating homes for human beings. I, I think we have to remember there's a human el- element to this as well. And so, you know, when I, when I walk [02:13:30] around Manhattan Beach I see people building mansions and remodeling mansions, and I don't see, I don't hear a lot of people speaking out against those, or, you know, trying to stop those developments. Why is it just apartments? Uh, why it is housing for people who don't the have that much money that we need to try to stop? It seems kind of, like, seems kind of weird to me.

Uh, and, you know, some, some people have brought up that there's only six units of affordable housing, [02:14:00] but then my question is, how, how many other, how many affordable units are there right now? I mean zero, right? So six

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is still better than zero. So, it may not be perfect, but it's, this building is a lot more, uh, a lot better than the status quo. Um, and so for all of those reasons I would urge the planning commission to support the project. Thank you.

Fel Cortez: [02:14:30] Ray Shapiro, you'll have three minutes to address the Planning Commission.

Marilyn: Hi, I'm, I'm Marilyn, Ray's wife, and thank you for taking our questions. We've owned our house on 38th Place since 2001. I, I have five questions that I just wanted to write down for the record. I don't expect an answer today. Number one, how much more foot traffic is going to be walking down 38th Street? [02:15:00] Number two, if a neighboring property decides to build a four-story building, couldn't they justify it by saying they're going the rent the necessary percentage of it to a low-income resident? What will the rental price be for the units that are being proposed at the, at the corner? Why does the developer feel that families are gonna be, families are going to be moving into studio apartments? And the last one, when Ted gave his presentation at around point slide [02:15:30] 21 or 22, he didn't read what the health issues could potentially be. And could you let us know what specifically those are? Thank you for, for your time.

Fel Cortez: Thank you. Um, Audrey, are you here to speak on today's item? Please unmute yourself. Audrey? [02:16:00] Okay, gonna move on. C. Vargas, are you here to address the Planning Commission on this item? Please unmute yourself.

Dexter Taylor, please unmute yourself. Are you here to address the Planning Commission? [02:16:30] Okay. iPhone guest?

Audience: (laughs)

Fel Cortez: Are you here to speak about (laughs) today's item? Sorry. No? Jane Guthrie. Okay. Loralie guest?

Audience: [inaudible 02:17:08]

Fel Cortez: [02:17:00] Okay.

Speaker 13: [inaudible 02:17:09].

Fel Cortez: Okay. All right. Oh, someone did raise their hand? Okay, Michael Curran. Michael Curran, you can, uh, you'll have three minutes to address the Planning Commission. Michael Curran, please unmute yourself. You raised your hand.

Speaker 14: [02:17:30] Hi.

Fel Cortez: Hi, you have three minutes to address the Planning Commission.

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Michael: Hi, this is Michael Curran. Can you hear me?

Fel Cortez: Yes, sir.

Michael: Yeah?

Fel Cortez: Yes, sir.

Michael: Okay, good. Um, al- a lot of the points have been, uh, confirmed by a lot of people before me, and I put [02:18:00] in an e-mail to, uh, Ted Faturros, um, earlier about the height. You know, Manha- when I moved to Manhattan Beach in 1971, I think the height limit was, uh, 26 feet. And it's since been changed to 30 feet. Um, the article I read about the development originally said that it was going to be five stories and about 50 feet. And so looking at the, uh, photos it looked as if it was going to be four stories, which would suggest 40 feet.

[02:18:30] That still is gonna dominate the landscape for a city that has a height restriction of 30 feet, and, uh, is already one of the densest cities in LA County. You know, it's, uh, 30 by 90 lots, um, 40 by 126 lots, et cetera and a high floor area ratio. So, uh, to bring in that kind of project without an environmental impact report, um, I think is missing the point. And I [02:19:00] unders- the reason why I didn't file a formal appeal was because it was \$500 nonrefundable for the Planning Commission appeal, \$500 nonrefundable if it went to the City Council and it was turned down.

Um, but I think that, uh, this SB9, which is the state that can override the local controls and change the, the nature, uh, of a city like Manhattan Beach, um, is [02:19:30] something that I believe that there are four cities that have filed a class action suit against. And I really think the City of Manhattan Beach ought to consider, uh, joining that class action suit. Um, with all of the things that have been repeated about, uh, the, the parking, the, it's all the dense development, the height, um, the model, bottleneck on Highland going north. Uh, I think one point that has not been mentioned, although, an environmental has been [02:20:00] talked about, is Chevron is-

PART 4 OF 6 ENDS [02:20:04]

Michael: We talked about is, um, Chevron is right abutting up against the project. It has been a Superfund Site for decades. And I don't know if you know this, but in El Segundo, well, I've worked in El Segundo, so I do know this. Um, the, uh, line from, I believe it's Sepulveda down to Apollo Street, Chevron still holds CC&Rs preventing development that, uh, includes [02:20:30] residential staying overnight. And that's why there haven't been any hotels in that area. Um, and the plume that comes from Chevron, as well as ally chemical, they used to be there now, Honeywell-

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Commissioner Ma...: Thank you, Michael, your time is expired. Are there any other members in the Zoom meeting that wish to speak on this item? Please raise your hand now.
[02:21:00] There's no one left to speak.

Joseph Ungoco: Excellent. Thank you. Um, at this point, do any Commissioners have questions to ask of staff? Or perhaps the applicant or any of the appellants. Um, if we do call up the applicant or the appellants, I do ask that we as Commissioners coordinate our questioning so that they don't go back and forth. They just come up once and answer all of our questions.

Jim Dillavou: I [02:21:30] have questions. Couple questions for the city attorney. So, I can either ask those now or wait.

Joseph Ungoco: Go ahead.

Jim Dillavou: Referral... We- we keep hearing about the law (laughs). Um, and you're the lawyer.

Crowd: (laughs).

Brendan Kearns: Correct.

Jim Dillavou: And yet, and so, I feel like we need to be talking to you a little bit more.

Brendan Kearns: Sure.

Jim Dillavou: Um, we're being [02:22:00] told that the city has limited, I'm sorry, the Planning Commission has limited discretion in our review here. Um, we're being told about this difference between a ministerial approval and a discretionary review, and I think the definition was put up on the screen earlier. Um, we're being told that, or we know that there are class action lawsuits against the state. So, it feels like a lot [02:22:30] of, there's a lot of ambiguity around this. So, I'd love your wither clarification, excuse me, and/or feedback on where all of that sits right now. Um, so that we can take that into consideration.

Brendan Kearns: Well, thank you, Commissioner. I was feeling neglected.

Jim Dillavou: (laugh).

Brendan Kearns: So, I appreciate you roping me in. There's been a really wide ranging discussion today. And it's important. It's a big project, right? There, it- it arouses a lot of sentiment, both [02:23:00] favorable and not so favorable. But what we are here as a Commission dealing with is an appeal of a decision that was made by our Community Development Director, right? And that decision is administrative and ministerial. It was explained earlier quite eloquently by one of our planners, Ted Futuros, what that means. And basically what we're gonna look at today is applicable objective [02:23:30] standards. It's a kind of jargony

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phrase. But what it basically means is, you're looking at things like, that can be measured by you and by I. And we can kind of reach a conclusion on that. It's not the typical type of decision that this Commission makes. Where they're considering things like, does it fit in well with the neighborhood, and- and all that, does it, uh, advance these more subjective policies of the general plan and so forth? [02:24:00] What we're looking at is much more limited objective standards. The conversation has been broader. The staff presentation and materials have been broader. But because those are all necessarily part of the decision to be made by this appeal, but because we wanna make sure the Commission and the public is really informed about this project. In so many different ways, staff went above and beyond to make sure everyone is informed.

[02:24:30] One downside of that is that it can seem like, well, we're debating compatibility that was addressed in the staff report, that's discretionary. Well, typically, if you were assessing compatibility, that's a discretionary decision. But that's just something to, that's being shared publicly. What you're looking at is much more narrowly, does this comply with, uh, applicable objective standards of state and local law, right? And so, that's sort of the context I thought was very important to make sure we're on the same page on. [02:25:00] Now, we also talked about a class action lawsuit involving SB9. And I wanna be very clear on this. SB9 is not implicated directly in this project at all, right? The- the laws that we're primarily looking at are the Fifth Cycle Housing Element, the State Subdivision Law, the Coastal Act, and various provisions of both our local, um, coastal plan, and the munic- you know, various municipal code standards to the degree they play [02:25:30] in this area of the city and their objective. So, I've rambled a bit.

Jim Dillavou: What is the State-

Brendan Kearns: Please, sir, direct me.

Jim Dillavou: Yeah. No, no, that- that's- that's helpful. Thank you. What is the State Law here that is trumping municipal discretion?

Brendan Kearns: Mm-hmm. Well, it's a complicated interplay. But what you wanna look at is, the State Density Bonus Law is a really important factor here. Um, as well as our own housing element, [02:26:00] right? Which is a local standard, but required by State Law. The interplay of these various laws are limiting the city's discretion, right? And that's- that's an important thing. It's a story that dates back nearly a decade with actions at the state level, actions by our Council that were democratically done. And this is the result now with this proposal.

Jim Dillavou: [02:26:30] Okay. Thank you.

Joseph Ungoco: Is that it?

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Jim Dillavou: That- that's all- that's all I have for our esteemed attorney.

Joseph Ungoco: Okay.

Jim Dillavou: Uh, if- if you guys don't have anything else, the other question I had for staff was, What feedback we have received from Chevron, as they weren't present here today. And I didn't see any formal comments from them. Um.

Ted: They have not submitted [02:27:00] any comments.

Jim Dillavou: Okay.

Joseph Ungoco: Commissioner [inaudible 02:27:07], do you have any questions?

Kristin Sistos: Oh, I do have a question for the applicant. I don't know of any, if others do. I think you had a couple as well.

Joseph Ungoco: Potentially, yes.

Robert Tokashik...: I do have one question. 'Cause Jim kind of touched up on it. You know, we get these, um, mandates... Mandate's a strong word. We get these directions coming out of Sacramento. Yet, you know, they're not part of the conversation [02:27:30] when staff has to put together an administrative decision. So, is there any way that the state gets word of... You know, it seems like they should be taking a little bit of the heat also.

Kristin Sistos: (laughs).

Robert Tokashik...: (laughs) That's all. You know, I can see the city staff, we're taking all, you know, they're taking all the heat for making these calls, but really someone from the state should at least feel a little warm.

Crowd: (laughs).

Robert Tokashik...: That's all.

Brendan Kearns: Great.

Robert Tokashik...: You know that, you know (laughs).

Brendan Kearns: Commissioner, you're staring at me. I'm not [02:28:00] sure if- if the, you'd like a response, but I-

Crowd: (laughs).

Robert Tokashik...: No, no. Uh, I'm showing compassion towards Carrie behind you (laughs).

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Brendan Kearns: Oh, I see. Okay. [inaudible 02:28:05] Okay.

Robert Tokashik...: Yeah. It's like... So, that's all. I- I just feel like somehow, uh, I don't know how we share that with our state legislators that represent our area, that the decisions you make are impacting the local, you know, people in a- in a way (laughs) that makes them feel [02:28:30] uninvited. You know, when they're being told, Hey, your city made these codes, but we're gonna pass some sort of piece of legislation that kind of supersedes your local codes. And it makes people feel unempowered. That's all.

Joseph Ungoco: Thanks. Um, Commissioner Martin, do you have any questions for staff?

Commissioner Ma...: I do not right now.

Joseph Ungoco: Excellent.

Commissioner Ma...: Thank you, [02:29:00] chair.

Joseph Ungoco: At this point, I'm gonna ask some questions of staff before we ask the, uh, applicant to come up. Um, before I do that, I wanna say that generally speaking, I shouldn't have any questions at this point. The reason that I do, is because we have... Because staff is very clear. It's very clear in terms of what our responsibility is as Commissioners, to make a decision about regarding the appeals today. My questions aren't about that. My questions are because [02:29:30] I think we have an opportunity, if not a responsibility, to the members of this community, to address some of the confusion and questions that they have out there, as so much of this beautifully crafted report did, in terms, you know it went above and beyond in terms of doing that. So, there's just a couple of things that came up that I wanted to ask, uh, of staff. Should I just run through the laundry list? Um, number one, can we confirm that we have no... These are in no particular order. That we have no ordinances regarding protecting views.

Ted: Correct. [02:30:00] We do not have any view protection ordinance.

Joseph Ungoco: Um, and did we receive any official communication from the Chamber of Commerce, North Manhattan Beach BID MVPD MB FD regarding this project?

Ted: Um, there was no communication from the Chamber of Commerce, or the North bed.

Joseph Ungoco: Mm-hmm.

Ted: Um, the- there was no... From the Police Department, there were a few emails exchanged, um, but [02:30:30] no official thing that would be shared or-

Joseph Ungoco: Okay.

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Ted: No- no statement about the project that-

Joseph Ungoco: Perfect.

Ted: Yeah.

Joseph Ungoco: I just wanted to confirm that. Um, we mentioned, um, affordable housing agreements. Um, are there- are there existing ones? Is there an infrastructure or bureaucracy that needs to be created to- to manage that going forward or? Go ahead.

Talyn Mirzakhani...: The- the Affordable Housing Agreement is one that staff will work with the applicant [02:31:00] to prepare in conjunction with our city attorney's review and their attorney's review, of course. Um, and it would... It will outline the procedures for certification and compliance, um, and annual reviews.

Joseph Ungoco: And that's all handled within- within the planning department as it now?

Talyn Mirzakhani...: That's c- City... Planning Department, as well as the city attorneys.

Joseph Ungoco: Okay.

Ted: Also, that agreement is recorded on the property. So, if the property were to change hands, the new owner would be aware, become aware of it during escrow, and would have to abide by the agreement.

Joseph Ungoco: Okay.

Brendan Kearns: [02:31:30] And, uh, chair just one additional. The requirement that was approved by Community Development Director included that as one of the standard requirements at the back.

Joseph Ungoco: Good. Thank you. Um, I heard it mentioned that, you know, this, that this proposal was essentially offering six units to get 73. If you wouldn't mind, Talyn, going through the example of what could be built there without the- the, uh, just the numbers. I think you had that slide.

Talyn Mirzakhani...: [inaudible 02:31:59].

Brendan Kearns: Sure.

Talyn Mirzakhani...: If- if [02:32:00] you can go. It's just a [inaudible 02:32:04] second rule.

Joseph Ungoco: Of course.

Talyn Mirzakhani...: Going back to the table that we had in the [inaudible 02:32:07]. About the breakdown of how, uh, [inaudible 02:32:11] was able to get to that total

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number of 79. Um, and I will, uh, just reiterate a point that Ted made during the presentation, which is, it is, um, it is the lot consolidation, local lot consolidation bonus in addition to the density bonus, uh, by the state. And [02:32:30] so, here's... Uh, Ted, would you like to walk us through one more time?

Ted: Sure. So to answer your immediate question. If there were no density bonus of whatsoever, just the, um, local coast- coastal program says you're allowed to build 51 units there.

Joseph Ungoco: Right.

Ted: Um, with the 10% lot consolidate, so 50 to be, if you were to divide the lot area by, um, 850, which is what the code says you're allowed to have per unit, you get 51.23. So, that's [02:33:00] 51 units under the code. However, state density bonus, uh, law says you always round up when determining state density bonus. So, we go up to 52 units on the right end column. Then we have a 10% lot consolidation bonus. Um, and that gets us to 57.2, which we round up to 58. Then we go with a 35% density bonus, um, which is because the applicant has set aside, I believe it's 11% of the original [02:33:30] 51 units aside for very low income per state law. That means you got 35% density bonus. That's how we get from a 58 to 78.3. And again, we must roundup per state law, and that's how we get to 79 units.

Joseph Ungoco: Excellent.

Talyn Mirzakhani...: And I'll- I'll just add to that. Um, sorry to, for, to interrupt, but state law's very clear in that every component of the calculation, every piece of the calculation gets rounded up. It's just not the first one or the last one. It's every part of that.

Joseph Ungoco: Right.

Talyn Mirzakhani...: [02:34:00] It also specifies that if there is an additional local bonus involved, that also gets rounded up.

Joseph Ungoco: Right.

Talyn Mirzakhani...: And so, those, the criteria is very clearly spelled out in the density bonus law.

Joseph Ungoco: Okay. So, given this example, the more accurate way to describe that would be that the six units account for the difference between the 58 and the 79, right?

Talyn Mirzakhani...: Yes. 52 and 79, yeah.

Ted: Well, so the- the [02:34:30] six units would be, the density bonus law says if you, um, if you have 11% of your base density, so in this case that's 51.

Joseph Ungoco: Okay.

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Ted: Uh, if 11% of those are very low income, you get a 35% density bonus.

Joseph Ungoco: There you go. Okay.

Ted: That's how you get to that number.

Joseph Ungoco: Excellent. Excellent. Um, traffic mitigation[inaudible 02:35:00]. [02:35:00] I think- I think that's it for my questions for staff. Um.

Jim Dillavou: You were gonna call the applicant up?

Joseph Ungoco: Yes.

Jim Dillavou: Okay.

Joseph Ungoco: Yes.

Speaker 15: Thank you.

Joseph Ungoco: Hi. Would you like to begin?

Kristin Sistos: Sure. Um, thank you. So, one question that I had was around the concession for wall height, and wondering if you could explain a little [02:35:30] more why you need such a high wall where that wall will be, if you could help provide some context for that concession request.

Speaker 15: (laughs) That's a great question. Can I refer to my architect? (laughs).

Kristin Sistos: Absolutely.

Speaker 15: This is Jim Williams from Matthew, uh, or from, uh, Withee Malcolm.

Kristin Sistos: If you don't mind, I'd like to pull up a view from Rosecrans to help, uh, su- su-support the discussion.

Ted: While we're doing that, just one question [02:36:00] for the, another question for the city attorney. Uh, typically the developers indemnify a city when they submit an application. Um, to the extent there're appeals litigation, what have you. Is that process different in this situation, or is that- that that's the same situation here?

Brendan Kearns: No. Well, each situation is unique. There are protections in place for the city.

Ted: Okay.

Jim Williams: So, again, Jim Williams, [02:36:30] Withee Malcolm architect. So, the reason for the wall height, the- the retaining wall white- wall height issue is really the same

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reason that when you look at these renderings, especially our height exhibits, that you're like, Hey, uh, this building I heard is super tall. Why doesn't it look that tall? It's 'cause Rosecrans is way above the level, where this building sits down in a little bit of a hole, if you will. So, we need a big retaining wall to do that. Or we- we tear the site. So, that's- that's the [02:37:00] gist of it. Especially on the east side, where the, about where the pool is, you can see Rosecrans going up, up, up, up, up, up, up, up, and our building staying down, down, down, down, down. Which is how we keep it looking so low. So, that's- that's where we get with the retaining wall.

Talyn Mirzakhani...: I'll- I'll just add to that Commissioner [inaudible 02:37:18], that, um, the- the height of the wall is, uh, is visible from the courtyard. However, what you see from Rosecrans, from the public view is that only about 42 inches.

Kristin Sistos: [02:37:30] I see. That makes sense. Yeah. I was trying to picture where the 24 foot wall was gonna be, but it makes sense. And you can see the depth-

Talyn Mirzakhani...: Oh, it's not a 24 foot wall. No, no, no. Just to clarify, uh, to clarify.

Kristin Sistos: [inaudible 02:37:42] wall.

Talyn Mirzakhani...: It- that wall is only about nine feet. So, the requirement is six. Ted can correct me if I'm wrong. But it's about nine- nine feet or so from the inside of the courtyard. The- the, I think we might be referring to the, uh, 24... The- the set back requirement that applies to walls o- [02:38:00] building walls over 24. And that's part of the waiver request. Uh, but that's that- that s- set back is, if you have a building wall that's over 24 feet in height, um, so part of the actual structure.

Kristin Sistos: Right.

Talyn Mirzakhani...: Then you have to have a wider set back. So that's a different requirement than this particular wall, uh, for which they're asking a- a concession. Um, and that wall that's along Rosecrans, it's a retaining wall. And T- Uh, they can correct me if I'm wrong, but it's app- approximately nine feet in [02:38:30] height, and the requirement is six.

Ted: Just one-

Kristin Sistos: Okay. So, in the- in the ph- photo you can't see there's a wall, but if you're walking down the sidewalk, there will be a wall with some landscaping, presumably along there, but it's not... There isn't a [inaudible 02:38:45].

Ted: Correct. So, what the code says, is that in the front step back you shouldn't have a wall over 42 inches. When you walk along Rosecrans on the sidewalk, the rail and the shrubs are gonna be 42 inches. The wall height is, [02:39:00] as was mentioned, when you're down in the courtyard and you look up towards the

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sidewalk, that's where you're gonna see the wall. The pedestrian is just gonna see a 42 inch hedge.

Kristin Sistos: Hmm. Okay. Thank you.

Jim Dillavou: Sir, it was brought up by one of the... Sorry. I'm just jumping in. 'Cause we have the applicant up here. It was brought up by someone that we haven't seen a rendering from, um, Highland. Does that exist? Was that done by you guys anywhere?

Speaker 15: I- [02:39:30] I can get you some slides. Sure.

Jim Dillavou: Okay. That- that would be helpful. 'Cause I think that scale is one that we've heard today is concerning. So, I'd love to see what that looks like. Thanks.

Kristin Sistos: [inaudible 02:39:44].

Jim Dillavou: Um, yeah, last question, then I'll be quiet. Uh, you had mentioned in your presentation that, um... And by the way, I-

Speaker 15: Jim, just, sorry to interrupt. But there- there is a- there is a- there is a rendering, [inaudible 02:39:59]. There's a SketchUp [02:40:00] model in- in the submitted plans and schematic design of the Highland.

Jim Dillavou: Okay. Oh, Highland looking straight back?

Speaker 15: Correct.

Jim Dillavou: And does it include the-

Joseph Ungoco: Parking structure.

Jim Dillavou: Parking structure, or is it ignore the parking structure, and go straight to the building?

Speaker 15: Uh, I don't know. I don't recall.

Jim Dillavou: Okay. Um, I think the question earlier was, What is it, kind of, all look like put together? 'Cause I think the renderings are, um, great, but they don't necessarily include [02:40:30] either the commercial building, the residential building, or the parking structure. And so, I think it- it's a beautiful building. I think it is gonna be a little more fragmented than it looks. So, I think if there is... If their architect has put together some sort of rendering that, um, uh, can show that, that would be helpful, just casually.

Speaker 15: Yeah.

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Jim Dillavou: Uh, the only other question I had was, you said something important during your presentation. Um, and I wanna back up for a second. I think you guys have done, [02:41:00] um... I mean, it's a tough piece property (laughs). Um, got a lot of interests. Um, I think the second part of the last... The part of your process leading up to this meeting, you guys, you especially, um, have just been out meeting with everyone you can, and getting community feedback. And I actually think a lot of that's been incorporated into the project. So, I commend you for that. You've said during your presentation that you continue to be open to feedback. Um, and I just wanted to ask you [02:41:30] whether, um, that is still the case, and that's true to the extent that there's consensus around, um, feedback that's been given today, and that may be given by the Planning Commission.

Speaker 15: Sure. Um, well, let me answer it this way. We, you know, we've yet to engage a landscape architect, um, or interior designer. So, clearly in terms of finishes and- and final aesthetic, that is all, these are all placeholders. Um, you- you saw the, you know, the image- the image board that kind of gives you an idea of the direction [02:42:00] we're trying to go. Uh, in terms of these- the unit, the unit mix, the- the buildable area. You know, uh, we believe... And we- we, now again, we've been involved in this project for four or five years. We submitted application little over a year ago, but prior to that we were in- in internal discussion and analysis for almost 18 months.

