

Martha Alvarez, MMC

From: Lyn Fisher <fisher6188@aol.com>
Sent: Tuesday, September 6, 2022 2:54 PM
To: List - City Council
Subject: [EXTERNAL] Vote NO on HighRose/Verandas Project!

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

Ignore Planning Commission recommendation.

Thank you,
Lyn Fisher

Martha Alvarez, MMC

From: bob.ambrose@yahoo.com
Sent: Tuesday, September 6, 2022 2:20 PM
To: List - City Council
Subject: [EXTERNAL] NO ON "HIGH-ROSE"

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

Hey Mayor and Council Members,

I am another concerned citizen **opposed** to the High Rose development.

I second the hundreds of other No votes with similar rationale.

Vote **No** tonight on the High Rose project.

Robert Ambrose

Martha Alvarez, MMC

From: info@rschendel.com
Sent: Tuesday, September 6, 2022 2:06 PM
To: Steve Napolitano; City Clerk
Subject: [EXTERNAL] Highrose - Height Waiver

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

Dear Mayor Napolitano and members of the City Council,

As you know from my appeal, it is my opinion that the Height Waiver is NOT required and should not be granted. Please consider the following:

If a developer had come in and said his project would only be feasible with 3 and 4 bedroom apartments, and therefore 2 (or maybe 3) extra stories are needed, would a Height Waiver be required? This is clearly not a reasonable interpretation of the law.

The Highrose project while more modest in its demands follows exactly the same logic. I can build 79 units within the allowed height (30 ft + 20% = 36 ft), but I want more!!!

Please do not grant the Height Waiver. It is clearly NOT required and should be denied.

Thank you for your consideration in this matter,

Ron Schendel

Martha Alvarez, MMC

From: Suzanne Lerner @ Michael Stars <slerner@michaelstars.com>
Sent: Tuesday, September 6, 2022 2:04 PM
To: City Clerk; Steve Napolitano; Richard Montgomery; Joe Franklin; Hildy Stern; Suzanne Hadley
Cc: Bruce Moe; Erick Lee; Suzanne Lerner @ Michael Stars
Subject: [EXTERNAL] #16 - Tonight's City Council Meeting - Esperanza request

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16. Consider Request by Councilmember Franklin and Mayor Napolitano to Discuss the Request of Esperanza to Use their Rooftop Deck for Outdoor Dining During the COVID-19 Emergency (Community Development Director Tai.

Dear Mayor, City Council Members, and City Staff:

Thank you for always doing your best.

I am trying to figure out what type of request Esperanza is making of the city.
We have a city ordinance against Rooftop drinking dining or outside patios.

Plus don't see much of a COVID-19 emergency any longer anywhere in the US.
In Manhattan Beach, restaurants are full inside and outside... Everybody is eating inside, outside, on sidewalks, on encroachments, anywhere and everywhere - Esperanza also has an open planned restaurant so it is handling all indoor/outdoor dining concerns.

These type of requests are not reasonable and should not be considered by City Council or Staff.

Thank you very much
Best
Suzanne Lerner
124 Tenth St
Manhattan Beach, CA. 90266

Martha Alvarez, MMC

From: Heidi Rayden <heidirayden@yahoo.com>
Sent: Tuesday, September 6, 2022 1:56 PM
To: List - City Council
Subject: [EXTERNAL] Agenda Item #23

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 writing in support of Agenda #23, (Discussion to Hire Armed Security for Downtown).

I strongly support our city replacing the “event staff” (whom are routinely observed texting as they “work”)... with armed security to patrol the downtown core.

If the 12 man armed robbery at Pasha doesn't wake us up... what will it take? The cause & effect of that awful crime needs to be met with increased security for our residents & businesses.

Please support this !

Thank you ,

Heidi Rayden Tobias

Martha Alvarez, MMC

From: David Jina <david@rubberduckyinteractive.com>
Sent: Tuesday, September 6, 2022 1:46 PM
To: Ted Fatuross; List - City Council
Subject: Re: [EXTERNAL] Re: Highrose/Verandas Item Removed from 9/6 City Council Agenda

Maybe so, but this last-minute change affects everyone who schedules to be there. People changed who is driving kids to sports, got sitters etc. Now we will have to schedule again.

Removing this topic from tonight's scheduled meeting is an evasive move to avoid the wrath of the people who do not want this development.



David Jina
CEO and Founder,
[Rubber Ducky Interactive](#)
[310-765-4301](tel:310-765-4301) | [M 310-902-3069](tel:310-902-3069)
[321 W Grand Ave](#)
[El Segundo CA 90245](#)



On Tue, Sep 6, 2022 at 1:35 PM Ted Fatuross <tfatuross@manhattanbeach.gov> wrote:

Hi David,

All members of the public will still have an opportunity to participate at the future City Council meeting.

In the meantime, you're always free to email the City Council at citycouncil@manhattanbeach.gov with any concerns or comments you have about any topic, including the Highrose/Verandas project.

From: David Jina <david@rubberduckyinteractive.com>
Sent: Tuesday, September 6, 2022 1:33 PM
To: Ted Fatuross <tfatuross@manhattanbeach.gov>
Subject: [EXTERNAL] Re: Highrose/Verandas Item Removed from 9/6 City Council Agenda

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

Hi Ted

This seems like a dodge and evade move by the mayor as I was planning on attending as were many of my neighbors and friends.



David Jina
CEO and Founder,
Rubber Ducky Interactive
310-765-4301 | M 310-902-3069
[321 W Grand Ave](#)

[El Segundo CA 90245](#)



On Tue, Sep 6, 2022 at 1:30 PM Ted Faturos <tfatuoros@manhattanbeach.gov> wrote:

Dear Interested Party,

You are receiving this email because you have expressed interest in and/or made a public comment related to [the proposed Highrose El Porto/Verandas project](#) at 401 Rosecrans Avenue and 3770 Highland Avenue.

Due to the significant public interest in the Highrose/Verandas project, the Mayor has removed the item regarding the Highrose/Verandas project from tonight's City Council agenda, in order to further address residents' questions and concerns.

You will be notified as soon as a date has been selected for the continued discussion of the item.

TED FATUROS
ASSOCIATE PLANNER

Martha Alvarez, MMC

From: Stewart Fournier <stewart.fournier@compass.com>
Sent: Tuesday, September 6, 2022 1:22 PM
To: Steven Nicholson (External)
Cc: List - City Council; davidlesser4mb@gmail.com; amyformbcitycouncil@gmail.com
Subject: [EXTERNAL] Re: Verandas Project Concerns

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

Hi Steve,

I put out a video that directly addresses a lot of your concerns and verifies your examples are just the start of what the true expense could add up to. I hope you find it useful.

<https://www.stewartfournier.com/special-announcemet-regarding-verandas>

Best,

On Tue, Sep 6, 2022 at 10:53 AM <alfa009@aol.com> wrote:

Dear Councilmembers,

I am greatly alarmed by the **financial liability** that the city will incur should you fail to approve the Verandas Project. I am referring to the extensive article in the Easy Reader published on 9/1. There are at least 13 non-profit pro-housing groups willing to appeal the projects denial. They will use the Housing Accountability Act. It mandates that **judges award attorney fees** to those groups that successfully sue in defense of a project like Verandas -that's a huge price for our city to pay. San Mateo spent \$1,000,000 in their defense plus \$450,000 for the attorney fees from the other party. Of course, if the city appeals, we are looking at spending more millions. We can count on additional litigation from the developer - another million.

How much is the city willing to spend on litigation to defend a weak position? This issue has been litigated by other cities and they have all lost. Please don't waste our city's funds on a fool's errand.

Thank you for your commitment to our city.

Regards,
Steve Nicholson

--

Stewart Fournier
m: 310.968.1730

9454 Wilshire Blvd, Ground Floor
Beverly Hills, CA 90212
DRE# 01280071

Martha Alvarez, MMC

From: Michael Budahn <michael@yesinmybackyard.org>
Sent: Tuesday, September 6, 2022 1:00 PM
To: City Clerk
Subject: [EXTERNAL] Letter of Support for the Highrose El Porto/Project Veranda Development
Attachments: Letter of Support - Highrose El Porto_Project Verandas Development (1).pdf

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

Hello,

Please see our attached letter in support of the Highrose El Porto/Project Veranda Development.

Wishing you all the best,

Michael Budahn
YIMBY Law



9/6/2022

Manhattan Beach City Council
1400 Highland Avenue
Manhattan Beach, CA 90266

cityclerk@manhattanbeach.gov
Via Email

Re: Highrose El Porto / Project Veranda Development

Dear Manhattan Beach City Council,

YIMBY Law is a 501(c)3 non-profit corporation, whose mission is to increase the accessibility and affordability of housing in California. YIMBY Law sues municipalities when they fail to comply with state housing laws, including the Housing Accountability Act (HAA). As you know, the Los Angeles Planning Commission has an obligation to abide by all relevant state housing laws when evaluating the above captioned proposal, including the HAA. Should the City fail to follow the law, YIMBY Law will not hesitate to file suit to ensure that the law is enforced.

The Development is a ministerial 79 unit apartment with a number of affordable units. It will be fifty feet in height.

California Government Code § 65589.5, the Housing Accountability Act, prohibits localities from denying housing development projects that are compliant with the locality's zoning ordinance or general plan at the time the application was deemed complete, unless the locality can make findings that the proposed housing development would be a threat to public health and safety.

The above captioned proposal is zoning compliant and general plan compliant, therefore, your local agency must approve the application, or else make findings to the effect that the proposed project would have an adverse impact on public health and safety, as described above. Should the City fail to comply with the law, YIMBY Law will not hesitate to take legal action to ensure that the law is enforced.

I am signing this letter both in my capacity as the Executive Director of YIMBY Law, and as a resident of California who is affected by the shortage of housing in our state.

Sincerely,

A handwritten signature in black ink that reads "Sonja Trauss". The signature is written in a cursive, flowing style.

Sonja Trauss
Executive Director
YIMBY Law

Martha Alvarez, MMC

From: Carrie Tai, AICP
Sent: Tuesday, September 6, 2022 12:52 PM
To: Martha Alvarez, MMC; Liza Tamura, MMC
Cc: Talyn Mirzakhonian; Ted Faturous; Bruce Moe; Quinn Barrow (External)
Subject: FW: [EXTERNAL] No on Highrose

For inclusion as public comment

From: Kristin Long
Sent: Tuesday, September 6, 2022 12:50 PM
To: Steve Napolitano ; Richard Montgomery ; Hildy Stern ; Ted Faturous ; Carrie Tai, AICP
Subject: [EXTERNAL] No on Highrose

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

Honorable Mayor Napolitano, Mayor Pro-Tem Montgomery and Councilmember Stern:

I was waiting to voice my opposition to this project -- again -- until I read other public comments, specifically, those who were in favor of it. I wanted to see what I was missing from those who support it. Suffice it to say, I wasn't missing much.

Of the 90 comments submitted to council between August 17 and August 31, 82 were clearly OPPOSED to this project. It appeared that an overwhelming majority -- if not all -- were residents, YOUR constituents, who beg you to fight it.

There were 3 that were either neutral or just confusing.

That left 5 (of 90) that were in favor of the Highrose complex.

One was the developer behind this project, who's likely invested a lot of money in the land, and likely has the most to lose and profit from the project, who was more concerned about clarifying that these units would not be short term rentals than he was clarifying why this would be any good for the community. Short term rentals or long-term rentals, this project will crush the quality of life in El Porto. No parking. Worse traffic. Too many people.

Another was from an individual who made overtly subjective statements criticizing people who may or may not even live in this town, to which I say, it's a good thing he moved away so he doesn't have to consort with the likes of us terrible people.

The other three were from residents.

- While "supporting" the project, one comment wanted to increase the number of affordable units to 20%. That's not actually supporting this project. It's saying, "I like the idea, but it's still not right." And it is for sure not right. For one thing, increasing the number of affordable units to 14.6 or more isn't gonna happen and anyone who thinks these units will be "affordable" is naïve. An individual is lucky to find a single bedroom apartment with parking here for less than \$2000 -- and a brand-new one, likely with air-conditioning, no termites, a pool and located a couple blocks from the beach?! That's going to be \$3000+. So unless an individual qualifies for the "very low income" units, it's not going to be affordable.

- Another proponent said that this would increase “affordable and/or market-rate housing”. Market-rate, yes, but affordable? Please see my comment above. It’s not going to be “affordable” because it’s going to be new, shiny, clean, and a means to give the developer money. The South Bay’s rental market is only going to get worse because there’s a quality of life here that people actually fight for and care about. That’s WHY people want to live here.

- The third resident again made it seem like this is all about low-income apartments. There’s no doubt in my mind that any of the 73 that are not “very low income” will be “market-value” or above – which is NOT AFFORDABLE for your average, hard-working citizen. This is not about NIMBYism, this is greed, pure and simple. Greed trying to hide behind the guise of “but we helped six very low-income entities”. What about the other 73 units? What about the rest of the people looking for housing? This isn't helping people, this is hurting people.

A question that I have not seen answered by the developer or staff is how they propose to deal with the traffic issues coming out of this project. How are people going to go left out of that parking lot onto Rosecrans? Alternatively, how will people go left onto Highland to get to Rosecrans? How much traffic will be exacerbated by people coming home and trying to go left from Highland into their parking lot and how many accidents will occur when confused/arrogant drivers go left across Rosecrans?

I once again plead for you to protect this community, this town and our way of life. We put you in office to do that.

If it means a legal battle, then so be it. I think a number of my neighbors would rather spend money on that than on swapping out a thousand perfectly fine street signs for ones with a fancy, new logo that – as I recall – no citizen wanted in the first place.

Please, don’t make this partisan. Fight for us.

Thank you.

Kristin Long Drew

15-year resident of Manhattan Beach

My previous email for your reference.

Honorable Council:

I'm sure you'll receive plenty of emails outlining why it's a terrible idea and why residents are against it, but in short:

- it violates the basic Land Use Goals of the General Plan, i.e. it's not low-profile, it removes "open space" in El Porto, it clutters the landscape with massive development, denigrates the community's aesthetic and persona, intrudes upon existing residents of the entire city of MB, and obliterates the small-town feel.

- despite what the "traffic" study claims, this would make an already terrible traffic situation exponentially worse. I'm telling you that for free -- based on real-life, first-hand experience -- driving through El Porto during rush hour or on weekends is frustrating and exhausting. I can't imagine how it is living down the street from the intersection of Rosecrans and Highland.

- despite the builder's claim that there is sufficient parking with this development, real-world, commonsense observations will tell you there is nowhere near enough parking. Especially when you consider there isn't viable public transportation in that area (compared to Sepulveda or eastern Rosecrans), so residents will need cars. One single unit might have 2 inhabitants with 2 cars -- do the math for roommates with cars crowding into these

units and you'd need 266 parking spots. And what about their guests, guests to current residents, beachgoers and patrons to El Porto businesses?

- it reeks of greed.

I don't think that there's anyone who really lives in El Porto or drives through El Porto or visits El Porto who will tell you that the Highrose/Project Verandas development is a good idea -- besides the developer or his paid cronies.

I understand that legislation passed in Sacramento mandates some sort of density improvement. Fine. If Manhattan Beach hasn't met that quota, perhaps the planning commission should have considered that before allowing multi-unit apartment buildings to be converted into single family residences. (There's one at the corner of Ocean and 13th.) They should have planned for that, after all "planning" is in their name.

But this is not the answer nor is it the fix.

There are abundant alternatives to this development. Among them:

- put it where Fry's Electronics was at the corner of Rosecrans and Sepulveda. There's plenty of parking and there's easy access to public transportation and the freeways with multi-lane thoroughfares that don't go through neighborhoods where people actually still walk.

- Instead of another corporate office building, let a developer put a multi-unit, low-income/ highincome, mixed apartment structure in. We're in an era where most companies have shifted to a primary work-from-home situation. There's ZERO necessity for another corporate high-rise -- except money. And greed.

- stop allowing multi-unit structures from becoming single family residences and eliminate the double and triple lot obscenities that clutter the city.

You know this has been an ongoing issue and no one is really doing anything about it.

You have been elected to protect our community, to preserve it and to respect it.

Please do not say your "hands are tied" or there's nothing you can do, because that can't be true. I honestly don't believe you. This "law" can be fought. It is not imperative for public safety (in fact, I would say it threatens it) and this development in its current state actually dampens our quality of life. For any of you to say, "we're just doing what we're told," is weak and infuriating.

Fight for us. Please.

Make this nonsense stop.

You must (please) stand up to the state's legislation and protect El Porto and Manhattan Beach from being completely devoured and ruined by this massive development.

Sincerely, Kristin Long Drew 122 23rd Street

CARRIE TAI, AICP
COMMUNITY DEVELOPMENT DIRECTOR

Martha Alvarez, MMC

From: Amanda Hunter <mande1014@yahoo.com>
Sent: Tuesday, September 6, 2022 12:47 PM
To: List - City Council
Subject: [EXTERNAL] Tonight's Council Meeting

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

Dear members of MB City Council,

Wow! I have to send my best wishes for dealing with a myriad of important issues seemingly to have boiled over this weekend and the ongoing threat of a "forever" change in the landscape and quality of life in our sweet little beach community.

What happened this weekend at Bruce's Beach is quite breath taking. I really do not care about the color of your skin or the history of what did or did not take place 100 years ago. What shocks me to the bone is the absolute disregard of public park use protocol.

Anyone else wanting to hold a large, loud, alcohol & marijuana fueled day with bbq grills, sofas etc would NOT BE ALLOWED A Permit especially in a pocket park with residence on 3 sides. So what happened? They just came and did it anyway and no one said or did a damn thing. No way is this a one off. Assuredly this kind of lawlessness, screw you MB, we are coming and doing just what we want attitude is and will continue to grow more confident as time goes by.

Granted this is a tough situation but it's real and the City needs to uphold it's laws and regulations for park use for EVERYONE. It may be unpopular but the truth is, if you don't begin now to nip this in a growing bud of time, this is the way it will be from now on. If you have to block the streets around the park and turn everyone away, so be it. However, you cut the cake this is mob behavior and the false sense of entitlement is running at the speed of a 100 yard dash.

This is no time to be complacent and let our fine city be abused and terrorized (mad bicyclists) to the point regular citizens can't even enjoy their own parks or riding/walking on their streets.

Lastly, please do everything you can to investigate the real impact of the Highrose Apartment Complex. This will become the first in a domino effect of large apartment buildings built in Manhattan Beach. The first lock is always crucial to opening the flood gate. One of your most effective means of stopping this onslaught might be to deeply research the health aspects of building apartments so close to the refinery. Is the ground really safe? Also the traffic jam on Rosecrans during rush hours will grow exponentially. The ruse of 6 "low income" apartments is such a scam, when we know the real estate folks behind this are going to be riding a gravy train for decades to come.

Okay, this was a bit long but I really want you all to know, I think you can prevail in all these challenges and come up with good solutions to lead us forward without throwing the baby out with the bath water, so to speak.

Good luck tonight. I know you will need it. People are pretty riled up re: all of the above. I for one, am keeping a good thought and prayer that you all hold it together and lead us into the light.

My best,

Amanda Hunter
1230 6th Street
Manhattan Beach, CA 90266

Martha Alvarez, MMC

From: Timothy F. Wood <tfwood@gsi-net.com>
Sent: Tuesday, September 6, 2022 12:27 PM
To: City Clerk; List - City Council; Tedtfaturos@manhattanbeach.gov
Cc: Michael W. Shonafelt (Michael.Shonafelt@ndlf.com); Frank Buckley; Peter Scaramella
Subject: [EXTERNAL] Verandas - 401 Rosecrans and 3770 Highland: City Council Appeals
Attachments: 2022_0906-GSI_response_to_RG_Verandas.pdf; 6275_ManhattanBeach_2022_0816.pdf

Importance: High

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

Please provide attached letter dated today to Mr. Steven Napolitano, Mayor and Members, of the City Council of the City of Manhattan Beach. In addition, attached is a presentation previously submitted for the August 16th City Council meeting on the subject of the Verandas Project. I will be present and available this evening to complete this presentation, or answer any related questions that the City Council may have.

Best regards,

Timothy F. Wood, PG, CHG
Vice President/Principal Geologist



GSI Environmental Inc.

19200 Von Karman, Suite 800 | Irvine, California 92612

☎ 714.831.2770 | ☎ 949.283.5696

E tfwood@gsienv.com | www.gsienv.com |  

September 6, 2022

Mr. Steven Napolitano, Mayor and Members
City Council of the City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 90266

Via e-mail: cityclerk@manhattanbeach.gov

Re: Verandas – 401 Rosecrans and 3770 Highland, Manhattan Beach, California

Dear Mayor Napolitano and Members of the City Council:

GSI Environmental Inc. (GSI) has prepared this letter on behalf of El Porto, LLC (“Highrose”) in response to comments provided by The Ryan Law Group (“Ryan Group”) in a letter to the Manhattan Beach City Council, dated August 1, 2000. GSI is providing technical consulting services to Highrose in support of its redevelopment of the property located at 401 Rosecrans and 3770 Highland in Manhattan Beach, California (the Site). At the August 16, 2022 City Council meeting, GSI provided an overview of the Chevron Refinery and environmental investigations completed to date at the Site, and began to address several false claims related to environmental Site conditions and redevelopment. The Ryan Group letter provides comments to this presentation. It should be noted that Timothy Wood of GSI was only provided a few minutes for this presentation, and was only able to present a small portion of the prepared materials.

In its letter, Ryan Group alleges that GSI’s presentation during a Council meeting was intended to “deceive the City Council.” GSI provides technical consulting services to various clients both in the private and governmental sectors. Of note, GSI provides consulting services to the California Environmental Protection Agency (Cal-EPA) Department of Toxic Substances Control (DTSC), the California Department of Transportation (Cal-Trans), and various municipal clients, including the City of Torrance. We have established ourselves in Southern California and the country by providing strong site evaluation and management services. Ryan Group insinuates repeatedly that GSI is not trust-worthy because we are paid for our consulting services. In reality, our strong technical reputation is the foundation of our business.

Ryan Group claims that a third-party should review the available environmental data and provide a technical evaluation of the environmental issues associated with Site development, particularly related to the proximity of the Site to the Chevron El Segundo Refinery (Chevron Refinery). Ryan Group also claims the Site redevelopment presents a “potential petroleum/methane indoor intrusion” risk associated with contamination originating at the Chevron Refinery. These claims are unfounded:

- The California Regional Water Quality Control Board, Los Angeles Region (Water Board) is providing environmental oversight of the Chevron Refinery and associated petroleum hydrocarbon contamination. Under Water Board oversight, groundwater at the Chevron Refinery and properties adjacent to the Refinery is monitored to ensure the contamination is stable or decreasing, and not presenting

vapor intrusion risks to nearby properties in Manhattan Beach. Monitoring and other environmental reports are located at the Water Boards GeoTracker website.¹

- Vapor intrusion concerns do not prevent Site redevelopment. Environmental investigations completed to date have *not* identified petroleum hydrocarbons in soil vapor at concentrations of concern. However, properties with actual vapor intrusion concerns are routinely redeveloped with mitigation measures protective of public health. The Ryan Group's letter referenced various technical guidance documents related to vapor intrusion, but omitted the DTSC 2011 Vapor Intrusion Mitigation Advisory (VIMA) from its list. The VIMA outlines various technical approaches that can be selected for new developments during building design, if necessary, to mitigate potential vapor intrusion concerns. Whether vapor intrusion mitigation measures are necessary for Site redevelopment is not the question in front of the City Council, nor is it a basis for impeding Site use.


Finally, the Ryan Group asserts that our August 16, 2022 presentation did not include "critical material," such as boring logs of geotechnical investigations. Our presentation was not intended to serve as a technical report, but provide an overview of the environmental conditions at the Site to present an accurate picture based on the facts, and respond to the inaccurate information and false claims of the Ryan Group. GSI remains available to answer questions that the City Council may have regarding the Site environmental conditions.

