



CITY OF MANHATTAN BEACH CITY HALL

1400 Highland Avenue, Manhattan Beach, CA 90266

WEBSITE: www.manhattanbeach.gov • **PHONE:** (310) 802-5000

VOICEMAIL COMMENT

Hello. My name is Judith Simmons, and I along with many of the Manhattan Beach residents would like to know why a serious Manhattan Beach Council would contract with a known coyote coexister, Rebecca Dmytryk, and expect anything less than a coyote coexister assessment on the Manhattan Beach coyotes. Doesn't anyone do bidding on the people that are hired? Doesn't anyone check a person's background and dwell into stated graduate background and dwell into stated graduate degrees? Plain and simple you get exactly what you should expect. Taxpayers' money was spent at the cost of \$2,900 for the assessment on the Manhattan Beach coyotes. Only to have it come back as a people problem and transient coyotes from adjoining cities of Redondo Beach and Hermosa beach entering Manhattan Beach from dusk to dawn to kill our pets. This is a definition of insanity. Instead of trying to solve the Manhattan Beach coyote problem you've only escalated it. Now more pet owners will lose their beloved pets to coyotes. It's so shameful that our sister city Torrance was deliberately denounced by CDFW on 6-23-22 on a council meeting but on a two-sentence blurb on her assessment, Rebecca Dmytryk also did the same thing. In two sentences. Get serious all of you. If Council had no intention to trap the bad coyotes terrorizing Manhattan Beach residents and their pets you should've said so instead of implying that trapping was your intention. Shame on all of you. What a disappointment.

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: Gordon Miller <gordonmiller01@gmail.com>
Sent: Tuesday, August 16, 2022 3:43 PM
To: List - City Council
Subject: [EXTERNAL] E bikes and Enforcement

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

I would like to comment regarding Ebikes and gross misuse and lack of enforcement. They are out of controlnot abiding to the rules of the road, running stop signs, riding across school yards, parks and on side walks. I came close to running one over, north bound on Peck making a right turn onto MB boulevard when a 10 year old riding west on the sidewalk rode in front me. Many others completely ignore stop signs and cut across 4 way stops.

Really! something needs to be done.....Please.

I recommend the city conduct a safety/ rules of the road class, issue a placard to hang from the seat to help identify the reckless use of an Ebike. When an Police officer witnesses reckless behavior they confiscate the bike and make the parent come claim it.

Thank you for your time and what you do for our city.

Sincerely,

D. Gordon Miller
1460 9th St.

310 344 8229

Sent from [Mail](#) for Windows

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 Mirzakhonian; Ted Faturos
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.

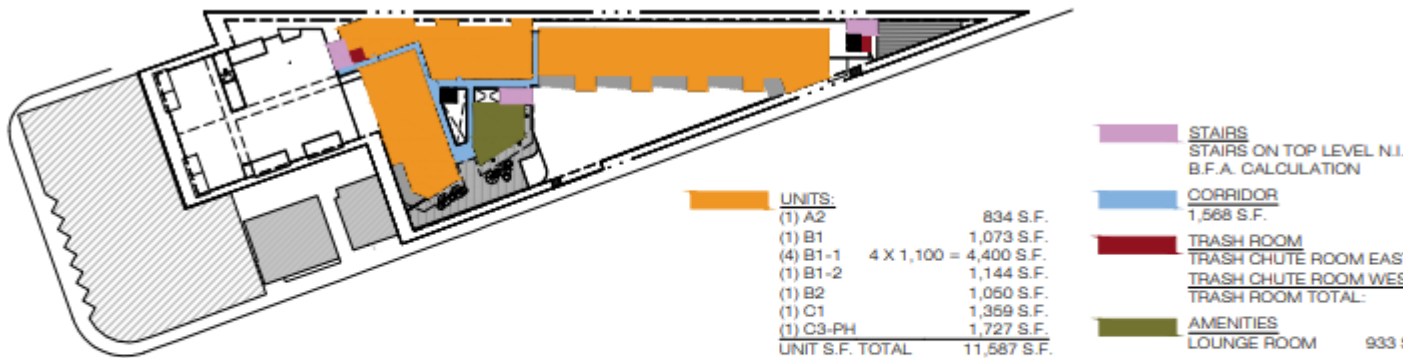
You have the power to ask the developer to stay within those limits. Eliminate the penthouse and the 9 4th floor units. From the plan 01-01: 4th floor unit sq footage is 11,387, total unit square footage is 72,932 so that leaves 61,545 divide that by 79 and your result in 779 sq. ft .