So, we have taken this Rubik's Cube and twisted and turned it, and tried every single way to make this thing work, and to make it feasible. And- and this is, this... [02:42:30] What we're proposing is where we ended up. Um, but we continue to look at it and take, um, you know, comments into consideration of course. And we'll continue to try to, you know, squeeze this thing in every possible way. But, um, I can assure you that this is, this was not, uh, a quick process. And I think we had seven, um, rounds with the city. And they- they've done an amazing job. That took us (laughs). It was quite a gauntlet that we had to run to get to this process, to- to get where we- where [02:43:00] we are today. Um, so, um, the [inaudible 02:43:04] the long answer is, yes, we will continue to take, you know, comments and take them into consideration.

Jim Dillavou: Okay. Thank you.

Kristin Sistos: And I think to- to reiterate something that was said earlier is that, you- you have not asked for all the concessions that you could have had. You have not gone to the maximum of the waivers that you could have gone to. So, you have been thoughtful about the design. It's not that you have gone to the max. Because there's certainly degrees and ways that you could have done more. You could have gone [02:43:30] higher, um, and still been within the bounds of what the state allows. So.

Speaker 15: That's right.


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Kristin Sistos: Um, I did have another question that wasn't addressed in your response to the appellants. Um, and that's specifically around, uh, Mr. Ryan and the groundwater floating petroleum concern, from my perspective. If I think about... That's my- That's my biggest concern at this point, is sort of thinking about the public health and safety. And I think he did a nice job of pitching that up, um, because there wasn't anything specifically done [02:44:00] with this location. He shared the Chevron site, and some information about air quality and those types of concerns. But it wasn't specific to this site. And it was- it was dismissed a bit, and you didn't address it in the response. So, I wanted to just hear from you, um, your thoughts and perspective on some of the concerns, um, on that.

Speaker 15: Sure.

Kristin Sistos: And then, my other question is, how deep will you dig in order to- to build? 'Cause that will, that ties into the same question.

Speaker 15: I'm glad you asked both questions. And I happen to have an expert here, Tim Wood [02:44:30] with GSI. Tim, can you come up and answer that question?

 Tim Wood: Thank you. Um, my name is Tim Wood. I'm a principal hydrogeologist, uh, with GSI Environmental. And, uh, your question about the groundwater. Uh, the Chevron site is a very regulated. It's a highly regulated site by the, uh, State Water Board. And there is a free product plume [02:45:00] under the, uh, parts of the refinery. And, um, there was a comment made that, uh, there's nothing to stop it from coming this way, but there is a product recovery system in place. Uh, and- and the wells on the refinery along this border, uh, do not have product in them. And so, there is not... Uh, the product plume does not extend off site in this area. And, um, and, uh, that's summarized. It's all [02:45:30] readily available online as you're aware through the Water Board's website. And I worked with the group and reviewed those recent reports as well as the, um, site investigation work that's been done on site. And there were nine borings, not just along the border, but they- they did cross the entire site. And there were also geotechnical borings, uh, exploratory borings. And there were no indications of impact, including the- the chemical testing, as well as observations. And the- and the presence of the plume being [02:46:00] monitored by them is- is also is under- under the site in this area.

Kristin Sistos: And so, to what depth will you need to dig in order to build this subterranean garage?

Tim Wood: I believe they're maxed up, is about 45 feet for- for footings and such. Uh, the garage is probably gonna be like 30.

Jim Williams: Yeah. On the... It- it varies. It's really more the building stays flat, right? And the site gets bigger. So, on the far west side, the hole, including for foundations and such, is only, like, 13 feet. It's like a residential garage. And then [02:46:30] the hill gets higher as the building stays where it's at. And on the very far side, being

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very conservative, we don't actually have a garage directly under the very far point. But if we did, it'd be about 45 feet. So, less than 45 feet is the maximum depth. So, 13 on one side, 40, 45 all the way to the east side of the site.

Kristin Sistos: Okay.

Tim Wood: And so, uh, the depth of groundwater, uh, under the site is in excess of 90.

Kristin Sistos: Okay.

Tim Wood: Uh, that those exploratory holes went to 90 [02:47:00] and they were dry. And so.

Kristin Sistos: That was in the geotechnical borings, 'cause that's not mentioned in this essay.

Tim Wood: That's- that's correct. Those were the geotechnical.

Kristin Sistos: Okay.

Tim Wood: The maximum depth of the geotechnical borings.

Kristin Sistos: And it looks like the borings went to 30 feet, and you're saying possibly 45, but you're saying they're [inaudible 02:47:14]

Tim Wood: There were three geotechnical borings that were space, kind of, triangulated across the site.

Kristin Sistos: Okay.

Tim Wood: And they- they get that information for, uh, providing to the structural engineers with about the physical properties of the soil. But they also provide, uh, a visual log [02:47:30] as the environmental, uh, geologist do as well, review for obvious signs of impact. There were no obvious signs visual screening, and there were no chemical test impacts either. So.

Kristin Sistos: What is the soil in that? Is it sand? Is it some mixture of-

Tim Wood: Uh, I think it's very sandy.

Kristin Sistos: Right.

Tim Wood: I don't, uh, have the boring log handy. But yeah, it's very sandy in this zone.

Kristin Sistos: So, is there-

Tim Wood: [inaudible 02:47:52]. Uh, I- I'm sorry. I just wanna make one other comment there. Uh, the groundwater is not used in this area, not because of the impact

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of- of Chevron. [02:48:00] Um, the groundwater resources are- are deep where we- where we pump our drinking water. And in this area, you'd be drinking salt water.

Kristin Sistos: Right.

Tim Wood: So, there's- there's actually see water barriers as you are all probably familiar with in this area.

Kristin Sistos: Thank you. So, is there any concern given it being, sort of, sandy that with the excavation, kind of, trying to keep the building obviously level, you're gonna have to take a lot of that out? Or are there any concerns geotechnically speaking?

Tim Wood: That's, uh, that's structural, yeah. That's a geo [inaudible 02:48:28].

Jim Williams: I- I- I can- I can speak to some extent [02:48:30] for a structural engineer. That's not my department, but I coordinate with them. I've looked at his drawings. They are actually some of the best I've seen. Um, Nelson Structural Engineers. Look him up online. He's now in the company for 20 years. The- the owner's been doing the- the actual work so far. Uh, I've worked with him before. And he's been doing it for, I think, 30, 35 years. Does these kind of buildings all the time. All types of soil. We often do three story subterranean zero lot line, meaning the whole street down right next to our neighbor. In this case, [02:49:00] you know, if we're thinking of neighbor's properties, we have a 20 foot alley separating them. It's- And at that end, it's a 13 foot hole, not a 40 foot hole. So, the soil type is a concern. It's a conce-... But no more than a concern it is on every single project. When- when are shoring engineer does the shoring, one of the first things he has to look at is, what's the soil? Where's the water? So, and we've got one of the best in the field doing it. And we've done it with him many times.

Kristin Sistos: Thank you. I mean, my concern is that it's, we're not just talking about a residence, but we're talking about [02:49:30] Chevron. And if you look at the map, you can see some of those holding tanks are, you know, maybe 100 feet from the site. And we just wanna make sure before we dig that all out, that it wouldn't have any impact to any of the operations within Chevron that could cause a problem that could create- create a concern there. So, okay.

Jim Williams: Yeah, not- not a concern.

Kristin Sistos: Okay. Thank you.

Jim Dillavou: Uh, while we've got the applicant up here. What- Can you talk about the outreach that was done to the owner of the residential property and [02:50:00] commercial properties that sit right there that seem like they should be part of this project, but clearly are not?

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Speaker 15: Yeah. Well, we- we tried to buy the office building, but- but, um, Andrew Ryan beat us to it. Like, we- we couldn't put a deal together, and Andrew came and bought it. And, uh, I had not met Andrew until he filed an appeal. And then he and I had a brief conversation, very cordial. Um, and, um, plan to get together and- and - and provide him some more detail on- on shoring and construction impact etc. Um, as to the residential property owner, I had a friend [02:50:30] who's a tenant in that building. And he introduced us, and we also had a conversation. And we kind of explained what- what it is that we're doing. And- and, um, I've- I've yet to follow up with him. And nor has he followed up with me.

Jim Dillavou: Okay.

Ted: Um, just real quick, uh, Commissioner Dillavou. You had a question about the, uh, elevation from Highland looking [02:51:00] east. In the plan, which I'd like to pull up now, there is an elevation. Bear with me for a sec here. What- what page is it on to Talyn?

Brendan Kearns: 10. Um, change screen so that you can [inaudible 02:51:24] see this [inaudible 02:51:24].

Ted: Oh. Yeah. [02:51:30] What was it?

Talyn Mirzakhani...: [inaudible 02:51:35].

Ted: So, let me zoom in here. Yeah. So, that's an elevation. It doesn't have the parking structure imposed. [02:52:00] Um, the thing about when an applicant proposes elevations like that with other structures impose, it's very hard for staff to verify scale and stuff.

Jim Dillavou: Yeah, understood.

Ted: Um, so just wanted to also make that point.

Jim Dillavou: Yeah, I think the other comments we've heard today, not all, a lot of their comments we've heard today just around scale and compatibility. And so, um, this is all very helpful [02:52:30] in all of the renderings showing. And maybe the challenging part of the site is- is the fall, right? From the top to the bottom. Is, that doesn't exist. That exists in very few places around Manhattan Beach. So, when you hear big huge numbers like 50, um that's scary. 'Cause that's- that's not right. Um, and that's something that everyone, I think uniformly would not agree with, but really the 50s [inaudible 02:52:54], you know, quite a misnomer when you look at the section that I think the architect put together showing [02:53:00] why someone was saying 50, um, and what it is in various places.

What it all comes down to, though, is how it all works together, and how the- how the pedestrian connectivity works, and how the traffic works. And so,

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partial renderings, um, you know, they're helpful. 'Cause it shows the building, which is great. But, you know, I look at this, I think, you know, what's gonna be visible from Highland? How- Where- How are the pedestrians gonna walk? I [02:53:30] think I figured that out from the- from the architectural set. Um, but what's gonna be visible, right? 'Cause we wanna, at the end of the day, we want everything to be aesthetically pleasing, and- and, um, and that- that that was the reason for my questions about the- the other two buildings. 'Cause I think every single person would agree that the project would be a better project, including you, with those buildings as part of them, but we don't own the property.

Speaker 15: Yeah.

Jim Dillavou: Uh, I know there have been comments around that. And probably not for lack of trying.

Speaker 15: Right.

Jim Dillavou: So, you know, it is what it is. Um, [02:54:00] so that- that was the reason. So, I- I get that it's challenging, Ted, to put that together. Um, and I guess you're not gonna have building plans anyway, so it arguably impossible, but some- something might help alleviate some of the concerns around the scale. Because I think when you put the parking garage in front of this building, and you, it shows how far back it's set from the street. Right now, it looks like it's, you're gonna be walking along the building, and there's gonna be 50 feet straight up Highland. That's just not the case.

Speaker 15: Right.

Jim Dillavou: This is set back 150 feet-

Speaker 15: We're about 90- We're [02:54:30] about 90 feet from- from Highland.

Jim Dillavou: Yeah. So. Right.

Speaker 15: And we're 80 feet from Rosecrans.

Jim Dillavou: Yeah.

Speaker 15: That- that particular structure.

Jim Dillavou: Uh, and then my last question for you, just 'cause my, probably, predominant concern coming into this was just around Chevron. Um, so, I'd love to hear, since they didn't, um, submit any formal comments, um, I'd wanna ask you what, if any, interactions you've had with them, and what their feedback has been on the project.

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Speaker 15: We did communicate with Chevron about six, [02:55:00] nine months ago. Um, and gave them a heads up that we're working-

PART 5 OF 6 ENDS [02:55:04]

Speaker 16: ... six, nine months ago, um, and gave him a heads up that we're working with the city on schematic design, um, and I have yet to have a conversation with him, um, since then. But they, they, they did not express concern at the time, and, and seemed to be supportive.

Jim Dillavou: And, and staff can confirm they were notified?

Speaker 17: Um, I will, the staff was not cc'd on any emails or part-

Jim Dillavou: No, sorry, I meant the city would have, as a matter of due course, notified-

Speaker 17: [02:55:30] Oh.

Jim Dillavou: ... the neighbors including Chevron of the project.

Speaker 17: Oh, yeah, so all, all property owners and residents within 100 feet of the site, which is obviously the Chevron, got a notice, both in January when the director was considering the project and also for this hearing.

Jim Dillavou: And, and, ch- and does Chevron have a city liaison who would normally interact with the City of Manhattan Beach and be attentive to projects like this?

Speaker 17: I can't speak to, um, that.

Carrie Tai: Uh, chair and members of the commission, yes, there is a government of farers [02:56:00] representative at, um, Chevron, Jeff Wilson, um, and we personally connected them with, uh, the applicant, so, um, and I have confirmation of that.

Jim Dillavou: Okay. Okay. Thank you.

Kristin Sistos: Uh, one of the residents mentioned, and I, I just wasn't familiar, but mentioned, um, that maybe it's just on the El Segundo side, something about not allowing hotels, or not allowing overnight because of proximity to the refinery. Is that something that [02:56:30] anyone is aware of or verifiable? I know it's, it's El Segundo so it may not be something that we're aware of, but is that...

Speaker 17: So I have heard from a representative continental development which owns a lot of Rosecrans, east of Sepulveda, that there are some sites on there, whether they're on that El Segundo side or the Manhattan Beach side, that there's covenants that restrict residences. Now, what those properties are, which side of the city [02:57:00] they are, I do not know.

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Kristin Sistos: Thank you.

Chair Ungoco: Did the commissioners have any more questions for the applicant?

Jim Dillavou: Thank you.

Kristin Sistos: I'm going to check with Gerry.

Speaker 17: I wanted to make one point of clarification. There was a, a reference earlier to this being a, a private equity project, and is absolutely not a private equity project. It's individually owned, and we intend to own this [02:57:30] long term for generations, so.

Chair Ungoco: Thank you. Um, Com- Commissioner Morton, just to check to see if you have any questions for the applicant.

Jim Dillavou: You still awake, Commissioner Morton?

Commissioner Mo...: I'm here, no further, uh, questions.

Chair Ungoco: Brilliant.

Commissioner Mo...: Thank you very much, you guys have been very thorough.

Chair Ungoco: Do commissioners have any further questions for staff, or any of the opponents? [02:58:00] If not, we can proceed, oh, go ahead. Oh, yes.

Talyn: Thank, thank you, Chair Ungoco. Um, if I may, I just wanted to go on record, clarifying, uh, we heard a lot of things, and act- I very much appreciate all the public comment we received tonight. I did want to go on record, clarifying two points that I heard a few times. So, the first is about the traffics, uh, traffic, uh, study that was prepared, um, by the applicant, and independently reviewed by the city. Um, so first I'll [02:58:30] reiterate the point that that was not required, um, but that the applicant did produce that, uh, in response to hearing the concerns from the community. Uh, but more importantly, I wanted to denote that the traffic study did in fact study the peak hours, so not just any hours, um, they were required to study peak hours and that is how the study was performed, um, just as we do with any other project.

Um, and then the second point of clarification I wanted to make, [02:59:00] uh, was in relation to material submitted by the applicant. Um, so I think Ted demonstrated in one of his earlier slides, um, in the presentation, that the applicant submitted in March of 2021. This is after we had done a preliminary pre-application review, and that the review process went on for a little over a year, um, and for what the code said was supposed to be a streamlined process. Um, a year is a long time. And so what happens within that year [02:59:30] is that staff is thoroughly reviewing and vetting all of the materials that are

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submitted by the applicant, including all of the materials that we requested, because we're not allowed to require, but we did request that they present substantial evidence to support a number of things that they're asking for, in terms of waivers and concessions. Um, and they did, they produced that, we reviewed it. Sometimes we sent them back, we said start over. Um, and that, all of that review and evaluation and vetting [03:00:00] contributes to the year long process of review that, um, the project was subjected to. Um, and so to clarify, the applicant submitted, staff vetted, none of that gets produced to the planning commission or any decision maker if it is not vetted by the staff. Thank you.

Kristin Sistos: So with regards to the traffic study, I know there was some concern brought up about being able to make a left turn out of the complex, like onto Rosecrans. Was that something that the traffic [03:00:30] study specifically addressed? Because I, that is going to be a challenge, right? They won't be forced to turn right, there will be an opening that will allow them to turn left, it's just a question of whether they can actually get that opening to go.

Talyn: The, the traffic study did not study that. It just studied the t- traffic generation rates, as that was demonstrated as the highest concern of the community. Um, uh, that is something that the applicant will continue to work with, uh, through our, uh, traffic engineering team if [03:01:00] the project gets to the point where they submit to plan check.

Kristin Sistos: Whether or not to have like the left turn option, you mean, or...

Talyn: And, and the city can ultimately, you know, through, through our own internal review processes, uh, pre- or post-development, evaluate that safety, uh, matter and address it as necessary.

Kristin Sistos: Okay. Thank you. Yeah, the traffic safety seemed to be a big concern, not only the volume, which I think is a concern in and of itself, but also the, the safety, both for drivers and for pedestrians.

Jim Dillavou: [03:01:30] When the project, when and if the project comes to the city for formal review, will, and I know this is a little bit of a different process, will there be conditions of approval issued by staff on that project, or no?

Talyn: No, there will be no conditions of approval. Um, they are required to meet all municipal code requirements and our standard review processes and requirements, as any other project would. Um, and, uh, t- just as any other [03:02:00] administrative non-discretionary project, there are no conditions of approval associated. But we did include standard conditions as a part of our original decision letter. Um, just to reiterate some things that are required by the municipal code as it is, um, on local coastal program, and, um, our application requirements for the next level of review.

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Jim Dillavou: The, the example that was just brought up though, how would that be handled? For example, [03:02:30] left-hand turn exiting the parking garage onto Rosecrans. Normally, the city would look at that and Eric would study that, and he'd say, "There's no way that's going to work," and we put a condition on our project saying no left-hand turn. So how does that little... That's one, a great example, how does that get handled?

Carrie Tai: Uh, chair members of the commission, just to clarify a couple of points. Um, if, for example, [03:03:00] uh, the project, uh, as any project, not just particularly this, this one. But if a project were proposed where, um, there were, uh, only one kind of access, so for example, it's, let's say it's already a right turn only, only a right turn right, right out, and there's not that level of reassurance, that would be vetted at the get-go. However, in this case, we know the, the proposed project driveway is on, um, Rosecrans, um, and at the time, and, and, and so [03:03:30] you already know that they can go right in, right out. They have access, period, And a project just has to have access. A project does not guaranteed full access. And so in an independent review of traffic, um, of traffic, of roadway segments, I'm sorry, and intersections, if it- if there cannot be safe line of sight established, the city will not allow for a left out. It just won't happen. Um, the, so all intersections-

Jim Dillavou: There will be a condition then?

Carrie Tai: It would [03:04:00] not be a condition, it would simply just not be allowed and-

Jim Dillavou: Not be allowed.

Carrie Tai: Correct, correct.

Jim Dillavou: Okay. Got it. [inaudible 03:04:04].

Carrie Tai: And, um, and so I, I just want to clarify, yes, that so the review of roadway movements, roadway segments, is done on an ongoing basis, and yes, in conjunction with any proposed development, but even when development is not ha- occurring. Uh, the city traffic engineer, um, which is part of community development, continually evaluates whether turns can be allowed, cannot be allowed, um, you know, and so that's a, it's a constant, uh, possible [03:04:30] modification, and it-

Jim Dillavou: Well someone has to-

Carrie Tai: ... does not have to be tied to the project.

Jim Dillavou: But someone has to stamp the plans at the end of the day, and they're going to go out and build something, and so the question is...

Carrie Tai: Correct. The-

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Jim Dillavou: At what point, what, what plans get stamped? 'Cause then, then they're going to go build it.

Carrie Tai: The plans that are stamped are the, the, on private property, and the driveway apron.

Jim Dillavou: Okay. Not the public driveway.

Carrie Tai: So, yes, the construction of our project does not guarantee a, a roadway modification.

Jim Dillavou: And, and, and in, in the same vein then, a normal project [03:05:00] that might have off-site, um, requirements of a developer, this will not, because this is purely within the four corners within the real estate that's own, there would be no off-site conditions?

Carrie Tai: Unless it was a municipal code requirement, and-

Jim Dillavou: Unless it was a code requirement. Okay.

Carrie Tai: I think Talyn wants to speak. Thank you.

Talyn: That's correct, unless it was a muni- municipal code requirement, I was going to say that in theory, that's, that's accurate. Um, however, as a part of our internal review processes where we route the plans, uh, for review by public [03:05:30] works, by fire department, by police department, uh, by traffic engineering, the, uh, Ted did mention that they are making some pedestrian improvements, uh, in the s- in the sidewalk, which is in the right of way, and that was something that the applicant, uh, worked with the city staff on. They were not required to do that, but they did agree to do that.

Kristin Sistos: Are we, I don't, yeah. We will get to that point when we get to it, but to me, if you think about it, the left turn could potentially [03:06:00] be dangerous, the right turn is gonna be a complete mess, right? Because people are gonna turn right and then right on Highland and then have to make a U-turn, or turn into the neighborhood in order to get back around, to get back out to go to the 405, which I think was something one of the residents brought up, so it does, there's definitely some traffic logistics (laughs) that are going to create some challenges, hopefully you all thought through.

Speaker 16: Yeah. Um, legitimate concern, I just want to put your minds at ease a bit, and that's, the Chevron parking lot's about 150 spaces, [03:06:30] and about half of it has been leased to the city for the undergrounding of the telephone poles. The balance is being used daily. Um, Verandas parking lot has 42 some odd spaces, so there's, you know, even prior to the city getting involved, there was 200 some odd cars coming in and out, out of that lot daily, and there continues to be. And they're not exiting down 38, they're coming out of Rosecrans

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because they can cut through Verandas, now that Verandas is, is, is derelict. [03:07:00] They can exit through Rosecrans and they go left, they go right, they go wherever they want to go. So it's not as if we're going from 0 to 100 in terms of impact. There's traffic in and out of that driveway continuously. Um, doesn't seem to be a major issue today, um, and we're going from 200 some odd spaces to 127 with our project, exiting onto Rosecrans, so we're reducing the amount of cars that are coming in and off of Rosecrans, relative to what's happening today.

Kristin Sistos: [03:07:30] But today, there aren't active businesses with traffic coming in and out, right? I mean, Verandas-

Speaker 16: There are, there are active businesses.

Kristin Sistos: There are?

Speaker 16: Yep. Yeah. The [inaudible 03:07:37], the [inaudible 03:07:38] building is full and, and, uh, and the park- and we do have a, a subtenant utilizing, uh, Verandas currently.

Kristin Sistos: Okay.

Speaker 16: So.

Kristin Sistos: Thank you.

Chair Ungoco: If the commissioners don't have any more questions, we can proceed. Yes.

Vice Chair Toka...: No questions.

Chair Ungoco: Lost [03:08:00] my place. So now is the time for commissioner discussion. Um, I think it might be useful at this point to return to the original, um, agenda item, and, or perhaps ask staff to, uh, clarify the, the recommendation at the end of the staff report. Yes.

Talyn: Su- [03:08:30] sure. Ted, do you mind pulling up the recommendation? So the recommendation is that p- the planning commission conduct a review of applicable objective development standards and regulations, uh, that do apply to this project, um, and to adopt a resolution upholding the director's decision. That is staff's recommendation.