Please contact either of the undersigned if you have any questions or comments

Sincerely,



Timothy F. Wood, PG, CHG
Vice President & Principal Geologist



Peter Scaramella
Senior Risk Assessor

cc: Frank Buckley, Director – Real Estate, Project Verandas
Michael W. Shonafelt, Newmeyer Dillion LLP

¹ https://geotracker.waterboards.ca.gov/profile_report.asp?global_id=SL372482441

RESPONSE TO APPELLANTS' ENVIRONMENTAL CLAIMS

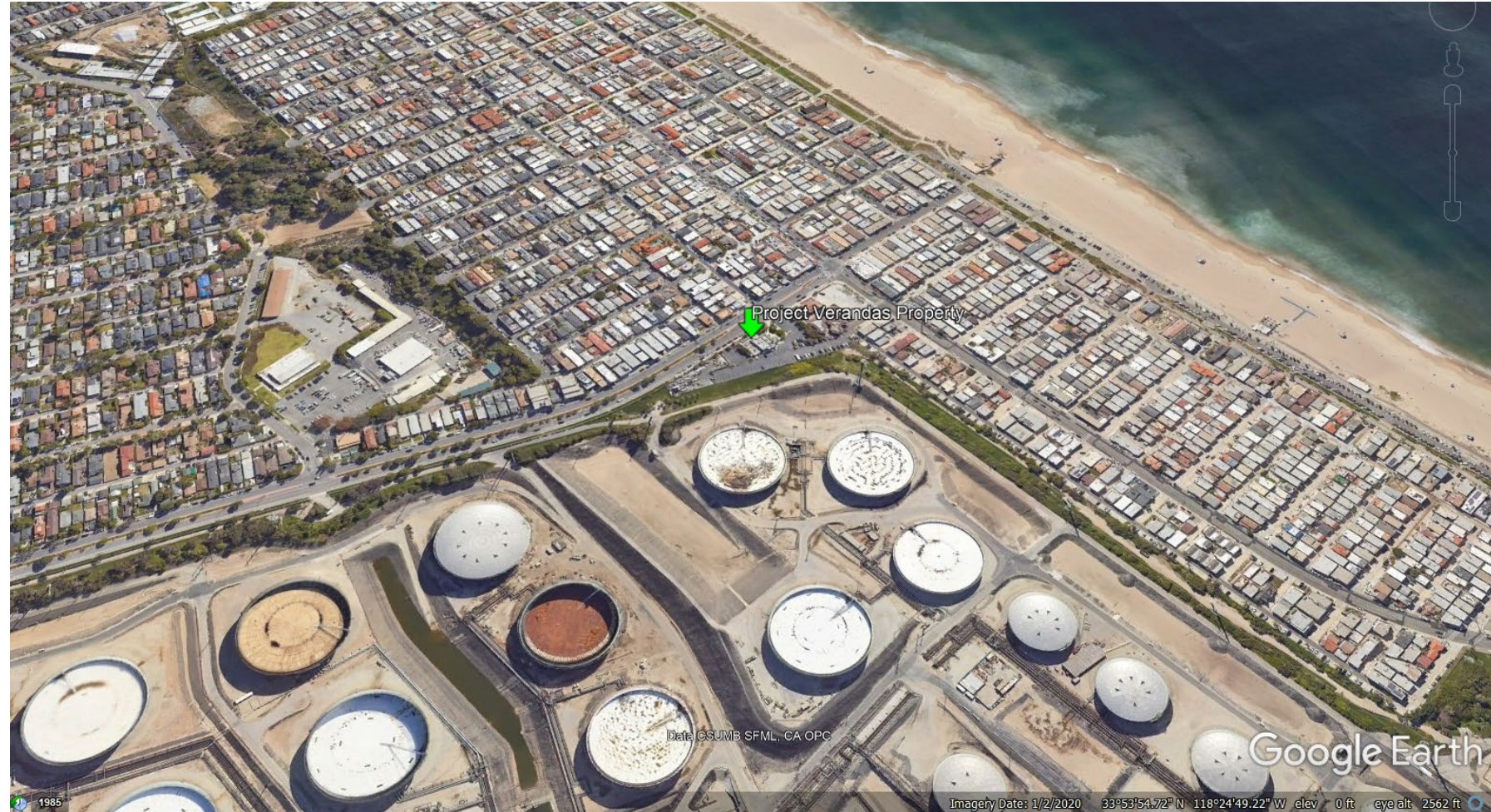
Project Verandas – City Council Hearing : August 16, 2022



Timothy F. Wood, PG, CHG
Vice President & Principal Hydrogeologist
GSI Environmental Inc.

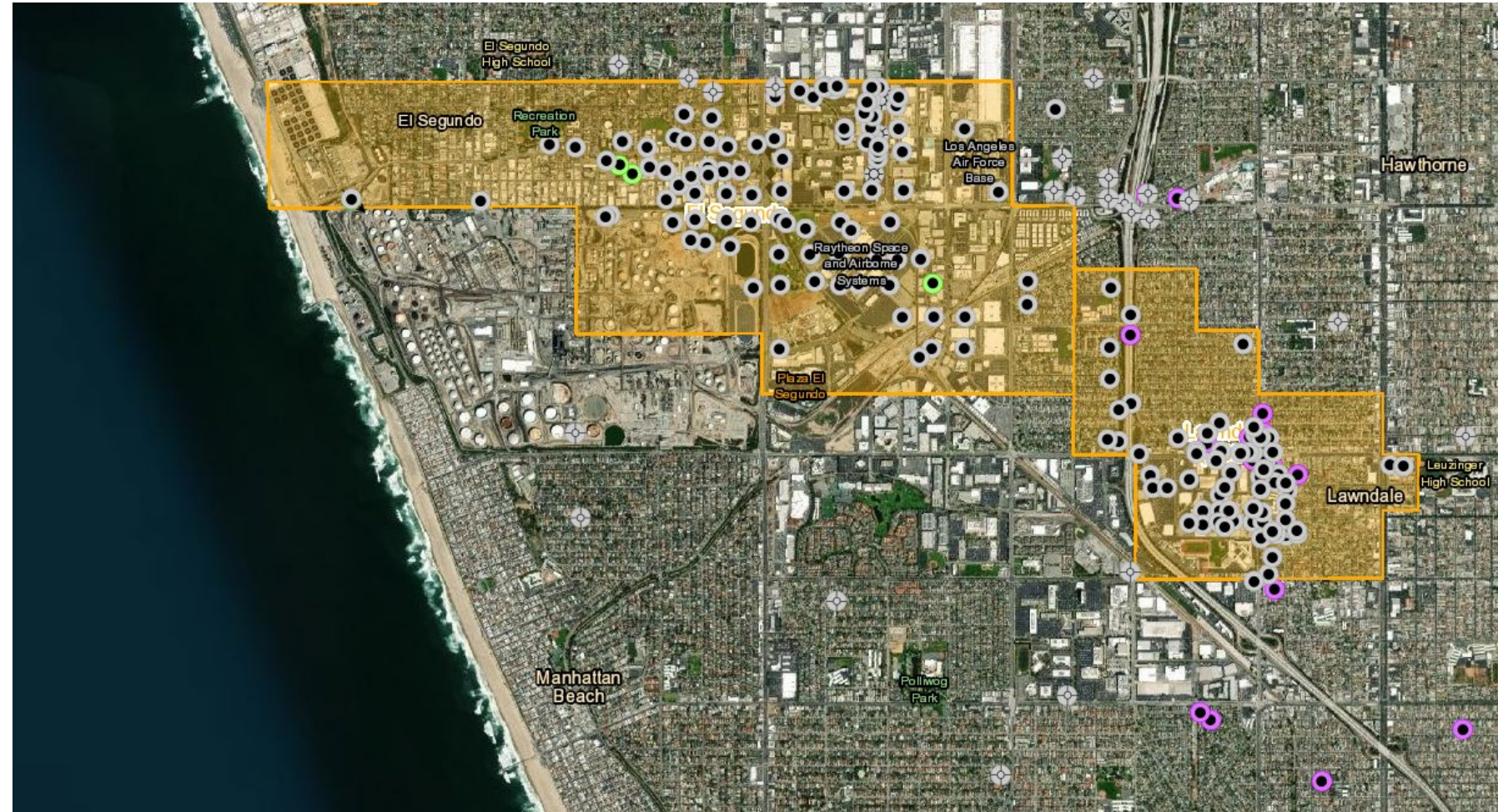
GENERAL SETTING

- Northwestern Manhattan Beach
- Two Blocks from Pacific Ocean
- Adjacent to the southwest corner of Chevron Refinery Easement
- Residential properties surround the property and also are adjacent to the Chevron refinery to the north and east



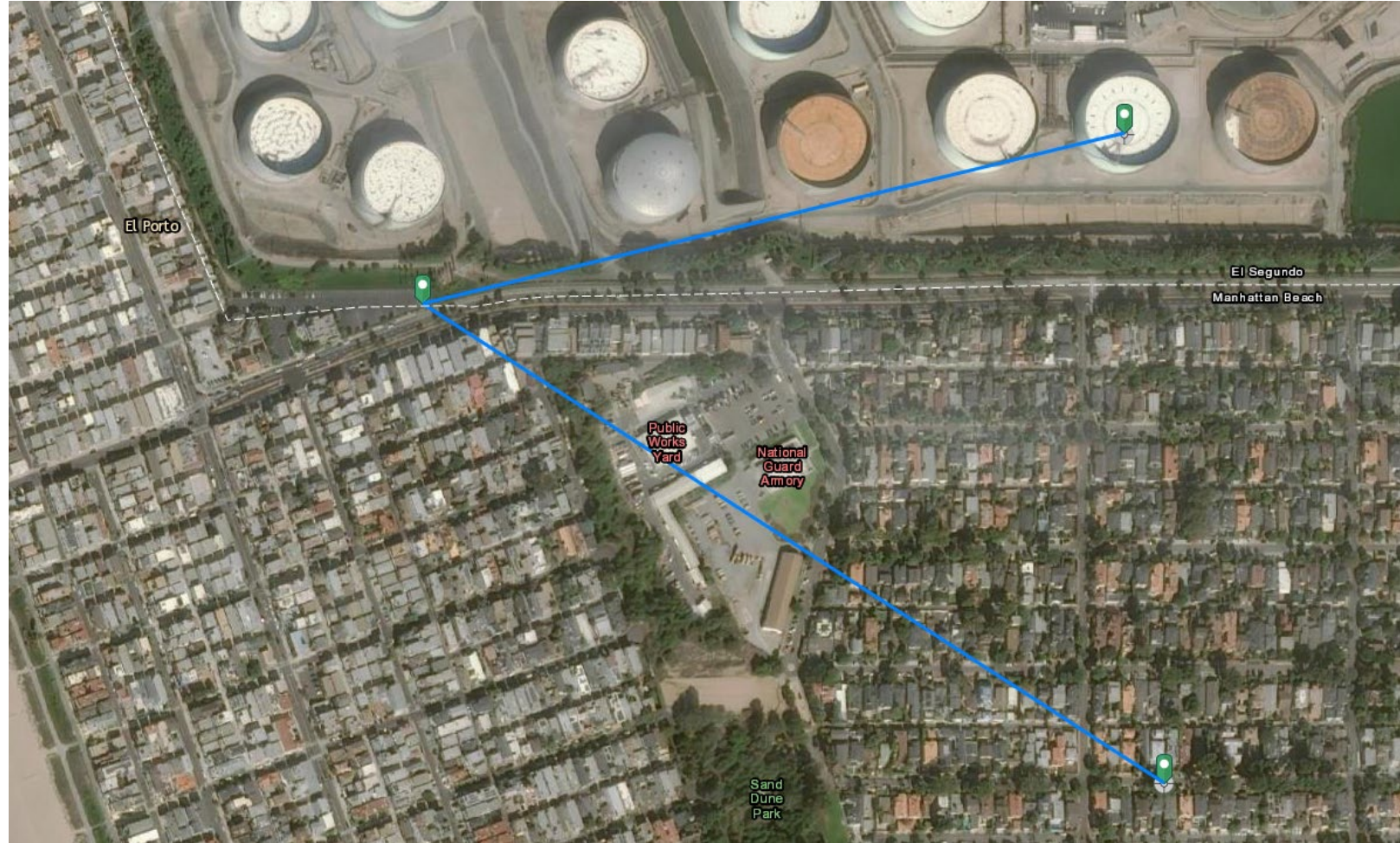
NO HISTORICAL OIL WELLS ON THE PROPERTY

- Outside the boundary of the El Segundo Oil Field
- No dry holes, plugged holes, idle wells, or active wells on-Site or within 2,000 ft of property.
- Source: California Geologic Energy Management Division Well Finder GIS:
<https://www.conservation.ca.gov/calgem/Pages/WellFinder.aspx>



NO HISTORICAL OIL WELLS ON THE PROPERTY

- Closest “dry holes” 2,000 ft east-northeast and 2500 ft southeast.
- No dry holes, plugged holes, idle wells, or active wells on-Site or within 2,000 ft of property.
- Source: California Geologic Energy Management Division Well Finder GIS:
<https://www.conservation.ca.gov/calgem/Pages/WellFinder.aspx>



NO HISTORICAL OIL EXPLORATION ON THE PROPERTY

- Outside the El Segundo Oil Field Limit of Schist Production
- Source: California Division of Oil and Gas, 1964, El Segundo Oil Field, by Simon Cordova, Assistant Oil and Gas Engineer, May.



NO HISTORICAL OIL EXPLORATION ON THE PROPERTY

- Outside the El Segundo Oil Field Limit of Butane Storage Sand



- Source: California Division of Oil and Gas, 1964, El Segundo Oil Field, by Simon Cordova, Assistant Oil and Gas Engineer, May.

NO HISTORICAL OIL EXPLORATION ON THE PROPERTY



CHEVRON GROUNDWATER UNDER REGULATORY OVERSIGHT

The screenshot shows the GeoTracker website interface. At the top left is the CA.GOV logo. The main header reads "STATE WATER RESOURCES CONTROL BOARD" above "GEOTRACKER". A navigation bar includes links for Home, Tools, Reports, UST Case Closures, How to Use GeoTracker, ESI, and Information. The main content area is titled "CHEVRON - EL SEGUNDO REFINERY (SL372482441) - (MAP)" with a "SIGN UP FOR EMAIL ALERTS" link. The site address is listed as 324 EL SEGUNDO BLVD, EL SEGUNDO, CA 90245, LOS ANGELES COUNTY. It is identified as a "CLEANUP PROGRAM SITE (INFO)" that is "OPEN - REMEDIATION AS OF 3/24/2010 - DEFINITION". A "PRINTABLE CASE SUMMARY / CSM REPORT" link is provided. On the right, "CLEANUP OVERSIGHT AGENCIES" are listed: LOS ANGELES RWQCB (REGION 4) (LEAD) - CASE #: 0235, with caseworker CARLOS LANDAVERDE; and EL SEGUNDO, CITY OF, with caseworker STEVE TSUMURA. A bottom navigation bar includes links for Summary, Cleanup Action Report, Regulatory Activities, Environmental Data (ESI), Site Maps / Documents, Community Involvement, and Related Cases.

- Chevron Refinery is regulated by the Los Angeles Regional Water Quality Control Board, which requires regular monitoring.
- Chevron is monitoring groundwater and removing liquid hydrocarbon from beneath the refinery.

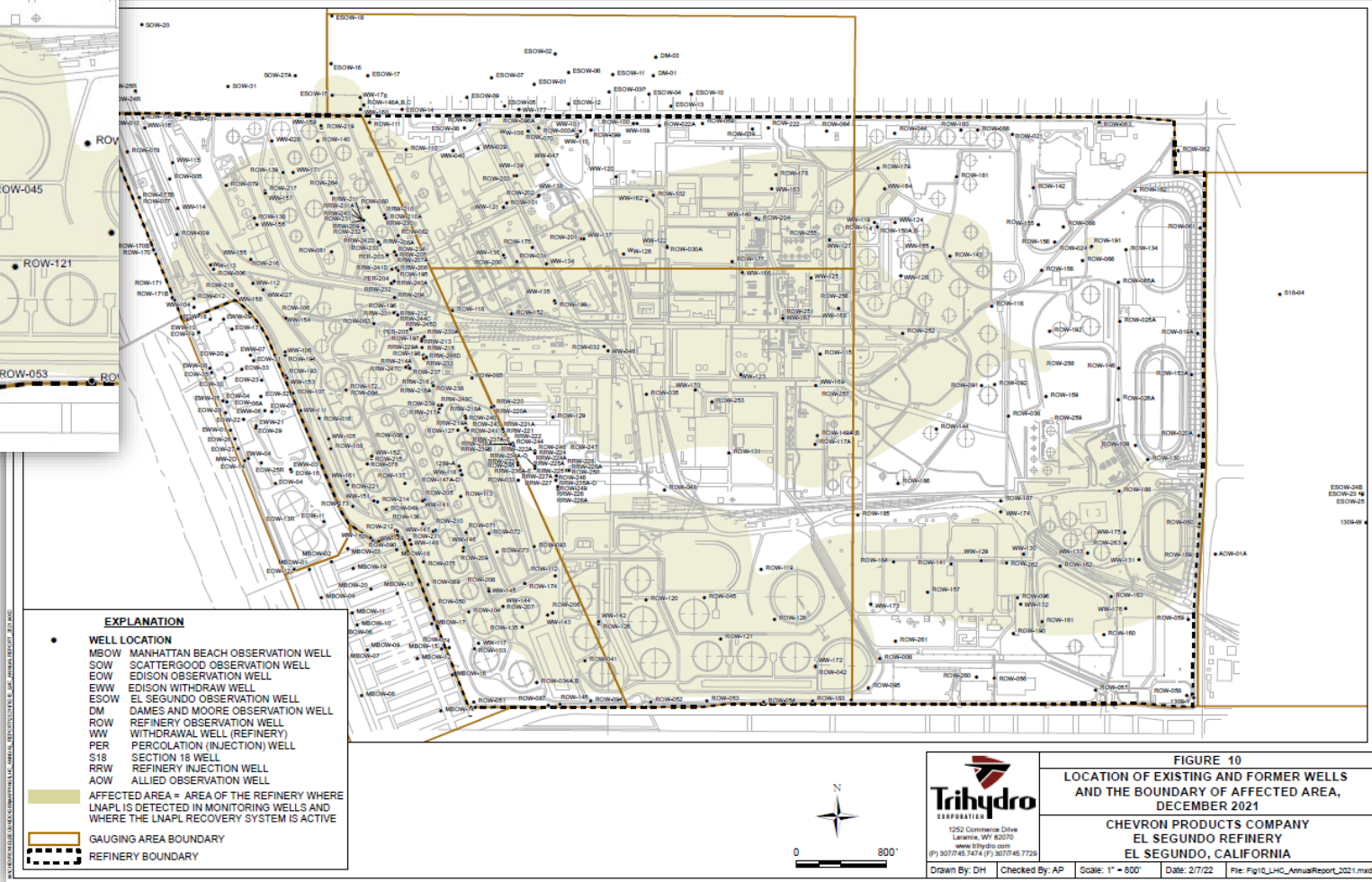
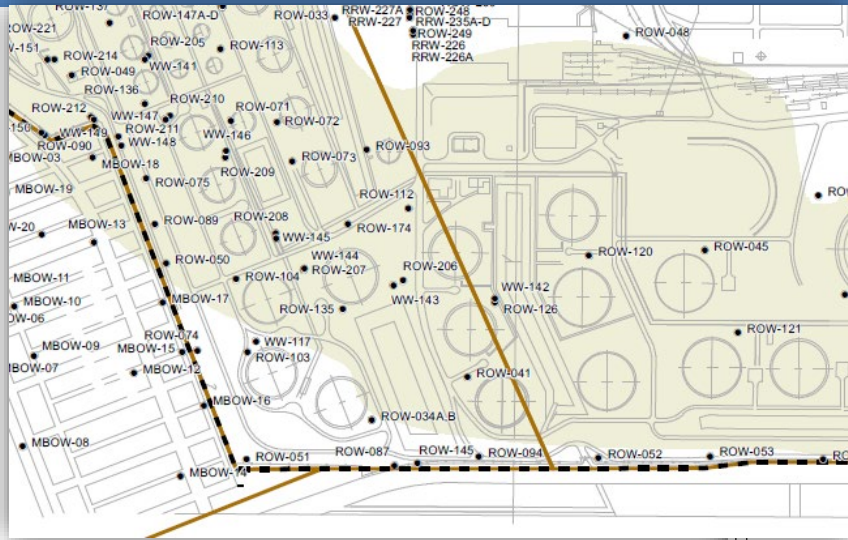
Source: https://geotracker.waterboards.ca.gov/profile_report.asp?global_id=SL372482441

CHEVRON GROUNDWATER REGULARLY MONITORED

Monitoring Reports			
TITLE	TYPE	SUBMITTED BY	DOCUMENT DATE
LIQUID HYDROCARBON RECOVERY PROJECT ANNUAL REPORT FOR 2021	MONITORING REPORT - ANNUALLY	TRIHIDRO (AUTH_RP)	2/15/2022
SEMIANNUAL CMI PROGRESS REPORT	MONITORING REPORT - SEMI-ANNUALLY	TRIHIDRO (AUTH_RP)	2/9/2022
SEMIANNUAL LNAPL REPORT	MONITORING REPORT - SEMI-ANNUALLY	TRIHIDRO (AUTH_RP)	8/6/2021
SEMIANNUAL CMI PROGRESS REPORT	MONITORING REPORT - SEMI-ANNUALLY	TRIHIDRO (AUTH_RP)	7/22/2021
LANDFARM ANNUAL REPORT FOR 2020, PART 1 OF 3	MONITORING REPORT - ANNUALLY	TRIHIDRO (AUTH_RP)	3/1/2021
LANDFARM ANNUAL REPORT FOR 2020, PART 2 OF 3	MONITORING REPORT - ANNUALLY	TRIHIDRO (AUTH_RP)	3/1/2021
LANDFARM ANNUAL REPORT FOR 2020, PART 3 OF 3	MONITORING REPORT - ANNUALLY	TRIHIDRO (AUTH_RP)	3/1/2021
RCRA SEMIANNUAL CMI REPORT	MONITORING REPORT - SEMI-ANNUALLY	TRIHIDRO (AUTH_RP)	2/23/2021
ANNUAL LNAPL REPORT FOR 2020	MONITORING REPORT - ANNUALLY	TRIHIDRO (AUTH_RP)	2/15/2021
ANNUAL LNAPL REPORT FOR 2020	MONITORING REPORT - ANNUALLY	TRIHIDRO (AUTH_RP)	2/15/2021
SEMIANNUAL CMI PROGRESS REPORT	MONITORING REPORT - SEMI-ANNUALLY	TRIHIDRO (AUTH_RP)	8/18/2020
LIQUID HYDROCARBON RECOVERY PROJECT, SEMIANNUAL REPORT	MONITORING REPORT - SEMI-ANNUALLY	TRIHIDRO (AUTH_RP)	8/14/2020
LANDFARM ANNUAL REPORT FOR 2019	MONITORING REPORT - ANNUALLY	TRIHIDRO (AUTH_RP)	2/28/2020
LIQUID HYDROCARBON RECOVERY PROJECT ANNUAL REPORT FOR 2019	MONITORING REPORT - ANNUALLY	TRIHIDRO (AUTH_RP)	2/14/2020
RCRA CMI REPORT	MONITORING REPORT - SEMI-ANNUALLY	TRIHIDRO (AUTH_RP)	2/14/2020
AMENDED CAO 88-55 (FILE NO. 77-41), TECHNICAL MEMORANDUM FOR 2019	MONITORING REPORT - ANNUALLY	TRIHIDRO (AUTH_RP)	8/15/2019
RCRA CMI SEMIANNUAL REPORT	MONITORING REPORT - SEMI-ANNUALLY	TRIHIDRO (AUTH_RP)	8/5/2019
2018 ANNUAL LANDARM REPORT, PART 2	MONITORING REPORT - ANNUALLY	TRIHIDRO (AUTH_RP)	3/1/2019
2018 ANNUAL LANDFARM REPORT	MONITORING REPORT - ANNUALLY	TRIHIDRO (AUTH_RP)	3/1/2019
2018 LANDFARM ANNUAL REPORT, PART 3	MONITORING REPORT - ANNUALLY	TRIHIDRO (AUTH_RP)	3/1/2019
SEMIANNUAL RCRA SMI REPORT	MONITORING REPORT - SEMI-ANNUALLY	TRIHIDRO (AUTH_RP)	2/20/2019
ANNUAL LNAPL REPORT	MONITORING REPORT - ANNUALLY	TRIHIDRO (AUTH_RP)	2/15/2019
SEMIANNUAL GWMP REPORT	MONITORING REPORT - SEMI-ANNUALLY	TRIHIDRO (AUTH_RP)	8/15/2018
RCRA CORRECTIVE ACTION PROGRAM, SEMIANNUAL CMI REPORT	MONITORING REPORT - SEMI-ANNUALLY	TRIHIDRO (AUTH_RP)	8/10/2018
LANDFARM ANNUAL 2017 REPORT	MONITORING REPORT - ANNUALLY	TRIHIDRO (AUTH_RP)	3/1/2018
2017 ANNUAL LNAPL REPORT	MONITORING REPORT - ANNUALLY	TRIHIDRO (AUTH_RP)	2/15/2018
SEMIANNUAL CMS REPORT	MONITORING REPORT - SEMI-ANNUALLY	TRIHIDRO (AUTH_RP)	2/13/2018
SEMIANNUAL RCRA CMI REPORT	MONITORING REPORT - SEMI-ANNUALLY	TRIHIDRO (AUTH_RP)	8/23/2017
SEMIANNUAL GROUNDWATER REPORT	MONITORING REPORT - SEMI-ANNUALLY	TRIHIDRO (AUTH_RP)	8/15/2017
MONITORING WELL INSTALLATION REPORT SCATTERGOOD POWER GENERATING PLANT	MONITORING REPORT - OTHER	TRIHIDRO (AUTH_RP)	7/14/2017
2016 ANNUAL LANDFARM REPORT	MONITORING REPORT - ANNUALLY	TRIHIDRO (AUTH_RP)	3/1/2017

Source: https://geotracker.waterboards.ca.gov/profile_report.asp?global_id=SL372482441