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.
<u>TOTAL ENCLOSED BUILDING</u>	<u>96,217 S.F.</u>
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 mich 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-Oc6vbFiGtbpP-qz2TP19dZmDJoZvJ2OWk2340wPHzDPcKzk9m_54y7uR0k5CSZu-ZjPtA9kq_ICusN1Dv-li\\$](https://urldefense.com/v3/__http://www.habitatauthority.org/living-with-wildlife/__;!!AxJhxnnVZ8w!J9w-Oc6vbFiGtbpP-qz2TP19dZmDJoZvJ2OWk2340wPHzDPcKzk9m_54y7uR0k5CSZu-ZjPtA9kq_ICusN1Dv-li$)

Martha Alvarez, MMC

From: Matthew Duncan <mduncan4@socal.rr.com>
Sent: Tuesday, August 16, 2022 2:42 PM
To: City Clerk
Subject: [EXTERNAL] Agenda Item 16

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

My name is Matthew Duncan, and my pets & I have peacefully coexisted with urban coyotes for more than 50 years. Trapping & killing coyotes is inhumane, indiscriminate, and ineffective. Please listen to the recommendations from CA Dept. of Fish & Wildlife.

Matthew Duncan

Sent from my iPhone

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 Faturos
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>; Taly 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 <srrabago@gmail.com>
Sent: Tuesday, August 16, 2022 1:53 PM
To: List - City Council
Subject: [EXTERNAL] High Rise Luxury Apartment

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: Alikona Bradford <alikota77@yahoo.com>
Sent: Tuesday, August 16, 2022 1:50 PM
To: City Clerk
Subject: [EXTERNAL] RE: Agenda Item 16

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

Deat Manhattan Beach Mayor Napolitano and City Council Members,

Please act on recommendations made by Humane Wildlife Control Inc. to reduce coyote activity in Manhattan Beach, including the adoption of a coyote response plan that prioritizes non-lethal measures. Lethal control as a means of managing coyotes in urban areas has never been effective, where reducing attractants along with public education has proven successful time and again.

Respectfully Yours,

Alikona Bradford
AfterBuzz TV Host/Talent Coordinator

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.

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
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.

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: 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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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,
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

CONFIDENTIALITY NOTICE: This electronic mail message and any attached files contain information intended for the exclusive use of the individual or entity to whom it is addressed and may contain information that is proprietary, privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any viewing, copying, disclosure or distribution of this information may be subject to legal restriction or sanction. Please notify the sender, by electronic mail or telephone, of any unintended recipients and delete the original message without making any copies.



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', with a long horizontal line extending to the right.

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.

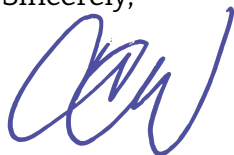
CaRLA is a 501(c)3 non-profit corporation whose mission includes advocating for increased access to housing for Californians at all income levels, including low-income households. While no one project will solve the regional housing crisis, the Rosecrans Avenue and Highland Avenue development is the 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 long horizontal stroke extending to the right.

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 Faturos; 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

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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.

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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]t 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

Mayor Napolitano
Members of the City Council
August 15, 2022
Page 7

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 Faturos, Associate Planner
Frank Buckley, Director – Real Estate, Project Verandas