Chair Ungoco: And our topic of discussion, thank you. [03:09:00] Right. Uh, commissioner, who would like to begin?

Jim Dillavou: Do we need to close the [inaudible 03:09:04] hearing first or has that been done?

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Chair Ungoco: It wasn't a hearing.

Kristin Sistos: It's not technically a hearing.

Chair Ungoco: We never opened it.

Jim Dillavou: Ah. That's right.

Chair Ungoco: It was a meeting in public.

Jim Dillavou: (laughs). There you go. Thank you.

Chair Ungoco: Um, Commissioner Morton, you always like to jump in.

Commissioner Mo...: I do. This is a, uh, topic. It's, uh, certainly a project that's more dense than, um, many people would like to see, as evidenced by the extensive comment that we've seen, which I totally appreciate, uh, everybody [03:09:30] coming out and, and voicing their, their concerns. Um, I, I think as planning commissioners, uh, as has been mentioned by, by many of my fellow commissioners in [inaudible 03:09:40], we're really limited, uh, in what we can do here, since this isn't your typical de novo hearing that we, that we look at, um, sort of building a general plan and a number of other elements, um, with regard to, uh, impact on neighbors. Uh, we're really looking at this, uh, this appeal and, [03:10:00] um, how the project complies with, uh, the density bonus of that land and, um, the legislation out at Sacramento.

I mean if people don't, um, don't like certain legislation, they can make their, um, their voice known there, but, but we have to work with what we're given, and, uh, and looking at this, uh, it appears, uh, as I reviewed the four appeals, I've looked through the project, uh, in detail, [03:10:30] I've looked for ways in which this does not comport with the law, and I've yet to find any. Uh, so given that, I can't, um, personally vote in any way other than to, um, reject the appeal and, and support the director's decision to, to move forward with the project. If the law was different or if we had more latitude, uh, then, um, you know, perhaps, you know, we could look at it a different way. But the, the amount [03:11:00] of density of the project is, is exactly what's allowed, uh, by the law, and so we don't have the ability to reject it based on density, uh, alone or, uh, many of the other, um, critiques that have been brought up with regard to the project. So, um, for that reason and others, uh, I'm in, in full support and will vote to, uh, deny the appeal and support the director's, um, original approval of its project.

Chair Ungoco: [03:11:30] Thank you, Commissioner Morton. Um, Commissioner Sistos, would you like to?

Kristin Sistos: Sure. Um, so I think it's incredibly important that we do our due diligence, even though we don't have the discretion that we wish we had, and so thank you for

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being patient with all of our questions and working through it. Um, the only way to deny the waiver, which is what a lot of the residents have been requesting that we do, if we had it within our power to do, specifically the waiver around height seems to be the one of most concern. [03:12:00] The only way to do that would be to create a finding, and I'll read it just verbatim so I'm not making it up, but, uh, would be to have a specific, that, that the waivers themselves would have a specific adverse impact upon public health or safety, or the physical environment.

And there's no feasible way or method to mitigate or avoid that adverse impact without rendering, uh, without rendering the development unaffordable to the low and moderate income households. And [03:12:30] so, I, my, a lot of my questions are focused around the environmental impact and whether or not there is impact to having it being right next to Chevron, um, both with the soil, with the ground water, quality, with the air quality. Those would represent potentially a specific adverse impact on the public health or safety of the community. That is the only circumstance that I can see through reading through all of this under which we could, as a commission, deny the waivers moving forward. [03:13:00] Um, there is some data, there is not as much data as I would like to see. Um, I don't think that we could say 100% that there would not be a potential adverse impact, um, but in order to make that finding, we would require more time, we would need to create a written finding, it would be needed to be supported by substantial amount of evidence that we don't currently have at our disposal.

Um, we do have the environmental site assessment. We do have Mr. Wood's, um, information. We know that soil [03:13:30] borings have been done. We know their soil samples have been monitored, analyzed. So I think for me, again, pointing back to appellate, uh, Mr. Ryan with the groundwater concern, that, that is where the basis of my concern is, and, and that is really truly the only finding that we could make, um, that would allow us to approve or deny the waiver. So, um, with that being said, you know, we must render our decision solely based on whether the project meets the objective and applicable development [03:14:00] standards. Um, so at this point in time, we are meeting those standards, right? The question for the commission would just be if we had concern about public health and safety, with regards to the environmental concern, and that's something that we needed to look into further. Um, outside of that, um, we are, in a sense, required, because it is an administrative project, to approve the project as, as it's laid out and move forward with it, so.

Chair Ungoco: Thank you. Uh, [03:14:30] Commissioner Dillavou, would you like to?

Jim Dillavou: Yeah, I don't, um, I don't think any of us are happy with the position we're in, and that's why I keep asking the city attorney questions. I don't think staff's happy. Um, I don't think city attorney's happy, I don't think planning commission's happy. Um, because normally what would happen, setting state law aside, is we would have kind of a similar dialogue [03:15:00] that we had today, but probably get a little bit more into the details of the project, and be

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able to incorporate a little bit more of the community feedback, um, and that's what the community clearly wants, based on the comments that were submitted. Um, that's what we want.

Um, so I think it's safe to say it's, we're all sitting in a very kind of frustrated position. On the other hand, the developer's done nothing wrong whatsoever, other than do [03:15:30] exactly what they're supposed to do. They colored right between the lines. Um, they developed a project that is legal. Um, and so, I think the discomfort in the room and from the, you know, correspondence from the community's a reflection of that. Um, that dichotomy, and, which I don't think, I don't think anybody's, um, I don't think anyone's wrong, um, and I think this is a super unique situation [03:16:00] and I think that it was really well-said earlier, that if you don't like the laws coming out of Sacramento, then change the laws coming out of Sacramento. Um, but the only thing we could do here is, um, potentially set the city up for significant litigation by, um, deciding not to follow the law, which is just painful, expensive, and a waste of everybody's [03:16:30] time and money, because this issue has been litigated a number of times, and, um, has been upheld repeatedly.

And so, um, I think we can try to puff our chests out and say that we're Manhattan Beach and we're different, and we're not going to follow the rules because we don't have to, but after two years of fighting that, I think we'd lose, um, one way or the [03:17:00] other, um, because I think it's been, been pretty clear at the state level. Um, so I do like the way you articulated your concern, the one concern I had coming in here was relative to Chevron, hence my questions. Um, I do know that the developer talked to Chevron, uh, I do know Chevron is a very active, um, participant in both El Segundo and Manhattan Beach, because they'll be the fir- first ones to tell you they operate a highly [03:17:30] combustible dangerous plant next to a bunch of residences, and so they're very sensitive to that. Um, and the fact that they didn't submit any negative comments on this project leads me to only conclude that they're going to take a neutral position on it, because I think they're well aware of it, um, which means they're not going to oppose it.

Um, so they're aw- they are aware of their environmental conditions better than [03:18:00] anybody. Um, they have, I don't know how many people over there that just focus on that. Um, so I had a number of concerns coming into this, um, and having listened to all of this, um, I feel like I'm kind of in a corner where, um, my concerns have been addressed and I've gone through the record in detail as well, um, and I can't see anything that [03:18:30] wouldn't subject the city to protracted litigation if we didn't approve the project, so that's kind of where I sit at this point.

Chair Ungoco: Excellent. Thank you. Uh, Vice Chair Tokashiki.

Vice Chair Toka...: I think, uh, Carrie did a wonderful job, so, um, and I don't see any in her analysis and her directions, so I'm with, uh, with, uh, uh, Commissioner Morton,

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[03:19:00] and I think that the, uh, applicant has done his due diligence, a- a- above and beyond.

Chair Ungoco: Excellent. Well, one of the things that Commissioner Morton failed to warn me about, sitting in the chair, is that all of the good ideas have already been spoken.

Jim Dillavou: (laughs).

Kristin Sistos: (laughs).

Chair Ungoco: So it's always a challenge speaking last. Um, you may have noticed that I asked staff to sort of redirect us so that we could go back to the original question, since we've gone around [03:19:30] the world at least twice, uh, since we first read out the agenda item. Um, and, you know, as a resident of Manhattan Beach, I'm concerned about, about confusion anxiety in the community. And I, you know, I think that staff did an excellent job of dispelling that, you know. There's a certain degree of fear of change and, you know, how that opens a door to future changes, and the mind reels at people's im- imaginations when it comes to the unknown, so [03:20:00] I think staff and the applicant did a wonderful job of bringing us back to the concrete, here, here's exactly what we're talking about. You know, we're not talking about a 10, 10-story tower in the middle of downtown. You know, we're talking about this particular project on this site, this site has such tremendous challenges, uh, and yet the applicant was still able to come up with a model that works for him.

Um, going back to the applicable and objective state and local regulations, you know, I, in following [03:20:30] staff's argument, I can't find a spot where, where they don't, where the application doesn't meet those, um, those regulations. Um, so I'm inclined to, to support adopting the resolution upholding the director's decision to, to approve the project. Um, I think communication will have to continue, you know, as the, as the applicant knows, uh, and will need to participate in those things. Um, [03:21:00] I'd like specifically to ask staff and Talyn, you know, or thank you for addressing certain issues and, you know, misrepresentations, or misinformation that was out in the community so that, uh, we can help to alleviate some of the fears of the residents.

There is one, uh, sort of line of argument, uh, being taken by the opposition to this project, uh, which is that, um, the, if you live there, you would, you would know this, um, argument, right? Um, [03:21:30] so full disclosure, I live on Kelp Street. I won't tell you how long because I feel that's a cudgel that sometimes people use. Uh, but I do live on Kelp Street, I'm the, um, area coordinator for Neighborhood Watch for all of El Porto, so, um, so I do have concerns about the community, and I do have deep connections with members, with residents in the community, and, um, and it was very interesting to see in a post-Zoom, post-co- post-fully Zoom world, like how discussions like this are changing.

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You know, it wasn't that many years [03:22:00] ago that we'd have hundreds of people in the room, um, and, you know, one side more organized than the other. Um, I think it's wonderful that the members of the community, you know, participated, uh, whether they Zoomed in or they came, came to the room, and, uh, it's a testament that people with opposing views feel comfortable enough in a physical space to express those views, so, uh, kudos to the community. Um, I guess that, [03:22:30] that's the end of- Was Gerry speaking? (laughs) Commissioner Morton, are you...

Commissioner Mo...: I'm ready to make a motion if, uh, if, if, if you're ready.

Chair Ungoco: Ah, I was, I was just, ah, I was going to say I'll entertain a motion, but City Attorney Kearns is, uh, calling for my attention.

City Attorney K...: And just a clarification for the record. It's my understanding that your interest in real property is not within 500 feet...

Chair Ungoco: Correct.

City Attorney K...: ... of the project.

Chair Ungoco: Correct. Kelp, Kelp Street is significantly further away.

City Attorney K...: Good.

Chair Ungoco: [03:23:00] Thank you for clarifying.

City Attorney K...: Just thought I was [inaudible 03:23:01] float in. Thank you.

Vice Chair Toka...: (laughs).

Chair Ungoco: (laughs). All right. At this point-

Commissioner Mo...: So I would, I would, I would, I would go ahead and move to, uh, reject the appeal and, um, approve the director's decision on Highrose project.

Chair Ungoco: Uh, point of order, City, City Attorney Kearns. Is, are, are we actually rejecting the appeal, or are we just upholding...

City Attorney K...: That's a great question. I'd recommend [03:23:30] if the motion be to adopt a resolution affirming the decision of the community development director.

Chair Ungoco: Commissioner Morton, do you, h- do we have to amend his... It hasn't been seconded.

Commissioner Mo...: Please amend my... Please amend my resolution to match with the city attorney's verbiage.

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Chair Ungoco: Excellent.

Vice Chair Toka...: I second.

City Attorney K...: We have a motion by Commissioner Morton and a second by Vice Chair Tokashiki. I'll take a roll. [03:24:00] Commissioner Morton.

Commissioner Mo...: Yes.

City Attorney K...: Commissioner Sistos.

Kristin Sistos: Aye.

City Attorney K...: Commissioner Dillavou.

Jim Dillavou: Yes.

City Attorney K...: Vice Chair Tokashiki.

Vice Chair Toka...: Aye.

City Attorney K...: Chair Ungoco.

Chair Ungoco: Aye.

City Attorney K...: Motion passes, 5-0.

Carrie Tai: Okay. [03:24:30] Thank you. Uh, good. Before, before we move on, um, I just wanted to mention for the item that the planning commission just took action on. Uh, the planning commission's action is, um, appealable to the City Council. It is a 15 day appeal period. We do not start counting until tomorrow, and the expiration of that appeal period will be the close [03:25:00] of city business, um, on June 23rd. Thank you. Um, and moving on to, uh, just director's item, just a brief update that the planning commission had approved, um, use permit for a, uh, the 7-Eleven to upgrade their alcohol license. That was appealed to the City Council. The City Council did uphold the planning commission's decision, and we will be taking a resolution back to the City Council. Um, it is the next meeting, June 21. [03:25:30] Other than that, um, I just wanted to extend my thank you to, uh, Commissioner Morton for his two years of chair. Congratulations to Chair Ungoco and Vice Chair Tokashiki. I look forward to a very productive and busy year with you. Thank you.

Chair Ungoco: Um, so I guess the next item is planning commission items, or was that the update?

Kristin Sistos: Director's items.

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Carrie Tai: Yeah, so if any... Uh, normally [03:26:00] in this section, um, the chair would ask whether any planning commissioners have anything to report, so if there were any, um, normally if you went to a conference or there was an issue that you would like to bring to, uh, to our attention or announce it, that would, this would be the appropriate time.

Chair Ungoco: Okay. Commissioners, are, is there anything you would like to...

Jim Dillavou: Nothing from me.

Chair Ungoco: All right. Um, Director Tai, do we have a tentiv- tentative agenda for June 22nd?

Carrie Tai: I do not believe we currently have any items. I know we are, later on in the summer, lining [03:26:30] up some training for you, uh, but I don't believe that will be the next meeting, and if we don't, it's productive training.

Chair Ungoco: (laughs).

Carrie Tai: You'll enjoy it, and then if we don't have items, we will be canceling the next meeting accordingly.

Chair Ungoco: Okay.

Carrie Tai: Thank you.

Chair Ungoco: Excellent. And I guess, uh...

Vice Chair Toka...: Make a motion to adjourn.

Chair Ungoco: Do we, do we move to adjourn or do I just adjourn?

City Attorney K...: In recent practice, we have made a motion and then a vote.

Chair Ungoco: Ah.

City Attorney K...: But as the new chair, I'll leave it at your discretion.

Chair Ungoco: I would like a motion.

Vice Chair Toka...: I'm sorry, I overruled [03:27:00] you (laughs).

Chair Ungoco: No, that's all right. So we have a, a motion.

Vice Chair Toka...: A motion to adjourn.

Kristin Sistos: I'll second a motion to adjourn.

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Jim Dillavou: Third.

Chair Ungoco: (laughs).

Vice Chair Toka...: (laughs).

Kristin Sistos: (laughs).

City Attorney K...: We have a motion by, uh... We have a motion by, uh, Vice Chair Tokashiki and a second by Commissioner Sistos and a third by Commissioner Dillavou.

Jim Dillavou: (laughs).

City Attorney K...: I'll take roll. Commissioner Morton.

Commissioner Mo...: Yes.

City Attorney K...: Commissioner Sistos.

Kristin Sistos: Aye.

City Attorney K...: Commissioner Dillavou.

Jim Dillavou: Yes.

City Attorney K...: Vice Chair Tokashiki.

Vice Chair Toka...: Aye.

City Attorney K...: Chair Ungoco.

Chair Ungoco: Aye.

City Attorney K...: We are adjourned.

Chair Ungoco: Adjourned.

Kristin Sistos: Yeah, [03:27:30] the gavel.

Chair Ungoco: Yes.

Commissioner Mo...: Great guys, thanks.

Carrie Tai: Thanks.

PART 6 OF 6 ENDS [03:27:59]

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APPENDIX 2. ENVIRONMENTAL FACTORS

APPENDIX G: ENVIRONMENTAL CHECKLIST FORM

NOTE: The following is a sample form and may be tailored to satisfy individual agencies' needs and project circumstances. It may be used to meet the requirements for an initial study when the criteria set forth in CEQA Guidelines have been met. Substantial evidence of potential impacts that are not listed on this form must also be considered. The sample questions in this form are intended to encourage thoughtful assessment of impacts, and do not necessarily represent thresholds of significance.

1. Project title: _____
2. Lead agency name and address:

3. Contact person and phone number: _____
4. Project location: _____
5. Project sponsor's name and address:

6. General plan designation: _____ 7. Zoning: _____
8. Description of project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary.)

9. Surrounding land uses and setting: Briefly describe the project's surroundings:

10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.)

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ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a “Potentially Significant Impact” as indicated by the checklist on the following pages

Parking, because project does not comply with parking ordinance

- | | | |
|--|---|--|
| <input checked="" type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture and Forestry Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology /Soils |
| <input checked="" type="checkbox"/> Greenhouse Gas Emissions | <input checked="" type="checkbox"/> Hazards & Hazardous Materials | <input checked="" type="checkbox"/> Hydrology / Water Quality |
| <input checked="" type="checkbox"/> Land Use / Planning | <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise |
| <input type="checkbox"/> Population / Housing | <input type="checkbox"/> Public Services | <input checked="" type="checkbox"/> Recreation Coastal Zone |
| <input checked="" type="checkbox"/> Transportation/Traffic | <input type="checkbox"/> Utilities / Service Systems | <input checked="" type="checkbox"/> Mandatory Findings of Significance |

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature

Date

Signature

Date

APPENDIX 2. ENVIRONMENTAL FACTORS

EVALUATION OF ENVIRONMENTAL IMPACTS:

- 1) A brief explanation is required for all answers except “No Impact” answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A “No Impact” answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A “No Impact” answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. “Potentially Significant Impact” is appropriate if there is substantial evidence that an effect may be significant. If there are one or more “Potentially Significant Impact” entries when the determination is made, an EIR is required.
- 4) “Negative Declaration: Less Than Significant With Mitigation Incorporated” applies where the incorporation of mitigation measures has reduced an effect from “Potentially Significant Impact” to a “Less Than Significant Impact.” The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from “Earlier Analyses,” as described in (5) below, may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - a) Earlier Analysis Used. Identify and state where they are available for review.
 - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c) Mitigation Measures. For effects that are “Less than Significant with Mitigation Measures Incorporated,” describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project’s environmental effects in whatever format is selected.

APPENDIX 2. ENVIRONMENTAL FACTORS

- 9) The explanation of each issue should identify:
- a) the significance criteria or threshold, if any, used to evaluate each question; and
 - b) the mitigation measure identified, if any, to reduce the impact to less than significance

SAMPLE QUESTION

Issues:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<u>I. AESTHETICS.</u> Would the project:				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

II. AGRICULTURE AND FORESTRY RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state’s inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
III. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

IV. BIOLOGICAL RESOURCES:

Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<u>V. CULTURAL RESOURCES.</u> Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>VI. GEOLOGY AND SOILS.</u> Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>VII. GREENHOUSE GAS EMISSIONS.</u>				
Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>VIII. HAZARDS AND HAZARDOUS MATERIALS.</u> Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>IX. HYDROLOGY AND WATER QUALITY.</u>				
Would the project:				
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>X. LAND USE AND PLANNING.</u> Would the project:				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

XI. MINERAL RESOURCES. Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

XII. NOISE -- Would the project result in:

a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

APPENDIX 2. ENVIRONMENTAL FACTORS

Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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XIII. POPULATION AND HOUSING. Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	--------------------------	--------------------------

b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	--------------------------	--------------------------

c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	--------------------------	--------------------------

XIV. PUBLIC SERVICES.

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	--------------------------	--------------------------

Fire protection?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	--------------------------	--------------------------

Police protection?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	--------------------------	--------------------------

Schools?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	--------------------------	--------------------------

Parks?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	--------------------------	--------------------------

Other public facilities?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	--------------------------	--------------------------

XV. RECREATION.

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	--------------------------	--------------------------

APPENDIX 2. ENVIRONMENTAL FACTORS

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
XVI. TRANSPORTATION/TRAFFIC. Would the project:				
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

APPENDIX 2. ENVIRONMENTAL FACTORS

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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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XVII. UTILITIES AND SERVICE SYSTEMS.

Would the project:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|--------------------------|
| a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| g) Comply with federal, state, and local statutes and regulations related to solid waste? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE.

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|--------------------------|
| a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|--------------------------|

APPENDIX 2. ENVIRONMENTAL FACTORS

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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Note: Authority cited: Sections 21083 and 21083.05, Public Resources Code. Reference: Section 65088.4, Gov. Code; Sections 21080(c), 21080.1, 21080.3, 21083, 21083.05, 21083.3, 21093, 21094, 21095, and 21151, Public Resources Code; *Sundstrom v. County of Mendocino*, (1988) 202 Cal.App.3d 296; *Leonoff v. Monterey Board of Supervisors*, (1990) 222 Cal.App.3d 1337; *Eureka Citizens for Responsible Govt. v. City of Eureka* (2007) 147 Cal.App.4th 357; *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th at 1109; *San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656.

Revised 2009

APPENDIX 3. KEEN v. CITY OF MANHATTAN BEACH

No. B307538

California Court of Appeals, Second District, Eighth Division

Keen v. City of Manhattan Beach

Decided Apr 6, 2022

B307538

04-06-2022

DARBY T. KEEN, as Trustee, etc., Plaintiff and Respondent, v. CITY OF MANHATTAN BEACH et al., Defendants and Appellants.

Richards, Watson & Gershon, Quinn M. Barrow, Ginetta L. Giovinco and Marvin E. Bonilla for Defendants and Appellants. Angel Law, Frank P. Angel and Talia E. Nimmer for Plaintiff and Respondent.

WILEY, J.

APPEAL from a judgment of the Superior Court of Los Angeles County, No. 19STCP02984 James C. Chalfant, Judge. Affirmed.

Richards, Watson & Gershon, Quinn M. Barrow, Ginetta L. Giovinco and Marvin E. Bonilla for Defendants and Appellants.

Angel Law, Frank P. Angel and Talia E. Nimmer for Plaintiff and Respondent.

¹ WILEY, J. *1

This case is about getting a room near the beach. By law, public access to the beach is a California priority. The California Coastal Commission enforces this priority by reviewing amendments beach towns make in municipal laws affecting coastal areas. Amendments require approval. The legal question here is whether there *was* an amendment.

In 1994, the City of Manhattan Beach enacted zoning ordinances, which the Coastal Commission then certified. Did these old ordinances permit rentals of a residential property for fewer than 30 days? The popularity of Airbnb and similar platforms has made the question acute.

The trial court rightly ruled the City's old ordinances *did* permit short-term rentals. This means the City's recent laws against platforms like Airbnb indeed are amendments requiring Commission approval, which the City never got. We affirm. Our statutory references are to the Public Resources Code.

I

We begin with legal, factual, and procedural background. This section recaps the California Coastal Act, describes local battles over short-term rentals, and recounts the case's posture.

A

The California Coastal Act of 1976 defined the Coastal Commission's mission to protect the coast and to maximize public access to it. (§§ 30001.5, 30330.) We liberally construe the Act to achieve these ends. (*Greenfield v. Mandalay Shores Community Assn.* (2018) 21 Cal.App.5th 896, 898 (*Greenfield*).)