SITE IS NOT OVER CHEVRON LIQUID HYDROCARBON PLUME

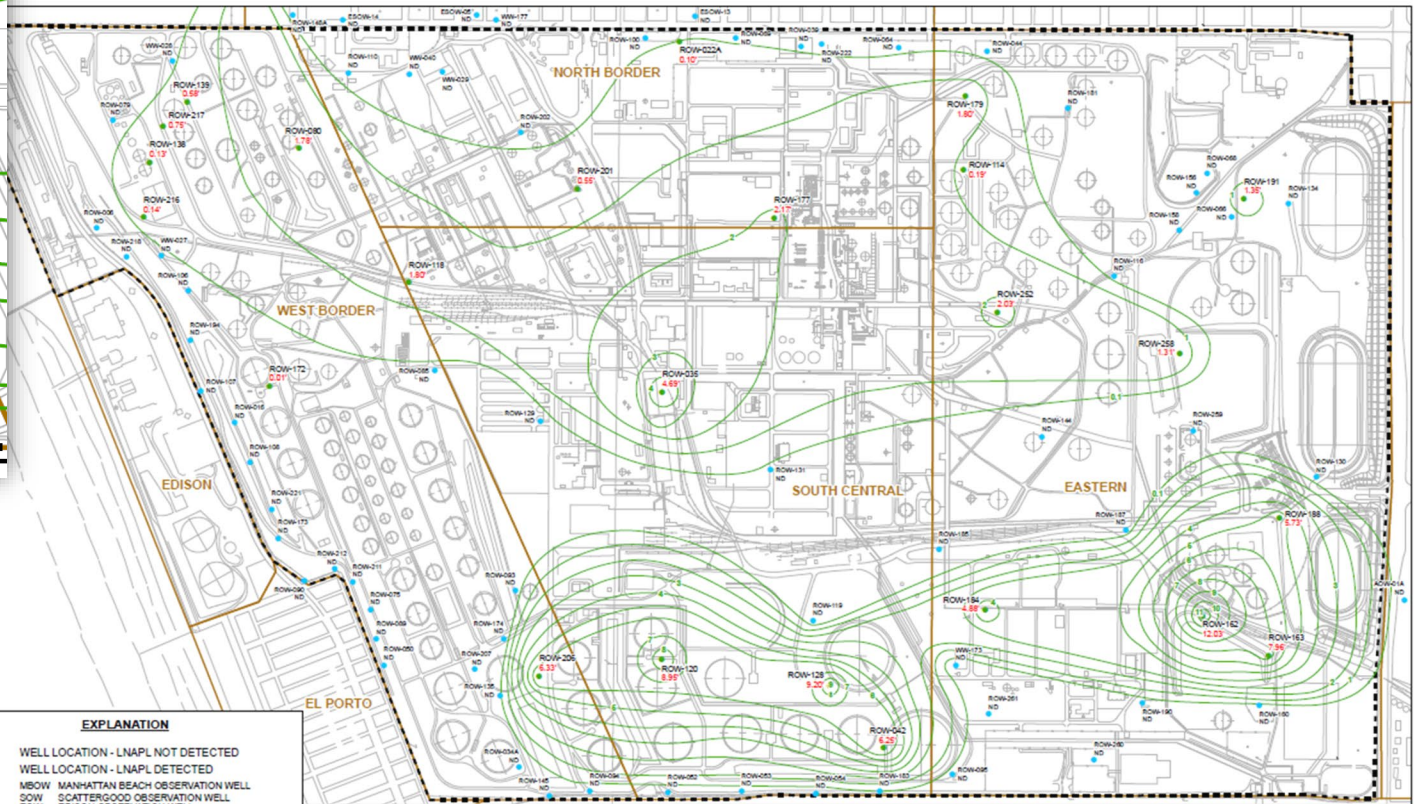
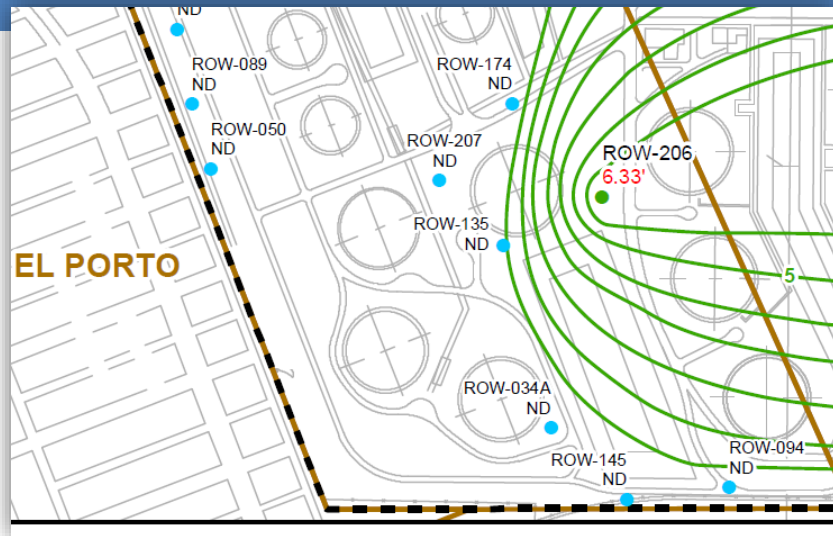


- Chevron liquid hydrocarbon plume does not extend off the Chevron property and beneath the Site.

- Source: Trihydro, 2022, Liquid Hydrocarbon Recovery Project Annual Report for 2021, Chevron Products Company, El Segundo Refinery, February 15.

FIGURE 10
LOCATION OF EXISTING AND FORMER WELLS
AND THE BOUNDARY OF AFFECTED AREA,
DECEMBER 2021
CHEVRON PRODUCTS COMPANY
EL SEGUNDO REFINERY
EL SEGUNDO, CALIFORNIA

SITE IS NOT OVER CHEVRON LIQUID HYDROCARBON PLUME



EXPLANATION	
●	WELL LOCATION - LNAPL NOT DETECTED
●	WELL LOCATION - LNAPL DETECTED
●	MBOW MANHATTAN BEACH OBSERVATION WELL
●	SOW SCATTERGOOD OBSERVATION WELL
●	EDOW EDISON OBSERVATION WELL
●	ESOW EL SEGUNDO OBSERVATION WELL
●	DM DAMES AND MOORE OBSERVATION WELL
●	ROW REFINERY OBSERVATION WELL
●	WW WITHDRAWAL WELL (REFINERY)
●	SIS SECTION 18 WELL
●	AOW ALLIED OBSERVATION WELL
—	APPROXIMATE LNAPL THICKNESS CONTOUR (FEET)
—	GAUGING AREA BOUNDARY
—	REFINERY BOUNDARY

NOTES:
 1. FLUID LEVELS WERE GAUGED FROM 10/5/2021 THROUGH 11/13/2021.
 2. LNAPL = LIGHT NON-AQUEOUS PHASE LIQUID.
 ROW-115 1.50' WELL ID AND LNAPL THICKNESS IN FEET
 ROW-050 ND WELL ID WITH LNAPL THICKNESS NOT DETECTED (ND)



FIGURE A-2
 APPARENT LNAPL THICKNESS
 OLD DUNE SAND AQUIFER
 (FOURTH QUARTER 2021)
 CHEVRON PRODUCTS COMPANY
 EL SEGUNDO REFINERY
 EL SEGUNDO, CALIFORNIA

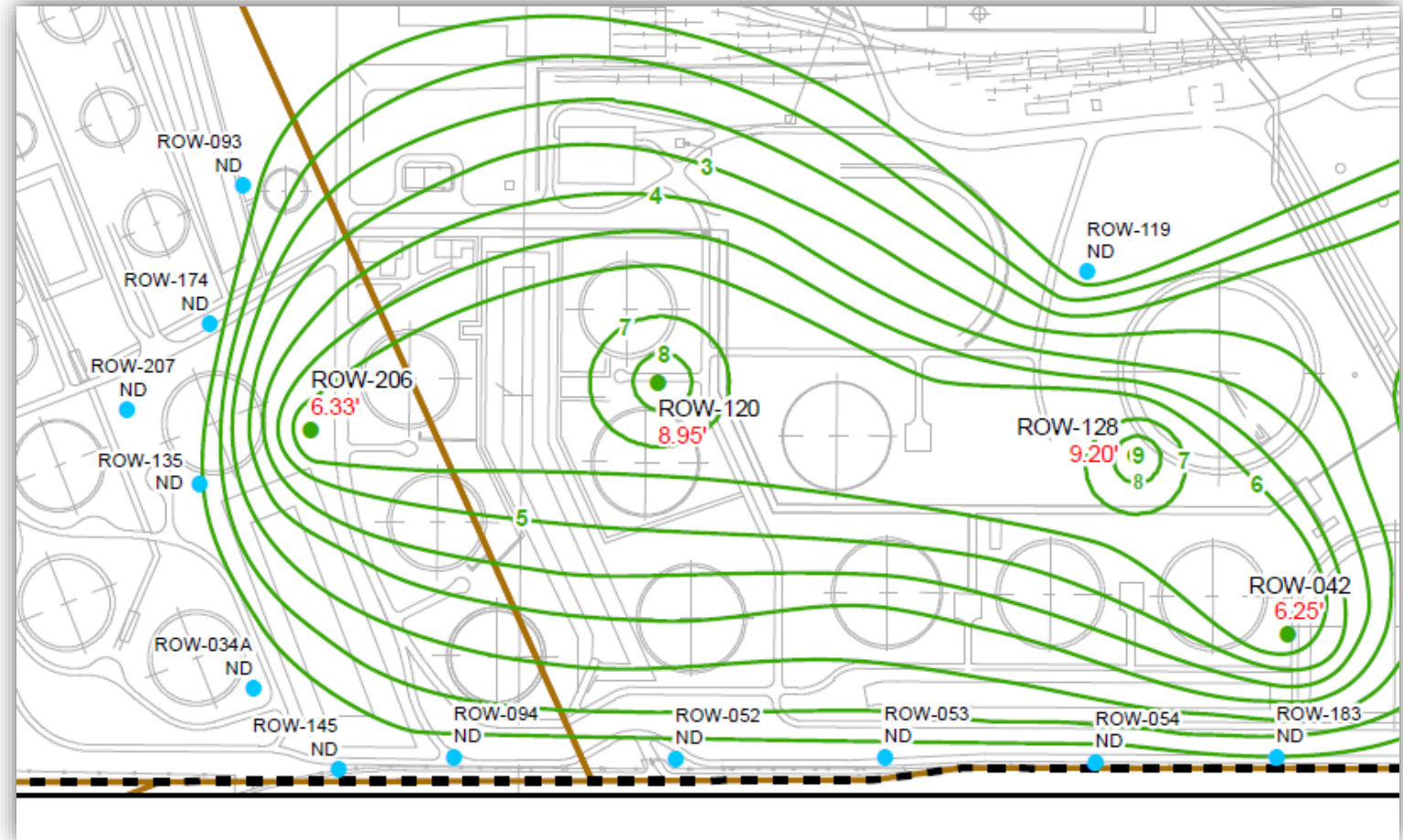
1252 Commerce Drive
 Lawrence, NY 80270
 www.trihydro.com
 (P) 303.663.7474 (F) 303.745.1729

Drawn By: DH | Checked By: EN | Scale: 1" = 800' | Date: 2/2/22 | File: A1-2_LNAPL_AnnualReport_2021.mxd

- Chevron liquid hydrocarbon plume does not extend off the Chevron property and is not beneath the Site.
- Source: Trihydro, 2022, Liquid Hydrocarbon Recovery Project Annual Report for 2021, Chevron Products Company, El Segundo Refinery, February 15.

CHEVRON OPERATES

- Liquid Hydrocarbon Recovery and Observation Wells are present on the Chevron Site, including in Southwest.
- No hydrocarbons present in 2021 in southern Chevron boundary wells.
- Product recovery continuing by Chevron with oversight of California Regional Water Quality Control Board, Los Angeles Region.
- Source: Trihydro, 2022, Liquid Hydrocarbon Recovery Project Annual Report for 2021, Chevron Products Company, El Segundo Refinery, February 15.

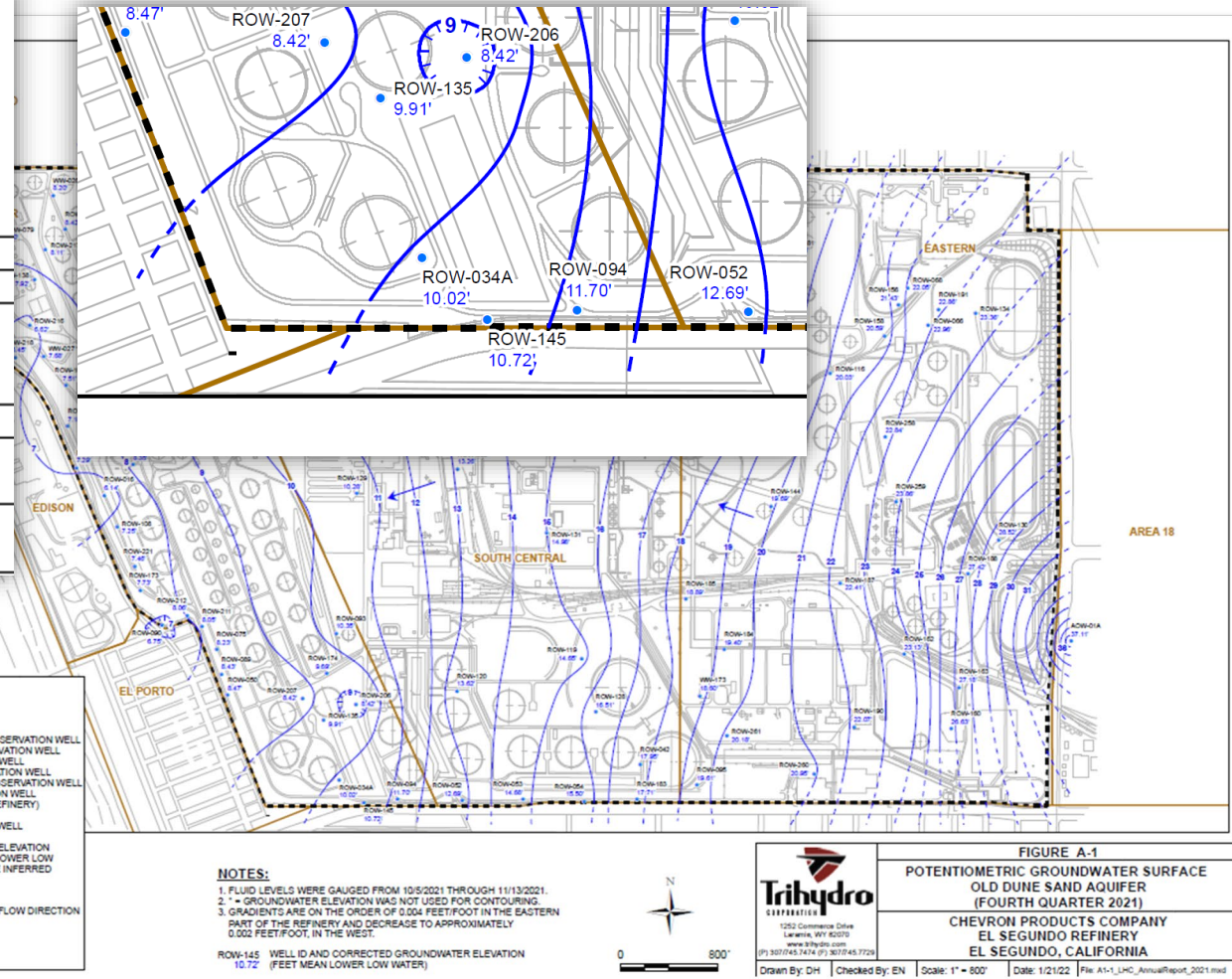


SITE IS HYDRAULICALLY TRANSGRADIENT TO CHEVRON

**TABLE A-1. FLUID-LEVEL GAUGING, GROUNDWATER MONITORING PROGRAM (2021)
CHEVRON PRODUCTS COMPANY, EL SEGUNDO REFINERY,
EL SEGUNDO, CALIFORNIA**

Well	Date Measured	Depth to Product (ft-bmp)	Depth to Water (ft-bmp)	Product Elevation (ft-mlw)	Water Elevation (ft-mlw)	Corrected Water Elevation (ft-mlw)
ROW-135	11/12/2021	ND	147.36	NA	9.91	9.91
ROW-138	11/11/2021	107.35	107.48	7.94	7.81	7.92
ROW-139	4/20/2021	152.25	152.70	8.44	7.99	8.35
ROW-139	7/07/2021	152.22	152.80	8.47	7.89	8.35
ROW-139	11/11/2021	152.15	152.73	8.54	7.96	8.42
ROW-140	7/07/2021	156.01	156.70	9.01	8.32	8.88
ROW-144	4/22/2021	ND	122.35	NA	20.02	20.02
ROW-144	11/11/2021	ND	122.68	NA	19.69	19.69
ROW-145	4/21/2021	ND	143.90	NA	10.85	10.85
ROW-145	11/12/2021	ND	144.03	NA	10.72	10.72

- Groundwater flows from East to West
- Groundwater elevation ~10 feet mllw
- Source: Trihydro, 2022, Liquid Hydrocarbon Recovery Project Annual Report for 2021, Chevron Products Company, El Segundo Refinery, February 15.



SITE WAS NOT FORMERLY OWNED BY CHEVRON

No history of Chevron ownership in land title records

STATE OF CALIFORNIA
County of San Diego

On this 22nd day of May, 1948, before me
Notary Public in and for said
County, personally appeared Paul Hardeman and
Jeanne Hardeman
known to me to be the person(s) whose name(s) are subscribed to the foregoing instrument and
acknowledged that they executed the same.

WITNESS my hand and Official Seal.
James J. Carlson
NOTARY PUBLIC in and for said County and State.

Grant Deed

Paul Hardeman
and
Jeanne Hardeman

TO

George Washburn,
a married man

Dated May 22, 1948

**SECURITY-FIRST NATIONAL
BANK OF LOS ANGELES**

3422 9-11 P.B.

2924

SECURITY-FIRST NATIONAL BANK OF
LOS ANGELES ESCROW NO. _____

BRANCH _____

When recorded please return this
instrument to
George Washburn
10955 W. Pico Blvd
Los Angeles 34, Calif

DOCUMENT No. E 2924
RECORDED AT REQUEST OF _____

MAY 25 1948
26 MAY 1 P.M.

OFFICIAL RECORDS
County of Los Angeles, California
Fee \$ _____ Folios _____
MAME B. BEATTY, County Recorder

160-31

1 in the following manner:

2 To Thomas M. Danaher:

3 All that real property situated in the City of
4 Manhattan, County of Los Angeles, State of
5 California, described as follows:

6 Lot Five (5) in Block Three (3) of Tract
7 3701, Book 41, Page 26, in the City of Manhattan,
8 County of Los Angeles, State of California,
9 unimproved and producing no income. Appraised
10 at \$900.00,

11 and that all other property of said estate, whether described herein
12 or not, be and the same hereby is distributed as follows:

13 To Thomas M. Danaher, one-half thereof,
14 To Ella Mae Wallace, one-half thereof.

15 DATED: December 2, 1949.

16

17

18 DOCUMENT No. 2103
RECORDED AT REQUEST OF _____

19

20 DEC 8 1949
45 JAN 9 AM

21

22 IN OFFICIAL RECORDS
County of Los Angeles, California
Fee \$ _____ Folios _____
MAME B. BEATTY, County Recorder

23

24

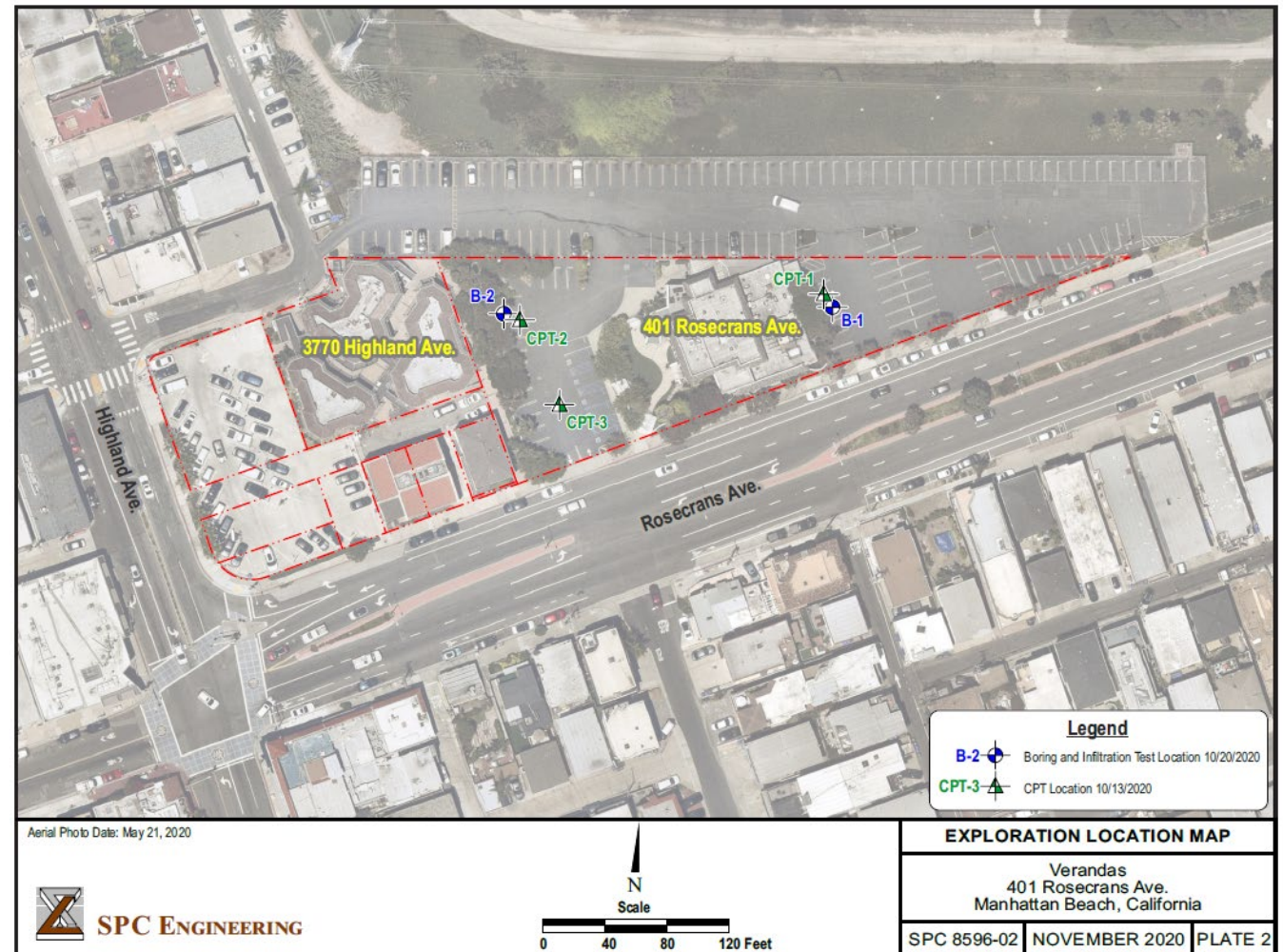
NEWCOMB CONDIE
Judge of the Superior Court

THE FOREGOING INSTRUMENT IS A COPY BELIEVED
OF THE ORIGINAL AS THE SAME IS FILED FOR RECORD
ATTEST DEC 8 1949
HAROLD I. USLEY COUNTY CLERK FOR THE COUNTY OF LOS ANGELES
BY Janice Blumstein DEPUTY

160-52

GEOTECHNICAL EXPLORATION – NO IMPACTS OBSERVED

- Geotechnical Exploration to 90 ft below ground surface in 2020.
- No groundwater present to 90 ft.
- No signs of environmental / hydrocarbon impacts.