The Commission works with local governments to ensure they take adequate account of state interests. (§ 30004, subs. (a) & (b); *City of Dana Point v. California Coastal Com.* (2013) 217

² Cal.App.4th 170, 186.) *2

APPENDIX 3. KEEN v. CITY OF MANHATTAN BEACH

In this endeavor, the Act's main tool is the local coastal program. (§ 30500 et seq.; *City of Chula Vista v. Superior Court* (1982) 133 Cal.App.3d 472, 489.) Each coastal government must develop one. (§ 30500, subd. (a).) Local coastal programs have two parts: the land use plan and the local implementing program. The latter consists of zoning ordinances, zoning maps, and other possible actions. (§§ 30512, subd. (a), 30513, subd. (a).) The Commission reviews the local coastal program. (§§ 30200, 30512, 30512.2, 30513.) If it conforms to the Act's policies, the Commission certifies the program. (§§ 30512, subd. (a), 30513, subd. (b).)

In accord with these provisions, the City submitted its local coastal program to the Commission years ago. The Commission certified the City's land use plan in 1981 and its local implementing program in 1994. This local implementing program included zoning ordinances.

Once the local program is approved, it can be amended, but the local government must submit amendments to the Commission for approval. Absent approval, amendments have no force. (§ 30514, subd. (a).)

Throughout this case, the City has not disputed it would need Commission approval to enact a *new* prohibition on short-term rentals within the coastal zone. That would be an "amendment." But the City has stoutly maintained there has been no amendment, because its *old* ordinances always prohibited short-term rentals. Keen disagrees, and that frames the issue in this case: whether the City amended its program when it clamped down on short-term rentals, or whether the prohibition was not an amendment because it merely continued the legal status quo. *3

B

We now recount how the City banned short-term rentals.

For quite some time, people rented residential units in Manhattan Beach on both long- and short-term bases. The City knew about the practice and occasionally got complaints about a rental property, including about one "party house" in 2005.

Things changed leading up to 2015. Online platforms like Airbnb became popular, which increased short-term rentals. The City had not received a "tremendous" number of complaints, but it sought an active stance on the issue.

After hearing from the public, the Council passed two ordinances "reiterating" the City's supposedly existing ban on short-term rentals. The Council claimed its existing ordinances, including those enacted with the local coastal program, already prohibited short-term rentals implicitly.

We call these the 2015 ordinances.

When the City Council enacted the 2015 ordinances, it resolved to submit the one about the coastal zone for Commission certification.

City staff met with Commission staff. The Commission staff, however, recommended the City allow at least some short-term rentals to facilitate visitor access to the coastal zone. Then, in 2016, the Commission wrote to all coastal cities, saying municipal regulation of short-term rentals would have to be in cooperation with the Commission. The Commission emphasized that "vacation rentals provide an important source of visitor accommodations in the coastal zone" and that blanket bans would rarely be appropriate.

After the Commission made clear its support for some level of short-term renting, the City withdrew its 2015 request for *4 Commission approval. The City tells us its withdrawal was because the 2015 ordinance worked no change in the law and hence never required Commission certification.

The City Council continued to grapple with how to regulate short-term rentals.

APPENDIX 3. KEEN v. CITY OF MANHATTAN BEACH

In 2019, the Council adopted an ordinance creating an enforcement mechanism for its short-term rental ban. This required platforms like Airbnb to tell the City who was renting out what. The ordinance also prohibited platforms from collecting fees for booking transactions.

We call this the 2019 ordinance.

The 2019 ordinance had a pronounced effect: by June 2019, short-term rentals dropped, in round numbers, from 250 to 50. The ban was markedly, although not completely, effective.

In July 2019, the City hired Host Compliance, a company specializing in helping cities enforce short-term rental regulation.

Bewilderingly, the City tells us there is no evidence its ordinances reduced the number of short-term rentals in the City. The record contradicts this.

C

Darby Keen owns property in the City's coastal zone. He rented it on a short-term basis. The City sent Keen a Notice of Violation on July 16, 2019. Keen petitioned for a writ of mandate to enjoin the City from enforcing the 2015 and 2019 ordinances.

The trial court issued a 19-page single-spaced tentative decision: a model of careful analysis. The court noted what the City did not dispute: the City would have to obtain Commission approval if it were to enact a *new* prohibition on short-term rentals. The City's position, however, was the prohibition was not new but rather was to be found in its old zoning laws that the *5 Commission had approved years before. The court disagreed, ruling the City had not identified any zoning provision to support its conclusion that rentals for fewer than 30 days were barred but longer rentals were permitted. The court concluded the City was wrong to say it had always banned short-term rentals. Rather, the court ruled the ban was new, it was an amendment, and it thus

required Commission approval, which it did not have. The court therefore enjoined enforcement of the ban on short-term rentals pending Commission approval.

The City appealed.

II

The City's argument boils down to this: the trial court was wrong to think the City has always allowed short-term rentals. The trial court was right, however, and the plain language of the City's ordinances proves it.

Our review is independent. (*Berkeley Hills Watershed Coalition v. City of Berkeley* (2019) 31 Cal.App.5th 880, 896.)

A

The trial court correctly interpreted the City's ordinances: they always permitted short-term, as well as long-term, residential rentals. The City's ban on short-term rentals thus amended the status quo. This amendment required Commission approval, which the City never got. So the City's ban was not valid.

The issue reduces to whether the City's old ordinances permitted short-term rentals. The following analysis demonstrates they did.

The City always has allowed people to rent apartments and homes in the City on a long-term basis. In other words, it always has been legal to
6 live in Manhattan Beach as a renter. No one *6 disputes this. One would be rather surprised to discover a community anywhere that banned renting completely.

Because rentals that are *long-term* have always been permissible under the City's ordinances, however, the City has been forced to distinguish between *long-term* residential rentals the City allows and *short-term* residential rentals the platforms promote and the City dislikes.

APPENDIX 3. KEEN v. CITY OF MANHATTAN BEACH

Unfortunately for the City, its old residential zoning ordinances contain no long-term/short-term distinction.

Absent some distinction in the law, then, the law must treat long-term rentals the same as short-term rentals. If long-term rentals are legal, so too are short-term rentals. The ordinances offer no textual basis for a temporal distinction about the duration of rentals. The City could have enacted a distinction like that, but it never did.

Because its ordinances say nothing about the duration of rentals, the City cannot credibly insist its ordinances permit long-term residential rentals but have always banned short-term rentals. That interpretation makes no sense.

The crucial text is ordinance A.08, which defines "Use Classifications" for the City's zoning code. One use is "Single-Family Residential," defined as "[b]uildings containing one dwelling unit located on a single lot." A second use is "Multi-family Residential," which is defined as "[t]wo or more dwelling units on a site." This ordinance contains a chart that shows the City permits both uses in residential areas.

In other words, it is legal to build a residential house or an apartment building in the City's residential zones. Once it is built, you can reside there. Anyone can. This all makes sense. It would be surprising if it were otherwise. *7

The reasonable interpretation of permitting a "Single-Family Residential" building in a residential area is that people are allowed to reside in that building, whether they are owners or renters.

Why, under the text of the ordinance, are renters allowed in? Because residential renters are common in cities, as everyone knows, and nothing in the ordinance takes the unusual step of banning all renting in the residential areas of the City.

Use of the word "residence" does not imply some minimum length of occupancy. (Cf. *People v. Venice Suites, LLC* (2021) 71 Cal.App.5th 715, 726 (*Venice Suites*) ["A 'residential building' is used for human habitation without regard to length of occupancy"]; *Greenfield, supra*, 21 Cal.App.5th at p. 899 [the city in question historically treated short term rentals as a "residential" activity].)

It is possible to reside somewhere for a night, a week, or a lifetime. The City points to no legally precedented way to draw a line between the number of days that makes some place a "residence" and the number that shows it is not. (Cf. *Venice Suites, supra*, 71 Cal.App.5th at p. 732 ["the dictionary definitions for apartment house do not indicate a required length of occupancy"].)

The same analysis applies to "Multi-family Residential," where the common form of a multi-family building is an apartment building. Apartment dwellers commonly rent.

The City's zoning thus permits you to rent a house or an apartment in Manhattan Beach, which accords with common experience. The City's zoning does not regulate how long your stay can be. *8

The City's proposed distinction between long- and short-term rentals-the former always allowed, and the latter always forbidden-has no textual or logical basis. The City thus loses this appeal as a matter of textual interpretation.

The City incorrectly argues short-term rentals are more similar to, and therefore fall under the definition of, "Hotels, Motels, and Time-Share Facilities." With our emphasis, the ordinances define these facilities as "[e]stablishments offering lodging on a weekly or less than weekly basis, and having kitchens in no more than 60 percent of guest units." The short-term rentals the City is trying to prohibit are of single- and multi-family

APPENDIX 3. KEEN v. CITY OF MANHATTAN BEACH

residences in residential neighborhoods. Houses and apartments conventionally have kitchens. This argument is untenable.

The City asks us to take judicial notice of a 1964 ordinance that defines a hotel a particular way. The City argues we should import this definition into the ordinance in the local coastal program. This is illogical. The different definition from decades before cannot prevail over the definition enacted by the City and certified by the Commission in the ordinance at issue. The older document is not relevant. We deny this request.

The zoning ordinances certified by the Commission thus allow rentals of single- and multi-family residences in residential zones for any duration, including short-term rentals of the Airbnb variety. The City's new ban on short-term rentals was an amendment requiring Commission approval.

B

9 The City's other arguments are invalid. *9

1

The City relies heavily on the principle of permissive zoning. It argues California has adopted this doctrine: zoning ordinances prohibit any use they do not permit. But the City's ordinances *do* permit short-term rentals in residential zones. That is the only reasonable interpretation of the ordinances, as we have shown. This interpretation is not an affront to permissive zoning.

2

The City argues we should defer to its reasonable interpretation of its own ordinances because it is the local agency with responsibility for implementing them. Our analysis does not involve

or require deference. We give simple words their obvious meaning. Contrary interpretations are unreasonable.

3

The City notes recent California statutes, in 2019, characterized short-term rentals as commercial uses. The City says this shows that short-term rentals are inappropriate in residential zones. These state statutes, however, deal with different issues than the municipal ordinances here. The 2019 statutes are not germane.

4

The City argues the trial court erred in interpreting the Coastal Act to require it to provide short-term rentals in residential areas. This is incorrect. The key provision is the one requiring Commission approval of amended laws. The Commission has not required the City to allow short-term rentals. The Commission has not reviewed the City's ban because the City, incorrectly, has been maintaining its ban is *10 nothing new. There was no erroneous interpretation of the Coastal Act.

5

The City argues Keen's reliance on *Kracke v. City of Santa Barbara* (2021) 63 Cal.App.5th 1089 is misplaced. Our analysis does not involve *Kracke*.

DISPOSITION

We affirm the judgment and award costs to Keen.

WE CONCUR: STRATTON, ACTING P. J.,
11 HARUTUNIAN, J. [*] *11

[*] Judge of the San Diego Superior Court, assigned by the Chief Justice pursuant to [article VI, section 6 of the California Constitution](#).

APPENDIX 4

Chevron El Segundo Refinery Hazardous Waste Facility Permit

Summary

SCH Number	2006121077
Lead Agency	Department of Toxic Substances Control
Document Title	Chevron El Segundo Refinery Hazardous Waste Facility Permit
Document Type	NOD - Notice of Determination
Received	4/19/2007
Posted	4/19/2007
Present Land Use	Heavy Industrial (M-2)
Document Description	Renewal of the Post-Closure portion of the Permit for the Chevron El Segundo Refinery closed landfarm and the Operating permit for the Hazardous Waste Storage and Treatment Facility and Polychlorinated Biphenyl (PCB) Storage Building. The landfarm operated from 1979 until 1987. This unit was closed with waste in place in 1993. In 1994, a Post-closure Permit was issued for the unit. This project renews this permit for 10 years and requires groundwater monitoring, pore-liquid monitoring and pore-gas monitoring as well as periodic inspections.

Contact Information

Name	Richard Allen
Agency Name	Department of Toxic Substances Control
Contact Types	Lead/Public Agency
Address	1011 N. Grandview Avenue Glendale, CA 91201
Phone	(818) 551-2924

Location

Cities	El Segundo
Counties	Los Angeles
Cross Streets	Sepulveda Boulevard and El Segundo Boulevard

Zip	90245
Total Acres	640
Parcel #	4138-016-005
State Highways	405
Railways	UPRR
Airports	LAX
Schools	El Segundo HS
Waterways	Pacific Ocean
Township	3S
Range	15W
Section	14
Base	SB

APPENDIX 4

Notice of Determination

Approving Agency	Dept. of Toxic Substances Control
Approving Agency Role	Lead Agency
Approved On	4/9/2007

Determinations

(1) The project will have a significant impact on the environment	No
(2a) An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA	No
(2b) A Mitigated or a Negative Declaration was prepared for this project pursuant to the provisions of CEQA	Yes
(2c) An other document type was prepared for this project pursuant to the provisions of CEQA	No
(3) Mitigated measures were made a condition of the approval of the project	No
(4) A mitigation reporting or monitoring plan was adopted for this project	N/A
(5) A Statement of Overriding Considerations was adopted for this project	No
(6) Findings were made pursuant to the provisions of	Yes

APPENDIX 4

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Martha Alvarez, MMC

From: June Ward <june@elporto40.com>
Sent: Friday, August 12, 2022 10:22 AM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

We are property owners and residents in North Manhattan Beach (El Porto). We have seen the increase of traffic and the problems associated with it mount yearly. We are fearful that the proposed HighRose project will only make matters worse affecting our property values and the headache of years construction affecting our ability to get around town. That is why we are STRONGLY OPPOSED to the HighRose/Verandas project.

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. We urge you to stand-up and protect our local zoning laws.

A 4-story 79 unit apartment complex at the corner of Rosecrans and Highland Ave is an outrageous, out-of-character proposal, and a dangerous answer to the State's "Density Bonus" law needs. A HighRose overbuild will set a precedent and threaten the future of our city and residents.

HighRose will create gridlock at a major intersection, and the lack of appropriate parking for its residents and visitors will further compound the problem. And with Chevron and NRG on its property lines, a full CEQA analysis should be mandatory. So many environmental and safety concerns demand attention.

Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,

June and Rodger Ward
203 40th St.
Concerned residents

Sent from my iPad

Martha Alvarez, MMC

From: joetanner1@verizon.net
Sent: Friday, August 12, 2022 9:30 AM
To: List - City Council
Subject: [EXTERNAL] HighRose development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am **OPPOSED** to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

A 4-story 79 unit apartment complex at the corner of Rosecrans and Highland Ave is an outrageous, out-of-character proposal, and a dangerous answer to the State's "Density Bonus" law needs. A HighRose overbuild will set a precedent and threaten the future of our city and residents.

HighRose will create gridlock at a major intersection, and the lack of appropriate parking for its residents and visitors will further compound the problem. And with Chevron and NRG on its property lines, a full CEQA analysis should be mandatory. So many environmental and safety concerns demand attention.

Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,

Joe Tanner

A concerned Manhattan Beach resident, voter & property owner since 1981

Martha Alvarez, MMC

From: Mark Hottle <surgerysolutions@yahoo.com>
Sent: Friday, August 12, 2022 9:14 AM
To: List - City Council
Cc: Kendall Romine; Robin Danby; Joe Gossman
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

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HighRose will create gridlock at a major intersection, and the lack of appropriate parking for its residents and visitors will further compound the problem. And with Chevron and NRG on its property lines, a full CEQA analysis should be mandatory. So many environmental and safety concerns demand attention.

Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,
Mark E Hottle

A concerned resident who is absolutely against this project and horrified by the lack of consideration to the environmental impact as well as the traffic overload it represents.

Regards,
Mark Hottle
Cell 310-989-8071
Personal email: surgerysolutions@yahoo.com

Please excuse any abbreviations, misspelling, nonsense, or brevity. This was sent from dictation on an iPhone 11.

Martha Alvarez, MMC

From: Jon Chaykowski <rideformbef@yahoo.com>
Sent: Friday, August 12, 2022 8:14 AM
To: List - City Council
Subject: [EXTERNAL] 4-story apartment building NOT wanted and NOT appropriate

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Dear City Council Members,

The 4-story apartment building proposed for area at Highlands and Rosecrans is NOT wanted and NOT appropriate.

You may be hearing many reasons why it is not wanted nor appropriate, including density, traffic, bulk, area aesthetics, community feel, and others. However, I want to clearly address a central points that is very important to the residents' interests.

A few years ago, I participated with 100's of residents in a lengthy and thorough discussion on what we, the residents, want in and for Our City. I may have the exact title wrong but it was a master plan for the downtown area. The most important issue, which was asked and addressed in a variety of questions/responses, was the height limit. The loud and resounding message was that the residents, with 90% or greater solidarity, wanted buildings limited to 1 or 2 stories high - and nothing higher should be allowed. MB residents dearly wanted to preserve our "small town" community.

There were paper charts tacked all around the "Police/community" meeting room displaying the conclusions of residents' loud message to strictly limited the height of buildings to 2 stories high in our downtown community - and the same clearly would apply to the Highlands and Rosecrans area. MB residents dearly want to preserve our "small town" community.

A 4-story apartment building at Highland and Rosecrans is a huge, with the word "huge" being a "pun" and correct, in describing the affront it is to the wishes of the residents of Manhattan Beach.

The residents were asked by our City leaders and answered loudly and clearly. And, two stories is the limit. Any progress on this 4-story apartment building in our beach area community should be STOPPED immediately.

Sincerely,
Jon Chaykowski

P.S. Above, I said I was addressing one question, height limit. However, height limit clearly addresses many concerns, including density, traffic, bulk, area aesthetics, community feel, and others. STOP the 4-story apartment!

Martha Alvarez, MMC

From: Susan Jordan <susanjordan815@icloud.com>
Sent: Friday, August 12, 2022 5:35 AM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

A 4-story 79 unit apartment complex at the corner of Rosecrans and Highland Ave is an outrageous, out-of-character proposal, and a dangerous answer to the State's "Density Bonus" law needs. A HighRose overbuild will set a precedent and threaten the future of our city and residents.

HighRose will create gridlock at a major intersection, and the lack of appropriate parking for its residents and visitors will further compound the problem. And with Chevron and NRG on its property lines, a full CEQA analysis should be mandatory. So many environmental and safety concerns demand attention.

Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,
Susan Jordan

A concerned resident

Sent from my iPhone

Martha Alvarez, MMC

From: CityOfManhattanBeach@manhattanbeach.gov on behalf of City of Manhattan Beach
<CityOfManhattanBeach@manhattanbeach.gov>
Sent: Thursday, August 11, 2022 9:17 PM
To: List - City Council
Subject: Highrose

Message submitted from the <City of Manhattan Beach> website.

Site Visitor Name: Tim Thomas
Site Visitor Email: Trthomas@verizon.net

The vehicle exit onto Rosecrans East is simply not safe. Left turn across westbound traffic, which really moves during the morning commute, is unsafe. Sight line to the east is no good, due to street parking and the hill slope. Throw in sun glare at certain times of the year. And merging into eastbound traffic and traffic off Alma no picnic either.



CITY OF MANHATTAN BEACH

CITY ENOTIFICATION

(310) 802-5000

CityofManhattanBeach@manhattanbeach.gov

CITY OF MANHATTAN BEACH 1400 Highland Avenue Manhattan Beach, CA 90266

Office Hours: M-Th 8:00 AM-5:00 PM | Fridays 8:00 AM-4:00 PM | Not Applicable to Public Safety

Reach Manhattan Beach

Use our click and fix it app 24/7 for non-emergency requests

Download the mobile app now



Martha Alvarez, MMC

From: Emily Piemonte <reoe@icloud.com>
Sent: Thursday, August 11, 2022 8:10 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

A 4-story 79 unit apartment complex at the corner of Rosecrans and Highland Ave is an outrageous, out-of-character proposal, and a dangerous answer to the State's "Density Bonus" law needs. A HighRose overbuild will set a precedent and threaten the future of our city and residents.

HighRose will create gridlock at a major intersection, and the lack of appropriate parking for its residents and visitors will further compound the problem. And with Chevron and NRG on its property lines, a full CEQA analysis should be mandatory. So many environmental and safety concerns demand attention.

Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,

A concerned resident

Sent from my iPhone

Martha Alvarez, MMC

From: Christy Miller <christymil@aol.com>
Sent: Thursday, August 11, 2022 8:10 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

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Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,
Christy and Doug Miller

A concerned resident

Sent from my iPad

Martha Alvarez, MMC

From: Kimberly Petri <kimpetri@hotmail.com>
Sent: Thursday, August 11, 2022 7:58 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

A 4-story 79 unit apartment complex at the corner of Rosecrans and Highland Ave is an outrageous, out-of-character proposal, and a dangerous answer to the State's "Density Bonus" law needs. A HighRose overbuild will set a precedent and threaten the future of our city and residents.

HighRose will create gridlock at a major intersection, and the lack of appropriate parking for its residents and visitors will further compound the problem. And with Chevron and NRG on its property lines, a full CEQA analysis should be mandatory. So many environmental and safety concerns demand attention.

Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,

Kim Petri

A concerned resident

Sent from my iPhone

Martha Alvarez, MMC

From: Tricia Garay <tricia@tmparsonsinc.com>
Sent: Thursday, August 11, 2022 6:58 PM
To: List - City Council
Subject: [EXTERNAL] Resident opposed to HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

A 4-story 79 unit apartment complex at the corner of Rosecrans and Highland Ave is an outrageous, out-of-character proposal, and a dangerous answer to the State's "Density Bonus" law needs. A HighRose overbuild will set a precedent and threaten the future of our city and residents.

HighRose will create gridlock at a major intersection, and the lack of appropriate parking for its residents and visitors will further compound the problem. And with Chevron and NRG on its property lines, a full CEQA analysis should be mandatory. So many environmental and safety concerns demand attention.

Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,

A concerned resident

Sent from my iPhone

Martha Alvarez, MMC

From: Rachel Bush <rachel@gate14.net>
Sent: Thursday, August 11, 2022 6:07 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

A 4-story 79 unit apartment complex at the corner of Rosecrans and Highland Ave is an outrageous, out-of-character proposal, and a dangerous answer to the State's "Density Bonus" law needs. A HighRose overbuild will set a precedent and threaten the future of our city and residents.

HighRose will take away from the community and create gridlock at a major intersection, and the lack of appropriate parking for its residents and visitors will further compound the problem. With Chevron and NRG on its property lines, a full CEQA analysis should be mandatory - many environmental and safety concerns demand attention.

Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,

A concerned el porto resident

Martha Alvarez, MMC

From: ANTOINETTE CRICHTON <toni_crichton@msn.com>
Sent: Thursday, August 11, 2022 5:02 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

A 4-story 79 unit apartment complex at the corner of Rosecrans and Highland Ave is an outrageous, out-of-character proposal, and a dangerous answer to the State's "Density Bonus" law needs. A HighRose overbuild will set a precedent and threaten the future of our city and residents.

HighRose will create gridlock at a major intersection, and the lack of appropriate parking for its residents and visitors will further compound the problem. And with Chevron and NRG on its property lines, a full CEQA analysis should be mandatory. So many environmental and safety concerns demand attention.

Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,

Antoinette Crichton
505 Pacific Ave.
MB

Sent from my iPad

Martha Alvarez, MMC

From: Michael Forgeron <forgeron.michael@yahoo.com>
Sent: Thursday, August 11, 2022 4:30 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

A 4-story 79 unit apartment complex at the corner of Rosecrans and Highland Ave is an outrageous, out-of-character proposal, and a dangerous answer to the State's Density Bonus law needs. A HighRose overbuild will set a precedent and threaten the future of our city and residents.

HighRose will create gridlock at a major intersection, and the lack of appropriate parking for its residents and visitors will further compound the problem. And with Chevron and NRG on its property lines, a full CEQA analysis should be mandatory. So many environmental and safety concerns demand attention.

Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,

A concerned resident

[Sent from Yahoo Mail on Android](#)

Martha Alvarez, MMC

From: Dan Grampp <grampp1@yahoo.com>
Sent: Thursday, August 11, 2022 2:54 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

A 4-story 79 unit apartment complex at the corner of Rosecrans and Highland Ave is an outrageous, out-of-character proposal, and a dangerous answer to the State's "Density Bonus" law needs. A HighRose overbuild will set a precedent and threaten the future of our city and residents.

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Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,

A concerned resident

Sent from my iPhone

Martha Alvarez, MMC

From: Pat Heaney <pat_heaney@yahoo.com>
Sent: Thursday, August 11, 2022 2:25 PM
To: List - City Council
Cc: Pat Heaney
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

A 4-story 79 unit apartment complex at the corner of Rosecrans and Highland Ave is an outrageous, out-of-character proposal, and a dangerous answer to the State's "Density Bonus" law needs. A HighRose overbuild will set a precedent and threaten the future of our city and residents.

HighRose will create gridlock at a major intersection, and the lack of appropriate parking for its residents and visitors will further compound the problem. And with Chevron and NRG on its property lines, a full CEQA analysis should be mandatory. So many environmental and safety concerns demand attention.

I live on Alma Avenue. If you allow this development outside the normal zoning and height restrictions of our community, citing the new "Density Bonus" state law, then what is to stop me from constructing a 20 story structure on my r-2 zoned lot? And how soon will there will soon be high-rise buildings all along the Strand?

Our low profile height limits make us different from Santa Monica and Redondo Beach. Let's keep it that way-residential neighborhoods, not high-rise apartments and condos.

Please do the right thing, demonstrate political courage, raise every good faith legal argument available, and act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,
Pat Heaney

A concerned resident

Martha Alvarez, MMC

From: The Dennys <caddenny@gmail.com>
Sent: Thursday, August 11, 2022 2:00 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers: As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws. A 4-story 79 unit apartment complex at the corner of Rosecrans and Highland Ave is an outrageous, out-of-character proposal, and a dangerous answer to the State's "Density Bonus" law needs. A HighRose overbuild will set a precedent and threaten the future of our city and residents. HighRose will create gridlock at a major intersection, and the lack of appropriate parking for its residents and visitors will further compound the problem. And with Chevron and NRG on its property lines, a full CEQA analysis should be mandatory. So many environmental and safety concerns demand attention. Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community. Sincerely, A concerned resident

Martha Alvarez, MMC

From: Ramesh Dhingra <rdhingra2@gmail.com>
Sent: Thursday, August 11, 2022 1:40 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

A 4-story 79 unit apartment complex at the corner of Rosecrans and Highland Ave is an outrageous, out-of-character proposal, and a dangerous answer to the State's "Density Bonus" law needs. A HighRose overbuild will set a precedent and threaten the future of our city and residents.

HighRose will create gridlock at a major intersection, and the lack of appropriate parking for its residents and visitors will further compound the problem. And with Chevron and NRG on its property lines, a full CEQA analysis should be mandatory. So many environmental and safety concerns demand attention.

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Sincerely,

Ramesh Dhingra

A concerned resident

Sent from my iPhone

Martha Alvarez, MMC

From: Rose-Cherie Campbell <rosecherie_campbell@yahoo.com>
Sent: Thursday, August 11, 2022 1:39 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

A 4-story 79 unit apartment complex at the corner of Rosecrans and Highland Ave is an outrageous, out-of-character proposal, and a dangerous answer to the State's "Density Bonus" law needs. A HighRose overbuild will set a precedent and threaten the future of our city and residents.

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Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,
Rose-Cherie Campbell
309 1st Street
Manhattan Beach, CA 90266

A concerned resident

Sent from my iPhone

Martha Alvarez, MMC

From: Gil Garay <gil.garay@yahoo.com>
Sent: Thursday, August 11, 2022 1:05 PM
To: List - City Council
Subject: [EXTERNAL] NO ON HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Councilmembers:

My name is Gilberto Garay, and I am a resident of Manhattan Beach.

In the strongest possible terms, I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

A 4-story 79 unit apartment complex at the corner of Rosecrans and Highland Ave is an outrageous, out-of-character proposal, and a dangerous answer to the State's "Density Bonus" law needs. A HighRose overbuild will set a precedent and threaten the future of our city and residents.

HighRose will create gridlock at a major intersection, and the lack of appropriate parking for its residents and visitors will further compound the problem. And with Chevron and NRG on its property lines, a full CEQA analysis should be mandatory. So many environmental and safety concerns demand attention.

Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,

Gilberto Garay

Martha Alvarez, MMC

From: DEANA GILES <beachmom310@icloud.com>
Sent: Thursday, August 11, 2022 12:53 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

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Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,

A concerned resident

Sent from my iPhone

Martha Alvarez, MMC

From: Lynne Davis <davis.lynne1@gmail.com>
Sent: Thursday, August 11, 2022 11:50 AM
To: List - City Council
Subject: [EXTERNAL] Carefully watching the votes on Highrose Project

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

I have written previously opposing the Highrose project - and I see that the overwhelming response by the community is opposition to this project. I believe you can fight it - it's not a "done deal." I have supported many of you in many elections, but I will be unable to vote for anyone who votes to approve this project and not fight for our community. Fight the state on this one. They are in the wrong. Period.

Best regards,
Lynne Davis

Sent from my iPhone

Martha Alvarez, MMC

From: Steve Braudo <stevebraudo@gmail.com>
Sent: Thursday, August 11, 2022 11:03 AM
To: City Clerk
Subject: [EXTERNAL] 4-Story Highrose Project

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

This oversized project in an already congested area, on potentially dangerous old Chevron refinery property, and adjacent to existing Chevron storage tanks and oil fuel lines, is a terrible idea. And to make matters worse, the City Council and city staff abdicated their responsibility to do due diligence and obtain an environmental impact statement. Moreover, the project does not conform to local zoning laws, the city's own General Plan and the Local Coastal Program.

This project should be stopped by City Council and the Council should listen to its residents, especially those in the area of the project (which I am not).

Do the right thing and stop this project!

Respectfully,
Steve Braudo
A concerned 25-year East Manhattan Beach resident

--

Steve Braudo

Martha Alvarez, MMC

From: Jennifer K. Peicott <jennifer@skinbylovely.com>
Sent: Thursday, August 11, 2022 9:50 AM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

A 4-story 79 unit apartment complex at the corner of Rosecrans and Highland Ave is an outrageous, out-of-character proposal, and a dangerous answer to the State's "Density Bonus" law needs. A HighRose overbuild will set a precedent and threaten the future of our city and residents.

HighRose will create gridlock at a major intersection, and the lack of appropriate parking for its residents and visitors will further compound the problem. And with Chevron and NRG on its property lines, a full CEQA analysis should be mandatory. So many environmental and safety concerns demand attention.

Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,

A concerned resident

Martha Alvarez, MMC

From: Laura Wallace <laurafwallace@gmail.com>
Sent: Thursday, August 11, 2022 9:27 AM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

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Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,

A concerned resident

Sent from my iPhone

Martha Alvarez, MMC

From: Kay Willett <kaywillett@gmail.com>
Sent: Thursday, August 11, 2022 7:50 AM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

A 4-story 79 unit apartment complex at the corner of Rosecrans and Highland Ave is an outrageous, out-of-character proposal, and a dangerous answer to the State's "Density Bonus" law needs. A HighRose overbuild will set a precedent and threaten the future of our city and residents.

HighRose will create gridlock at a major intersection, and the lack of appropriate parking for its residents and visitors will further compound the problem. And with Chevron and NRG on its property lines, a full CEQA analysis should be mandatory. So many environmental and safety concerns demand attention.

Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,
Kathryn Willett

A concerned resident

Sent from my iPhone

Martha Alvarez, MMC

From: Carrie La Londe <clb@valleyproduce.com>
Sent: Thursday, August 11, 2022 2:05 AM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

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Sincerely,

Concerned MB residents

Carrie La Londe Burrell
Gas Light section Manhattan Beach
30+ year resident
Burrellcarrie@gmail.com

Donald La Londe
Gas light section MB
50+ year resident

Carrie La Londe
CEO
Valley Fruit & Produce
e: clb@valleyproduce.com
c: 213-256-9055
www.valleyproduce.com
Sent from my iPhone

Martha Alvarez, MMC

From: Linda Smalley <lukeyloo28@icloud.com>
Sent: Wednesday, August 10, 2022 8:37 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

A 4-story 79 unit apartment complex at the corner of Rosecrans and Highland Ave is an outrageous, out-of-character proposal, and a dangerous answer to the State's "Density Bonus" law needs. A HighRose overbuild will set a precedent and threaten the future of our city and residents.

HighRose will create gridlock at a major intersection, and the lack of appropriate parking for its residents and visitors will further compound the problem. And with Chevron and NRG on its property lines, a full CEQA analysis should be mandatory. So many environmental and safety concerns demand attention.

Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,

Linda and Larry Smalley
3200 Crest Drive
A concerned resident

Sent from my iPhone

Martha Alvarez, MMC

From: Lori Pittman <twolittledancers@yahoo.com>
Sent: Monday, August 8, 2022 8:28 PM
To: City Clerk
Subject: [EXTERNAL] Verandas Project

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Dear City Council Members,

Unfortunately, I am not able to attend in person. However, I hope by sending this email it will help drive home the point of how extremely important and necessary the Verandas Project is to the community.

The housing crisis is a multi income level issue. It is real, relentless and unforgiving. It is an issue for people of low income as well as moderate income.

We know the challenges and struggles that low income face with housing insecurity. Moderate income face similar challenges and struggles but for different reasons. They don't qualify for low income housing but they don't make enough money to afford high market rate housing.

Moderate income is our teachers, our essential workers (as identified during covid), our health care workers, our first responders and the list goes on. They are the glue of our community and they help make our community thrive. They are also the people that face housing insecurity without workforce housing or market rate housing.

My family is one of the many families that is impacted by the lack of affordable workforce and market rate housing availability.

I am a retired Deputy Sheriff, injured in the line of duty. I am on a disability retirement with a potential for a 2%- 3% income increase each year. I, like many others, am in desperate search of affordable housing and I, like many others, am still struggling to find availability.

My daughter will soon be in a similar situation. She will soon graduate from college and attend an additional year after graduation to get her teaching credential. After graduating with substantial student loan debt, she will enter a profession that will not afford her the opportunity to live in the community that she will work in. She will have no other choice but to rely on workforce or market rate housing to keep a roof over her head.

Sadly, she knows this, as do all the young teachers graduating from college. But she still strongly believes that children deserve an education and she also strongly believes in serving the community as a devoted, caring and compassionate teacher.

My story is one of many stories of people faced with current and future housing insecurity. I cannot stress enough the importance and desperate need for not just affordable housing but workforce and market rate housing .

We owe it to our community to make sure that a healthcare worker after their 12 hour shift isn't driving 1 1/2 hours to get home because it's the only affordable housing option for them or a teacher isn't coming home to 3 roommates in a one bedroom apartment so they are able to pay their rent or a young professional is not sleeping in their car because they don't make 3 times the rent to qualify for an apartment .

Change and growth can be hard, but we owe it to each other to take care of each other. I cannot reiterate enough the desperate need of affordable, workforce and market rate housing.

PLEASE, support the Verandas Project! It is extremely important to our community and the future of our community.

Sincerely,
Lori Pittman

Sent from my iPhone

Martha Alvarez, MMC

From: Bob Heintz <bob@heintznet.com>
Sent: Tuesday, August 16, 2022 4:22 PM
To: List - City Council
Subject: [EXTERNAL] HighRose

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

The HighRose project is in no way consistent with the character of Manhattan Beach. We don't want a big over-scaled project, and the council should be standing up against this misguided project, not supporting it! When I built my house I had to comply with very strict regulations on height and bulk... why should this project be able to violate those standards?

Please don't let this be your legacy.

--

Bob Heintz
Mobile: +1.310.753.4343
bob@heintznet.com

Martha Alvarez, MMC

From: kevin@kevincovert.com
Sent: Tuesday, August 16, 2022 4:05 PM
To: City Clerk
Subject: [EXTERNAL] eComment re: Project Verandas - City Council Meeting 8/16/22

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

My name is Kevin Covert and I support Project Verandas. I've lived in MB the last 27 years. I lived at this location for 25 years until recently. I have two toddlers entering Manhattan Beach schools.

After thoroughly reviewing options for the property, I believe this project represents the best use for MB. It helps address statewide mandates for affordable housing. It has the least negative impact of other uses, particularly retail. The small-town, family-oriented, residential feel makes MB special.

This project has several key benefits:

- Helps existing local businesses
- Decreases traffic
- Adds much-needed parking
- Local long-term developer

From all the facts I've seen, this project is good for our city – beautiful development, affordable housing, more public parking, and less traffic, while maintaining the city's unique residential feel in the sand section.

Kevin Covert
461 S Prospect Ave
Manhattan Beach, CA 90266

Martha Alvarez, MMC

From: Amy Sinclair <aes428@gmail.com>
Sent: Tuesday, August 16, 2022 3:35 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

A 4-story 79 unit apartment complex at the corner of Rosecrans and Highland Ave is an outrageous, out-of-character proposal, and a dangerous answer to the State's "Density Bonus" law needs. A HighRose overbuild will set a precedent and threaten the future of our city and residents.

HighRose will create gridlock at a major intersection, and the lack of appropriate parking for its residents and visitors will further compound the problem. And with Chevron and NRG on its property lines, a full CEQA analysis should be mandatory. So many environmental and safety concerns demand attention.

Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,

A concerned resident

Martha Alvarez, MMC

From: Matt Gelfand <admin@caforhomes.org>
Sent: Tuesday, August 16, 2022 3:32 PM
To: Steve Napolitano; Richard Montgomery; Joe Franklin; Suzanne Hadley; Hildy Stern; City Clerk; List - City Council
Cc: Bruce Moe; Carrie Tai, AICP; Talyn Mirzakhani; Ted Fatusos
Subject: [EXTERNAL] Correspondence from Californians for Homeownership
Attachments: Letter to City Council - Highrose El Porto Veranda.pdf

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

To the City Council:

Please see the attached letter dated August 16, 2022 in regards to item #15 in today's City Council regular meeting agenda.

Sincerely,

Christian Garcia

Californians for Homeownership
525 S. Virgil Avenue
Los Angeles, CA 90020
admin@caforhomes.org
Tel: (213) 739-8206

Californians for Homeownership is a 501(c)(3) non-profit organization that works to address California's housing crisis through impact litigation and other legal tools.



August 16, 2022

VIA EMAIL

City Council
City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 90266

Email: snapolitano@manhattanbeach.gov; rmontgomery@manhattanbeach.gov;
jfranklin@manhattanbeach.gov; shadley@manhattanbeach.gov;
hstern@manhattanbeach.gov; cityclerk@manhattanbeach.gov;
citycouncil@manhattanbeach.gov

RE: Highrose El Porto / Verandas Development
401 Rosecrans Ave. and 3770 Highland Ave.

To the City Council:

Californians for Homeownership is a 501(c)(3) organization devoted to using legal tools to address California's housing crisis. We are writing regarding the Highrose El Porto and Verandas project. The City's approval of this project is governed by the Housing Accountability Act, Government Code Section 65589.5. We have reviewed the record and we are writing to inform you that (1) the City is required to approve the project under the Act, (2) the City's environmental review of the project was adequate, and (3) the appeals before you are therefore meritless. For the purposes of Government Code Section 65589.5(k)(2), this letter constitutes our written comments submitted in connection with the project.

The Housing Accountability Act generally requires the City to approve a housing development project unless the project fails to comply with "applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the application was deemed complete." Gov. Code § 65589.5(j)(1). To count as "objective," a standard must "involve[e] no personal or subjective judgment by a public official and be[] uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official." Gov. Code § 65589.5(h)(8). In making this determination, the City must approve the project if the evidence "would allow a reasonable person to conclude" that the project met the relevant standard. Gov. Code § 65589.5(f)(4). Projects subject to modified standards pursuant to a density bonus are judged against the City's standards as modified. Gov. Code § 65589.5(j)(3).



The City is subject to strict timing requirements under the Act. If the City desires to find that a project is inconsistent with any of its land use standards, it must issue written findings to that effect within 30 to 60 days after the application to develop the project is determined to be complete. Gov. Code § 65589.5(j)(2)(A). If the City fails to do so, the project is deemed consistent with those standards. Gov. Code § 65589.5(j)(2)(B).

If the City determines that a project is consistent with its objective standards, or a project is deemed consistent with such standards, but the City nevertheless proposes to reject it, it must make written findings, supported by a preponderance of the evidence, that the project would have a “specific, adverse impact upon the public health or safety,” meaning that the project would have “a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.” Gov. Code § 65589.5(j)(1)(A); *see* Gov. Code § 65589.5(k)(1)(A)(i)(II). Once again, “objective” means “involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.” Gov. Code § 65589.5(h)(8).

Even if the City identifies legally sufficient health and safety concerns about a project, it may only reject the project if “[t]here is no feasible method to satisfactorily mitigate or avoid the adverse impact . . . other than the disapproval of the housing development project . . .” Gov. Code § 65589.5(j)(1)(B). Thus, before rejecting a project, the City must consider all reasonable measures that could be used to mitigate the impact at issue.

For projects that provide housing for lower-income families, the Act is even more restrictive. In many cases, the City must approve such a project even if it fails to meet the City’s objective land use standards. *See* Gov. Code § 65589.5(d).

These provisions apply to the full range of housing types, including single-family homes, market-rate multifamily projects, and mixed-use developments. Gov. Code § 65589.5(h)(2); *see Honchariw v. Cty. of Stanislaus*, 200 Cal. App. 4th 1066, 1074-76 (2011). And the Legislature has directed that the Act be “interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing.” Gov. Code § 65589.5(a)(2)(L).

When a locality rejects or downsizes a housing development project without complying with the rules described above, the action may be challenged in court in a writ under Code of Civil Procedure Section 1094.5. Gov. Code § 65589.5(m). The legislature has significantly reformed this process over the last few years in an effort to increase compliance. Today, the law provides a private right of action to non-profit organizations like Californians for Homeownership. Gov. Code § 65589.5(k). A non-profit organization can sue without the involvement or approval of the project applicant, to protect the public’s interest in the development of new housing. A locality that is sued to enforce Section 65589.5 must prepare the administrative record itself, at its own expense, within 30 days after service of the petition. Gov. Code § 65589.5(m). And if an enforcement lawsuit brought by a non-profit organization is successful, the locality must pay the

organization's attorneys' fees. Gov. Code § 65589.5(k)(2). In certain cases, the court will also impose fines that start at \$10,000 per proposed housing unit. Gov. Code § 65589.5(k)(1)(B)(i).

In recent years, there have been a number of successful lawsuits to enforce these rules:

- In *Honchariw*, 200 Cal. App. 4th 1066, the Court of Appeal vacated the County of Stanislaus's denial of an application to subdivide a parcel into eight lots for the development of market-rate housing. The court held that the county did not identify any objective standards that the proposed subdivision would not meet, and therefore violated the Housing Accountability Act in denying the application.
- In *Eden Housing, Inc. v. Town of Los Gatos*, Santa Clara County Superior Court Case No. 16CV300733, the court determined that Los Gatos had improperly denied a subdivision application based on subjective factors. The court found that the factors cited by the town, such as the quality of the site design, the unit mix, and the anticipated cost of the units, were not objective because they did not refer to specific, mandatory criteria to which the applicant could conform.
- *San Francisco Bay Area Renters Federation v. Berkeley City Council*, Alameda County Superior Court Case No. RG16834448, was the final in a series of cases relating to Berkeley's denial of an application to build three single family homes and its pretextual denial of a demolition permit to enable the project. The Court ordered the city to approve the project and to pay \$44,000 in attorneys' fees.
- In *40 Main Street Offices v. City of Los Altos*, Santa Clara County Superior Court Consolidated Case Nos. 19CV349845 & 19CV350422, the court determined that the Los Altos violated the Housing Accountability Act, among other state housing laws, by failing to identify objective land use criteria to justify denying a mixed-use residential and commercial project. The City was ultimately forced to pay approximately \$1 million in delay compensation and attorneys' fees in the case.
- In *Californians for Homeownership v. City of Huntington Beach*, Orange County Superior Court Case No. 30-2019-01107760-CU-WM-CJC, a case brought by our organization, the court ruled that Huntington Beach violated the Housing Accountability Act when it rejected a 48-unit condominium project based on vague concerns about health and safety. Following the decision, the City agreed to pay \$600,000 in attorneys' fees to our organization and two other plaintiffs.

In other cases, localities have settled lawsuits by agreeing to approve the subject projects and pay tens or hundreds of thousands of dollars in legal expenses.

Sincerely,

Christian Garcia

Martha Alvarez, MMC

From: Jillian Rabago <jrrabago@gmail.com>
Sent: Tuesday, August 16, 2022 3:21 PM
To: List - City Council
Subject: [EXTERNAL] Highrose Luxury Apartments

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Dear Manhattan Beach city council ,

I am a Manhattan Beach resident living on Rosecrans Ave and I am opposed to this project. For any questions, please feel free to contact me. Thank you for your time.

Sincerely,
Jillian Rabago Rosen

Martha Alvarez, MMC

From: kevin@kevincovert.com
Sent: Tuesday, August 16, 2022 3:20 PM
To: List - City Council
Subject: [EXTERNAL] Support of Project Verandas

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Dear City Council Members,

My name is Kevin Covert, I'm a resident of Manhattan Beach, and I support Project Verandas.

As background, I've spent my entire life in the South Bay, and the last 27 years as a resident of Manhattan Beach. I know the site location well as I lived very close to that location for 25 years until recently.

I have two toddlers entering Manhattan Beach schools, and plan to live in Manhattan Beach for the rest of my life. I love Manhattan Beach and want what's best for the city and residents. I am also a former environmental civil engineer, so I understand the issues around this development.

As much as I would love Manhattan Beach to stay the same forever, it is naïve to think that an acre of undeveloped land will stay vacant. It will be developed. After reviewing the various options for the property, I believe the Verandas project represents the best use and is good for the city.

I've been both a renter and homeowner in Manhattan Beach and am very attune to the extreme lack of affordable housing. Not only does this project allow younger families and lower income residents the ability to live in our wonderful city, but it also helps address the statewide mandates to add affordable housing.

The proposed residential use appears to have the least negative impact of other potential uses, particularly new retail. Also, I believe one of the key things that have kept Manhattan Beach so special all these years, is the small-town, family-oriented, residential feel. In this regard, I believe people should live near our precious beaches, and retail should be limited to very select areas, but generally located more inland towards Sepulveda.

This project appears to have several key benefits:

- Helps existing local businesses
- Decreases traffic
- Adds much-needed parking
- Local developer

It gives me a lot of comfort that the developer is a local resident, long-term investor, and aligned with making our city better.

I realize there will always be some people opposed to every development. I've been following the appeals and don't believe they warrant stopping or changing the project.

- One of the appeals claimed there was no environmental analysis done, which is not true. Even though state law exempts this project from a CEQA analysis, a phase I environmental review was conducted and concluded there are no environmental hazards.
- Another claim was that the project would create more traffic. However, traffic reviews by both the City of Manhattan Beach and a third-party concluded the development would reduce traffic.

- A few people demanded the project be relocated or dramatically reduced, but those requests are simplistic and not constructive as they offered no economic analysis that they are viable. Another claimed construction near Chevron would create a hazard, another idea with no factual support.