GEOTECHNICAL BORING LOGS – NO IMPACTS PRESENT

BORING LOG B-1

Project/Client: Verandas / Highrose El Porto, LLC
 Site Location: 401 Rosecrans Avenue, Manhattan Beach, CA 90266 SPC 8596-02
 Drilling Contractor/Rig: ABC Liovin / CME-75 Total Depth: 53' Sheet: 1 of 3
 Drilling Method/Diameter: Hollow Stem Auger / 8" Water Depth: N/A Start: 20 OCT 20
 Hammer Data: Autohammer 140 lb, 30" drop Logged By: B. Schlesinger End: 20 OCT 20

Depth (ft.)	Sampler	Field Blow Counts / 6 inches (N ₆₀) Blow Counts	Graphic Log	Description	Dry Density, Pcf	Moisture Content, %	Other Tests / Remarks
Estimated Surface Elevation: 148'							
Boring Location: In parking lot at eastern side of restaurant; see Exploration Location Map, Plate 2.							
0				ASPHALT CONCRETE 3" thick			Hand sugar upper 5'; difficult hand sugaring due to curing
0				AGGREGATE BASE Poorly Graded GRAVEL with Sand (GP); Brown; slightly moist; dense; subrounded to subangular gravel; 7.5" thick			MAX = 100% PCF; OMC = 7.5%
0				FILL Poorly Graded SAND (SP); Brown (10YR 4/3); slightly moist; loose to medium dense; fine to medium-grained sand, predominantly fine-grained, scattered subrounded fine gravel			
0				EOLIAN (DUNE) SAND (Qe) Poorly Graded SAND (SP); Brown (10YR 4/3); slightly moist to moist; medium dense; fine to medium-grained sand, predominantly fine-grained, scattered subrounded fine gravel			
5		10		@ 5': Color change to brown (10YR 5/3); moist; no gravel encountered	94	2.3	Sand catcher used for SPT & Mod Cal Samplers for all samples; DS
10		5		@ 10': Because predominantly medium-grained, dense	1.9		#200 = 0.6%; GSA
15		10		@ 15': Increase in moisture and density	97	2.8	

BORING LOG B-1

Project/Client: Verandas / Highrose El Porto, LLC
 Site Location: 401 Rosecrans Avenue, Manhattan Beach, CA 90266 SPC 8596-02
 Drilling Contractor/Rig: ABC Liovin / CME-75 Total Depth: 53' Sheet: 2 of 3
 Drilling Method/Diameter: Hollow Stem Auger / 8" Water Depth: N/A Start: 20 OCT 20
 Hammer Data: Autohammer 140 lb, 30" drop Logged By: B. Schlesinger End: 20 OCT 20

Depth (ft.)	Sampler	Field Blow Counts / 6 inches (N ₆₀) Blow Counts	Graphic Log	Description	Dry Density, Pcf	Moisture Content, %	Other Tests / Remarks
Estimated Surface Elevation: 148'							
Boring Location: In parking lot at eastern side of restaurant; see Exploration Location Map, Plate 2.							
20				@ 20': Same as above with slight decrease in moisture	2.1		
25		10		@ 25': Continued decrease in moisture; trace shell fragments	95	1.7	
30		4		@ 30': Continued decrease in moisture	1.3		CORR
35		18		@ 35': Color change to brown (10YR 4/3); increase in moisture and density; trace silt	99	2.1	

BORING LOG B-1

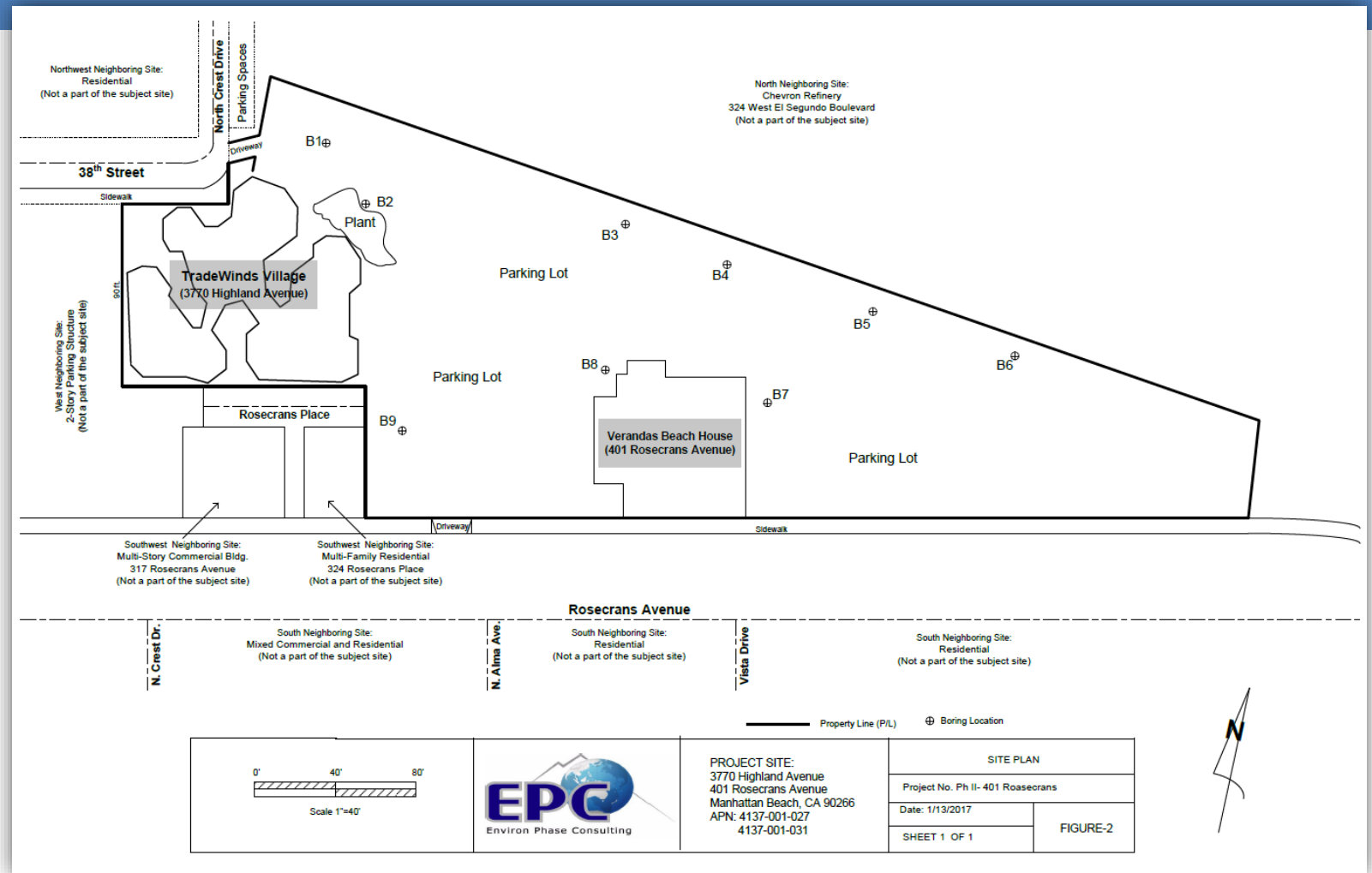
Project/Client: Verandas / Highrose El Porto, LLC
 Site Location: 401 Rosecrans Avenue, Manhattan Beach, CA 90266 SPC 8596-02
 Drilling Contractor/Rig: ABC Liovin / CME-75 Total Depth: 53' Sheet: 3 of 3
 Drilling Method/Diameter: Hollow Stem Auger / 8" Water Depth: N/A Start: 20 OCT 20
 Hammer Data: Autohammer 140 lb, 30" drop Logged By: B. Schlesinger End: 20 OCT 20

Depth (ft.)	Sampler	Field Blow Counts / 6 inches (N ₆₀) Blow Counts	Graphic Log	Description	Dry Density, Pcf	Moisture Content, %	Other Tests / Remarks
Estimated Surface Elevation: 148'							
Boring Location: In parking lot at eastern side of restaurant; see Exploration Location Map, Plate 2.							
40				@ 40': Decrease in moisture	1.6		CORR
45		18		@ 45': Same as above	97	1.6	COLL; DS
45		11		@ 45': Trace shell fragments	1.6		CORR

Notes:
 1) Boring drilled to 53.0' below ground surface.
 2) No seepage or groundwater encountered at time of drilling.
 3) Infiltration testing performed at this location.
 4) PVC casing removed and boring backfilled with grout and bentonite per LA County Standards. Surface patched with black-dyed concrete.

ENVIRONMENTAL TESTING – NO IMPACTS

- Environmental Investigation to 30 ft below ground surface in 2017.
- No groundwater present.
- No signs of environmental impacts observed during drilling.
- No environmental impacts identified in lab testing of soil and soil vapor samples.



ENVIRONMENTAL TESTING – NO IMPACTS

Table-1 Soil Samples Laboratory Analytical Results (EPC, Jan 2017)

EPA Methods 8015M & 8020

Sample ID	Sample Date	Sample Depth (feet bgs)	TPH-Gas (mg/kg)	TPH-Diesel (mg/kg)	TPH-Oil (mg/kg)	Benzene (µg/kg)	Toluene (µg/kg)	Ethylbenzene (µg/kg)	Xylenes (µg/kg)	MTBE (µg/kg)	Other VOCs (µg/kg)
B1-10	1/13/2017	10	ND	ND	ND	ND	ND	ND	ND	ND	ND
B1-20	1/13/2017	20	ND	ND	ND	ND	ND	ND	ND	ND	ND
B1-30	1/13/2017	30	ND	ND	ND	ND	ND	ND	ND	ND	ND
B2-10	1/13/2017	10	ND	ND	ND	ND	ND	ND	ND	ND	ND
B2-20	1/13/2017	20	ND	ND	ND	ND	ND	ND	ND	ND	ND
B3-10	1/13/2017	10	ND	ND	ND	ND	ND	ND	ND	ND	ND
B3-20	1/13/2017	20	ND	ND	ND	ND	ND	ND	ND	ND	ND
B3-30	1/13/2017	30	ND	ND	ND	ND	ND	ND	ND	ND	ND
B4-10	1/13/2017	10	ND	ND	ND	ND	ND	ND	ND	ND	ND
B4-20	1/13/2017	20	ND	ND	ND	ND	ND	ND	ND	ND	ND
B5-10	1/13/2017	10	ND	ND	ND	ND	ND	ND	ND	ND	ND
B5-20	1/13/2017	20	ND	ND	ND	ND	ND	ND	ND	ND	ND
B5-30	1/13/2017	30	ND	ND	ND	ND	ND	ND	ND	ND	ND
B6-10	1/13/2017	10	ND	ND	ND	ND	ND	ND	ND	ND	ND
B6-20	1/13/2017	20	ND	ND	ND	ND	ND	ND	ND	ND	ND
B7-10	1/13/2017	10	ND	ND	ND	ND	ND	ND	ND	ND	ND
B7-20	1/13/2017	20	ND	ND	ND	ND	1	ND	ND	ND	ND
B8-10	1/13/2017	10	ND	ND	ND	ND	ND	ND	ND	ND	ND
B8-20	1/13/2017	20	ND	ND	ND	ND	ND	ND	ND	ND	ND
B9-10	1/13/2017	10	ND	ND	ND	ND	ND	ND	ND	ND	ND
B9-20	1/13/2017	20	ND	ND	ND	ND	ND	ND	ND	ND	ND
Specific Detection Limit			0.2 mg/kg	5.0 mg/kg	10 mg/kg	1 µg/kg	1 µg/kg	2 µg/kg	5 µg/kg	1 µg/kg	various
Regional Screening Levels (mg/kg)											
RSLs Updated June 2015 (Industrial)			NE	NE	NE	5.1	4,700	25	280	210	various
RSLs Updated June 2015 (Residential)			NE	NE	NE	1.2	490	5.8	65	47	various

NOTES:

ND -Not Detected at or above the indicated laboratory detection limit

NA -Not Analyzed

NE -Not Established

mg/kg -milligrams per kilogram

bgs -below ground surface

Other VOCs -Other Volatile Organic Compounds via EPA Analytical Method 8620(B)

TPH-gas/diesel/oil -Total Petroleum Hydrocarbon as gasoline, diesel, and oil range organics

Subject Site: 401 Rosecrans Ave and 3770 Highland Avenue, Mahattan Beach, CA

ENVIRONMENTAL TESTING – NO IMPACTS

Table-2 Soil Samples Laboratory Analytical Results (EPC, Jan 2017)
EPA Methods 6010B (Metals) & 7471A (Mercury)

Sample ID	Sample Date	Sample Depth (feet bgs)	Antimony (mg/kg)	Arsenic (mg/kg)	Barium (mg/kg)	Beryllium (mg/kg)	Cadmium (mg/kg)	Chromium+6 (mg/kg)	Cobalt (mg/kg)	Copper (mg/kg)	Lead (mg/kg)	Mercury (mg/kg)	Molybdenum (mg/kg)	Nickel (mg/kg)	Selenium (mg/kg)	Silver (mg/kg)	Thallium (mg/kg)	Vanadium (mg/kg)	Zinc (mg/kg)
B1-10	1/13/2017	10	ND < 2.0	2.96	7.17	ND < 1.0	ND < 1.0	3.42	ND < 2.0	ND < 2.0	ND < 2.0	ND < 0.05	ND < 2.0	4.26	ND < 2.0	ND < 1.0	ND < 2.0	6.09	ND < 5.0
B3-10	5/5/2015	10	ND < 2.0	ND < 2.0	8.95	ND < 1.0	ND < 1.0	5.83	ND < 2.0	2.16	ND < 2.0	ND < 0.05	ND < 2.0	5.18	ND < 2.0	ND < 1.0	ND < 2.0	9.19	6.68
B6-10	5/5/2015	10	ND < 2.0	2.09	6.64	ND < 1.0	ND < 1.0	10.1	ND < 2.0	2.6	ND < 2.0	ND < 0.05	2.61	3.75	ND < 2.0	ND < 1.0	ND < 2.0	4.37	ND < 5.0
B8-10	5/5/2015	10	ND < 2.0	ND < 2.0	3.95	ND < 1.0	ND < 1.0	1.73	ND < 2.0	ND < 2.0	ND < 2.0	ND < 0.05	ND < 2.0	2.72	ND < 2.0	ND < 1.0	ND < 2.0	3.43	ND < 5.0
Soluble Threshold Limit Concentration (mg/L)																			
Title 22 Section 66723			15	5	100	0.75	1	5	80	25	5	0.2	350	20	1	5	7	24	250
Total Threshold Limit Concentrations (mg/kg)																			
Title 22 Section 66723			500	500	10,000	75	100	500	8,000	2,500	1,000	20	3,500	2,000	1	5	700	2,400	5,000
Regional Screening Levels (mg/kg)																			
RSLs Updated January 2015			470	3	220,000	2,300	9800	6.3	350	47,000	800	40	5,800	20,000	5,800	5,800	12	5,800	350,000

NOTES:

- ND -Not Detected at or above the indicated laboratory detection limit
- mg/kg -milligrams per kilogram
- bgs -below ground surface
- Site -401 Rosecrans Avenue and 3770 Highland Avenue, Manhattan Beach, CA 90266

ENVIRONMENTAL TESTING – NO IMPACTS

Table-3 Soil Vapor Samples Laboratory Analytical Results (EPC, Jan 2017)

EPA Methods 8015M & 8020

Sample ID	Sample Date	Sample Depth (feet bgs)	TPH-Gas (mg/kg)	Benzene (µg/kg)	Toluene (µg/kg)	Ethylbenzene (µg/kg)	Xylenes (µg/kg)	MTBE (µg/kg)	Other VOCs (µg/kg)
B2-SV4	1/13/2017	4	ND	ND	ND	ND	ND	ND	ND
B7-SV4	1/13/2017	4	ND	ND	ND	ND	ND	ND	ND
B*-SV4	1/13/2017	4	ND	ND	ND	ND	ND	ND	ND
Specific Detection Limit			0.1 mg/L	1 µg/L	1 µg/kg	2 µg/L	5 µg/L	1 µg/L	various

NOTES:

ND -Not Detected at or above the indicated laboratory detection limit

NA -Not Analyzed

NE -Not Established

µg/L -micrograms per liter (ppb)

bgs -below ground surface

Other VOCs -Other Volatile Organic Compounds via EPA Analytical Method 8620(B)

TPH-gas/diesel/oil -Total Petroleum Hydrocarbon as gasoline, deiesel, and oil range organics

Subject Site: 401 Rosecrans Ave and 3770 Highland Avenue, Mahattan Beach, CA

ENVIRONMENTAL BORING LOGS – NO IMPACTS

Date Began		1/ 13/ 2017		Site		401 Rosecrans Ave & 3770 Highland Ave Manhattan Beach				
Date Finished		1/ 13/ 2017		Field Engineer		Song Han				
Ground Surface El.				Checked By		Allen Shim, P.E				
Depth in Feet	Blow per Foot	Field Moisture % of Dry Weight	Dry Density lb./cu.ft.	Shear Resistance kips/sq.ft.	Soil Vapor	Unified Classification	Time	BORING LOG	Sample No.	B-1
5					0	SP	751	fill, silty sand, dark brown, moist		
10					0	SP	755	sand, light brown, slightly moist	B-1-10	
15					0	SP	759	sand, light brown, slightly moist		
20					0	SP	804	sand, light brown, slightly moist	B-1-20	
25					0	SP	812	sand, light brown, slightly moist		
30					0	SP	820	sand, light brown, slightly moist	B-1-30	
35										
40										
Groundwater Level: Groundwater was NOT encountered at 30 ft bgs.										
Total Boring Depth: 30 ft bgs				Vapor Sampling						
Boring Location:				Augur Boring						
				Direct Push Geoprobe #8600: X						

EPC 4055 Wilshire Blvd., #261, LA, CA 90010

Date Began		1/ 13/ 2017		Site		401 Rosecrans Ave & 3770 Highland Ave Manhattan Beach				
Date Finished		1/ 13/ 2017		Field Engineer		Song Han				
Ground Surface El.				Checked By		Allen Shim, P.E				
Depth in Feet	Blow per Foot	Field Moisture % of Dry Weight	Dry Density lb./cu.ft.	Shear Resistance kips/sq.ft.	Soil Vapor	Unified Classification	Time	BORING LOG	Sample No.	B-3
5					0	SP	932	fill, silty sand, dark brown to brown moist		
10					0	SP	935	sand, light brown, slightly moist	B-3-10	
15					0	SP	939	sand, light brown, slightly moist		
20					0	SP	945	sand, light brown, slightly moist	B-3-20	
25					0	SP	940	sand, light brown, slightly moist		
30					0	SP	955	sand, light brown, slightly moist	B-3-30	
35										
40										
Groundwater Level: Groundwater was NOT encountered at 30 ft bgs.										
Total Boring Depth: 30 ft bgs				Vapor Sampling						
Boring Location:				Augur Boring						
				Direct Push Geoprobe #8600: X						

EPC 4055 Wilshire Blvd., #261, LA, CA 90010

Date Began		1/ 13/ 2017		Site		401 Rosecrans Ave & 3770 Highland Ave Manhattan Beach				
Date Finished		1/ 13/ 2017		Field Engineer		Song Han				
Ground Surface El.				Checked By		Allen Shim, P.E				
Depth in Feet	Blow per Foot	Field Moisture % of Dry Weight	Dry Density lb./cu.ft.	Shear Resistance kips/sq.ft.	Soil Vapor	Unified Classification	Time	BORING LOG	Sample No.	B-5
5					0	SP	1019	fill, silty sand, dark brown, moist		
10					0	SP	1022	sand, light brown, slightly moist	B-5-10	
15					0	SP	1026	sand, light brown, slightly moist		
20					0	SP	1029	sand, light brown, slightly moist	B-5-20	
25					0	SP	1028	sand, light brown, slightly moist		
30					0	SP	1038	sand, light brown, slightly moist	B-5-30	
35										
40										
Groundwater Level: Groundwater was NOT encountered at 30 ft bgs.										
Total Boring Depth: 30 ft bgs				Vapor Sampling						
Boring Location:				Augur Boring						
				Direct Push Geoprobe #8600: X						

EPC 4055 Wilshire Blvd., #261, LA, CA 90010

PARKING GARAGE WILL NOT ENCOUNTER CHEVRON PLUME

- Architectural Plans
- Groundwater present at ~10 ft above sea level
- ~113 ft lowest grade
- >100 ft depth to groundwater from base of parking garage
- Free product is not present on top of groundwater beneath Site



CONCEPT AERIAL VIEW



VICINITY MAP
NOT TO SCALE

SHEET INDEX

ARCHITECTURE	
00-00	COVER SHEET
00-01	A.L.T.A / SURVEY
00-02	A.L.T.A / SURVEY
00-03	A.L.T.A / SURVEY
00-04	A.L.T.A / SURVEY
00-05	STREET IMPROVEMENT PLAN
00-06	KNJUKLE CONCEPT
00-07	PARCEL MAP
01-01	PROJECT SUMMARY
02-01	SITE PLAN
02-02	BUILDING PLAN - LEVEL P-2
02-03	BUILDING PLAN - LEVEL P-1
02-04	BUILDING PLAN - LEVEL L-1
02-05	BUILDING PLAN - LEVEL L-2
02-06	BUILDING PLAN - LEVEL L-3
02-07	BUILDING PLAN - LEVEL L-4
02-08	BUILDING ROOF PLAN
03-01	ELEVATIONS - EAST
03-02	ELEVATIONS - WEST
03-03	SITE SECTIONS
03-04	ENLARGED SECTIONS
03-05	ENLARGED SECTIONS
03-06	ENLARGED SECTIONS
04-01	UNIT PLANS
04-02	UNIT PLANS
04-03	UNIT PLANS
04-04	UNIT PLANS
04-05	UNIT PLANS
04-06	UNIT PLANS
05-01	DEVELOPMENT STANDARD REQUEST
05-02	BUILDING ENVELOPE BASE MODEL
05-03	HEIGHT JUSTIFICATION / BUILDABLE ENVELOPE
05-04	BUILDING FLOOR AREA EXHIBIT
05-05	OPEN SPACE EXHIBIT
05-06	OPEN SPACE BREAKDOWN
06-01	CONCEPT VIEW - 01
06-02	CONCEPT VIEW - 02
06-03	CONCEPT VIEW - 03
06-04	CONCEPT VIEW - 04
06-05	AERIAL VIEW - 05
06-06	AERIAL VIEW - 06

OWNER

HIGHROSE EL PORTO, LLO
 ADDRESS: 338 PIER AVENUE
 HERMOSA BEACH, CA 90254
 CONTACT: FRANK BUCKLEY
 PHONE: 310.744.8307
 EMAIL: apollofrank@gmail.com

ARCHITECTURE

WITHEE MALCOLM - A BSB DESIGN STUDIO
 ADDRESS: 2251 WEST 190TH STREET
 TORRANCE, CA 90504
 CONTACT: DAN WITHEE
 PHONE: 424.266.6929
 EMAIL: dwithee@witheelmalcolm.com

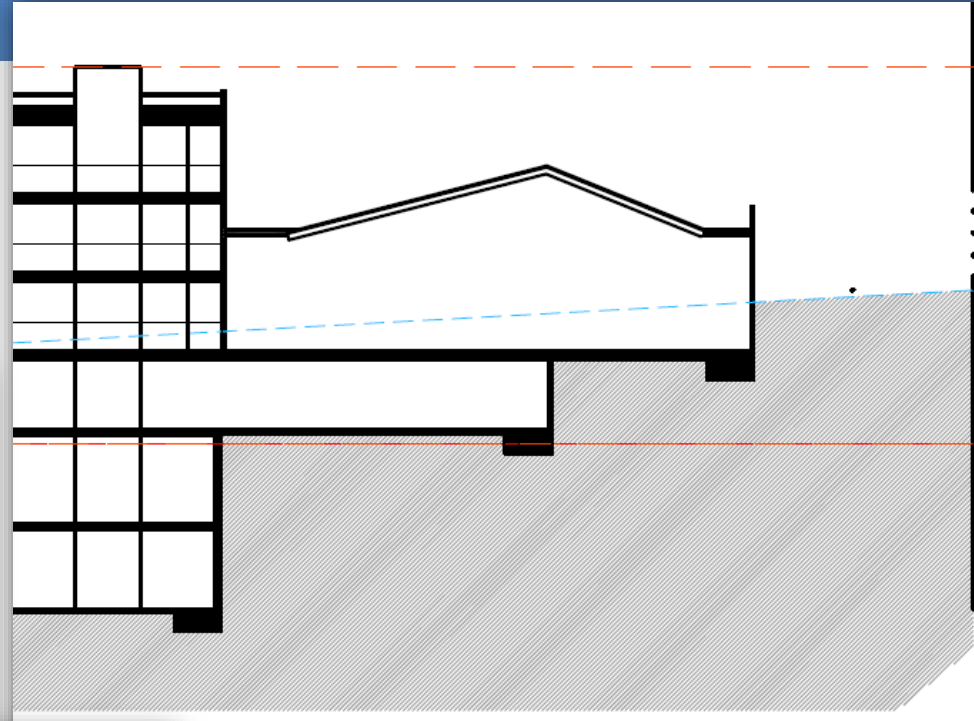
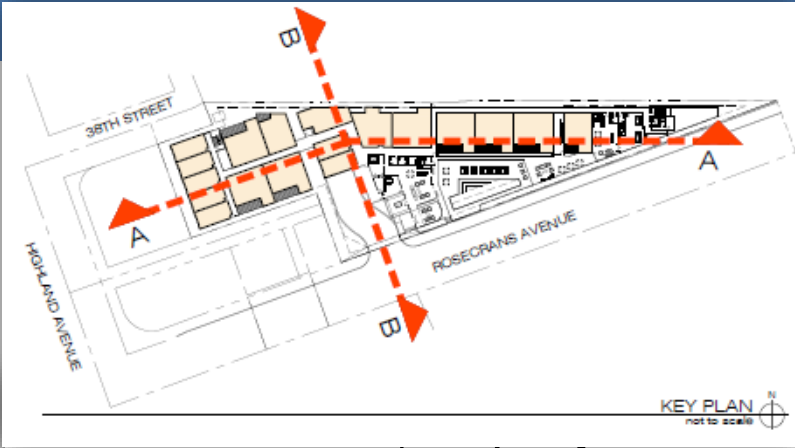
COVER SHEET

VERANDAS
 HIGHROSE EL PORTO, LLC

CITY OF MANHATTAN BEACH - CALIFORNIA
 10 SUBMITTAL SET 11-17-2021

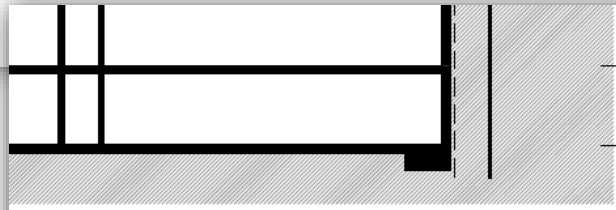
WM WITHEE MALCOLM
 B S B D E S I G N S T U D I O
 2251 WEST 190TH STREET | TORRANCE | CA 90504 | 310.266.6929 | bsb-design.com
 Project No. 00004 Date: 10.17.2021 00-00

PARKING GARAGE WILL NOT ENCOUNTER CHEVRON PLUME



TOP OF ELEVATOR	184.11'	
TOP OF PARAPET	181.00'	
Level L-4	168.00'	13'-0"
Level L-3	157.50'	10'-6"
153.60' EXISTING GRADE		
Level L-2	147.00'	10'-6"
Level L-1	136.00'	11'-0"
Average Grade	134.11'	
Level P-1	124.00'	12'-0"
Level P-2	113.00'	11'-0"
		50'-0" GRADE PLANE TO HIGHEST ROOF STRUCTURE

123.40' EXISTING LOWEST GRADE



Level P-1	124.00'	12'-0"
Level P-2	113.00'	11'-0"

SITE SECTION A-A

SITE SECTION B-B

BUILDING DEMOLITION ADDRESSES ASBESTOS – REQUIRED BY LAW

- Demolition Permit Requires SCAQMD Rule 1403 – Asbestos Emissions from Demolition
- Standard practice in demolition
- Building survey by Certified Industrial Hygienist/Licensed Asbestos Sampler
- Pre-demolition removal of asbestos by licensed asbestos contractor
- Clearance testing by independent licensed asbestos technician / CIH
- Remaining demolition following asbestos clearance



DEMOLITION PROCESS

COMMUNITY DEVELOPMENT DEPARTMENT

1400 Highland Avenue, Manhattan Beach, CA 90266-4795
Telephone (310) 802-5500 FAX (310) 802-5501 TDD (310) 546-3501
Website: www.cityymb.info

A demolition permit is required to demolish any building or structure. All demolition of structures shall comply with the requirements of Chapter 33 of the California Building Code and all requirements mandated by Rule 1403 of the South Coast Air Quality Management District (SCAQMD), Section 19827.5 of the State of California Health and Safety Code, Green Code and Manhattan Beach Municipal Code.