This run-down property needs to be developed. From all the facts I've seen, Verandas is good for our city – a beautiful development providing affordable housing, more public parking, and less traffic, all while maintaining the city's unique residential feel in the sand section.

Kevin Covert
461 S Prospect Ave
Manhattan Beach, CA 90266

Martha Alvarez, MMC

From: George Bordokas <george@bordokas.com>
Sent: Tuesday, August 16, 2022 3:15 PM
To: List - City Council
Cc: Bruce Moe; Martha Alvarez, MMC; Carrie Tai, AICP; Talyn Mirzakhanian; Ted Faturos
Subject: [EXTERNAL] FW: my appeal

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

I'm unable to attend tonight. Here is my appeal. I don't believe staff provide a good answer as to why we should not hold the developer to the height of 30ft and 3 stories.

I'm appealing the granting of height and number of stories waiver for Highrose/Verandas I ask that the developers not receive the height and number of stories waiver and be held to the local code: 30ft height and 3 stories. The developer did not provide reasonable documentation that would qualify for the waiver.

We do need more housing affordable and other. But at what cost? We don't need a luxury apartment complex with an enormous penthouse. We need housing that people can afford. I doubt that rents will be low. The developer is using the state code and the directors decision and perhaps you, to reap huge profits from the bonus units, maximizing their ROI. We need to protect the character of our town and listen to its citizens. They can build within the code but maybe not this opulent luxury development as it stands.

With the project we get 6 affordable units (we need 406), where are the rest coming from? I have been told that there are 2 locations that would qualify for this same sort of development. how many stories will those be?

Per California govt code section 65915 (0)(2) State law "STATE LAW DOES NOT PROHIBIT A LOCAL GOVERNMENT FROM REQUIRING AN APPLICANT TO PROVIDE REASONABLE DOCUMENTATION TO ESTABLISH ELIGIBILITY FOR A REQUESTED DENSITY BONUS, INCENTIVES OR CONCESSIONS, AS DESCRIBED IN SUBDIVISION (d). WAIVER OR REDUCTIONS OF DEVELOPMENT STANDARDS, AS DESCRIBED IN SUBDIVISION (e)

Planning director and staff, concluded that "reasonable documentation" was given to established the projects eligibility, the documentation came from the developer, did staff think of getting a second opinion, did they question it? What was that evidence page 5-01, 5-02 and 5-03 from the plans submitted and attachment k and l from staff? Pages from the plan and k is a survey of rental sizes in the area without any supporting documentation and (L) a letter from the developers architect regarding ceiling heights. Is that reasonable documentation? I don't think so. Did the developer provide detailed plans that proved their conclusion that the units would average about 512 sq feet made up of mostly studios (5-01)? How is any of what was submitted reasonable documentation that they can't build to code? We have a lot at stake with this decision more will follow and our town is at risk. We don't want to be Redondo beach of Miami, do we?

The director the city is not obligated to give the waiver?. The developer has no incentive to say it can. Why would they? Nah can't do it... so the director issues the Waiver.

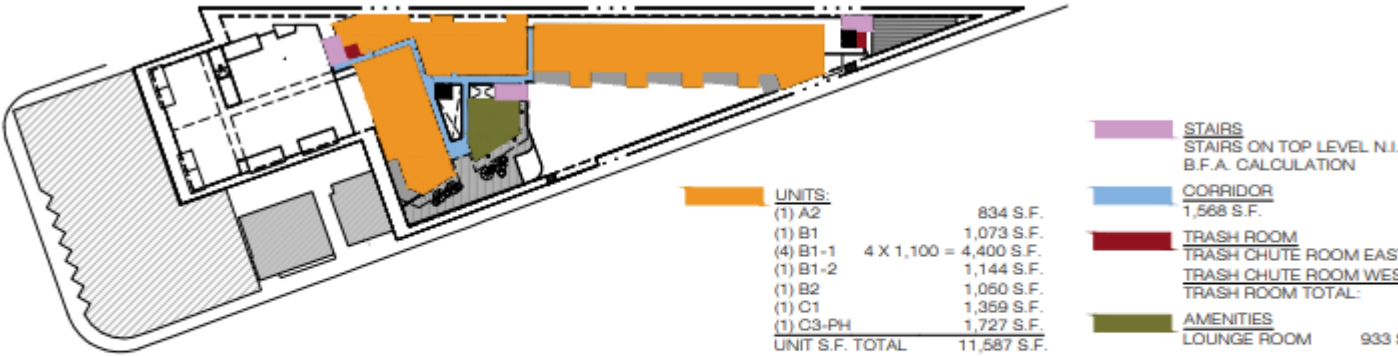
You have the power to ask the developer to stay within those limits. Eliminate the penthouse and the 9 4th floor units. From the plan 01-01: 4th floor unit sq footage is 11,387, total unit square footage is 72,932 so that leaves 61,545 divide that by 79 and your result in 779 sq. ft .

Mr. Buckley stated, at the commission appeal hearing (6/08), that they could have submitted an even taller building but didn't. I urge Mr. Frank Buckley, though the state density bonus plus the city's allows you to have 79 units can you try to show some love and fit what you can within the local code limits. You would at worst, still be left with 69 units with 6 affordable units that yields you 11 units more than what you would have had without the bonuses (52). Frank, you don't always have to take everything you are given. I think it would show a great deal of respect to your neighbors and to the city we love if you did eliminate the 4th floor. In the long run the town will benefit and so will you.

We have an iconic beach town that has managed its growth and character well. How? One vital way, is by our building code. That's why I live here, that why we live here, and that's why people want to come here. The State is out of bounds in its rush to show that they are doing something about the housing problem. I don't have an issue with providing more affordable housing and development. I do have a problem with the way the state is choosing to accomplish this. They are granting one group incentives at our expense. They are bullying cities like ours up and down the coast.

TOTAL UNITS: 79	TOTAL AREA: 72, 932 S.F.
<u>PROPOSED B.F.A.:</u>	
STAIRS	2,620 S.F.
ELECTRICAL	158 S.F.
MECH./MAINT.	489 S.F.
STORAGE	1,428 S.F.
UNITS	72,932 S.F.
CORRIDORS	11,857 S.F.
AMENITIES	5,298 S.F.
TRASH	1,006 S.F.
LOBBY	429 S.F.
TOTAL ENCLOSED BUILDING	96,217 S.F.
AREA (N.I.C. PARKING)	
SEE BFA EXHIBIT	

Thank you



FOURTH FLOOR - 168.0'

FOURTH LEVEL 168.0'	UNITS + STAIRS + CORRIDOR + TRASH ROOM + AMENITIES
FOURTH LEVEL B.F.A.:	11,587 + 0 + 1,568 + 118 + 933 = 14,206 S.F.

B.F.A. EXHII

Martha Alvarez, MMC

From: Robert Rosen <robertdeanrosen@gmail.com>
Sent: Tuesday, August 16, 2022 3:10 PM
To: List - City Council
Subject: [EXTERNAL] Opposed to high rise luxury apartments

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Hi MB-

My name is Bob Rosen.

I own my home at 116 Rosecrans Ave.

I am 100% opposed to these so called high rise apartments they are talking about building up the street at the former Verandas location.

Thanks

Sent from my iPhone

Martha Alvarez, MMC

From: Sarah Mullen <sawmullen4@gmail.com>
Sent: Tuesday, August 16, 2022 3:02 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am **OPPOSED** to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

A 4-story 79 unit apartment complex at the corner of Rosecrans and Highland Ave is an outrageous, out-of-character proposal, and a dangerous answer to the State's "Density Bonus" law needs. A HighRose overbuild will set a precedent and threaten the future of our city and residents.

HighRose will create gridlock at a major intersection, and the lack of appropriate parking for its residents and visitors will further compound the problem. And with Chevron and NRG on its property lines, a full CEQA analysis should be mandatory. So many environmental and safety concerns demand attention.

Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,
Sarah, Matt, Evelyn and Margo Mullen

Concerned residents

Martha Alvarez, MMC

From: GREG ROSEN <rosen217mb@aol.com>
Sent: Tuesday, August 16, 2022 2:58 PM
To: List - City Council
Subject: [EXTERNAL] Hi-Rose luxury apartments

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

To ALL members of the city council,

I'm writing to express my dismay at the handling of the above planned apartment complex that's on Rosecrans and approximately Highland. I cannot believe that this project is being rubber stamp through city Council on the basis of state laws superseding local ordinances. This project is NOT in line with state mandated projects. It is not in proximity to mass transit, the site has not been properly cleared for toxic waste that are probably just underneath the surface and the decreased parking would create havoc in North Manhattan and in El Porto.

Please vote against the developers who I'm sure are making it easier for some of you to run for reelection and please fight, as you were elected to, for the citizens of Manhattan Beach.

Thank you for your time and efforts.

Respectfully yours,

Gregory Rosen,
Founding Chairperson and Chairman Emeritus, Manhattan Wine Auction, A Voting Resident of Manhattan Beach since 1987.

Sent from my iPhone

Martha Alvarez, MMC

From: greg knoll <gknoll520@gmail.com>
Sent: Tuesday, August 16, 2022 2:55 PM
To: City Clerk
Subject: [EXTERNAL] Veranda project

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Dear City Clerk,

Please approve the final Application for approval for the the much needed rental project proposed by Marlin equities. They are environmentally friendly & very professional.

They will build the much needed project in a bvery responsible & expeditious manner

All the best,

Gregory Knoll

328 9th st.

MB

Martha Alvarez, MMC

From: greg knoll <gknoll520@gmail.com>
Sent: Tuesday, August 16, 2022 2:51 PM
To: List - City Council
Subject: [EXTERNAL] Veranda Project

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Dear City Council ,

I am a firm believer that it would be in the City's best interest to approve the Veramda project proposed. We need more rental housing & the market needs this. Please approve thos tonight. The builders are environmentally responsible & professional.

Gregory Knoll

Riviera Financial

Martha Alvarez, MMC

From: David Rutan doctdave <doctdave@aol.com>
Sent: Tuesday, August 16, 2022 2:47 PM
To: City Clerk
Subject: [EXTERNAL] Resident comment on Coyotes Agenda item 16

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Dear Council,

I have lived in Manhattan Beach for 30 years, 27 as a homeowner. I have witnessed an increase in coyote interactions in my neighborhood both seeing them as I walk my dogs and also due to neighbors losing cats. While very unfortunate to lose a pet in this manner, I believe we should listen to the wildlife experts as to how to manage this issue. My good friend, Andrea Gullo, is the Director at the Puente Hills Habitat Preservation Authority and has dealt with similar issues in communities surrounding this open space. Her agencies recommendations are included below, and no doubt echo the same recommendations from your wildlife experts.

I remember how we got our first dog. We saw a stray in the neighborhood, and after a steak dinner, gave the dog the steak bones. Guess where the dog was the next night?

We should educate the community members and encourage behaviors which keep the wildlife uninterested to prowling our neighborhoods at night. We can encourage "catios", outside enclosed areas for cats which are fairly easily and cheaply built.

Thank you for your consideration,

Dave

David B. Rutan Phd, Esq
1217 Magnolia Ave.
Manhattan Beach, CA 90266

>>>>>>

The Puente Hills Habitat Preservation Authority has provided some tips on Living with Coyotes:

Coyotes are an important part of our ecosystem, and whether some like it or not, they are here to stay. Coyotes don't only live in open space areas, but can also live in or next to residential neighborhoods. This is because neighborhoods provide something that coyotes like – easy food.

Coyotes are very resourceful and will eat almost anything, including small mammals (such as rabbits and rodents), snakes, fruits and vegetables, birds. This means they can, and do, also eat food that is left out unintentionally (such as uncovered trash or fallen fruit from trees) or food that is left out intentionally (pet food, or purposeful feeding of coyotes). If food sources are deliberately, or even accidentally, provided by people, coyotes can learn to associate human neighborhoods with food and may develop a reliance on these unnatural food sources, increasing their interactions with humans and reducing their natural fear of humans.

Killing or trapping and moving coyotes are not viable options for dealing with coyotes in neighborhoods, because they will just be replaced by other coyotes as long as there is easy food attracting them there. The best way to avoid human-coyote interactions is to prevent them by keeping coyotes wild by reducing their reliance on human food sources. How can you help?

- Do not feed coyotes or other wildlife.
- Make sure that any outside garbage is secured, fallen fruit from trees and bird seed from bird feeders is regularly picked up. Such food or garbage could also attract rodents or other animals, which could also attract coyotes to eat them.
- Do not feed your pets outdoors, and do not leave pet food outdoors unattended, especially at night.
- Do not allow pets to roam free outside, especially at night, and make sure to keep your dog on a leash during walks.
- Keep your shrubs and landscaping trimmed and open so that they don't provide hiding places for coyotes or other wildlife.
- And finally, make sure that fencing around your yard is intact and secure – a six-foot high fence is recommended, as is burying the bottom six inches of the fence underground to prevent digging underneath it.

For additional information and resources, visit the Habitat Authority's webpage on Living with Wildlife at [https://urldefense.com/v3/__http://www.habitatauthority.org/living-with-wildlife/__;!!AxJhxnnVZ8w!J9w-Oc6vbFiGtbP-qz2TP19dZmDJoZvJ2OWk2340wPHzDPcKzk9m_54y7uR0k5CSZu-ZjPtA9kq_ICusN1Dv-li\\$](https://urldefense.com/v3/__http://www.habitatauthority.org/living-with-wildlife/__;!!AxJhxnnVZ8w!J9w-Oc6vbFiGtbP-qz2TP19dZmDJoZvJ2OWk2340wPHzDPcKzk9m_54y7uR0k5CSZu-ZjPtA9kq_ICusN1Dv-li$)

Martha Alvarez, MMC

From: Mavices07 <mavices07@aol.com>
Sent: Tuesday, August 16, 2022 2:39 PM
To: City Clerk
Subject: [EXTERNAL] OPPOSITION TO HIGHRISE LUXURY APPARTMENTS:

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

City Clerk or to Whom this may concern,

Please share my comments below at this evening's City Council Meeting when the High rise Luxury Apartment Items comes up on your agenda.

"...Dear Members of Manhattan Beach City Council,

I am opposed to the high rise luxury apartment complex planned to replace Veranda's Beach House facilities located at the North side of Rosecrans Avenue near the intersections of Rosecrans and Alma Avenue. Vote No to adopt the current plan.

My opposition is based on the negative impacts to our community as follows:

- 1- Traffic; massive increases in traffic both during construction and after due to permanently expanded occupancy.
- 2- Noise: I've lived through the Rosecrans natural gas pipeline and Highland Telecom replacement projects and these were extremely noisy jobs disrupting the peace and quiet of our beach neighborhood. The proposed project would be many time worse given its scope and duration. This is not an acceptable proposal.
- 3- Pollution: Again a direct consequence of construction equipment and material debris brought in and hazmat taken out, our neighborhood pollution exposure will increase unnecessarily to unsafe levels. Also and in the long term, higher occupancy will result in higher concentration of vehicle pollution once units are occupied - more people more traffic more pollution. We do not have adequate public transportation now along Rosecrans to serve existing residents and certainly not after this new construction, so build that first then consider adding more people later.
- 4- Obstructing Views Lowering Property Values/Tax Assessments. A 30-foot height restriction is imposed on residential property owners, this project allows for 50+foot elevations blocking valuable views of residents immediately across the street from the proposed complex. The project won't be financially viable without the 50-foot variance and the City Council should reject it for noncompliance with existing code. Current property owners enjoying ocean views will be blocked by the proposed construction and thereby loose marketing value perhaps as much as \$500,000 per unit in today's prices.
- 5- Our neighborhood will be forever damaged given this proposed change and therefore should be rejected by this City Council this evening.

Please share my comments at this evenings City Council meeting.

Thank you.

Donald Fritts..."

Martha Alvarez, MMC

From: Donald McPherson <mb-north@outlook.com>
Sent: Tuesday, August 16, 2022 2:09 PM
To: List - City Council
Cc: Bruce Moe; Liza Tamura, MMC; Martha Alvarez, MMC; Carrie Tai, AICP; Talyn Mirzakhanian; Ted Fatuross
Subject: [EXTERNAL] MB North Testimony. Highrose Agenda Item 16 August 2022
Attachments: 220816-McP-CC-Testimony-Highrose-Compiled-Final.pdf

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

16 August 2022

Steve Napolitano, Mayor
City of Manhattan Beach

Via Email: citycouncil@citymb.info

Subject: MB North Testimony, Highrose Agenda Item, 16 August 2022

Mayor Napolitano and Councilmembers,

For the subject item, my testimony text below. The attachment provides the testimony text and slides.

Testimony

I request that the city council requires an environmental impact report, an EIR, for the Highrose project. Per the California Environmental Quality Act, CEQA, the council has that discretionary authority.

Per Item 1, Highrose deviates from the municipal code as follows:

- 1) Four stories instead of three and a fifty-foot height versus thirty;
- 2) 79 units versus 51 permitted;
- 3) A 47% increase in floor-area; and,
- 4) A 51-parking space reduction, 29% of total 178 required by city code.

All these code deviations provide only six affordable units. At that rate, it will take nearly 70 over-height projects like Highview for the city to meet its 406 affordable-unit quota that the state mandates.

Developers will build those over-height, under-parked buildings in the coastal zone, for the ocean views. In 1997, I managed a successful voter initiative that restricts residential heights in the city, a 30-foot limit for the coastal zone. If Highrose approved, commercial heights everywhere in the city will increase, but not residential heights.

The city is delinquent on an approved EIR for the 6th Housing Element Upgrade, the HEU, which runs from 2021 to 2029. Therefore, for Highrose, per Chart Item 3, CEQA requires a Single-Program EIR that encompasses the total development of 406 units. This EIR must consider cumulative effects from all 70 projects, with impacts such as traffic, parking, and bulk.

In violation, however, the city follows a ministerial process to avoid environmental review and public hearings. The 2017 Senate Bill 35 that authorizes ministerial approval of affordable housing clearly prohibits such projects in the coastal zone where Highrose located. As result, this agenda business item unquestionably unlawful, if the council approves Highrose tonight.

CEQA requires alternatives in the Single-Program EIR, such as the two identified in Chart Item 5: 1) A large 100% affordable project on two city-owned parcels adjoining the Manhattan Mall; and, 2) A 100% affordable Highrose project that complies with the municipal code.

Focus on the first alternative shown in the chart. The city owns the two parcels in the middle, with the Manhattan Mall far left. The Marriott Westdrift far right with a golf course and hazard ponds south.

The next slide shows that the city 5.4-acre lot essentially unused.

These parcels can accommodate the 406 affordable units mandated by the state, resulting in a code-compliant development with open space and low-profile required by the General Plan.

At its closed meeting yesterday, presumably, the council discussed Highrose. Perhaps, the council considered postponing Highrose until the 6th Cycle HEU approved in October. If so, the council may not consider Highrose again, until conducting a valid single-program EIR, in contrast to the piecemealing travesty of an EIR denied in February.

Thanks for considering my evidence,

Donald McPherson, President

MB North, a California Nonprofit Corporation, Certificate # 032776427

1014 1st St, Manhattan Beach CA 90266

mb-north@outlook.com

Distribution: City Manager, City Clerk, Community Development

From: Donald McPherson

Sent: Monday, 15 August, 2022 14:40

To: MB Council (citycouncil@citymb.info) <citycouncil@citymb.info>

Cc: Bruce Moe <bmoe@manhattanbeach.gov>; Liza Tamura (LTamura@citymb.info) <LTamura@citymb.info>; Martha Alvarez (malvarez@citymb.info) <malvarez@citymb.info>; Carrie Tai (ctai@citymb.info) <ctai@citymb.info>; Talyn Mirzakhania (tmirzakhania@citymb.info) <tmirzakhania@citymb.info>; Ted Faturos (tfaturos@citymb.info) <tfaturos@citymb.info>

Subject: MB North Rebuttal to Highrose Staff Report, 16 August 2022

15 August 2022

Steve Napolitano, Mayor

City of Manhattan Beach

Via Email: citycouncil@citymb.info

Subject: MB North Rebuttal to Highrose Staff Report, 16 August 2022

Mayor Napolitano and Councilmembers,

For the MB North appeal of the Highrose project to the city council, the process errs in two principal ways:

- The appeals before the planning commission on June 10 and the city council on August 16 conducted as business items without notice to property owners within 500-feet of the premises, in violation of the zoning code and state law that requires public hearings for appeals [Staff Report, Highview appeal, 16 August 2022]; and,
- The city three responses to MB North appeal arguments erroneous and deficient as follows [ibid., pp. 16-17]:

<> *"Accordingly, the approval of the Project, and any subsequent appeals, are ministerial"*

The Local Coastal Program ["LCP"] has no provision for ministerial approvals by discretionary city entities. The Coastal Commission has jurisdiction over the LCP, which the city council may not interpret. [See *Keen v. City of Manhattan Beach*, April 2022];

- <> The city environmental analysis limited to the Highrose project in isolation, rather than the program environmental impact review ["EIR"] required by Guidelines in the California Environmental Quality Act ["CEQA"] for cumulative impacts from the 6th Cycle Housing Element Upgrade ["HEU"], for which the city delinquent in preparing; and,
- <> *"The Project is subject to the standards and incentives of the 5th Cycle Housing Element, not the recently adopted 6th Cycle Housing Element"* The city 5th Cycle HEU lapsed 31 December 2021. Because the city has no approved HEU, per CEQA, the Highrose project requires a program EIR that evaluates environmental impacts from the 2021-2029 HEU program for providing the city quota of 406 affordable units; and,
- <> The city environmental analysis fails to analyze CEQA-required alternatives that mitigate Highrose impacts, such as an 100% affordable project or use of the two city-owned properties adjoining east of Manhattan Mall, to provide the quota of 406 affordable units.

For evidence that substantiates the above arguments, please refer to the attached amended appeal report prepared by MB North.

The initial appeal report filed Friday August 12 erroneously stated that Highrose has 69 units, whereas the total 79. This correction increases the accumulative traffic impacts from the 2021-2029 HEU program to 21%-41% of the current baseline, as noted by **red type** in the attached amended appeal report.

Donald McPherson

President, MB North, a California Nonprofit Corporation, Certificate # 032776427

1014 1st St, Manhattan Beach CA 90266

mb-north@outlook.com

Distribution: City Manager, City Clerk, Community Development

CITY COUNCIL HIGHROSE APPEAL HEARING, 16 AUGUST 2022

I request that the city council requires an environmental impact report, an EIR, for the Highrose project. Per the California Environmental Quality Act, CEQA, the council has that discretionary authority.

Per Chart Item 1, Highrose deviates from zoning code as follows:

- A) Four stories instead of three and a fifty-foot height versus thirty;
- B) 79 units versus 51 permitted;
- C) A 47% increase in floor-area; and,
- D) A 51 parking space reduction, 29% of total 178 required by city code.

All these code deviations provide only six affordable units. At that rate, it will take nearly 70 over-height projects like Highview for the city to meet its 406 affordable-unit quota that the state mandates.

Developers will build those over-height, under-parked buildings in the coastal zone, for the ocean views. In 1997, I managed a successful voter initiative that restricts residential heights in the city, a 30-foot limit for the coastal zone. If Highrose approved, commercial heights everywhere in the city will increase, but not residential heights.

The city is delinquent on an approved EIR for the 6th Housing Element Upgrade, the HEU, which runs from 2021 to 2029. Therefore, for Highrose, per Chart Item 3, CEQA requires a Single-Program EIR that encompasses the total development of 406 units. This EIR must consider cumulative effects from all 70 projects, with impacts such as traffic, parking, and bulk.

In violation, however, the city follows an unlawful ministerial process to avoid environmental review and public hearings. The 2017 Senate Bill 35 that authorizes ministerial approval of affordable housing clearly prohibits such projects in the coastal zone where Highrose located. As result, this agenda business item unquestionably unlawful, if the council approves Highrose tonight.

CEQA requires alternatives in the Single-Program EIR, such as the two identified in Chart Item 5: A) A large 100% affordable project on two city-owned parcels adjoining the Manhattan Mall; and, B) A 100% affordable Highrose project that complies with the municipal code.

CITY COUNCIL HIGHROSE APPEAL HEARING, 16 AUGUST 2022

Focus on the first alternative shown in the chart. The city owns the two parcels in the middle, with the Manhattan Mall far left. The Marriott Westdrift far right with a golf course and hazard ponds south.

The next slide shows that the city 5.4-acre lot essentially unused.

These parcels can accommodate the 406 affordable units mandated by the state, resulting in a code-compliant development with open space and low-profile required by the General Plan.

At its closed meeting yesterday, presumably, the council discussed Highrose. Perhaps, the council considered postponing Highrose until the 6th Cycle HEU approved in October. If so, the council may not consider Highrose again, until conducting a valid single-program EIR, in contrast to the piecemealing travesty of the EIR denied in February.

**HIGHROSE APPEAL
TO MANHATTAN BEACH CITY COUNCIL
16 AUGUST 2022**

Prepared by:
MB North, a California Nonprofit Corporation
1014 1st St, Manhattan Beach CA 90266
mb-north@outlook.com

CITY LOTS NEAR MALL SOLVE AFFORDABLE HOUSING PROBLEM

- 1) Highrose deviates from the municipal code, as follows:
 - A) Four stories vs three
 - B) 79 units vs 51 permitted
 - C) 47 % increase in permitted floor-area-ratio
 - D) 51 parking space reduction.
- 2) The required state quota of 406 affordable units will require nearly **70 four-story buildings** like Highrose. Developers will mostly build in the coastal zone for ocean views.
- 3) CEQA requires a Single-Program EIR for Highrose that will include the nearly 70 individual projects necessary to provide the 406 affordable units required by the state.
- 4) Instead, the city follows a ministerial process without environmental review and public hearings, which state law clearly prohibits.

CITY LOTS NEAR MALL SOLVE AFFORDABLE HOUSING PROBLEM CONCLUDED

- 5) The Single-Program EIR requires alternatives, with two code-compliant 100% affordable-housing projects proposed herein:
 - A) One large project on one of two city-owned sites near Manhattan Mall; or,
 - B) A revised Highrose project with 100% affordable housing.
- 6) The two city-owned parcels adjacent to Manhattan Mall on the east can easily solve the city affordable housing problem.
- 7) Instead, the appeal staff report promotes over-height, underparked projects like Highrose in violation of state law.
- 8) CEQA authorizes the city council to require a Single-Program EIR for affordable housing, so deny Highrose and do it. You have an October 15 state deadline to get this done.

EITHER LOT CAN PROVIDE CITY AFFORDABLE QUOTA OF 406 UNITS



EITHER LOT CAN PROVIDE CITY AFFORDABLE QUOTA OF 406 UNITS



Martha Alvarez, MMC

From: Steve Rabago <srabago@gmail.com>
Sent: Tuesday, August 16, 2022 1:53 PM
To: List - City Council
Subject: [EXTERNAL] High Rise Luxury Apartmemts

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Dear City Council Members,

My name is Steve Rabago and I am an owner of 424 Rosecrans Ave.

I am opposed to the proposed development on tonight's agenda.

The proposed development across the street from my home should only be allowed to if the current height limits remain the same and the developers are not provided any exemption due to some units being affordable.

The proposed plans will significantly block my views and add to the noise and traffic of this busy area.

The City Council should NOT allow any exceptions to the well established rules.

Respectfully submitted,

Steve Rabago

--

Steve Rabago
949.375.1320
360.633.2020

Martha Alvarez, MMC

From: ILENE PENDLETON <ileneapendleton@icloud.com>
Sent: Tuesday, August 16, 2022 2:09 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

A 4-story 79 unit apartment complex at the corner of Rosecrans and Highland Ave is an outrageous, out-of-character proposal, and a dangerous answer to the State's "Density Bonus" law needs. A HighRose overbuild will set a precedent and threaten the future of our city and residents.

HighRose will create gridlock at a major intersection, and the lack of appropriate parking for its residents and visitors will further compound the problem. And with Chevron and NRG on its property lines, a full CEQA analysis should be mandatory. So many environmental and safety concerns demand attention.

Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,

A concerned resident

Life Is Good
Sent from my iPhone

Martha Alvarez, MMC

From: Aaron Rosen <aaronrosen22@gmail.com>
Sent: Tuesday, August 16, 2022 1:39 PM
To: List - City Council
Subject: [EXTERNAL] Highrose Luxury Apartments

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

I am writing in strong opposition to the Highrose/Verandas Proposal.

I live and work in Manhattan Beach - my wife and I are both physicians treating MB residents. I am fortunate enough to have been raised in Manhattan Beach and even luckier than I was able to work for years, save up, and now live on Rosecrans across the street from Verandas - my wife and I live at 424 Rosecrans. My family has been active in the community since we moved here in 1987. My father started the Manhattan Beach Wine auction which now raises over a million dollars annually for the schools. Despite living directly across the street from the proposed site of the Highrose project - the developer never notified us of these plans. I have spoken with several neighbors and they were also completely in the dark about this until just a few months ago.

This project is in complete opposition to the character of the neighborhood and its heights will destroy the views of every house on our street. Rosecrans is already a busy, loud street and the additional traffic from this project's construction and the final product will congest an already painful intersection. There are unknown environmental impacts of digging so close to the Chevron Refinery that have not been properly investigated or prepared for.

I cannot find a single Manhattan Beach resident that is in favor of the project and I am mortified that as the city council, elected to represent the people of Manhattan Beach, you have allowed this to proceed as far as it has. You have let a scumbag developer force feed you a monstrous, 79 unit mega complex by dangling 6 low income units as bait. It is obscene to think that the best location for MB residents to find space for low income housing is 3 blocks from the beach. The low income housing units aren't even guaranteed in perpetuity!! So in a few years they will join the other units and be cash cows for the developer and owners.

I hope that the city council will come to their senses collectively and throw this proposal in the garbage where it belongs. The area around Verandas has potential to improve our neighborhood with new shops, restaurants, a play area for families, or even a smaller, more reasonable apartment complex. But, this massive cash grab isn't the answer for Manhattan Beach or its residents.

Thanks for your time.

Aaron Rosen, MD

Martha Alvarez, MMC

From: jim quilliam <jimquilliam@outlook.com>
Sent: Tuesday, August 16, 2022 1:13 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

A 4-story 79 unit apartment complex at the corner of Rosecrans and Highland Ave is an outrageous, out-of-character proposal, and a dangerous answer to the State's "Density Bonus" law needs. A HighRose overbuild will set a precedent and threaten the future of our city and residents.

HighRose will create gridlock at a major intersection, and the lack of appropriate parking for its residents and visitors will further compound the problem. And with Chevron and NRG on its property lines, a full CEQA analysis should be mandatory. So many environmental and safety concerns demand attention.

Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,

James Quilliam
A concerned resident
Sent from [Mail](#) for Windows

Martha Alvarez, MMC

From: Lauren Baker <lauren.baker18@me.com>
Sent: Tuesday, August 16, 2022 12:44 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

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Please do the right thing, demonstrate political courage, raise every good faith legal argument available, act as our leaders to safeguard the City's general welfare on behalf of the residents of our special community.

Sincerely,

A concerned resident
Lauren Baker
39th Street

Martha Alvarez, MMC

From: Charles Didinger <ctdidinger@msn.com>
Sent: Tuesday, August 16, 2022 12:39 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

The proposed building on the intersection of Highland and Rosecrans is WAY, WAY, WAY too big for our city.

When I remodeled my home, originally purchased in 1972, I could only go two stories and have enough parking for my home.

This building will cause many parking problems for the people living near the area. Businesses will be impacted because of the years needed to build this and after completion, the parking issues.

Please do not allow this in our town.

Sincerely,
Charles T Didinger
3212 Pine Ave, MB
310-488-4370

Sent from [Mail](#) for Windows

Martha Alvarez, MMC

From: Laura Stout <lauraroxie@gmail.com>
Sent: Tuesday, August 16, 2022 12:17 PM
To: List - City Council
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

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Sincerely,

A concerned resident

Sent from my iPhone

Martha Alvarez, MMC

From: Marvin Hixson <marvinhixson@gmail.com>
Sent: Tuesday, August 16, 2022 11:55 AM
To: List - City Council
Cc: Joe Franklin
Subject: [EXTERNAL] Residents against HighRose Development

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Honorable City Councilmembers:

As you know, our low-profile character is special, it is why many of us choose to call Manhattan Beach home. So, that is why I am OPPOSED to the HighRose/Verandas project and urge you to stand-up and protect our local zoning laws.

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Sincerely,
Marv Hixson

A concerned resident
Sent from [Mail](#) for Windows

Martha Alvarez, MMC

From: awood@bildfoundation.org
Sent: Monday, August 15, 2022 1:13 PM
To: City Clerk
Subject: [EXTERNAL] BILD Comment Letter
Attachments: BILD Comment Letter_Verandas Manhattan Beach 8.12.22.pdf

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Please see the attached comment letter for the City Council.

Thank you.

-Adam

Adam S. Wood
Building Industry Legal Defense Foundation
17192 Murphy Ave., #14445
Irvine, CA 92623
Direct: 949.777.3860

www.BILDFoundation.org

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BUILDING INDUSTRY LEGAL DEFENSE FOUNDATION

August 15, 2022

Mayor Steve Napolitano
City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 90266

Re: Project Verandas and the Housing Crisis Act of 2019

Mayor Napolitano and Council:

On behalf of the Building Industry Legal Defense Foundation (BILD) I write to express our interest in the “Project Verandas” Community of Manhattan Beach. Our team has reviewed the development plans and finds them to fall under the protection of the Housing Crisis Act of 2019.

By way of background, BILD provides legal support, research and litigation services dedicated to increasing the production of housing in response to the State’s overwhelming underproduction of housing. BILD is committed to a better future for California by providing the legal support necessary for building communities, creating jobs and ensuring housing opportunities for all.

The Housing Crisis Act of 2019, codified in part as Government Code Section 65589.5, clearly states that lack of housing is a critical problem threatening the economic, environmental, and social quality of life in California. As such, this section of the Government Code was further amended to read that it is “the policy of the state that this section be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing.”¹

With this understanding, BILD specifically notes Government Code Section 65589.5(j)(1) which states that when “a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria...in effect at the time the application was deemed complete” very well defined and narrow findings are required as the only means to avoid a violation of the law if the project is not approved.

In this instance, we draw attention to the Community Development Director’s issued decision of March 29, 2022, Attachment A, wherein the City states the “proposed project is consistent with applicable provisions of the General Plan,” and that the “physical design and configuration of the proposed project are in compliance with all applicable zoning and building ordinances, including physical development standards.” This letter further finds the “proposed project is consistent with

¹ http://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65589.5&lawCode=GOV

applicable state and local subdivision requirements,” and the “proposed project confirms with the certified Manhattan Beach Local Coastal Program.”

BILD respects the importance of local control in land use decisions but stands in support of housing opportunity. Therefore, we stand ready to pursue legal action on this matter, should it become necessary. BILD appreciates the opportunity to comment on this matter as it is central to our mission of providing interpretation and enforcement of housing law. If there is any additional information we can provide please do not hesitate to contact us. We look forward to working with you to ensure housing opportunity is protected.

Sincerely,

A handwritten signature in black ink, appearing to be 'AW' followed by a horizontal line.

Adam Wood
Administrator
Building Industry Legal Defense Foundation
17192 Murphy Avenue, #14445
Irvine, CA 92623

Martha Alvarez, MMC

From: Dylan Casey <dylan@carlaef.org>
Sent: Monday, August 15, 2022 6:06 PM
To: City Clerk
Cc: Gregory Magofña; Courtney Welch; Alex Gourse
Subject: [EXTERNAL] Comment on Rosecrans/Highland Housing Development, Agenda Item L.15
Attachments: Manhattan Beach - Rosecrans_Highland HAA Letter.pdf

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Dear City Clerk and City Council,

I am submitting the attached letter as comment on the Roscrans/Highland Housing Development under consideration at tomorrow's meeting.

Thank you for your consideration.

Sincerely,

Dylan Casey

Executive Director, California Renters Legal Advocacy and Education Fund
www.carlaef.org

**CALIFORNIA
RENTERS LEGAL
ADVOCACY AND
EDUCATION FUND**

August 12, 2022

**City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 90266**

Re: 401 Rosecrans Avenue & 3770 Highland Avenue Housing Development

Dear City Council,

The California Renters Legal Advocacy and Education Fund (CaRLA) submits this letter to inform the Manhattan Beach City Council that they have an obligation to abide by all relevant state housing laws when evaluating the proposal to develop housing at 401 Rosecrans Avenue and 3770 Highland Avenue. The Housing Accountability Act (HAA) requires approval of zoning and general plan compliant projects unless findings can be made regarding specific, objective, written health and safety hazards. (Cal. Gov. Code § 65589.5). The identified hazards must be unmitigable, based on written health and safety standards, and supported by a preponderance of evidence in the record. If a court reviews a local denial of housing, it will not defer to local judgment on these questions but instead “afford the fullest possible weight to the interest of, and the approval and provision of, housing.”¹

In addition to the HAA, the current project is governed by Manhattan Beach’s Local Coastal Program (LCP). In order to encourage the development of multifamily affordable housing, the LCP grants qualifying projects a streamlined ministerial approval process. This means that the city’s authority to grant or deny the development permits is confined to reviewing whether the project complies with the city’s objective development standards. In this case, the record is abundantly clear that the proposed project complies with all objective standards. While the project takes advantage of concessions and waivers available under state density bonus law (Cal. Gov. Code § 65915), Density Bonus projects are considered compliant with all local objective development standards. (Cal. Gov. Code § 65589.5(j)(3).)

In this case, none of the grounds for the appeal identifies impacts associated with this project that could justify a denial of housing. The environmental analysis of the project is complete and more than sufficient under the law. The Manhattan Beach City Council is therefore under a legal obligation to approve this project and deny the appeals.

¹ § 65589.5(a)(1)(L), *see, e.g., California Renters Legal Advocacy & Education Fund v. City of San Mateo* (2021) 68 Cal.App.5th 820.

As you are well aware, California remains in the throes of a statewide crisis-level housing shortage. New housing such as this is a public benefit; it will bring increased tax revenue, new customers to local businesses, decarbonization in the face of the climate crisis, but most importantly it will reduce displacement of existing residents into homelessness or carbon-heavy car commutes. The appeal in this instance does not identify any health or safety impacts caused by the project, therefore the Manhattan Beach City Council is under a legal obligation to approve of the project, and not attach any conditions that would result in a reduction of density. We ask that the Council deny the appeal and allow for the creation of these new homes.

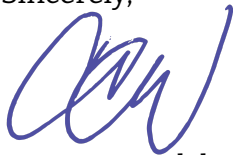
CaRLA is a 501(c)3 non-profit corporation whose mission includes advocating for increased access to housing for Californians at all income levels, including low-income households. While no one project will solve the regional housing crisis, the Rosecrans Avenue and Highland Avenue development is the kind of housing Manhattan Beach needs to mitigate displacement, provide shelter for its growing population, and arrest unsustainable housing price appreciation. You may learn more about CaRLA at www.carlaef.org.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Dylan Casey', with a long horizontal stroke extending to the right.

Dylan Casey
CaRLA Executive Director

Sincerely,

A handwritten signature in blue ink, appearing to read 'Courtney Welch', with a stylized, cursive script.

Courtney Welch
CaRLA Director of Planning and Investigation

Martha Alvarez, MMC

From: Michael W. Shonafelt <Michael.Shonafelt@ndlf.com>
Sent: Monday, August 15, 2022 2:53 PM
To: Steve Napolitano; Richard Montgomery; Joe Franklin; Suzanne Hadley; Hildy Stern; City Clerk
Cc: Ted Faturios; Quinn Barrow (External); Carrie Tai, AICP; info@projectverandas.com
Subject: [EXTERNAL] Letter to the City of Manhattan Beach City Council - 8-14-22
Attachments: Letter to the City of Manhattan Beach City Council - 8-14-22.PDF

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Please see the attached correspondence of today's date.



Michael W. Shonafelt

Partner

949.271.7196 | Michael.Shonafelt@ndlf.com

Newmeyer & Dillion LLP

895 Dove Street, 5th Floor

Newport Beach, CA 92660

newmeyerdillion.com



| [View my bio](#)



Newmeyer & Dillion LLP
895 Dove Street
Fifth Floor
Newport Beach, CA 92660
949 854 7000

August 15, 2022

Michael W. Shonafelt
Michael.Shonafelt@ndlf.com

VIA E-MAIL AND HAND DELIVERY

Steven Napolitano, Mayor
and Members
City Council of the City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 902661315
cityclerk@manhattanbeach.gov

Re: Verandas - 401 Rosecrans and 3770 Highland: City Council Appeals

Dear Mayor Napolitano and Members of the City Council,

This office represents Highrose El Porto, LLC ("Highrose" or "Applicant") in the above-referenced matter. This letter presents a brief response to the legal issues relevant to the appeals of the approval of Highrose's proposed affordable housing development ("Project") at 401 Rosecrans and 3770 Highland ("Property") in the City of Manhattan Beach ("City").

1. The Project.

The Project proposes demolition of the existing, underutilized structures on the Property and the construction of a new, 96,217 square-foot, four-story, multi-family residential structure containing 79 rental dwelling units, six of which (11 percent of base density) will be set aside for "very low income" households. The Project invokes the City's Precise Development Plan ("PDP") process, which the City of Manhattan Beach Municipal Code ("MBMC") and the City of Manhattan Beach Local Coastal Program ("MBLCP" or "LCP") require for affordable housing projects like this. (See MBLCP Chapter A.94, § A.84.010; MBMC, § 10.84.10.) The Property lies within the Coastal Zone and therefore is subject to the California Coastal Act (Public Resources Code, §§ 30600 et seq.). Accordingly, a coastal development permit is necessary. The Project also requires a Tentative Parcel Map (No. 083628) for the consolidation of two lots into one.

On March 29, 2022, the Director of Community Development ministerially approved the Project upon careful analysis by the City of Manhattan Beach Planning Department staff ("Planning Staff"). The Director's approval thereafter was appealed to the City Planning Commission ("Planning Commission"). On June 8, 2022, after a full public hearing on those appeals, the Planning Commission unanimously upheld the Director's approval.

4571.101 / 8766955.3

The Project is conclusively established to be consistent with all relevant City planning and zoning documents, including the MBLCP, the MBMC and the City General Plan. (See, e.g., *California Renters Legal Advocacy & Education Fund v. City of San Mateo* (2021) 68 Cal.App.5th 820, 837; Gov. Code, § 65589.5, subd. (f)(4).) The Project provides critical housing in the City in the midst of a legislatively-declared housing emergency (SB 330, 2019). It also provides significant assistance to the City in delivering on its obligations to provide its state-mandated Regional Housing Needs Allocation during a period of time the City finds its Housing Element to be out-of-compliance with the Housing Element Law (Gov. Code, § 65580, et seq.). The Project fits squarely into the letter and spirit of the LCP and the City's vision for the Property as embodied in its zoning code and General Plan.

2. The Project Is “Non-Discretionary” as a Matter of Law.

MBLCP Section A.84.010 states that:

[p]recise development plans are intended to encourage the development of affordable housing through a streamlined permitting process. Projects that qualify for a density bonus pursuant to Chapter A.94 shall be eligible for an **administrative non-discretionary** precise development plan.

(Emphasis added; see also MBMC, § 10.84.010 [same provision].) The policy behind the PDP is manifest and has been expressed in the relevant documents adding this provision to the MBLCP; the City wants to encourage affordable housing projects by mandating a simpler permit approval that does not involve any discretion on the part of the City decision-makers.

As a State Density Bonus Law (“SDBL”) project, the Project therefore qualifies for an “administrative non-discretionary” approval under the provisions of the City's own LCP. The City Council adopted the PDP process as a feature of the MBLCP after full rounds of legislative review, including multiple public hearings. (*Ibid.*) The California Coastal Commission subsequently certified the MBLCP pursuant to Public Resources Code sections 30510, et seq. on May 12, 1994, and ratified the addition of the PDP process on March 12, 2014. (See W16a, Major Amendment Request No. 1-13 (LCP-5-MNB-13-0214-1) to the City of Manhattan Beach Certified Local Coastal Program (March 12, 2014).) The PDP process therefore has been ratified both by the City Council and the Coastal Commission for SDBL projects in the City's Coastal Zone; the PDP's non-discretionary character is binding on all the City's decision-makers by virtue of its own enactments.

As the Staff Report observes, the non-discretionary character of the Project also derives from the SDBL. (See, e.g., Gov. Code, 65915, subd. (b)(1) [stating that a city “shall grant” a density bonus in an amount correlative to the percentage of affordable units]; 65915, subd. (d)(1) [the city “shall grant” the concession or incentive requested by the developer]; 65915, subd. (e)(1) [**“[i]n no case** may a city, county, or city and county

apply any development standard that will have the effect of physically precluding the construction of a development” with requested incentives and density bonuses (emphasis added)].) Government Code section 65915, commonly referred to as the “State Density Bonus Law,” was first enacted in 1979 with the aim to address the shortage of affordable housing in California. (*Latinos Unidos Del Valle De Napa Y Solano v. County of Napa* (2013) 217 Cal.App.4th 1160, 1164.) The SDBL provides that,

when a developer agrees to construct a certain percentage of the units in a housing development for low- or very-low-income households ... the city or county **must** grant the developer one or more itemized concessions and a ‘density bonus,’ which allows the developer to increase the density of the development by a certain percentage above the maximum allowable limit under local zoning law. [Citation.]

(*Latinos Unidos Del Valle De Napa y Solano v. County of Napa* (2013) 217 Cal.App.4th 1160, 1164, emphasis added; see also *Schreiber v. City of Los Angeles* (2021) 69 Cal.App.5th 549, 554-555.)

When a developer agrees to include a specified percentage of affordable housing in a project, the SDBL therefore **mandates** that the local government grant that developer (a) a “density bonus;” (b) requested “incentives and concessions” in an amount linked to the percentage of affordable units; and (c) “waivers or reductions” of “development standards” **if** the project (with its incentives, waivers and density bonus) cannot physically be constructed under those development standards. (Gov. Code, § 65915, subd. (b)(1); *Latinos Unidos Del Valle De Napa y Solano v. County of Napa, supra*, 217 Cal.App.4th at p. 1164.) All of those provisions apply to the Project. Specifically, Project features a mandated 35 percent density bonus over base density and SDBL waivers or reductions of the following development standards: (a) buildable floor area; (b) height limits; (c) number of stories; (d) side-yard setback requirement for proposed electrical transformer; and (e) rear and side setback requirements for building walls over 24-feet in height. The Project also features one concession for the maximum wall/fence height in the setbacks in accordance with Government Code Section 65915(b)(1) and 65915(d)(1).