APPLICATION SUBMITTAL

Unless otherwise noted, all submittals are uploaded online through the [Citizen Self-Service Portal](#)

- Submit Survey and Demolition Plan (for partial demolitions). Survey must be prepared by a licensed Land Surveyor or qualified registered Civil Engineer, digitally stamped, signed and no older than 1-year from the application date. For more information, refer to the Survey Requirements handout on the Planning Division [Handouts](#) webpage.
- Submit [Construction Management Parking Plan form \(CMPP\)](#). For Districts 3 & 4 only. Approval required by Traffic Division *before any* permits can be issued. For information, email traffic@cityymb.info.
- Submit [Waste Management Plan form \(WMP\)](#). Plan must be submitted and approved *before* permit issued.

DEPARTMENT REVIEW

- Schedule Residential Construction Officer (RCO) In-House Meeting. Call (310) 802-5506 to schedule *after* surveys have been submitted
- Schedule Residential Construction Officer (RCO) On-Site Meeting. Call (310) 802-5506 to schedule *before* demolition work begins
- Submit proof of [Air Quality Management District \(AQMD\) notice](#). Email proof of notice and copy of completed application to permits@cityymb.info. This must be submitted *before permit is issued*.

DEMOLITION PERMIT REQUIRES ASBESTOS SURVEYING

- Demolition Permit Requires SCAQMD Rule 1403 – Asbestos Emissions from Demolition
- Standard practice in demolition
- Building survey by Certified Industrial Hygienist/Licensed Asbestos Sampler
- Pre-demolition removal of asbestos by licensed asbestos contractor
- Clearance testing by independent licensed asbestos technician / CIH
- Remaining demolition following asbestos clearance

(Adopted October 6, 1989)(Amended April 8, 1994)
(Amended November 3, 2006)(Amended October 5, 2007)

RULE 1403. ASBESTOS EMISSIONS FROM DEMOLITION/RENOVATION ACTIVITIES

(a) Purpose

The purpose of this rule is to specify work practice requirements to limit asbestos emissions from building demolition and renovation activities, including the removal and associated disturbance of asbestos-containing materials (ACM). The requirements for demolition and renovation activities include asbestos surveying, notification, ACM removal procedures and time schedules, ACM handling and clean-up procedures, and storage, disposal, and landfilling requirements for asbestos-containing waste materials (ACWM). All operators are required to maintain records, including waste shipment records, and are required to use appropriate warning labels, signs, and markings.

SUMMARY OF FALSE ENVIRONMENTAL CLAIMS

- Site formerly was used for oil production – False claim
 - No supporting records identified
 - California Geologic Energy Management Division Well Finder
 - Outside limits of El Segundo Well Field limit of production and butane storage sand
 - Outside designated boundary of El Segundo Oil Field
 - No dry holes, plugged holes, idle wells, or active wells on-Site or within 2,000 ft of property
 - Closest exploration is a dry hole 2,000 ft to east-northeast on Chevron property

SUMMARY OF FALSE ENVIRONMENTAL CLAIMS

- Site construction will disturb Chevron hydrocarbon plume and release it to the ocean – False claim
 - No supporting information
 - 2021 Chevron Annual Report for Liquid Hydrocarbon Recovery Project
 - Hydrocarbon plume does not extend off-Site along southwestern site boundary near Site
 - Both recovery and observation wells are present between the Site and the Chevron plume.
 - Groundwater and hydrocarbon plume activities by Chevron are under the Los Angeles Regional Water Quality Control Board Oversight
 - Groundwater elevation ~10 feet
 - Groundwater present at ~10 feet in the Old Dune Sand Aquifer flows from east to west, toward the Pacific Ocean
 - Architectural Plans, December 17, 2021 Withee Malcom, Project Verandas
 - Lowest elevation of 2nd underground level of parking is ~113 feet , which is ~100 feet above groundwater

SUMMARY OF FALSE ENVIRONMENTAL CLAIMS

- Site geotechnical and environmental testing has not gone deep enough – False claim
 - No supporting information
 - Geotechnical study designed and performed by licensed geotechnical engineer
 - Exploration and testing performed to 90 feet below grade
 - No indications of environmental impacts observed in soil borings
 - No groundwater encountered
 - Environmental investigation designed and performed by licensed civil engineer
 - Exploration and testing performed to 30 feet below grade
 - No indications of environmental impacts observed or detected in soil borings
 - No environmental impacts detected in soil or soil vapor

SUMMARY OF FALSE ENVIRONMENTAL CLAIMS

- Site demolition will release asbestos – False claim
 - Asbestos surveying is required to get a demolition permit from the City of Manhattan Beach
 - Completion of pre-demolition building survey at start of demolition planning is standard procedure in construction industry and required by the City of Manhattan Beach and the South Coast Air Quality Management District
 - Permit application requires SCAQMD Rule 1403 asbestos survey be completed prior to permit application
 - Building survey by Certified Industrial Hygienist/Licensed Asbestos Sampler
 - Pre-demolition removal of asbestos by licensed asbestos contractor
 - Clearance testing by independent licensed asbestos technician / CIH
 - Remaining demolition following asbestos clearance
 - All performed with oversight by SCAQMD and City of Manhattan Beach

Martha Alvarez, MMC

From: Patricia Sievers Ambrose <patriciasievers@aol.com>
Sent: Tuesday, September 6, 2022 12:23 PM
To: List - City Council
Subject: [EXTERNAL] NO ON HIGH ROSE

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

Dear Mayor and Council Members,

I am another concerned citizen **opposed** to the High Rose development.

Among the endless reasons why this project should be voted down is the environmental impact this project may have on our town, the beach, the nearby residents, and the residents actually living at High Rose.

You may feel concerned about the legal repercussions of a NO vote. Have you considered the legal repercussions of a YES vote? There could be years of law suits over the impact of building next to an old refinery.

It is interesting to note that Sacramento is now discussing a law to prevent low income housing projects near refineries. At last, something good from the elected state politicians.

Please be bold and represent the citizens. Vote No tonight on the High Rose project.

Thank you~

Patricia Sievers Ambrose

Martha Alvarez, MMC

From: Pamela Davidson <davidson777@frontier.com>
Sent: Tuesday, September 6, 2022 12:10 PM
To: List - City Council
Subject: [EXTERNAL] Highrose/ OPPOSE

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

TO: City Council/ Our Elected Officials Who Represent the MB Residents

The vast majority of residents in this City do not want Highrose development.

You were elected to represent MB -- not the developers.

What in the world is going on with the City Staff? We pay the salaries of the City Staff -- they should not be supporting and siding with the Developers.

This is outrageous.

At a minimum we need a comprehensive impact study to assess the environmental impacts including increased traffic density, pollution, parking problems, etc.

This will be one of those monumental votes by City Council members that will be remembered and will be determinative in the future elections.

REPRESENT THE CITY RESIDENTS --PLEASE OPPOSE HIGHROSE!

Thanks for your leadership and service,

Pamela Davidson

Martha Alvarez, MMC

From: Diana K <klichediana@gmail.com>
Sent: Tuesday, September 6, 2022 12:01 PM
To: City Clerk
Subject: [EXTERNAL] RE: Agenda Item 14

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

Please act on recommendations made by Humane Wildlife Control Inc. to reduce coyote activity in Manhattan Beach. Please vote to develop a comprehensive coyote management 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.

--

Thanks!

Diana

Martha Alvarez, MMC

From: Andrew T. Ryan <andrew.ryan@theryanlawgroup.com>
Sent: Tuesday, September 6, 2022 11:57 AM
To: Martha Alvarez, MMC
Subject: [EXTERNAL] PowerPoint
Attachments: Highrose PPT (2).pptx

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

Martha,

Attached is a PowerPoint I would like to use at tonight's meeting. Thank you.

Andrew T. Ryan
Founding & Managing Attorney
THE RYAN LAW GROUP
PERSONAL INJURY LAWYERS
317 Rosecrans Ave.
Manhattan Beach, CA 90266
P: 310-321-4800
F: 310-496-1435



Government Code Section 65915 (m) Government Code Section 65589.5 (e)

(m) This section does not supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which the applicant is entitled under this section shall be permitted in a manner that is consistent with this section and Division 20 (commencing with Section 30000) of the Public Resources Code

(e) Nothing in this section shall be construed to relieve the local agency from complying with the congestion management program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

Government Code Section 65915 (d)(1)

“(d)(1) An applicant for a density bonus pursuant to subdivision (b) may submit to a city, county, or city and county a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city, county, or city and county. The city, county, or city and county shall grant the concession or incentive requested by the applicant **unless the city, county, or city and county makes a written finding**, based upon substantial evidence, of any of the following:

... (B) **The concession or incentive would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety** or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households.

Government Code Section 65589.5 (d)(2)

(d) A local agency shall not disapprove a housing development project... unless it makes written findings, based upon a preponderance of the evidence in the record, as to one of the following:

(2) The housing development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety.....



9. Hydrology and Water Quality

Description of Baseline Environmental Conditions:

The Chevron El Segundo Refinery is located on an approximately one-square mile parcel near the Pacific Ocean. Much of the groundwater underlying the Refinery is impacted by floating petroleum. The Regional Water Quality Control Board (RWQCB) is overseeing the extraction of this free product and overall cleanup of groundwater. The upper-most saturated zone is not used for any domestic purposes. Lower aquifers are used and are part of the barrier project, a system of injection wells designed to prevent salt water intrusion from the Pacific Ocean. The Cities of El Segundo and Manhattan Beach have reported there are no drinking water production wells within one mile of the former landfarm and HWSTF/PCBs Building.



Martha Alvarez, MMC

From: Andrew T. Ryan <andrew.ryan@theryanlawgroup.com>
Sent: Tuesday, September 6, 2022 11:59 AM
To: List - City Council
Subject: [EXTERNAL] High Rose
Attachments: High Rose- 9622 Ltr to Council.pdf

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

Dear Members of City Council-

Please see the attached correspondence concerning the High Rose Project.

Thank you.

Andrew T. Ryan
Founding & Managing Attorney
THE RYAN LAW GROUP
PERSONAL INJURY LAWYERS

317 Rosecrans Ave.
Manhattan Beach, CA 90266
P: 310-321-4800
F: 310-496-1435



THE RYAN LAW GROUP

September 6, 2022

VIA ELECTRONIC MAIL
citycouncil@manhattanbeach.gov

City Council of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 90266

Re: High Rose Project

Dear Members of City Council:

In preparation for tonight's Council meeting regarding the High Rose Project, below is a summary of the law and applicable facts which I believe mandates that the High Rose Project undergo a discretionary review to determine the environmental impacts posed by a luxury 4 story apartment complex.

MANHATTAN BEACH MUST CONDUCT AN ENVIRONMENTAL REVIEW OF HIGH ROSE: ITS HANDS ARE NOT TIED

A careful reading of the Density Bonus Law, recent case law and applicable Federal and State environmental standards support an environmental review of the High Rose project to evaluate how documented environmental risk would have a specific, adverse risk on public health and safety and whether such risks can be mitigated. Because this requires the City to exercise its judgment, the substance of this inquiry cannot be "ministerial."

A. Developer received approval for High Rose (per CDC 3-29-22 Approval, the "Approval") pursuant to Government Code 65915 ("Density Bonus Law" or "DBL") from the City of Manhattan Beach ("City"). The DBL includes concessions granted in accordance with Section 65915(d)(1) governing maximum wall/fence heights and setbacks. Section 65915 elsewhere provides that a permit approval pursuant to the CDL law is deemed non-discretionary. The developer has interpreted this to mean that CEQA does not apply.

B. The Approval does not cite the text of Section 65915(d)(1) of the DBL, but the statutory language includes a **mandatory condition precedent in order for the DBL approval. The City Council is required to determine whether such a "specific, adverse impact" exists and whether "there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact..."**

The text reads as follows:

1. "(d)(1) An applicant for a density bonus pursuant to subdivision (b) may submit to a city, county, or city and county a proposal for the specific

incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city, county, or city and county. The city, county, or city and county shall grant the concession or incentive requested by the applicant **unless the city, county, or city and county makes a written finding**, based upon substantial evidence, of any of the following:

... (B) **The concession or incentive would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety** or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households.

2. Government Code Section 65589.5(d)(2) states: (d) A local agency shall not disapprove a housing development project unless it makes written findings, based upon a preponderance of the evidence in the record, as to one of the following ... (2) The housing development project ... **would have 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 rendering the development unaffordable** to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. 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. The following shall not constitute a specific, adverse impact upon the public health or safety....”

C. Here, the risk of indoor vapor intrusions of carcinogens and reproductive toxins has been documented and the City Council must determine **whether there is a specific adverse impact on public health and safety and whether there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact** as mentioned above.

1. The groundwater plume migrating into Manhattan Beach has resulted in indoor air quality impacts in homes in the El Porto neighborhood. See, e.g., Los Angeles Times, June 12, 1988 (“Chevron Plant In El Segundo Lays Plans For Massive Oil-Leak Cleanup”).

- a) The Los Angeles Times article stated in part:
 - (1) “Chevron will retrieve 252 million gallons of oil and petroleum products that have spilled into the ground under the refinery [s]tate and local officials say [t]he bulk of the spill is under the refinery, although some of it has seeped a

block or two beyond its boundaries in El Segundo.....”

2. Although the southern edge of the refinery that abuts Manhattan Beach largely is not subject currently to development (indeed most of it is maintained as support infrastructure for the refinery), this particular project is the notable exception.
3. A review of historical aerial photographs that are publicly maintained by the SWRCB and the DTSC, makes it apparent that the High Rose proposed project is part and parcel of the refinery itself and adjacent to on the order of three dozen above-ground petroleum tanks. See, Environmental Audit, Inc., Hazardous Waste Storage And Treatment Facility, Chevron Products El Segundo Refinery, Figure 9, February 8, 2016.
4. Chevron also noted in separate filings that petroleum constituents had partitioned from a liquid phase in the groundwater plume into a vapor phase that had impacted some homes in the El Porto neighborhood.
5. Among these constituents is benzene, is a naturally occurring constituent of crude oil, as well as refined petroleum products.
6. The main compounds in petroleum that typically are required to be assessed are benzene, toluene, ethylbenzene and xylenes (known collectively as BTEX).
7. Benzene, in particular, is extremely toxic. Benzene thus was among the very first chemicals listed as both a “carcinogen” and a “reproductive toxin” deemed to be “known to the State of California” as such pursuant to Proposition 65.
8. Although the developer submitted an environmental report to the City (prepared by Citadel EHS (Applicant’s paid consultant) and dated February 20, 2020) , **that report failed to address the question mandated by the statute as to whether the indoor air vapor intrusion constituted “a specific, adverse impact upon the public health or safety.”** or, if so, whether such impacts could feasibly and satisfactorily be mitigated or avoided.
9. Rather, the Citadel report was a Phase I report conducted, as stated therein in Section 1.3 “in accordance with the American Society for Testing and Materials (ASTM) Standard of Practice E1527-13 (“ASTM Standard”).
 - a) The ASTM Standard is a real property transfer due diligence method designed to potentially entitle a buyer of real estate to

assert an affirmative defense as a “bona fide prospective purchaser” under the federal Superfund law, 42 U.S.C. Section 101(35). **It is not designed to assess whether the type of condition contemplated in this case specific to Government Code Section 65589.5(d)(2) exists pursuant to numerous government-mandated standards designed to address this question, including:**

- (1) USEPA’s Vapor Intrusion Guide (October 2015)
- (2) USEPA’s Office of Solid Waste and Emergency Response, Technical Guide for Assessing and Mitigating the Vapor Intrusion Pathway from Subsurface Vapor Sources to Indoor Air, Pub. No. 9200.2—154 (June 2105)
- (3) ASTM Method E2600 (Vapor Encroachment Condition)
- (4) Screening and Evaluating Vapor Intrusion, Cal-EPA - California Department of Toxic Substances Control and California Water Resources Control Boards (February 2020)

b) The Citadel report (submitted by the Developer) conceded the threat to the site from methane and noted that if the site were located in the City of Los Angeles it would be subject to the methane assessment and mitigation requirements contained in LAMC 91.106.4.1 and Chapter IX, Division 71 thereof) but while admitting these threats could not be “ruled out,” it nonetheless relied on the jurisdictional inapplicability of the LAMC within the City of Manhattan Beach.

D. Neither the Developer nor the City Planning Commission evaluated the documented risks in light of the specific, government-mandated standards as required under the DBL. The City’s hands “are not tied” in this matter, in fact the City has the burden to make this evaluation to keep its citizens’ safe.

E. Because the City has the burden to make the evaluation of documented environmental risk, the subject requires the City’s judgment. Accordingly, this process cannot be called “ministerial.”¹ Recent case law supports this approach.

1. In *Mission Peak Conservancy v. SWRCB*, 72 Cal App. 5th 873 (2021), the court relied on the analysis used by the California Supreme Court in *Protecting Our Water & Environmental Resources v. County of*

¹ Certain affordable housing-related enactments, such as 2017’s SB 35, employed the concept upon which the Developer in this matter relies, namely, that certain project approvals are not “discretionary,” but rather simply “ministerial, thus, arguably, beyond CEQA.

Stanislaus, 10 Cal. 5th 479, 489 (2020) (“POWER”) to set out the test that applies in this case:

Whether an agency's action is discretionary or ministerial turns on the applicable substantive law. The test is whether the law governing the agency's decision to approve the project gives it authority to require changes that would lessen the project's environmental effects². If so, the project is discretionary; if not, the project is ministerial.

2. Here, the City is empowered by the DBL to evaluate how documented environmental risks may jeopardize residents' health and safety based on published Federal and State standards and determine whether mitigation strategies can be implemented.

a) *Mission Peak Conservancy* noted that project approval deemed ministerial was similar to completing a checklist with fixed standards determinable without using judgment. It is not “ministerial” when the agency was required, or otherwise had to, exercise its judgment. The *Mission Peak* court observed the absurd result of making an environmental determination ministerial because in such case, **“[c]onducting an environmental review would be a meaningless exercise because the agency has no discretion to reduce a project's environmental damage by requiring changes.”**³

CONCLUSION:

The published Federal, state and local vapor intrusion guidance, coupled with the language of the DBL requires the city to do nothing less than a review of how the project might cause environmental damage and how to mitigate the risk. This is not the “one size fits all” checklist that is referred to in POWER that equates to a ministerial review. In this case, the agency needs to evaluate, and consider possible mitigation of measures that could allow the project to proceed safely.

² See Guidelines, § 15002, subd. (i)(2) ; *POWER*, *supra*, [10 Cal.5th at p. 493](#), [268 Cal.Rptr.3d 148](#), [472 P.3d 459](#). See also *POWER*, *supra*, at p. 493, [268 Cal.Rptr.3d 148](#), [472 P.3d 459](#).

³ *POWER*, *supra*, at p. 494, [268 Cal.Rptr.3d 148](#), [472 P.3d 459](#) ; Guidelines, § 15040, subds. (b)-(c).

Thank you for your consideration of these issues.

Very Truly Yours,

THE RYAN LAW GROUP

A handwritten signature in black ink, appearing to read "Andrew Ryan", with a long horizontal flourish extending to the right.

Andrew T. Ryan

Martha Alvarez, MMC

From: jdecarl@aol.com
Sent: Tuesday, September 6, 2022 11:23 AM
To: List - City Council
Subject: [EXTERNAL] NO ON CONSTRUCTION AT HIGHLAND AND ROSECRANS

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

City Council,

I am OPPOSED TO CONSTRUCTION ON ROSECRANS NEAR HIGHLAND.

I am astounded that our very own MB City Council has not taken a stand in opposition when the people that live in MB do not want the construction at that site. There are other locations in MB that would be more suitable for a low income housing project that could even have more units available towards that end.

The preposterous notion that the construction will not make a difference in traffic flow and parking in the North End are astounding. It seems that logic is not prevailing in this discussion.

Step up and represent the people that elect the City Council. The history of this project are suspect when it was not made known to the Manhattan Beach residents at an earlier date.

Lynda DeCarlo

Martha Alvarez, MMC

From: alfa009@aol.com
Sent: Tuesday, September 6, 2022 10:54 AM
To: List - City Council
Cc: davidlesser4mb@gmail.com; stewart.fournier@compass.com;
amyformbcitycouncil@gmail.com
Subject: [EXTERNAL] Verandas Project Concerns

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

Dear Councilmembers,

I am greatly alarmed by the **financial liability** that the city will incur should you fail to approve the Verandas Project. I am referring to the extensive article in the Easy Reader published on 9/1. There are at least 13 non-profit pro-housing groups willing to appeal the projects denial. They will use the Housing Accountability Act. It mandates that **judges award attorney fees** to those groups that successfully sue in defense of a project like Verandas -that's a huge price for our city to pay. San Mateo spent \$1,000,000 in their defense plus \$450,000 for the attorney fees from the other party. Of course, if the city appeals, we are looking at spending more millions. We can count on additional litigation from the developer - another million.

How much is the city willing to spend on litigation to defend a weak position? This issue has been litigated by other cities and they have all lost. Please don't waste our city's funds on a fool's errand.

Thank you for your commitment to our city.

Regards,
Steve Nicholson

Martha Alvarez, MMC

From: Candis Duke <candisduke@icloud.com>
Sent: Tuesday, September 6, 2022 10:17 AM
To: List - City Council
Subject: [EXTERNAL] Nee project

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

Hi...

I have written my feelings about this before so I will keep this brief.

Please please please do our own environmental, soils & impact studies so we can fight the state.

The mistake that COUNCIL made in 2013 is now behind us. But we have to protect the air quality, the environment and our residents.

I believe there is no way to fight unless we have hard and comprehensive evidence and documentation that the project will have a negative impact on us.

I believe we all already know it will have a negative impact on us. That is why everyone is so incredibly upset.

I know it's probably a hassle for city council to fight the state and it would be easier to just roll over. However if we just roll over we will

(I believe) be inundated with future developers Trying to grab up Manhattan Beach real estate to do the same thing.

And of course they will use this case as precedent so it will be much more difficult to fight in the future if we allow this one.

Thank you for helping on this.

I think it's really critical for our community.,

Candis Duke
310-739-9299

Sent from my iPhone

Martha Alvarez, MMC

From: Chanunya Kongcharoon <chanunya.k@gmail.com>
Sent: Tuesday, September 6, 2022 9:56 AM
To: List - City Council
Subject: [EXTERNAL] Letter for Project Verandas
Attachments: MB City Council letter-ck.docx

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

Hi,

Please find attached letter supporting Project Verandas,

Best Regards,
Chanunya

Dear Mr. Mayor and Members of the City Council,

Manhattan Beach desperately needs more housing at every income level, and I urge you to support the Project Verandas development.

For people like me, who want to live in Manhattan Beach, affordable units like the ones that are part of this project are our only opportunity. The state is in the middle of a housing crisis that affects everyone, and it is important for the city to enable more housing to be built at every price point.

Sure Manhattan Beach offers multi-million-dollar homes, but it should also provide market-rate rental opportunities and low-income options so that everyone has an opportunity to live here. That is precisely what the Highrose project is attempting to accomplish.

Please do not forget about the young families and the seniors who perhaps cannot afford to live in those multi-million-dollar homes, but still deserve to live in our community. Please support the Highrose project.

Also, I think the Highrose project will also help increase traffic to the local/small businesses that located in the area of Highland and Rosecrans Ave. The project can help those business growth and expand business to the North End of Manhattan Beach.

Thank you.

Chanunya Kongcharoon

Martha Alvarez, MMC

From: George Bordokas <george@bordokas.com>
Sent: Tuesday, September 6, 2022 9:47 AM
To: List - City Council; Bruce Moe; Martha Alvarez, MMC; Carrie Tai, AICP; Talyn Mirzakhania; Ted Faturros
Subject: [EXTERNAL] [REDACTED] I will not be attending today for my 2 minutes

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

You have the power to not grant the waiver as it is possible to build 79 units (or slightly less) within our code (max 36ft) Per California govt code 65915.

The builder was did not and was not required to provide "reasonable documentation". Staff did not ask require more detailed information or a building plan that showed project could be done with the city code with smaller unit size, not a penthouse and luxury apartments.

This is a terrible overreaching law that benefits the builder mostly, some affordable housing and hurts the town short term and long term. if the developers want to build a luxury 10 story build with all 3 bedrooms they will be able to and we the citizens with have no voice .

Our will is reflected via our votes for you our representatives that we rely on to protect us and our are town. This law benefits one party at our cost. The character of this town is why we live here and why the builder wants to build here. Please stop them here and then send a message to the state that we have rights and this sham to show they are doing something about the housing problem is just that a sham.

They are taking away our rights and providing developers a huge returns they would not otherwise have.

Thank you .

From: George Bordokas [mailto:george@bordokas.com]
Sent: Tuesday, August 16, 2022 3:15 PM
To: 'citycouncil@manhattanbeach.gov'
Cc: 'bmoe@manhattanbeach.gov'; 'malvarez@citymb.info'; 'ctai@citymb.info'; 'tmirzakhania@citymb.info'; 'tfaturros@citymb.info'
Subject: FW: my appeal

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 SUBDIVION (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.