Notably, the SDBL allows for only “very limited exceptions to its requirements and places the burden on a city to establish an exception applies.” (*Bankers Hill 150 v. City of San Diego* (2022) 74 Cal.App.5th 755, 770.) In this case, nothing in the administrative record establishes that any exception applies or has otherwise been determined by the Planning Staff or the Planning Commission. To the contrary, the record establishes that both the Planning Staff and the Planning Commission are in accord regarding the Applicant’s entitlement to the featured density bonus, incentive and waivers. The SDBL also makes clear that, any deviation of an SDBL project from the existing zoning requirements, “shall not require, or be interpreted, in and of itself, to

require a general plan amendment, local coastal plan amendment, zoning change, **or other discretionary approval.**" (Gov. Code, § 65915, subd. (f)(5).)

3. Because the Project Is Non-Discretionary, CEQA Cannot Apply, as a Matter of Law.

The California Environmental Quality Act (Pub. Resources, § 21000, et seq.) ("CEQA") "applies only to discretionary projects and approvals; **it does not apply to purely ministerial decisions.**" (*Friends of Juana Briones House v. City of Palo Alto* (2010) 190 Cal.App.4th 286, 299, emphasis added; Gov. Code, § 21080, subds. (a), (b)(1); Cal. Code Regs., tit. 14 (CEQA Guidelines) § 15268, subd. (a); *Health First v. March Joint Powers Authority* (2009) 174 Cal.App.4th 1135, 1142–1143.) The reason for excepting non-discretionary projects from CEQA review is that the lack of discretion curtails a decision-maker's ability to "shape" a project in a manner that addresses any issues that may be raised in an environmental study. As one court put it: "[t]he statutory distinction between discretionary and purely ministerial projects implicitly recognizes that unless a public agency can shape the project in a way that would respond to concerns raised in an EIR, or its functional equivalent, environmental review would be a meaningless exercise." (*Ibid.*; *Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 117; *Prentiss v. City of South Pasadena* (1993) 15 Cal.App.4th 85, 90 ["If, under the applicable substantive law, an agency's approval is ministerial rather than discretionary, evaluation of environmental impact is unnecessary and CEQA does not apply."].) The threshold determination of CEQA's applicability thus turns on whether the "project qualifies as a 'discretionary' rather than a 'ministerial' action." (*Friends of Westwood, Inc. v. City of Los Angeles* (1987) 191 Cal.App.3d 259, 262.) Given the Project's unequivocal status as a non-discretionary project under the MBLCP and MBMC, CEQA cannot apply, as a matter of law.

4. The Housing Accountability Act Also Applies to the Project.

As the Planning Staff have demonstrated in the staff reports to the Planning Commission and the City Council, the Project is consistent with the MBLCP, the City's General Plan and the City's zoning code. (*California Renters Legal Advocacy & Education Fund v. City of San Mateo* (2021) 68 Cal.App.5th 820, 837.) These determinations are conclusive, as a matter of law, not only because the Planning Staff and Planning Commission have affirmatively determined the Project's consistency, but because the City did not make a timely determination to the contrary. (Gov. Code, § 65589.5, sub. (j)(2)(A)(ii).) The Project therefore indisputably qualifies as a "housing development" for the purposes of the Housing Accountability Act (Gov. Code, § 65589.5) ("HAA").

Even if the City possessed any level of discretion over the Project (it does not, as noted above), the HAA places tight restrictions on the ability of local governments to deny or reduce the density of housing developments. The HAA limits the ability of local governments to "reject or make infeasible housing developments ... without a

thorough analysis of the economic, social, and environmental effects of the action....”
(*Id.*, subd. (b).) Subdivision (j) of the statute provides that

When a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the application was deemed complete, but the local agency proposes to disapprove the project or to impose a condition that the project be developed at a lower density, the local agency **shall** base its decision regarding the proposed housing development project upon written findings supported **by a preponderance of the evidence** on the record that both of the following conditions exist:

(A) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(B) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(Gov. Code, § 65589.5, subd. (j), emphasis added.) The Legislature went further to declare “[i]f it is the intent of the Legislature that the conditions that would have a specific, adverse impact upon the public health and safety, as described in paragraph (2) of subdivision (d) and paragraph (1) of subdivision (j), **arise infrequently**. (*Id.*, § 65589.5, subd. (a)(3), emphasis added.)

The keystone of the HCA is a legislatively declared, statewide housing crisis -- a housing crisis of “historic proportions.” The HCA features a number urgent declarations. The following are especially relevant here:

- (1) “The lack of housing, including emergency shelters, is a **critical problem** that threatens the economic, environmental, and social quality of life in California.”
- (2) “The excessive cost of the state’s housing supply is partially caused by activities and policies of **many local governments that limit the approval of housing**, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.”

- (3) “Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing development projects, reduction in density of housing projects, and excessive standards for housing development projects.”
- (4) “The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state’s environmental and climate objectives.”
- (5) “The crisis has grown so acute in California that supply, demand, and affordability fundamentals are characterized in the negative: underserved demands, constrained supply, and protracted unaffordability.”
- (6) “According to reports and data, California has accumulated an unmet housing backlog of nearly 2,000,000 units and must provide for at least 180,000 new units annually to keep pace with growth through 2025.”
- (7) “California’s housing picture has reached a crisis of historic proportions despite the fact that, for decades, the Legislature has enacted numerous statutes intended to significantly increase the approval, development, and affordability of housing for all income levels, including this section.”

(Gov. Code, § 65589.5, subd. (a)(1), (2), emphasis added.) Of further relevance are the Legislatures statements of intent:

- (1) “The Legislature’s intent in enacting this section in 1982 and in expanding its provisions since then was to ***significantly increase the approval and construction of new housing for all economic segments of California’s communities by meaningfully and effectively curbing the capability of local governments to deny, reduce the density for, or render infeasible housing development projects ...***”
- (2) “It is the policy of the state that this section ***be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing.***”

(*Ibid.*, emphasis added.)

Any contentions that the Project somehow gives rise to a “specific, adverse” impact to the public health and safety have been roundly refuted in the record. Far from meeting the lofty “preponderance of evidence” standard (which, again, the Legislature intends to occur only “infrequently”) the preponderance of the evidence instead conclusively demonstrates that the Project will give rise to no such impacts. Finally, contentions have been raised by some of the appeals that, notwithstanding the stringent controls of the HAA, that somehow CEQA gives the City independent authority to deny the Project. Aside from the fact that CEQA does not apply to the Project (see discussion, *infra*) CEQA says the opposite: “a public agency may exercise only those express or implied

powers provided by law other than [CEQA],” and an agency’s authority under CEQA is “subject to the express or implied constraints or limitations that may be provided by law.” (Pub. Res. Code, § 21004; see also 14 Cal. Code Regs. [CEQA Guidelines], § 15040(e) “[t]he exercise of discretionary powers for environmental protection shall be consistent with express or implied limitations provided by other laws.”) Case law confirms that the HAA controls the scope of permissible CEQA review -- not the other way around. (See, e.g., *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 717 [since HAA “prevented the city council from requiring a reduction in the density of the project,” city could not even consider doing so as part of CEQA].) To assert otherwise is to gut the HAA and render its provisions toothless.

5. Conclusion.

For the above reasons, the City Council should uphold the approval of the Planning Commission. Representatives of Highrose, including the undersigned, will be on-hand at the August 16, 2022, City Council hearing to address these and other relevant issues and answer any questions you may have.

Very truly yours,



Michael W. Shonafelt

MWS

cc: Quinn Barrow, Esq., City Attorney
Carrie Tai, Community Development Director
Ted Faturros, Associate Planner
Frank Buckley, Director – Real Estate, Project Verandas

Martha Alvarez, MMC

From: Michele Holcomb <michele.am.holcomb@gmail.com>
Sent: Tuesday, August 16, 2022 5:02 PM
To: List - City Council
Subject: [EXTERNAL] Regarding high-rise apartments on Rosecrans Ave

EXTERNAL EMAIL: Do not click links or open attachments unless you trust the sender and know the content is safe.

Dear Manhattan Beach City Council

I am writing to express my opposition to the proposed high-rise building being proposed at/near the former Verandas site off Rosecrans Avenue.

I have been a Manhattan Beach resident for 27 years (since 1995), in multiple residences throughout the Sand Section West of Highland (20th St, 40th St, 42nd St) and a home owner at 120 Rosecrans Ave for 22 years (since 2000).

I have seen the city evolve in many good ways over this timeframe, and I am proud of what the city has accomplished.

I have also adhered to the rules and regulations we have in place to manage this evolution, keeping the spirit of our city and preserving a strong balance of modern and legacy culture.

The high-rise being proposed would violate this strong history, and degrade what is so special about our lovely beach city.

I am writing so that you know that those of us on Rosecrans and in the "El Porto" area care significantly about maintaining the special features of our city.

Please respect us as full citizens of Manhattan Beach and maintain the proper regulations as we do elsewhere in our fair city.

Let me know if you have any questions.

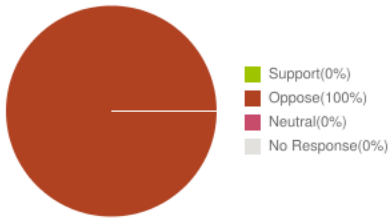
And please accept my opposition to this request.

Sincerely
Michele Holcomb

120 Rosecrans Ave
Manhattan Beach, CA 90266

Michele Holcomb

Overall Sentiment



Steve Miyasaki

Location:

Submitted At: 5:34pm 08-15-22

I am a 40 year resident and 30 year MB based Business owner. I Strongly oppose the High Rose Project. MB has already got an over whelming amount of Traffic and Horrendous Parking shortage. For the locals that Live Work & Play in MB, I believe that it will just add to these issues. Not all MB Residents are fortunate enough to live with in walking distance of the beach, so those residents need to drive and park some where. Parking near the Beach on Residential streets is prohibited in some areas by law at the request of the residents that live close enough to the beach to walk. Parking is a major issue in MB. why don't we trying to solve some issues before we add to them. I feel like if the 30' Height envelope is pierced for this project, it wont be long before other Projects are allowed to pierce the long set 30' Height Limit. There have been many Project allowed to do things because of someone else was able to.

Thank you for your time

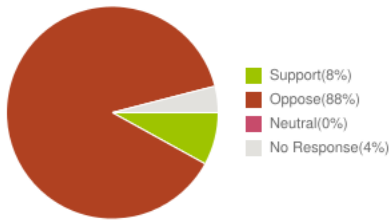
Agenda Item: eComments for 15. 22-0333

Consideration of Five Appeals of the Planning Commission's Decision to Affirm the Community Development Director's Approval of a Precise Development Plan, Coastal Development Permit, and Tentative Parcel Map for the Development of a 96,217 Square-Foot Multi-Family Residential Building Ranging 37 to 50 Feet in Height and Including 79 Rental Dwelling Units with the Developer Utilizing a Density Bonus Pursuant to State Law, Inclusive of Waivers and Concessions, at 401 Rosecrans Avenue and 3770 Highland Avenue (Community Development Director Tai).

(Estimated Time: 3 Hrs.)

AFFIRM THE DECISION OF THE PLANNING COMMISSION

Overall Sentiment



Claire Modie

Location:

Submitted At: 5:13pm 08-16-22

As a fully disabled resident of Manhattan Beach who already lives with atrocious traffic on the street where I live (Manhattan Ave), due to every possible person in the area attempting to circumvent the ALREADY heavy backed-up traffic on Highland south of Rosecrans, I beg the Council to reconsider the ramifications this will have on our disabled residents! I spend my days using Access and other transit options to get back and forth to numerous Dr appts, many of which would require us to get through the Highland/Rosecrans MESS that it already is and would only hit horrific proportions were this project allowed to go forward! Think of how hard it is for limited mobility persons to get through traffic and multiply that by this HUGE project, with no REAL assistance or considerations on pedestrian traffic, multi-passenger vehicle traffic (such as Access vehicles and buses), and ALL OTHER traffic besides! You would literally ruin my ability to get to Dr appts if you vote for it!

Terri Warren

Location:

Submitted At: 5:04pm 08-16-22

Dear MB City Council -

I am writing to express my hope that you will pushback on the dictates from Sacramento that require our city to approve developments, like the Highrise project, which change the small-town feel of our community and would otherwise never get by our own MB building codes. I'm in favor of spending City funds to do this, although hoping there is a way to join forces with other cities, to keep all levels of government from infringing on what should be left to local cities/voters to decide. I would also hope you would use any other means you have to ensure that developments that try to use the mandates from Sacramento to benefit themselves financially have to adhere to the environmental studies, traffic analysis, parking and height restrictions, and any other MB requirements that other developments must follow.

Thank you all for your service and for reading this comment.

-Terri Warren

George Gallagher

Location:

Submitted At: 4:48pm 08-16-22

No. Let's go with the overwhelming public opposition.

Ellen Harrington

Location:

Submitted At: 4:31pm 08-16-22

As a MB resident of more than 37 years I highly oppose the contemplated project on the site of Verandas, aka HighRose. I add my voice to those comment already articulated in opposition. I add that the project will have a tremendous negative impact to all those residents living on Rosecrans Ave. Currently vehicle speeds on Rosecrans, particularly between Pacific and Sepulveda, can be far in excess of 65mph (limits are 40 eastbound and 45 westbound), yet nothing is done to address this hazard. During afternoon commuter hours the east bound back up of vehicles can stretch from Sepulveda to east of Poinsettia. If the project is approved the traffic

conditions on Rosecrans will only be exacerbated to untenable levels. The existing road and traffic conditions can not safely support a project of this magnitude, and the residents should not be subjected to ever decreasing levels of safety, particularly on what is already an over burdened thoroughfare.

Robert Heintz

Location:

Submitted At: 4:19pm 08-16-22

This project is in no way consistent with the character of Manhattan Beach. We don't want a big over-scaled project, and the council should be standing up against this misguided project, not supporting it! When I built my house I had to comply with very strict regulations on height and bulk... why should this project be able to violate those standards? Is this going to be the councils legacy - an eyesore?

Concerned MB Taxpayer

Location:

Submitted At: 4:16pm 08-16-22

Texas is known for a few things. They are actively inducing California's highest taxpayers to move there. They are actively courting businesses to high paying jobs to move from California to move there. Now Texas is using public funds from the likes of the Texas Municipal Retirement System and other Texas plans to fund Marlin Securities, the proposed developer of the site. The city council members need to follow the money trail and find out what their real agenda is. Are the Texas municipalities trying to destroy our neighborhoods for greed using a local firm as their weapon or are they trying to destroy out neighborhoods in order to drive more taxpayers and businesses to flee California? The city council needs to take a stand against the ethics bourne by the likes of Ted Cruz and the Marlin partnership to stop the political agenda to destroy what we have all worked so hard to protect.

Kevin Covert

Location:

Submitted At: 4:00pm 08-16-22

eComment

Hello, my name is Kevin Covert and I support Project Verandas. I've lived in MB the last 27 years. I lived at this location for 25 years until recently. I have two toddlers entering Manhattan Beach schools.

After thoroughly reviewing options for the property, I believe this project represents the best use and is good for the city. It helps address statewide mandates for affordable housing. The proposed residential use appears to have the least negative impact of other uses, particularly retail. Also, the small-town, family-oriented, residential feel is what makes MB special.

This project has several key benefits:

- Helps existing local businesses
- Decreases traffic
- Adds much-needed parking
- Local long-term developer

From the actual facts vs hype that I've seen, this project is good for our city – beautiful development, affordable housing, more public parking, and less traffic, all while maintaining the city's unique residential feel in the sand section.

Henry Caroselli

Location:

Submitted At: 3:54pm 08-16-22

In the 1970s, Mayor Mike Sweeney (a planning genius) set in place the zoning that led to our current success as a wonderful and desirable beach town. This 4-story monstrosity is completely inconsistent with any previous MB zoning. If nothing else, a "79-plex" will need at least 158 parking spaces (or even more to allow for come/go visitors). I'll light a prayer candle at American Martyrs in hope the spirit of Ol' Mike can prevail.

Jon Swidler

Location:

Submitted At: 2:42pm 08-16-22

I strongly agree with Mark:

Dear MB Residents:

LET'S STOP THE 4-STORY HIGHROSE PROJECT

As a former Mayor, I was reluctant to file an appeal of the Planning Commission's approval of a behemoth, 4-story, 79-unit luxury apartment building at Highland Avenue and Rosecrans Avenue, that we all know is so out of character with our low profile. The project site is located on the old Chevron refinery property, previously leased for oil and gas drilling. Above, below, and adjacent to the project site are Chevron jumbo storage tanks and oil fuel lines and NRG high voltage electric wires and an extra-large natural gas fuel line.

Since we all first learned of this "up-zoning" State project, the City has been in lockstep, singing "it's a done deal" in unison. THAT is a "tell"! Something is terribly wrong, especially when City Staff manipulates the Planning Commission hearing to be held the day after the June 7, elections. We, the residents, need to stop it and stop it in its tracks.

Manda Bullard

Location:

Submitted At: 2:37pm 08-16-22

As a resident of Manhattan Beach, with a home and young family on Rosecrans, I oppose this project. The intersection is far too congested today. This structure will make it more difficult for everyone to access the beach. Alternative locations on larger roadways make more sense, and seem to avoid the environmental issues. Thank you.

Larry Teitelbaum

Location:

Submitted At: 2:30pm 08-16-22

A four-story building is out of keeping with the surrounding community. A 4-story behemoth is clearly out of character for the Sand section. I would be in favor of it if it was only a three-story building. I think I am correct in saying that this would be the very first 4-story structure west of Sepulveda. So I have two questions for the council:

- 1) Wouldn't allowing this to go forward open the door to more 4-story buildings in the sand section, and how would you prevent that in the future?
- 2) What is in this for the city? Specifically how does the City benefit from this project, and why isn't it pushing back against it seeing as how most of the public comments that I have seen oppose it?

It seems to me that the council is pushing this project forward against the wishes of the residents most likely to be impacted by it. What is the real reason for that? I get that the state wants it, but that doesn't mean we have to just roll over and accept it.

Tim Vrastil

Location:

Submitted At: 1:02pm 08-16-22

The City Council is elected to protect the interests of the citizens of Manhattan Beach. The only reason this project should be approved if the City Council is able to articulate the reasons that approval is in the best interests of the citizens of Manhattan Beach. The citizens do not wish to acquiesce to the dictates of Sacramento. As Sun Tzu says, "In difficult ground, press on; in encircled ground, devise stratagems; in death ground, fight." Those members of this Council who stand up to developers when the best interests of the citizens are at stake will be respected regardless of the ultimate outcome. Those that fail the citizens cement a legacy of failure. I would urge this Council to exhibit the courage to overturn the planning commission and make a decision that is in

the best interests of the citizens, and not the developer.

Richard McClure

Location:

Submitted At: 12:30pm 08-16-22

Quite a negative wave over this development and I don't totally understand why. It would be an attractive residential complex 4 stories high, on one of MB's busiest streets with mostly commercial properties around it. So no loss of residential sight lines. It would mostly shield the current ugly oil tanks from sight, and provide a much needed opportunity for low income families, albeit only a few. Everyone lighten up and let our City council do their jobs, like we elected them to do.

JP Heatherton

Location:

Submitted At: 11:27pm 08-15-22

I strongly oppose the High Rose development, please stop this project.

Elizabeth Heatherton

Location:

Submitted At: 11:14pm 08-15-22

I strongly oppose the HighRose project. As a 30+year resident of Manhattan Beach, I've seen the overdevelopment of residential parcels add to not only the traffic, parking and pollution.....NOW we've got this HighRose debacle at one of most densely congested access points to our small city! Let me ask: WHAT WERE YOU THINKING besides making money and destroying our beautiful and once quiet little beach city? If it's access to public transit, HighRose is way off. If it's esthetics, look around the area....you're way, way off. Looking for a plot of land to build a 37 to 50ft high 79 rental unit complex? Head due east towards the 405fwy, this is much closer to all transit lines. Don't destroy an already dense area of mostly single family homes. NO TO HIGHROSE!

Eelean Oh

Location:

Submitted At: 9:06pm 08-15-22

I strongly against the High Rose Project. Thank you

Steve Miyasaki

Location:

Submitted At: 8:36pm 08-15-22

Steve Miyasaki

I am a 40 year resident and 30 year MB based Business owner. I Strongly oppose the High Rose Project. MB has already got an over whelming amount of Traffic and Horrendous Parking shortage. For the locals that Live Work & Play in MB, I believe that it will just add to these issues. Not all MB Residents are fortunate enough to live with in walking distance of the beach, so those residents need to drive and park some where. Parking near the Beach on Residential streets is prohibited in some areas by law at the request of the residents that live close enough to the beach to walk. Parking is a major issue in MB. why don't we trying to solve some issues before we add to them. I feel like if the 30' Height envelope is pierced for this project, it wont be long before other Projects are allowed to pierce the long set 30' Height Limit. There have been many Project allowed to do things because of someone else was able to.

Thank you for your time

Scott Chambers

Location:

Submitted At: 8:09pm 08-15-22

"Council has a clear obligation to utilize the rights and protections afforded by the 2013 ordinance to assure residents that Highrose will not cause an "adverse impact" on our City or residents. This will require INDEPENDENT research studies to be engaged by City Council and paid for by the developer regarding the "adverse impact" on public health and the physical environment from digging near the Chevron property and the "adverse impact" on the traffic and parking in this neighborhood." Could not say it better than myself. 30+ year

resident. Council please step up!

AudreyA RittermaEstes

Location:

Submitted At: 8:01pm 08-15-22

Highrose would definitely increase Property tax revenue for MB general fund in our budget. But Highrose is an OVERDEVEPMENT for it's location and there are potential unknown externalities because it doesn't require any environmental report. City council needs to protect our small beach town and all of it's inhabitants. Please stop Sacramento's over reach and take back city control to find a more suitable solution.

LtColC Harding

Location:

Submitted At: 6:13pm 08-15-22

I oppose this high rise development. It does not pass common sense. That intersection is already extremely congested so adding a high rise building does not make sense. Our town is slowly losing its small beach town atmosphere one decision at a time. This is a big change. Please do not allow this to go forward.

Marcie Pettigrew

Location:

Submitted At: 6:11pm 08-15-22

I am opposed to this project. It does not fit with our Manhattan Beach community. If Manhattan Beach must have a project this huge, I'm sure there is a more appropriate place for it within the Manhattan Beach borders. The current plan will be too onerous at it's currently planned location. The congestion that it will cause in such a small, already congested area, will be overwhelming.

Lee Phillips

Location:

Submitted At: 6:04pm 08-15-22

I oppose the high rise and would like to better understand the environmental risks and how those will be mitigated.

Joy Roberts

Location:

Submitted At: 5:39pm 08-15-22

I oppose the high rise. Thank you.

Peter Miller

Location:

Submitted At: 5:33pm 08-15-22

The HighRose project is a completely inappropriate use of the property at Roscrans and Highland. Not only will it add automobile, bicycle and pedestrian congestion to an already congested, densely populated neighborhood. It is to be build on land that is of questionable stability and content. This is a big mistake in so many ways.

Michael Curran

Location:

Submitted At: 1:23pm 08-14-22

HighRose project is contiguous to the Chevron El Segundo Refinery, which has historically been a Superfund site, and the leading emitter of reactive hydrocarbons and and nitrogen oxides in the South Bay. Those are only some of the reasons why Chevron insisted on CC&R's in the property deeds they sold to various developers of the properties between Sepulveda Blvd and Douglas Street in El Segundo, immediately east of the Refinery, which clauses restricted overnight residence (hotels, apartments, housing, etc.). Also, Chevron air pollution was suspected in a previous disproportionate incidence of cancer in the area also immediately south of the Refinery, in Manhattan Beach. If there is a Lender on the project, they should insist on an objective Phase I environmental report. MB City Council should insist that the developer provide an environmental liability policy, naming the City as a named insured. Also, use CEQA and California Coastal Act to counter State overrides of local control.