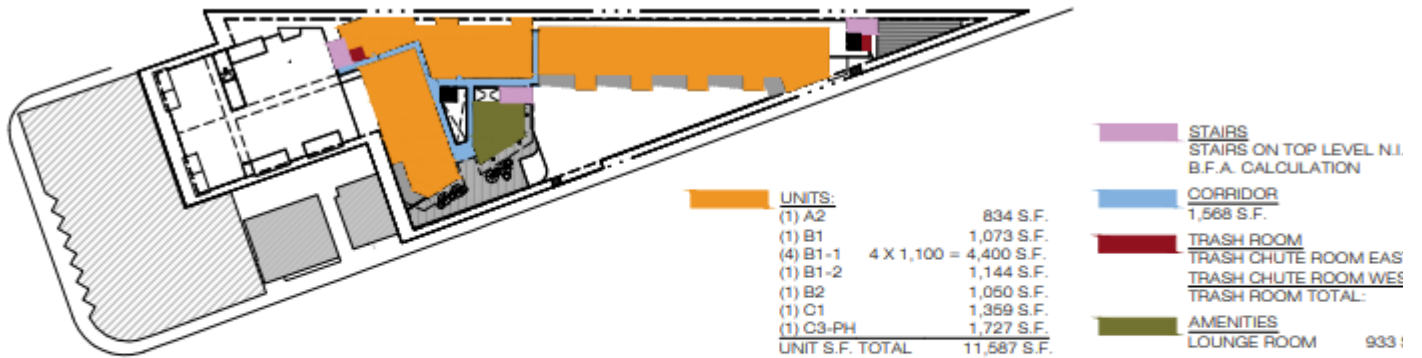
TOTAL UNITS: 79

TOTAL AREA: 72, 932 S.F.

PROPOSED B.F.A.:

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. EXHIII

Martha Alvarez, MMC

From: Lynne Davis <davis.lynne1@gmail.com>
Sent: Tuesday, September 6, 2022 9:11 AM
To: List - City Council
Subject: [EXTERNAL] OPPOSITION TO HIGH ROSE PROJECT

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

Hello City Council! I write to again reiterate my opposition to the Highrose Project. I understand you are concerned about a lawsuit by the developer if you fail to approve the project, but this is not a reason to approve an ill-conceived project that will negatively impact the city. It is almost laughable that the developer is jamming this through with the small number of apartments allotted to low income housing - this is a money grab by the developer, pure and simple. The developer lives in our city and should do right by our city - and not threaten lawsuits if they do not get their way. I am not anti-affordable housing AT ALL - my concerns stem from the fact that this is simply an inappropriate place for a building of this magnitude (and, again, it does VERY LITTLE to help the affordable housing crisis). I live in the north end sand section - and there is no legitimate parking/traffic impact study that could possibly conclude there will not be a negative impact with this project. As it stands now, parking is tough. If you live here, you know. It doesn't matter if the developer allotted what is required or more than what is required in terms of parking spots - it simply is not enough from a real-world standpoint. The character of the building, the location, the proximity to Chevron - and the overreach by the developer to shove this down our throats with the "affordable housing" angle - call for a big "no" on this project. Please take the lead and do the right thing. The residents are willing to fight against it, and I hope you are as well!

Best,
Lynne Davis

Sent from my iPhone

Martha Alvarez, MMC

From: Mark Burton <markburton@gmail.com>
Sent: Tuesday, September 6, 2022 8:53 AM
To: List - City Council
Cc: Bruce Moe; Quinn Barrow
Subject: [EXTERNAL] General Plan's "Hazardous Waste Generators and Contaminated Sites"

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

Honorable City Council:

I thought it was important to note that the City's General Plan has the above Section. In that Section, "The Chevron Oil Refinery.....along the border of Manhattan Beach, are registered as large-quantity hazardous waste generators..." with the EPA.

As previously stated, this proposed project is in the Coastal Zone and, therefore, the appropriate review is a discretionary conditional use permit review. As such, this project is "discretionary" for CEQA purposes and a full and complete Environmental Impact Report is required prior to the CDD Director making any decision and prior to hearing before the Planning Commission and City Council.

The recently passed AB 2011 has the same provisions as the package of low income housing bills passed in 2017, including the amendment to the DBL with the new waivers and concessions, including relief from limitation on height. The process is a discretionary conditional use permit process similar to sites in the Coastal Zone, wetlands, hazardous waste sites, earthquake zones and other sensitive sites.

Kind regards, Mark

--

(310) 562-7897

Email: markburton@gmail.com

Martha Alvarez, MMC

From: Kevin Covert <kevin@strandview.com>
Sent: Tuesday, September 6, 2022 8:48 AM
To: List - City Council
Subject: [EXTERNAL] Letter to MB City Council re Project Verandas 2022-09-06
Attachments: Letter to MB City Council re Project Verandas 2022-09-06.pdf

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

Kevin Covert
461 S Prospect Ave
Manhattan Beach, CA 90266

9/6/2022

Dear Mayor Napolitano and Members of the City Council,

I just read the MB city press release posted 8/31/22 titled “The Facts of the Highrose/Verandas Project”. Thank you for clarifying the proposal, review process, and standard of review.

I believe any responsible person truly interested in the facts and details of the project should read this press release before forming an opinion and sharing that opinion publicly:

[Press Release - The Facts of The Highrose/Verandas Project](#)

The summary of the press release is:

COASTAL ZONE:	Project Qualifies
MINISTERIAL REVIEW PROCESS:	Project Qualifies
NOT a “SB 35” Project:	N/A
CEQA:	Project is Exempt
ENVIRONMENTAL SITE ASSESSMENT:	Not required, but provided (Phase I & II)
CONSTRUCTION:	Must comply with Fed, State and local regulations

The “controversy” around this project stems mostly from a small group of loud individuals that have been spreading misinformation on social media and elsewhere. There will always be a small number of people with a “not in my backyard” reaction to any new development. As we all know, it is typically difficult to rally support for any new development, but relatively easy for a small group of loud individuals to rally opposition by asserting false claims, instilling fear and doubt, and suggesting the community is against the project.

I’ve read most of the letters that were submitted to the city, both for and against, and the opponents keep irresponsibly repeating the same five complaints that the facts do not support:

- Reduced parking
- Increased traffic
- Environmental risks
- Building height (“4-story monstrosity”)
- Preserving small beach town character

The city’s website and the developer’s website here www.projectverandas.com clearly address the first three concerns and refute the exaggerated false claims.

This leaves “building height” and “Preserving small beach town character” as the remaining complaints.

Regarding building height, if one were to measure numerous residential properties on the sloped streets of the sand section, it is extremely common to have three-stories from the street and a fourth-story recessed slightly. There are countless examples of this throughout the sand section. The Highrose/Verandas developer uses this same concept but went much further and recessed the taller

portions of the building by 80-90 feet from both Rosecrans and Highland. The visual impact is significantly less than the majority of existing 3-4 story properties on slopes in the sand section. One can barely see the tallest portions of the Highrose/Verandas buildings from both Rosecrans and Highland. Calling this a four-story "monstrosity" is simply irresponsible and focused on whipping up opposition than communicating facts.

As to "Preserving the small beach town character", we all love our small town. But we all know that Manhattan Beach has become a bit like Beverly Hills by the sea. Average home prices exceed \$3 million. MBUSD attendance is declining as affluent families choose to put their kids in private schools. The small-town feel of MB has already changed significantly. However, we can still build projects to limit this trend. This beautiful, beach-themed residential project provides affordable housing for our state and will have much less impact on the small-town character than any retail or office project by far. This location is the perfect spot for this type of project.

Making responsible and rational decisions is the most important part of the City Council's role. Please be good custodians of our tax-payer dollars and do the right thing for our community and state. Please don't be tempted by a "do nothing" approach simply to appease a small minority of loud critics. I am highly confident that the vast majority of responsible and rational residents in Manhattan Beach are very comfortable with this beautiful, well thought out project that will dramatically improve an extremely valuable location in MB that is currently an eyesore and terrible use of the property.

Thank you!

Kevin Covert
MB Resident

Martha Alvarez, MMC

From: Valerie & Vic Diaz <d.diazfamily@verizon.net>
Sent: Tuesday, September 6, 2022 8:34 AM
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.

Good Evening,

As a resident of the 400 block of 35th St I adamantly oppose this development that is aided by a measly 6 low income units. Parking on my one side of street only is already used for beach goers, restaurant goers, restaurant employees. With 79 units I am certain the 120 parking spots is inadequate.

Pedestrian crossing Highland and 35th is already dangerous. More density?

Who will monitor the rent received on the 6 low income units forever? Would it be possible for the owner to convert to market rents after a year or 2? Will the city have to use resources to monitor this?

This project is using a law to avoid all environmental studies. I am remodeling my house right now and I can not begin to tell you the hoops I have had to jump through.

Please don't allow this project. I believe that with time, other cities will also fight this type of project and the law will be modified.

Thank you

Valerie diaz
35th St MB

Martha Alvarez, MMC

From: D <dennymb@aol.com>
Sent: Tuesday, September 6, 2022 8:33 AM
To: List - City Council
Subject: [EXTERNAL] Fwd: Highrose Decision Tonight

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

I oppose the Highrose project and agree with the recommendations contained in the message below. I ask that you oppose as well.

Denny Gregory, 433 35th street.

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

From: MBStrong's Newsletter <mbstrong@substack.com>
To: dennymb@aol.com
Sent: Tue, Sep 6, 2022 6:01 am
Subject: Highrose Decision Tonight

[Open in browser](#)

This is MBStrong's Newsletter, bringing common sense conversation to the issues we face in Manhattan Beach.



Highrose Decision Tonight

Tune into the City Council meeting.



MBStrong

Sep 6

To MB Residents,

MBStrong received several emails from residents in response to the Highrose letter we published written by the *Two Retired Guys*. See the *Two Retired Guys* letter [\[HERE\]](#). Below we published five letters from residents for your review.

City Council received hundreds of letters from residents opposing Highrose and Council is slated to make a decision on the project tonight.

- Meeting Tuesday, 9/6/22 begins at 6:00 PM.
- Attend in person: 1400 Highland Ave.
- Attend via Zoom: [\[Click Link Here\]](#).
- Give a 2 min. public comment during the meeting.
- Watch on TV: Channel 8 (Spectrum), Channel 35 (Frontier).

~**MBStrong**

MBStrong2021@gmail.com

Share this post with 3 of your MB friends.

[Share](#)

LETTERS FROM 5 RESIDENTS:

Dear MB Residents,

The Highrose project is currently on the minds of many of us. After reading the letter posted on MBStrong's recent newsletter from *Two Retired Guys*, we again need to insist that our city council take all appropriate actions necessary to conduct independent impact studies which will help the city defend itself if future lawsuits are brought against the city.

I hear comments from our city officials telling us that nothing can be done, "our hands are tied." Well, our voices as residents can not be silenced. Don't let

developers come into our community and usurp our local zoning codes and ordinances.

The most important thing you can do today is to join me at Tuesday's City Council meeting and speak up while our voices are still being heard. City Council is poised to take a vote to approve or deny the Highrose project.

Email Manhattan Beach City Council citycouncil@manhattanbeach.gov

-Frank Chiella, Manhattan Beach Resident

Frank.chiella@yahoo.com

Dear MBStrong,

So much common sense! City Council just needs to follow your (*Two Retired Guys*) lead!! Why knuckle under to Sacramento or the developer? It's easier, no doubt, but certainly not in the best interest of our community and citizenry. We've all worked diligently to protect this wonderful city from interlopers who are driven by personal greed and political theater! Perfect example: Bruce's Beach debacle!! Bless all of you (at MBStrong) for being there for us and keeping us informed. We continue to share your posts with friends and neighbors to keep getting the word out.

-Best regards, Long, Long Time Residents

Dear MBStrong,

It isn't even a question of fighting the state. The regulations passed by CA do NOT require approving Highrose. The Planning Department has gone beyond its authority and approved much more than the state requirements.

-Dan Stern, Former Mayor

Dear Residents,

After reading Mr. McDermott's recent article in the 9/1/22 *Easy Reader* titled, "Project Verandas Decision Looms for City Council," **Chill The Build** was hoping the article would have included some important details that would further educate both residents and City Council members on this important issue.

Unfortunately, he failed to discuss the overwhelming opposition's views as well as deficiencies in the developer's environmental studies. He also did not discuss the legal defects with the "our hands are tied" refrain from some on the City Council, which does not reflect the legislature's presentation of AB 2011 awaiting Governor Newsom's signature into law.

When it becomes law, AB 2011 will, for the first time, acknowledge that creating affordable housing next to a refinery is inherently unsafe. It establishes that any new affordable housing project within 3200 feet of a refinery is not "ministerial" and that appropriate review should be done by the City, such as a full environmental study.

Sacramento touts this as a *monumental breakthrough* among the legislature, the governor, labor unions, and environmental groups as AB2011 recognizes the historic social injustice of developing low-income projects next to environmental hazards

(such as refineries and active oil wells) in which black and brown historically disadvantaged people have been shoved into for decades.

The 3200 feet setback is the product of California environmental justice advocates who have sought to right this historic wrong – particularly those of Asian, Latinx, and African-American descent who survived the 2012 explosion at the Chevron refinery in Richmond, California.

The proposed HighRose project is literally next door to the El Segundo refinery – not just 3200 feet away. MB residents are overwhelmingly opposed to HighRose and disappointed at the lack of a full-throated defense of the city and residents' views by some City Councilmembers and City Attorney. Some like Mayor Napolitano worry about the city being sued by the developer, the state, or environmental groups.

This is not about whether AB2011 applies or does not apply to HighRose. The imminent passage of AB2011 gives City Council the ability to oppose HighRose and call for appropriate environmental review. By applying the concept behind the 3200 feet setback in such opposition, the City would be in alignment with State policy, labor unions, and environmental and social justice advocates. There is power behind such alignment – the test now is whether Mayor Napolitano, Richard Montgomery, or Hildy Stern has the courage to stand with the residents of Manhattan Beach, the State, and its allies to oppose the HighRose project.

Furthermore, where is the legal analysis of what might happen if the City approved a project that actually perpetuates the social injustice that AB 2011 and the State and environmental justice groups intend to address?

-MB Residents at Chill the Build. See our website chillthebuild.com.

info@chillthebuild.com

Dear Residents,

I read the article in MBStrong's Newsletter by the *Two Retired Guys* AND the statement published by City Council. I wrote a response letter to Council and submitted an excerpt to MBStrong as follows.

My hope is that on 9/6/22 City Council will vote to table the current resolution on the agenda to approve the Highrose project in favor of passing a motion to re-examine the City's rights and obligations to protect MB in every way possible under the law to avoid adverse impacts by simply complying with all laws, including City Ordinance No. 13-0006 itself.

This decision on Highrose will set the precedent for years to come after this Council is long gone.

In order to fulfill its sworn duty, City Council must vote "**No for Now**" on Highrose in order to gather the independent evidence necessary to ensure the City and its residents are protected to the fullest extent of the law. And this requires written reports of their findings per State law 65915 (d)(1), Subsection (4) which states: "*The city, county, or city and county shall bear the burden of proof for the denial of a requested concession or incentive.*"

Why wouldn't the city take advantage of these protections, at a minimum to obtain every possible assurance to avoid an environmental disaster by allowing a developer to dig a very large, 45' deep hole adjacent to a refinery and petrochemical storage facility that might expose an environmental hazard to the air, groundwater, or nearby beaches and ocean?

The City's press release says an *Environmental Site Assessment* was performed but fails to make note that an **"assessment"** falls far short of protections afforded by a full-blown EPA **"study."**

In addition to the health risk from exposure of hazardous material to air, beaches, ocean, and groundwater to unsafe levels, the City of MB will undoubtedly be stuck with the cost to mitigate and clean up the hazardous material because the LLC that owns the property will have a fiduciary duty to protect its members by seeking protection under bankruptcy laws.

The press release argues that the City is only allowed to perform an "administrative non-discretionary" review, referred to as a "ministerial review" because Highrose includes 6 affordable housing units.

That is simply not correct and for those of you interested in the law, the evidence of this conclusion is shown below.

City Ordinance No. 13-0006 requires City Council to follow **federal law** and **state law**, which "governs" per the ordinance. And **state law 65915 allows the City to perform normal "discretionary" type of due diligence** that is needed to protect the City's General Plan and zoning laws, as illustrated below.

FEDERAL LAW requires full compliance with rules and regulations of the ENVIRONMENT PROTECTION AGENCY (in this case that requires a comprehensive environmental STUDY, which goes far beyond the limited "assessment" provided by the developer so far.

STATE LAW governs and it requires full compliance with 3 sections of state law, as follows:

- **CALIFORNIA COASTAL ACT** - The City Council's press release incorrectly states that Highrose is exempt from compliance with the requirements of our Local Coastal Program according to the City's ordinance, but "state law governs" per the ordinance if there is a conflict with city law.
 - According to a January 2021 article written by Jon Goetz and Tom Sakai of the law firm Meyers Nave entitled "*Guide to the California Density Bonus Law*," "State legislation in 2019 requires the "density bonus" to be administered in the Coastal Zone in a manner that is consistent and harmonized with the California Coastal Act. This legislation overturns a 2016 appellate court ruling, *Kalnel Gardens, LLC v. City of Los Angeles*, which found that a proposed housing project that violates the Coast Act as a result of a density bonus could be denied on that basis. The court in *Kalnel Gardens* held that the Density Bonus Law is subordinate to the Coastal Act, but the language in the new legislation attempts to strike a balance between the state goals of promoting housing and protecting the coast."
- **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)** -The City's press release contains a misleading statement that "The city has determined that, pursuant to California Public Resources Code Section 21080 and State CEQA Guidelines Section 15268, the project is exempt from CEQA's typical environmental review requirements because it is subject to a ministerial approval process." The City is taking the position that the project is exempt because it qualifies for exemptions as a density bonus project.
 - However, a January 2021 article by the law firm Goetz and Sakai states "...there is no specific density bonus exemption from the CEQA," under state law, which governs, therefore, the developer is required to file with the state for a specific exemption that might or might not be approved under CEQA guidelines versus the city making its own private determination.
- **STATE LAW 65915** - City Ordinance 13-0006 states that projects like Highrose that qualify for a "density bonus" by providing affordable housing units shall be "pursuant to "Chapter A.94" which refers to State Law 65915, Chapter **10.94**.

- And Section 10.94.010 (a)(1)(d)(1) provides the city with the right to conduct a normal level of due diligence to protect our City's zoning laws and General plan, as follows:
- If per Subsection (B), "The concession or incentive [density bonus] would have a specific, **adverse impact**, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon **public health** [*environment*] **and safety** [*increase in traffic will block police, fire and medical equipment when the first 2 minutes can mean the difference between life and death*] **or the physical environment** or any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households."
- Or if per Subsection (C), "The concession or incentive would be **contrary to state or federal law.**" [*Such as the need to comply with state coast laws and environmental laws as well as federal laws of the Environment Protection Agency that is imperative for this site because it is surrounded by an urban center, a highly populated, dense neighborhood, and a nearby oceanfront and the developer plans to dig a very large 45' deep hole immediately adjacent to a hundred-year-old oil refinery and storage facility.*]

-Proponent of using the law to defend MB

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Martha Alvarez, MMC

From: David Denitz <ddenitz@gatewaybp.com>
Sent: Tuesday, September 6, 2022 8:10 AM
To: List - City Council
Subject: [EXTERNAL] Rosecrans Ave. and Highland Ave.

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

Good morning Council Members:

I went through the intersection of Rosecrans Ave. and Highland Ave. yesterday (Labor Day) at 11:00 AM on my way to surf. The intersection was blocked for three (3) signal lights. (No BS). Blocked! Figure it out. One (1) lane on Highland Ave. going South and one (1) designated left hand turn only going East on Rosecrans Ave. In addition, the non-resident tourist is switching from the Left Turn Only Lane up Rosecrans to blocking the one (1) lane going South on Highland Ave. What makes you think this won't get worse with the ill proposed project? I look forward to the responses of the "in favor" council members. I think this project is too large for this area. Please explain to me why I'm wrong?

Thank you. DD

--

Sincerely yours,

David Denitz

Principal



Gateway Business Properties

19210 S. Vermont Ave. Bldg. A Suite 110
Gardena, CA. 90248

(310) 734-2292 Direct

(310) 704-1838 Cell

(310) 436-6977 Fax

CA Broker LIC # 00808239

Martha Alvarez, MMC

From: Lori Rubenstein Fazio, DPT <lori@mosaicpt.com>
Sent: Tuesday, September 6, 2022 7:54 AM
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.

Dear City Council,

For the multitude of reasons that have been set forth previously, please do not approve the Highrose project. Thank you for keeping the small town vibe in Manhattan Beach.

Lori Rubenstein Fazio, DPT, PT, MAppSc, C-IAYT Mosaic Physical Therapy

310-401-6410

310-312-3637 fax

lori@mosaicpt.com

www.mosaicpt.com

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Martha Alvarez, MMC

From: breton lobner <bklobner42@gmail.com>
Sent: Tuesday, September 6, 2022 7:47 AM
To: List - City Council; Steve Napolitano; Joe Franklin; Suzanne Hadley; Richard Montgomery; Richard Montgomery
Subject: [EXTERNAL] High Rose Project - Highland & Rosecrans

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

Dear Councilmembers:

I am another concerned citizen in Manhattan Beach opposed to the current High Rose project proposal to construct 79 units in our city near the intersection of Highland and Rosecrans.

There are many reasons why this project needs to be scaled back and redesigned to fit within the rules governing projects in our city. These reasons include, but are not limited to, the following:

1. a failure to adequately study the project under CEQA and other state environmental laws.
2. exceeding long established height restrictions.
3. exceeding sensible density restrictions.
4. failing to require adequate parking (only 1.6 parking spaces rather than at least 2 or the normal required 3 spaces per unit)
5. exacerbating vehicle traffic at and near the intersection at Highland and Rosecrans, which is already quite terrible.
6. ignoring the fact the project is adjacent to a large petroleum refinery and the consequent health hazards thereof. (never studied at all)

7. failing to give early and adequate notice to the residents of our city of this project by instead permitting this project to gain "staff" approval.

8. ignoring the obvious fact that numerous variances and exceptions must be extended to this project that thereby completely ignore established city code requirements and restrictions (set backs, height requirements, parking requirements), and

9. failing to require the project to meet current density restrictions. (79 units on this small parcel is overreach).

The state laws purportedly permitting this project and which attempt to tie the hands of the council from adequately addressing this project need to be challenged judicially. Local restrictions on projects in a community are important. They protect all of its citizens from undesired overdevelopment and the objectionable long term results of such overdevelopment.

The council should direct its legal counsel to initiate litigation to invalidate the state legislature's intrusion into this area. This project is a matter involving local zoning and building restrictions, both of which are matters of purely local concern.

Bret Lobner
Pattie Lobner

Martha Alvarez, MMC

From: Timothy F. Wood <tfwood@gsi-net.com>
Sent: Tuesday, September 6, 2022 7:41 AM
To: City Clerk
Cc: Michael W. Shonafelt (Michael.Shonafelt@ndlf.com); Frank Buckley; Peter Scaramella
Subject: [EXTERNAL] Verandas - 401 Rosecrans and 3770 Highland: City Council Appeals
Attachments: 2022_0906-GSI_response_to_RG_Verandas.pdf

Importance: High

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

Please provide to Mr. Steven Napolitano, Mayor and Members, City Council of the City of Manhattan Beach.

Best regards,

Timothy F. Wood, PG, CHG
Vice President/Principal Geologist



GSI Environmental Inc.

19200 Von Karman, Suite 800 | Irvine, California 92612

[O714.831.2770](tel:7148312770) | [C949.283.5696](tel:9492835696)

Etfwood@gsienv.com | www.gsienv.com |  

September 6, 2022

Mr. Steven Napolitano, Mayor and Members
City Council of the City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 90266

Via e-mail: cityclerk@manhattanbeach.gov

Re: Verandas – 401 Rosecrans and 3770 Highland, Manhattan Beach, California

Dear Mayor Napolitano and Members of the City Council:

GSI Environmental Inc. (GSI) has prepared this letter on behalf of El Porto, LLC (“Highrose”) in response to comments provided by The Ryan Law Group (“Ryan Group”) in a letter to the Manhattan Beach City Council, dated August 1, 2000. GSI is providing technical consulting services to Highrose in support of its redevelopment of the property located at 401 Rosecrans and 3770 Highland in Manhattan Beach, California (the Site). At the August 16, 2022 City Council meeting, GSI provided an overview of the Chevron Refinery and environmental investigations completed to date at the Site, and began to address several false claims related to environmental Site conditions and redevelopment. The Ryan Group letter provides comments to this presentation. It should be noted that Timothy Wood of GSI was only provided a few minutes for this presentation, and was only able to present a small portion of the prepared materials.

In its letter, Ryan Group alleges that GSI’s presentation during a Council meeting was intended to “deceive the City Council.” GSI provides technical consulting services to various clients both in the private and governmental sectors. Of note, GSI provides consulting services to the California Environmental Protection Agency (Cal-EPA) Department of Toxic Substances Control (DTSC), the California Department of Transportation (Cal-Trans), and various municipal clients, including the City of Torrance. We have established ourselves in Southern California and the country by providing strong site evaluation and management services. Ryan Group insinuates repeatedly that GSI is not trust-worthy because we are paid for our consulting services. In reality, our strong technical reputation is the foundation of our business.

Ryan Group claims that a third-party should review the available environmental data and provide a technical evaluation of the environmental issues associated with Site development, particularly related to the proximity of the Site to the Chevron El Segundo Refinery (Chevron Refinery). Ryan Group also claims the Site redevelopment presents a “potential petroleum/methane indoor intrusion” risk associated with contamination originating at the Chevron Refinery. These claims are unfounded:

- The California Regional Water Quality Control Board, Los Angeles Region (Water Board) is providing environmental oversight of the Chevron Refinery and associated petroleum hydrocarbon contamination. Under Water Board oversight, groundwater at the Chevron Refinery and properties adjacent to the Refinery is monitored to ensure the contamination is stable or decreasing, and not presenting

vapor intrusion risks to nearby properties in Manhattan Beach. Monitoring and other environmental reports are located at the Water Boards GeoTracker website.¹

- Vapor intrusion concerns do not prevent Site redevelopment. Environmental investigations completed to date have *not* identified petroleum hydrocarbons in soil vapor at concentrations of concern. However, properties with actual vapor intrusion concerns are routinely redeveloped with mitigation measures protective of public health. The Ryan Group's letter referenced various technical guidance documents related to vapor intrusion, but omitted the DTSC 2011 Vapor Intrusion Mitigation Advisory (VIMA) from its list. The VIMA outlines various technical approaches that can be selected for new developments during building design, if necessary, to mitigate potential vapor intrusion concerns. Whether vapor intrusion mitigation measures are necessary for Site redevelopment is not the question in front of the City Council, nor is it a basis for impeding Site use.


Finally, the Ryan Group asserts that our August 16, 2022 presentation did not include "critical material," such as boring logs of geotechnical investigations. Our presentation was not intended to serve as a technical report, but provide an overview of the environmental conditions at the Site to present an accurate picture based on the facts, and respond to the inaccurate information and false claims of the Ryan Group. GSI remains available to answer questions that the City Council may have regarding the Site environmental conditions.

Please contact either of the undersigned if you have any questions or comments

Sincerely,



Timothy F. Wood, PG, CHG
Vice President & Principal Geologist



Peter Scaramella
Senior Risk Assessor

cc: Frank Buckley, Director – Real Estate, Project Verandas
Michael W. Shonafelt, Newmeyer Dillion LLP

¹ https://geotracker.waterboards.ca.gov/profile_report.asp?global_id=SL372482441

Martha Alvarez, MMC

From: Bob Heintz <bob@heintznet.com>
Sent: Tuesday, September 6, 2022 7:21 AM
To: List - City Council
Subject: [EXTERNAL] No on HighRose Please

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

Dear Council,

I urge the council to vote No on the HighRose project.

The scale and number of local building requirements that are waived by this project is overwhelming. I find it a great contradiction that the city that requires residents to build to a strict code and wants to reduce bulk and preserve neighborhood character would even think of approving such a project.

I'm also offended by the official communication from the City on this topic, which was defensive of the project, while not recognizing the views of what appears to be a majority of residents.

The City should stand up against the Sate on this matter.

Best Regards,

--

Bob Heintz
Mobile: +1.310.753.4343
bob@heintznet.com

Martha Alvarez, MMC

From: Steve Fazio <stevefazio@gmail.com>
Sent: Tuesday, September 6, 2022 6:24 AM
To: List - City Council
Subject: [EXTERNAL] Highrose -Please do not approve

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

Dear Council,

Please do not approve the Highrose project.

Thank you,

Steve Fazio
Manhattan Beach Homeowner

Martha Alvarez, MMC

From: Elke Werner <elkstur@icloud.com>
Sent: Monday, September 5, 2022 10:09 PM
To: List - City Council
Subject: [EXTERNAL] Opposition to the 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 a long-time resident of Manhattan Beach and someone who lives directly across the street from the proposed HighRose Development, I am VEHEMENTLY OPPOSED to the development.

I have lived in Manhattan Beach for 22.5 years. It is my home that I love and I'm proud to be a longtime resident of this unique and special city.

Like so many cities across Southern California, our little city has grown over time. However, the proposed HighRose Development is the wrong kind of growth for our home and brings with it change that does not promote or preserve the benefits of being a Manhattan Beach resident. I have seen persistent gridlock increase at the intersection of Rosecrans and Highland. I have seen numerous accidents. I have also narrowly missed accidents from people speeding up and down Rosecrans at all hours of the day. Parking is already scarce on Rosecrans for those of us who live here already. The proposed development will only serve to permanently exacerbate these problems exponentially.

A 4-story 79 unit monstrosity is the wrong answer for our community. ONLY 6 units will be designated for low income. The development debases the low-profile character of our special neighborhood in El Porto, and Manhattan Beach, overall. Further, given the rise of AirBnb in our city, the odds are extremely high that those and many other units in the enormous apartment will be rented out for a profit, creating a persistent transient character to our neighborhood. Our city's charm, character, and safety will be diminished. Is this the community you want for our residents and city?

Construction of the project causes me grave concerns. A mandatory CEQA analysis should be mandatory when dealing with property adjacent to Chevron. Digging could create an environmental nightmare. Further, construction of the development itself, with the digging and pounding of beams into the earth for months, could irreparably damage my home and other existing buildings in the immediate area..

HighRose is a bad answer for our community and does not solve the affordable housing goals of the state. It serves to benefit the developer at the current residents' expense. It is the antithesis of progress for our community.

You have been elected to act in good faith to safeguard our city's general welfare on behalf of the residents for our amazing community. Please do the right thing, demonstrate political courage, raise every good faith legal argument available to you. Please be the leader that our city's residents need right now.

Thank you in advance,

A concerned resident

Martha Alvarez, MMC

From: Elke Werner <elkstur@icloud.com>
Sent: Monday, September 5, 2022 9:21 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:

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: Richard Gallien <gallien213@gmail.com>
Sent: Monday, September 5, 2022 7:38 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.

Hello,

I am thoroughly against the Highrose project. The traffic in the area is already terrible, this will only make it worse. This does not remedy the housing issue whatsoever. Please vote no to this project.

Richard Gallien
Resident

Sent from my iPhone

Martha Alvarez, MMC

From: Lisa Gallien <lisagallien@gmail.com>
Sent: Monday, September 5, 2022 7:36 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.

Dear City Council

I strongly object to the Highrose project. The congestion on that corner will be out of control with 70+ units. The Highrose doesn't have enough parking to accommodate the building and will force people to park in the residential streets.

I am also worried that this land could be contaminated and could possibly create many problems. A CEQA needs to be done.

I understand the Highrose apartments will be used for short term rentals which in no way helps the housing problem, but puts money into the pockets of the builders.

This project is not appropriate for this particular area. The ARC LIGHT theater has been sitting empty for 2 years. This space seems more appropriate for what the city is trying to accomplish.

Sincerely,

Lisa Hoven Gallien
Growing Wild
1201 highland
Manhattan Beach
California 90266

Martha Alvarez, MMC

From: Ray Joseph <Ray@rayjoseph.com>
Sent: Monday, September 5, 2022 7:07 PM
To: List - City Council
Subject: [EXTERNAL] Highrose unintended consequences
Attachments: 4 story.pdf

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

It is not unusual to have properties that look 4 stories in Manhattan Beach. Nearly every property be Manhattan Ave and Bayview is either a 4 story or effectively a 4 story if built as townhouses. This is the reason why properties on Bayview have the second highest price per sqft following the Strand. They have one clear story above anything in front of them. There is a similar condition between Highland and Crest north of Marine. It's the elevations of these properties and the average of the 4 corners that give them the height like at Highrose.

The Highrose owners are NOT pushing the envelope on this development. I talked to Ted in planning and he said if they add 2 more low income units they can increase from 35% density increase to 50% density increase adding 9 more units. This would make the property much bigger and higher. Possibly 6 floors.

All the news stories on the Highrose project have attracted attention and INTEREST from out of area MULTIFAMILY DEVELOPERS. These developers know how to push the envelope and have experienced teams of architects and lawyers to fully maximize a property. I have talked to friends that are real estate construction attorneys and owners of large commercial real estate holdings and they say developers always max out developments. If this development does not get approved and one of those developers purchases the property they will push for maximum density.

I think Highrose is a safer bet than an out of area Multifamily Developer that will build something bigger and taller.

Thanks,

Ray Joseph
Manhattan Beach CA 90266
310-545-7295
Ray@RayJoseph.com



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Martha Alvarez, MMC

From: Rita Crabtree-Kampe <eurocrab@hotmail.com>
Sent: Monday, September 5, 2022 5:40 PM
To: List - City Council
Subject: [EXTERNAL] Sept 6 meeting, Verandas Project

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

Good evening, City Council Members,

I hope you had a wonderful weekend!

I am writing about the proposed Verandas Project. I understand that the 6 very low income units could be a step in the right direction of adding housing to the beach cities but I have a lot of concerns.

The individuals that have been housed this summer through the efforts of Maira, the housing navigator, in collaboration with the City of MB and MBSAFE each have needed wrap around services to help re-establish them in the community. Most have needed mental health services, medical services, job assistance etc. The individuals that MBSAFE has transported back and forth to DPSS, DMH or other agencies for follow up appointments have needed LYFT rides in order to best utilize the time of Maira and the individual. Transport has averaged about 30 minutes per ride. If the individual would have taken public transportation from DTMB there would have been transfers needed and an average of 1.5 - 3 hour rides each way.

I don't see that these units would be functional for the population of unhoused individuals.

The units, of course, would benefit 6 very low-income individuals, and that is good. However, with 73 additional units this project is too big. Has the city asked the builder to consider fewer units?

There are many other ways to offer low-income housing in our community. We have a large population of older residents that want to stay in their homes long term. Sivernest, Inc. makes home sharing accessible by matching renters to homeowners. It is a creative way to utilize the structures we already have to create housing options.

Another concern that I have about the Verandas/Highrose project is the AirBnB/short term rental companies that now have access to our community.

The Marlin Equity Group is beholden to their shareholders and are obligated to make them as much money as possible. To take the estimated rent values given at the last meeting, a \$7500, 3 BR unit could net \$1500 a night on AirBnB, or VRBO. Even at only 8 nights a month that would yield \$12,000. Groups that would rent that apartment would likely come with at least 2-4 cars. Additionally, the benefit to such businesses as Yoga Loft North, Salvatore's Shoe Repair, MB Cleaners, and other retail shops would be limited, though restaurants and bars may do well.

Another comment is that the noise, burn off days, and other environmental issues that being near to the Chevron facility presents would adversely impact the people living at this site. CalGEM has a public health rule

for protection of communities and workers coming down the pike which could impact moving forward with this project. It suggests a setback exclusion and mitigation area of 3,200 feet from residences.

I understand that the state has pushed forward allowing this development because the builder includes a small percentage of very low-income units, however, perhaps the city would do its own study to understand environmental issues to residents.

Thank you for your hard work considering all the aspects of this project. I have other concerns but know that you are receiving comments from many other resident that will address those.

Happy Labor Day,
Rita Crabtree-Kampe
432 4th Street
914-548-5695

Martha Alvarez, MMC

From: Mark Burton <markburton@gmail.com>
Sent: Monday, September 5, 2022 4:50 PM
To: List - City Council
Cc: Bruce Moe; Quinn Barrow; Carrie Tai, AICP
Subject: [EXTERNAL] Second Supplement and Amendment to Burton Appeal
Attachments: SECOND AMENDMENT TO APPEAL.docx

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

Honorable City Council: Attached please find the above to be included in the public record before Council tomorrow night. Thank you.

Kind regards, Mark

SECOND SUPPLEMENT & AMENDMENT TO BURTON APPEAL OF PLANNING COMMISSION'S DECISION TO AFFRIM COMMUNITY DEVELOPMENT DIRECTOR'S APPROVAL OF THE FOUR-STORY HIGHROSE STR 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 provide a second supplement & amendment to 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 "Project").

PLEASE TAKE NOTICE that the following points and authorities supplement and amend my original appeal and my supplement and amendment to that appeal.

CEQA APPLIES AND A EIR IS MANDATED

1. The Project involved two parcels situated in location that is one of the most environmentally and safety challenged in our City, and directly above, below or adjacent is a tank farm in the Chevron oil refinery, Chevron active oil lines, NRG high voltage electric power lines and a NRG large, active natural gas line.
2. The City's General Plan lists the Chevron is registered as a large-quantity hazardous waste generator.
3. Goal CS-2 of the City's General Plan provides: Protect residents from hazardous materials

4. Pursuant to 14 CA ADC Section 15268, the Project is not a CEQA “ministerial project” but discretionary in nature, requiring the completion of an Environmental Impact Report (EIR).
5. Pursuant to 14 CA ADC Section 15268 (c), the City has failed to provide an identification or itemization of its projects and actions which are deemed ministerial under the applicable laws or regulations. Therefore, pursuant to Section 15268 (a), the City should make a determination as to what is ministerial on a case by case basis.
6. Pursuant to 14 CA ADC Section 15268 (d), this project is deemed to be “ministerial” as a matter of law since the approval contains elements of both ministerial action and a discretionary action. For instance, the City has discretion to deny the project and provide the developer with written notice if the City finds adverse environmental or safety impacts.

THE PROJECT IS SUBJECT TO THE CUP PROCESS

State law provides that projects located in the Coastal Zone, Wetlands, and several other sensitive areas are subject to the discretionary conditional use permit process since they are not eligible for the “ministerial streamlined approval process”. Bottom line is the project needs a CUP.

Based on this appeal and the supplements & amendments 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.

Martha Alvarez, MMC

From: CityOfManhattanBeach@manhattanbeach.gov on behalf of City of Manhattan Beach
<CityOfManhattanBeach@manhattanbeach.gov>
Sent: Monday, September 5, 2022 3:04 PM
To: List - City Council
Subject: HighRose Development

Message submitted from the <City of Manhattan Beach> website.

Site Visitor Name: Carrol Kropp
Site Visitor Email: carrolkropp@gmail.com

I am vehemently opposed to the apparel of the HighRose development, as are my family and friends. It will ruin our town. Please, please, please do not approve these plans.



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

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Martha Alvarez, MMC

From: Doris Mori <dym126@sbcglobal.net>
Sent: Monday, September 5, 2022 2:57 PM
To: List - City Council
Subject: [EXTERNAL] Highrose Project

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

Dear City Council of Manhattan Beach,

This is the first communication we have made to you since moving here in the tree section 12 years ago. We decided to buy in Manhattan Beach instead of Santa Monica because of the small beach town atmosphere and all the charm that goes with it. The Highrose Project has gotten our attention because we see the potential high density issues that will result with a 79 unit apartment complex. There are many questions as residents that have not been answered or addressed and it's not because we don't like "change" but it seems that this project is being bulldozed in without ample environmental issues being addressed. The foremost is the Environmental Impact study that the Planning Department dismissed hiding behind SB35 Legislation. Since I've seen the drawings this is "luxury" apartments with only 4 low income dwellings. There's a giant and luxurious swimming pool and it's outdoor surrounding in the architectural drawing plan which were probably not the intent of the legislation for affordable housing. This seems like something I would see in high end of Santa Monica. The traffic going in and out of this facility would result in heavy traffic we would assume but no one knows because there is no Environmental Impact study which the Gelson's, Manhattan Village developments had to adhere, address and comply with.

We are not attorneys, politicians, real estate brokers or in construction, so our interests only lie in living in a beach community which listens to its citizens, who incidentally pay high property taxes, and want to continue living in a quality beach town which keeps the charm of El Porto.

Respectfully,
Doris Mori/Tom Festa
3212 Blanche Rd.
Manhattan Beach, CA 90266
Email: dym126@sbcglobal.net
Sent from my iPad

Martha Alvarez, MMC

From: debaets@aol.com
Sent: Monday, September 5, 2022 12:36 PM
To: List - City Council
Subject: [EXTERNAL] Highrose
Attachments: Highrose to CC 9.5.2022.pdf

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

Martha Alvarez, MMC

From: Jemy Kim <jemyfkim@gmail.com>
Sent: Monday, September 5, 2022 10:11 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,

Jemy Kim

A concerned former resident of 20 years

Martha Alvarez, MMC

From: CityOfManhattanBeach@manhattanbeach.gov on behalf of City of Manhattan Beach <CityOfManhattanBeach@manhattanbeach.gov>
Sent: Monday, September 5, 2022 9:22 AM
To: List - City Council
Subject: HighRose Development

Message submitted from the <City of Manhattan Beach> website.

Site Visitor Name: Renee Coombs
Site Visitor Email: auntienee1@aol.com

I strongly oppose the HighRose development project. Please do the right and proper thing for our community and deny approval of this project.



CITY OF MANHATTAN BEACH

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CityofManhattanBeach@manhattanbeach.gov

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Martha Alvarez, MMC

From: DeeDee Ciprari <ddciprari@gmail.com>
Sent: Sunday, September 4, 2022 1:01 PM
To: List - City Council
Subject: [EXTERNAL] Strongly oppose !

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 to concur with everyone I know that lives in our community that we are strongly opposed to the Highrose Project!

There is way too much traffic already at that intersection and not enough parking! This will have a devastating effect on our community! Not to mention environmental issues from the Chevron building! Height restrictions abandonment and more!

STRONGLY OPPOSED!

Thank you !

Sincerely,

DeeDee Ciprari

Martha Alvarez, MMC

From: Loralie Ogden <logden456@gmail.com>
Sent: Sunday, September 4, 2022 12:03 PM
To: List - City Council
Subject: [EXTERNAL] HighRose Question

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

Greetings!

First let me thank you IMMENSELY for prohibiting STR at this development. Let's hope the Coastal Commission does not over ride this time.

The other question is what will stop these folks from doing a condo conversion in the future and selling them off thus undermining the intent? Is there another covenant we can put on this development?

Many thanks, Loralie Ogden

Martha Alvarez, MMC

From: Joe Arnao <arnao@precisionpost.com>
Sent: Sunday, September 4, 2022 8:06 AM
To: List - City Council
Subject: [EXTERNAL] You are legally required to

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

Dear City Council;

You have a legal duty under state law 65915 as representatives of the City of Manhattan Beach to demand further impact review as it relates to the Highrose Project. This project is of adverse impact to health, safety and the physical environment to the citizens of Manhattan Beach.

It is out of scale with this community. It has the potential to have far reaching environmental harm. It will expose untold environmental hazards from digging the earth beneath what were earthen bottom storage tanks for years prior in their history. There is a traffic and pollution impact far exceeding any prior development in the history of the city. As such, your duty representing my interests as a citizen is to not make any decisions regarding this project, but halt the progress and only allow further impact studies of what the implications of putting a 4 story, 79 unit building into the side of a hill directly below a petroleum refinery. Anyone relying on the sole discretion of studies submitted by the project's developer with these obvious and alarming basic underlying facts would be derelict in their duty for the City of Manhattan Beach and their citizens.

Any vote - yes or no on this Tuesday for this project will make you the pariah of the city. There is a significant growing movement by several groups within the city to remove anyone from office who continues to allow the state to role over our own local laws without regard, against the citizens of Manhattan Beach for greater political gain.

Thank you,
Joe Arnao

(310) 892-5684 CEL

Incoherent sentences brought to you by Apple...

This file is intended only for the person to whom it is addressed and may contain information that is privileged, confidential, or otherwise protected from disclosure.

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Martha Alvarez, MMC

From: Monica Ferro Yoga <monicateachesyoga@gmail.com>
Sent: Sunday, September 4, 2022 6:56 AM
To: City Clerk
Subject: [EXTERNAL] Agenda Item 14

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

Please act on recommendations made by Humane Wildlife Control Inc. to reduce coyote activity in Manhattan Beach. Please vote to develop a comprehensive coyote management 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.

Tired of all the killing and suffering. There is a better way.

Monica

Martha Alvarez, MMC

From: Alexandra Paul <aep@alexandrapaul.com>
Sent: Sunday, September 4, 2022 6:20 AM
To: City Clerk
Subject: [EXTERNAL] e comment

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

RE: Agenda Item 14

. Please vote to develop a comprehensive coyote management 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.

Thank you,

*Alexandra Paul
310-753-7545*

Martha Alvarez, MMC

From: Don Nelson Jr <dnelsonpt@me.com>
Sent: Saturday, September 3, 2022 8:55 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 VERY VERY VERY 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. It's outrageous to congest that area for all who live there, all who live here. 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,

Don Nelson

Martha Alvarez, MMC

From: Anna Reams <annareams@gmail.com>
Sent: Saturday, September 3, 2022 4:53 PM
To: City Clerk
Subject: [EXTERNAL] RE: Agenda Item 14 Lethal control of Coyotes
Attachments: Manhattan .pdf

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

Thank you for taking the time to read our perspective (attached) on Urban Coyotes we are one of the leading organizations in rehabilitating and specializing in coyotes with emphasis on their urban behaviors.

Anna

Anna Marie Reams
Director,
Wildlife Care of SoCal
www.wildlifecareofsocial.org
<https://wildlifecareofventura.org/donate/>
Wildlife Care of Southern California/Facebook
Formerly (Wildlife Care of Ventura County)
City of Simi Valley, State, Federal and USDA permits



Wildlife Care of Southern California

PO Box 941476 Simi Valley Ca 93065

wildlifecareofsocial.org Wildlife Care of SoCal/Facebook

805-428-7105

To: Honorable Mayor and members of the City Council of Manhattan Beach
RE: Agenda Item 14 Lethal control of Coyotes

California is an environmental leader

Please, we cannot resort to killing wildlife that don't fit into the agenda out of fear.

<https://wildlifecareofventura.org/living-with-coyotes-2/>

Hello,

My name is Anna Reams and I am the director of Wildlife Care of Southern California I wanted to offer our perspective on the situation your city finds itself in with coyotes and possibly help alleviate some of your fears all the while educating your community about this amazingly smart and adaptive native resident.

I won't reiterate what all the experts and Biologists have previously educated you on but I will bring you into the rehabilitation and urbanization of this Wild Canine.

We have specialized in the rehabilitation of Coyotes in California for over 20 years. In those 20 years, we have raised numerous orphaned coyote pups and handled and rehabilitated many adult coyotes all being released un-habituated and very fearful of humans.

In those 20 years that we have been working with these coyotes in very small spaces, where they are suppose to be the most dangerous the only fear I have in doing so is that ...I don't stress them out enough by my presence that they injure themselves trying to get away."

We raise orphaned coyote pups and we have them in rehabilitation a full 8 months before release. Coyotes in general are very fearful of pretty much everything especially people, in our neighborhoods we live with a plethora of Wildlife who have adapted to our presence because of: climate change, fires, drought, loss of habitat, loss of watering holes which we have built our homes around: Lakes, ponds etc. if they are to survive they must adapt.

People can adapt to their presence by training them on boundaries. They are extremely smart and will listen if the message is consistent and LOUD.

- **Be proactive educate yourself on the Urban Coyote**

- We are basically an oasis in the desert coyotes are here to stay, and they are benefitting from us.
- It's up to (humans) to prevent coyotes from becoming "habituated problem animals." So the basic rule is to not inadvertently invite them into your yard...by doing nothing to keep them out.
- If you see a coyote out during the middle of the day chances are he has been in the wings observing the activity in the area for sometime before he allows himself to be seen and has determined there is nothing to fear. Early am or pm sightings are normal as long as he is on the move.
- **Humans are creatures of habit**, coming and going at the same time, using the same paths everyday and coyotes are much the same way and are very observant taking notes about us and learning the daily schedules of people and their pets. They know where the lush yards are with an abundance of rabbits, bird feeder's with a steady client base of rodents and when you let your dog or cat out every evening at 9 p.m...most likely he knows it. So change and mix up your schedule at home a bit...in the am and pm take fido out front instead of out back or you go out into the yard first, let the larger dogs out before the smaller ones, walk your dog on a leash close to you. If you have a small breed, you must take extra precautions when, where and how you let the dog out small dogs need to be on a leash after dark they have large egos and will charge and challenge and chase anything that enters their yard.
- **Tourist attraction localities** have a larger role in preventing unwanted behaviors in wild animals because of the constant traffic of non residents inadvertently or purposely leaving food behind.
- **Adapting** Everywhere that humans are living therein also lies plants, animals, insects, water, trash and other natural resources, a community of organisms and their influence on each other is called an ecosystem. The plants and animals that survive in any given ecosystem are those that have adapted to that particular environment.
- This is where the smart homeowner and City adapt and become an active beneficial part of the ecosystem, especially if you don't want a smart and adaptable coyote moving in.
- **To put things in perspective**, think of your domestic dog and how smart and aware he is at home and how he knows the routine with in the home: when you leave, when you get home, the sound of your car, the coyote is no different only he uses this information for a different reason and **learns** what areas to frequent and what areas and times to avoid to suit his needs on surviving.
- **Food for thought:** If coyotes are becoming a problem or frequenting a yard and community during the day and appear comfortable then we have to look at what the community is doing or NOT doing in the equation. **Not every community has coyote issues but every community has coyotes** the communities residents have learned how to live with them. Armed with the knowledge of coyote behavior and ecology we are empowered and can take

pro active safety measures to prevent conflicts from arising. And our cities become a become positive role model for others to learn from.

Our Organization is available to you and the community at anytime on learning how to co exist with coyotes. <https://wildlifecareofventura.org/living-with-coyotes-2/>

Thank you for listening

Anna Marie Reams

Director,

Wildlife Care of SoCal

www.wildlifecareofsocal.org

Wildlife Care of Southern California/Facebook

Formerly (Wildlife Care of Ventura County)

City of Simi Valley, State, Federal and USDA permits

Martha Alvarez, MMC

From: CityOfManhattanBeach@manhattanbeach.gov on behalf of City of Manhattan Beach
<CityOfManhattanBeach@manhattanbeach.gov>
Sent: Saturday, September 3, 2022 1:50 PM
To: List - City Council
Subject: Verandas/Highrose/Tank ViewArms

Message submitted from the <City of Manhattan Beach> website.

Site Visitor Name: Tim Thomas
Site Visitor Email: Trthomas@verizon.net

I appreciate the Franklin and Hadley position. I hate the thought of this dogpile being built under the cover of six very low income units. We all know this is just about money. More units needed more height, more height gives more ocean view units. Let Mr Buckley and his moneychanger financiers build it. I hope the market buries them. But please don't give rise to the inevitable Private Attorney General litigation industry and thus fill their coffers. I happen to have had a lot of experience with them in my past life, Prop 65, ADA, credit card privacy, etc. Only once did we beat them, and our cause was just every time. Blame the Legislature for creating this beast, too



CITY OF MANHATTAN BEACH

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Martha Alvarez, MMC

From: Cultural Connect <connectcultural@gmail.com>
Sent: Saturday, September 3, 2022 11:51 AM
To: List - City Council
Subject: [EXTERNAL] Highrose 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 know you are still considering the appeals to the Highrose project in el porto. There are many reasons that I believe the project in its current form are not good for our community including overcrowding, traffic issues, changing the character of the beach town and opening the door for many others to follow suit and build large apartment complexes.

Myself and I believe many others who oppose this project in its current form are not against housing or affordable housing but this project looks like a luxury housing complex designed to maximize profit to the developer and not help the housing crisis. The renderings show a large rooftop patio and even a swimming pool. Are these not areas where the city can push back on waiver requests? Why can the project not be completed with less units and less stories?

The developer has a lot to gain from this project and the community has a lot to lose. Please push back and help us make this a win win situation for all.

Thank you very much for your time and continued service.

Martha Alvarez, MMC

From: jeanette avery <jeanette.avery@icloud.com>
Sent: Saturday, September 3, 2022 10:10 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.

We don't want this. Thank you

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: Michael Port <mikeport@mac.com>
Sent: Saturday, September 3, 2022 9:00 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

Sent from my iPhone

Martha Alvarez, MMC

From: Louise Wolf <ldwolfpack@icloud.com>
Sent: Saturday, September 3, 2022 8:14 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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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,
Louise I Wolf. I am in total agreement with these points.

A concerned resident since 1964

Sent from my iPhone

Martha Alvarez, MMC

From: Anthony Castonzo <castonzo99@gmail.com>
Sent: Saturday, September 3, 2022 7:07 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 a resident of Manhattan Beach, I was drawn to this city by more than just the weather and beach. The tight knit community, ease of living, and city resources at your fingertips, all while feeling completely separated from the hustle, bustle, and congestion of city life make Manhattan Beach a truly unique and special place.

The reason I gladly paid such a high price for my home and would do it again is that Manhattan Beach is a one-of-a-kind community. It is not bogged down by the traffic of Miami, the fast-paced congestion of New York, or the crime of somewhere as close as Venice Beach. Manhattan Beach, even more specifically the neighborhood of el Porto, has such a unique beach character.

This proposed development, a 79-unit apartment complex, threatens to ruin all that makes el Porto such a special place. Aside from the immediate concern of city-like congestion being introduced to our tranquil community, I am concerned about the precedent this type of project sets for the future. If our community's building laws are proven to be a non-issue in state overreach, how long until Manhattan Beach is completely ruined and turned into another Miami Beach?

Please do the obvious right thing, represent your community, have courage, and, as our representation in matters such as these, stand up for what we, as a united community, truly believe in. Don't let the state intervene, trounce on our local laws, and prove that we have no say in the goings on of our own community. Please stand with us and fight for Manhattan Beach, a place I believe is the best place to live in all of America.

Thank you for your time.

Sincerely,
Anthony Castonzo

A concerned resident

Martha Alvarez, MMC

From: Amy Chen <chinaismail@yahoo.com>
Sent: Friday, September 2, 2022 9:47 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: Jess Bradshaw <jessbrad12@socal.rr.com>
Sent: Friday, September 2, 2022 9:38 PM
To: City Clerk
Cc: jlww@hotmail.com; 'Bob Chirpin'; avandervalk@socal.rr.com; 'Alice White'
Subject: [EXTERNAL] TO: CITY OF MANHATTAN BEACH--COYOTE ISSUE--PUBLIC COMMENT

Importance: High

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

To: City of Manhattan Beach

Your public “eComment Now” link does not function.

As an animal and wildlife professional, I would like to indicate to those in favor of trapping and killing, that the greatest efforts will meet with complete and total failure—over and over. They always have.

This is simply because as soon as a territory is “cleared”, a new generation of coyotes will immediately move in and claim and inhabit that territory and even expand it.

If you speak to any officer with the California Fish and Wildlife Department, they will tell you the same thing. To verify, please do get in touch with them and they will corroborate this information.

There are plenty of wildlife abatement companies that would love to take your money, but save yourself the disappointment. Instead, have a Fish and Wildlife officer come and speak to your city council on the ways citizens can learn to co-exist with very persistent, intelligent--and hungry--wildlife.

Thank you for your attention in this matter. Hope this will help you in your decision-making process.

Pamela Van Cortlandt

Martha Alvarez, MMC

From: Allison Walker <allison@walkercointeriors.com>
Sent: Friday, September 2, 2022 7:53 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.

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

Allison M. Walker, ASID
Walker&Co.LLC
www.walkercointeriors.com
www.huesandcues.com
Allison@walkercointeriors.com
310-600-4898 mobile

Martha Alvarez, MMC

From: John Griggs <jvgriggs7@gmail.com>
Sent: Friday, September 2, 2022 7:34 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:

I have lived at the SWC of 36th street & Alma Ave since 1991.
I look into the middle of the proposed development site from my driveway.

I have witnessed many a change to my neighborhood over the years.
All of these changes has been consistent with The City Of Manhattan Beach's Master Plan. Differing density developments, depending on location/ proximity to the ocean, but ALL having a MAXIMUM OF 30'.

That's what our neighborhood is all about. Being a neighborhood.

I don't have a problem with rental units at all. I have a number of them around me here.

I'm okay with all of that.

I am also well aware of the pressure coming down from Sacramento about the need for adding dwelling units throughout the state.

However, I have legitimate issues with what has been proposed as the "HighRose Apartments" development.
They are as follows:

The plan does NOT CONFORM to the CITY WIDE 30' maximum height restriction for all residential properties.

Why does this development get a waiver on this City wide Master Planned mandate?

By offering the 6 "Low Income" units, the development is "Buying" it's way past the all important PUBLIC HEARING PROCESS.

That is a mistake. It is a MISMANAGEMENT OF THE DEVELOPMENT PROCESS BY THE CITY OF MANHATTAN BEACH.

I question what system The City currently has in place which will actually Monitor The Income Of each and every Tenant if those 6 proposed units.

I venture to guess that they WILL NOT BE MONITORED- an ongoing expense and effort that would be required by The City of Manhattan Beach.

Furthermore, there is a well know PARKING PROBLEM here in the North End of Manhattan Beach. There has been documented studies and public forums discussing this very issue.

The Retailers and Restaurants continue to be wholly underserved with available parking to enable their true volume expectations.

Therefore, it is prudent for The City to hold PUBLIC HEARINGS on this Development. Do not "hide" behind having 6 "Low Income" housing units to shirk this responsibility.

That would be gross negligence by our City Fathers.

Let the People of Manhattan Beach BE HEARD.

I am not against developing this property, far from it.

I am, however of the belief that it should adhere to the SAME STANDARDS as the rest of us are forced to adhere to- 30' max height average from the 4 corner points of the site.

There must be some REPLACEMENT OF THE PARKING that is available to the public as is to be removed.

In any and all cases with a proposal of "Low Income" housing units, there must be a comprehensive monitoring by The City in perpetuity that is in place prior to any approvals for development on this or any other Development having any said suggested "Low Income" housing components.

Your Good Neighbor,

John Griggs
324 36th Street @ Alma.

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: Lauren Amick <laenigma@verizon.net>
Sent: Friday, September 2, 2022 6:18 PM
To: City Clerk
Subject: [EXTERNAL] RE: Agenda Item 14

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

Manhattan Beach Mayor Napolitano and City Council Members,

Coyotes are intelligent and feeling beings and are just trying to live their lives while being pushed to the brink by human expansion. Coyotes are an essential part of the ecosystem and humans must learn to live with all beings we may not understand. Cruelty and callousness should never be considered or condoned and only non-lethal measures should be planned by this entity or any other. Please do not make Manhattan Beach, or California, a location known for cruelty and abuse towards any animal. Please vote for non-lethal measures to coyote management.

Sincerely,
Lauren

Martha Alvarez, MMC

From: roycasey@aol.com
Sent: Friday, September 2, 2022 6:10 PM
To: List - City Council; Quinn Barrow (External); mbstrong2021@gmail.com
Subject: [EXTERNAL] Highrose - State Law Governs and provides protections

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

I read the City's 8/31/22 press release regarding the Highrose Project and the newsletter published by MBStrong, which, if true, basically negates every claim in the City's press release by making it clear that "State Law Governs" when it comes to "administrative non-discretionary Precise Development Plans," as defined in City Ordinance No.13-0006.

This is a very important issue because Highrose will set an important precedent for years to come after this Council is long gone.

If Highrose is approved on a "non-discretionary basis" as described in the City's press release, then MB will instantly become the hottest location in So Cal for developers to apply for density bonus exemptions that will allow them to bypass the City's normal and ordinary due diligence procedures to build oversized housing projects by simply ear marking some low percentage of the units for affordable housing.

Due to the extreme importance of the City's decision on Highrose, I decided to research the law to determine if it supports claims made in the City's press release or MBStrong's Newsletter.

I am not an attorney but my comprehensive level of research outlined below supports MBStrong's Newsletter and debunks the City's press release, as follows:

Conclusion: MB City Council's has the right and fiduciary duty to perform due diligence on Highrose under state law [Government Code Section 65915, subsection (d)(1)], which goes far beyond the limited scope of a "ministerial approval process" briefly described in the City's press release.

City Council and City Officials are actually obligated to follow state law, which includes compliance with federal laws, like rules and regulations of the Environmental Protection Agency, and state laws of the California Coastal Act and California Environmental Quality Act, as demonstrated below.

Here is the stream of logic along with the supporting laws that led to the overall conclusion stated above and more detailed conclusions stated below.

City Ordinance No. 13-0006, Sec 10.84.010, last sentence on p7 states, as follows:

"Projects that qualify for a density bonus **pursuant to Chapter A.94** shall be eligible for an administrative non-discretionary precise development plan.'

Chapter 10.94 (p17) "Affordable Housing Density Bous and Incentive Program," Section 10.94.010 "General Affordable Housing Provisions," Subsection A. entitled "State Law Governs" as quoted below clearly provides the City with the right to perform due diligence beyond "administrative, non-discretionary" review because it provides the City with the right to enact protections afforded under state law as follows:

Subsection A. entitled "State Law Governs" states "The provisions of **this chapter shall be governed by the requirements of Government Code Section 65915 [state law]**, as that statute is amended from time-to-time. **Where conflict occurs between the provisions of this chapter and State law, the State law provisions shall govern**, unless otherwise specified."

Here is the significance. According to state law, "administrative non-discretionary" projects like Highrose "shall be governed by" **State law 65915**, which provides the City with the right to perform the type of due diligence that is normally conducted by the City's permitting department to decide if building projects comply with the requirements stipulated by our City's zoning and planning laws, General Plan and Local Coastal Program, as follows:

"Density Bonus Statutes [state law] Government Code **Section 65915**" provides our City with rights to achieve the protections stipulated in state law, as follows:

State law 65915 (a)(1) obligates the City to follow state law, as follows: "When an applicant seeks a density bonus a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, **that government [city of MB] shall comply with this section.**"

State law makes the City responsible to conduct research and studies to produce the evidence necessary to prepare reports in connection with adjudication of projects, as follows:

State law 65915 (d)(1)...**"The city, county, or city and county shall grant the concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding, based upon substantial evidence, of any of the following:"**

Under this state law, cities are afforded protections against the following:

Subsection (B) states: "The concession or incentive would have a specific, **adverse impact**, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon **public health [environment] and safety [increase in traffic will block police, fire and medical equipment when the first 2 minutes can mean the difference between life and death] or the physical environment** or any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households."

Subsection (C) states: "The concession or incentive would be **contrary to state or federal law.**" [*Such as need to comply with state coast laws and environmental laws as well as federal laws of the Environment Protection Agency that is imperative for this site because it is surrounded by an urban center, a highly populated, dense neighborhood and a nearby oceanfront and the developer plans to dig a very large 45' deep hole immediately adjacent to a hundred year old oil refinery and storage facility.*]

Subsection (4) states: "The city, county, or city and county shall bear the burden of proof for the denial of a requested concession or incentive." [*Again, the city must prepare reports based on evidence produced by studies*]

IS THIS PROJECT "CONTRARY TO STATE OR FEDERAL LAW?"

CALIFORNIA COASTAL ACT

State Law Governs, which conflicts with the position taken in the City's press release that City Ordinance No. 13-0006 does not require Highrose to comply with our Local Coastal Program because it qualified for a density bonus so the City is "using an administrative, non-discretionary Precise Development Plan" which falls short short of complying with state law. The press release even states that this is determination is "pursuant A.94, which as shown above states that "state law governs" wherein a more rigorous, "discretionary" review is mandated.

According to a January 2021 article written by Jon Goetz and Tom Sakai of the law firm Meyers Nave entitled "*Guide to the California Density Bonus Law*," "State legislation in 2019 requires the "density bonus" to be administered in the Coastal Zone in a manner that is consistent and harmonized with the California Coastal Act. This legislation overturns a 2016 appellate court ruling, *Kalnel Gardens, LLC v. City of Los Angeles*, which found that a proposed housing project that violates the Coast Act as a result of a density bonus could be denied on that basis. The court in *Kalnel Gardens* held that the Density Bonus Law is subordinate to the Coastal Act, but language in the new legislation attempts to strike a balance between the state goals of promoting housing and protecting the coast."

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The City's press release contains a misleading statement that "The city has determined that, pursuant to California Public Resources Code Section 21080 and State CEQA Guidelines Section 15268, the project is exempt from CEQA's typical environmental review requirements because it is subject to a ministerial approval process," The City is taking the position that the project is exempt because it qualifies for exemptions as a density bonus project and apparently the city has made this determination with filing with the state for approval of these exemptions.

However, according to the article written by Goetz and Sakai "...there is no specific density bonus exemption from the CEQA," under state law, which governs, therefore, the developer is required to file with the state for a specific exemption that might or might not be approved under CEQA guidelines versus the city making its own, unapproved determination.

FEDERAL LAWS - RULES & RUGULATIONS OF THE ENVIRONMENT PROTECTION AGENCY

State law 65915 (d)(1)(C) as stated above provides cities with the protection of compliance with state and federal laws, so the "ministerial review" limitations by our city ordinance are superseded and governed by this state law.

So the question is why wouldn't the city take advantage of these protections to get every assurance available that digging a very large 45' deep hole adjacent to a refinery and petrochemical storage facility is not likely to expose an environmental hazard to the air, groundwater, or nearby beaches and ocean?

The City's press release says an Environmental Site Assessments were performed, but fails to make note that an "assessment" fails far short of protections afforded by a "study." The press release also fails to mention that the limited assessment was performed almost 5 years ago, which make the data outdated. The press release states that "soil samples" were taken but fails to mention how many soil samples, whether or not the soil samples were taken from a representative sample of the footprint and depth of this project and most importantly of all, it is not disclosed if soil samples and testing was conducted for every possible type of hazardous material.

IF HAZARDOUS MATERIAL IS EXPOSED [why its important for the City to seek every possible protection available instead of focusing on every avenue possible to approve this project]

- Health risk to residents and possibly neighboring cities
- Groundwater pollution by disturbing hazardous liquids and/or gases
- Patches of tar like patches on nearby beaches
- Ocean water pollution to unsafe levels
- The extremely high and unpredictable cost of mitigating and/or removing hazardous material will be paid for by the City because the Limited Liability Company that will own Highrose will declare bankruptcy.

My hope is that on 9/6/22 City Council will vote table the current resolution on the agenda to approve the Highrose project in favor of a motion to re-examine the City's rights and obligations to protect MB with every possible way it can to avoid adverse impacts and being out of compliance with state and federal laws.

Martha Alvarez, MMC

From: Tani Atkinson <tani61@verizon.net>
Sent: Friday, September 2, 2022 5:18 PM
To: List - City Council
Subject: [EXTERNAL] Highrose project

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

Manhattan Beach City Council,

I was born and raised in North Manhattan and have lived here my entire life.

I oppose this project.

Parking was bad in the '70's but now it's absurd. 79 units will have devastating consequences- two parking spaces per unit means any overflow will spill out into the overcrowded neighborhoods.

Traffic heading north on Highland weekday mornings is very heavy and in the evenings the line to turn left onto Rosecrans from southbound Highland is very long. This will become a bottleneck with a complex this size.

The red flags associated with this complex abound and we need you to fight for us.

Please do your part to keep Manhattan a small town with a small footprint.

Tani Atkinson
52 year Resident

Martha Alvarez, MMC

From: sarah wolk <srwolk@gmail.com>
Sent: Friday, September 2, 2022 4:10 PM
To: City Clerk
Subject: [EXTERNAL] Agenda Item 14

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

Hello:

Please act on recommendations made by Humane Wildlife Control Inc. to reduce coyote activity in Manhattan Beach. Please vote to develop a comprehensive coyote management 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.

Thank you,
Sarah Wolk

Martha Alvarez, MMC

From: info@rschendel.com
Sent: Friday, September 2, 2022 1:50 PM
To: City Clerk
Subject: [EXTERNAL] Highrose project
Attachments: pipeline pics.pdf

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

Mayor Napolitano, and City Council members,

There has been much discussion about possible environmental impacts for the Highrose project. Thus far, no one has mentioned the fact that there is a 16 inch oil pipeline running through the Chevron parking lot within 25 ft of the proposed project boundary.

Also, the condition of this portion of the pipeline is not known. A section of the same pipeline was replaced a year or two ago. That section ran from just west of Sepulveda all the way the eastern boundary of Verandas / Highrose project property.

Photos of the pipeline markings and where the pipeline enters the Chevron property attached.

Thank you for your consideration.

Ron Schendel



location markings
16 inch Oil Pipeline



Pipeline enters
Chevron lot from
Rosecrans here

Martha Alvarez, MMC

From: JOHN AND JULIE ARGUE <jcargue@verizon.net>
Sent: Friday, September 2, 2022 12:47 PM
To: List - City Council
Subject: [EXTERNAL] High Rose Project

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

To MB City Council:

I am sending this email because I disapprove of the Highrose project on Rosecrans & Highland passing.

Thank you for your strong consideration.

Julie Argue
MB resident

Sent from my iPhone

Martha Alvarez, MMC

From: stephanie mclagan <mcmadr@gmail.com>
Sent: Friday, September 2, 2022 10:28 AM
To: List - City Council
Subject: [EXTERNAL] Highrose project

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

As a concerned resident of Manhattan Beach, I hope you vote no on this project. It is a a already busy intersection. It is close to the Chevron plant. There is no parking and traffic is just getting worse. Studies need to be done looking at the impact on the environment. Is the coastal commission involved? If they are not they should be. Stephanie Mclagan

Martha Alvarez, MMC

From: Heaton, Brian@HCD <Brian.Heaton@hcd.ca.gov>
Sent: Friday, September 2, 2022 10:17 AM
To: List - City Council
Cc: Quinn Barrow; City Manager; Ted Faturos; Talyn Mirzakhanian; Carrie Tai, AICP; City Clerk; West, Shannan@HCD
Subject: [EXTERNAL] Letter of Support - Highrose Development
Attachments: ManhattanBeachLOSTA09012022.pdf

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

Mayor Steve Napolitano, Mayor Pro Tem Richard Montgomery, and Council Members Joseph Franklin, Suzanne Hadley, and Hildy Stern:

Attached please find a Letter of Support and Technical Assistance regarding the proposed project to be located at 401 Rosecrans Avenue (APN: 4137-001-031) and 3770 Highland Avenue (APN: 4137-001-027). Please consider the information presented in the letter at the appeal hearing scheduled to be held on September 6, 2022.

If you have any questions, please feel free to reach out to me.

Regards,



Brian Heaton, AICP

Senior Housing Policy Specialist, Housing Policy Division
Housing and Community Development
2020 W. El Camino Avenue, Suite 500 | Sacramento, CA 95833
Phone: 916.776.7504

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



September 1, 2022

Mayor Steve Napolitano
Mayor Pro Tem Richard Montgomery
Council Members Joseph Franklin, Suzanne Hadley, and Hildy Stern
City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 90266

Mayor Steve Napolitano, Mayor Pro Tem Richard Montgomery, and
Council Members Joseph Franklin, Suzanne Hadley, and Hildy Stern:

**RE: City of Manhattan Beach, Highrose El Porto Multifamily Residential
Development – Letter of Support and Technical Assistance**

The California Department of Housing and Community Development (HCD) understands that the City of Manhattan Beach (City) City Council will soon be hearing an appeal of the Planning Commission's upholding of the approval of the Highrose El Porto Multifamily Residential Development (Project) located at 401 Rosecrans Avenue (APN: 4137-001-031) and 3770 Highland Avenue (APN: 4137-001-027). The purpose of this letter is to express HCD's support of the Project and to provide notice to the City that denying the Project may result in the violation of one or more of the state housing laws described in this letter.

HCD understands the Project proposes 79 units, including 73 market-rate units and 6 units affordable to very low-income (VLI) households. The project utilizes State Density Bonus Law (SDBL) (Gov. Code, § 65915) to achieve a 35-percent density bonus and is facilitated by several SDBL incentives/concessions and development standard waivers. As described in the March 29, 2022, Director-approved permit, the Project qualifies for "streamlined, administrative, non-discretionary Precise Development Plan review, which subjects all components of the application to a ministerial review process."¹ Additionally, the Project has been verified by the City to be consistent with the General Plan, applicable physical development standards (except as lawfully modified via SDBL concessions and waivers), the Subdivision Map Act, and the certified Manhattan Beach

¹ Tai, Carrie. Permit Approving Precise Development Plan and Related Entitlements, March 29, 2022, p 2.

Local Coastal Program (LCP).² The City determined that as a ministerial project, the Project is statutorily exempt from CEQA³ (i.e., no environmental review is required).

State Density Bonus Law (SDBL)

A project that meets the eligibility requirements of the SDBL is entitled to a density bonus, incentives/concessions, development standard waivers, and limited parking ratios (Gov. Code, § 65915, subd. (b)). The City must grant (i.e., “shall approve”) the specific incentives/concessions requested by the applicant unless the City makes written findings, based on substantial evidence, that the incentive/concession would (1) not result in a cost reduction, (2) have a specific adverse impact on health or safety (as defined), or (3) be contrary to state or federal law (Gov. Code, § 65915, subd. (d)). The City is also strictly limited in denying requested development standard waivers, preventing it from applying any development standard that would physically preclude the Project as proposed unless doing so would have a specific adverse impact on health or safety (as defined) which could not be mitigated (Gov. Code, § 65915, subd. (e)). The City bears the burden of proof for the denial of a requested incentive/concession (Gov. Code, § 65915, subd. (d)(4)).

Chapter A.94 (Affordable Housing Density Bonus and Incentive Program) of the City’s LCP incorporates the SDBL. The LCP provides 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” (MBLCP A.84.010).

Housing Accountability Act (HAA)

The Project meets the definition of a “housing development project” under the HAA (Gov. Code, § 65589.5, subd. (h)(3)). A “housing development project” that meets all objective standards (except those lawfully modified via SDBL concessions and waivers) may only be denied or approved at a lower density if the City makes written findings, supported by a preponderance of evidence on the record, that (1) a specific, adverse impact upon the public health or safety would result and (2) mitigation of the adverse impact is not possible (Gov. Code, § 65589.5, subd. (j)). The HAA also contains language pertaining to legal procedures and penalties.

² Tai, Carrie. Memorandum re: Planning Commission Consideration of Project Appeal, June 8, 2022.

³ California Public Resources Code, § 21080.

Housing Element Site Inventory

A review of City's Draft Housing Element dated August 12, 2022, includes a description of the Project in Section 5 (Planned, Approved, and Prospective Projects) of Appendix E (Sites Analysis and Inventory). The Project is described as providing 79 units, including 73 above moderate-income units and six lower-income units, which is consistent with the Project about which the appeal is being heard by the City Council. This suggests that the City is prepared to permit the Project as proposed.

Conclusion

The State of California is in a housing crisis, and the provision of housing is a priority of the highest order. HCD encourages the City Council to approve the Project by upholding the Director's (and subsequently, the Planning Commission's) approval of the Project. The City Council should remain mindful of the City's obligations under the SDBL and HAA as it considers the appeal. HCD would also like to remind the City that HCD has enforcement authority over the SDBL and HAA, among other state housing laws. Accordingly, HCD may review local government actions and inactions to determine consistency with these laws. If HCD finds that a city's actions do not comply with state law, HCD may notify the California Office of the Attorney General that the local government is in violation of state law. (Gov. Code, § 65585, subd. (j).)

If you have any questions regarding the content of this letter or would like additional technical assistance, please contact Brian Heaton at brian.heaton@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink that reads "Shannan West". The signature is written in a cursive, flowing style.

Shannan West
Housing Accountability Unit Chief

Martha Alvarez, MMC

From: Don CPI <dkuscpi@gmail.com>
Sent: Friday, September 2, 2022 8:45 AM
To: MBStrong2021@gmail.com
Cc: List - City Council
Subject: [EXTERNAL] High Rose Project

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

Typo: Siri does it again!!

S/B. "Respectfully Submitted"

Don
>
> 9-2-2022
>
> To: MB Strong/MB City Council:
>
> My understanding, current City zoning would permit around 52 units not 79.
>
> If correct:
>
> 1. Revise the State density bonus on legal precedent, listen to the Residents.... apply existing zoning regulations for +/- 52 units and move forward on the Project...
>
> 2. If 1. doesn't work financially for the Developer consider options; i.e. SFR units for sale, or a less dense commercial development all subject to Manhattan Beach zoning code.
>
> In any event, development of the site at a minimum must include and be SUBJECT TO:
>
> (a) completion and approval of comprehensive on-site environmental Studies to include Phase 1 and Phase 2 studies, and
>
> (b) Traffic impact study(ies) and mitigation measures for whatever is developed.
>
> Opinion Respectively Submitted,
>
> Don
>
> 46 year MB resident.
>
> Don Kustudia Broker/Principal
> Commercial Property Investments
> 310-713-3004
> Dkuscpi@gmail.com
> Commercialpropertyinvestments.com
>

Martha Alvarez, MMC

From: Don CPI <dkuspci@gmail.com>
Sent: Friday, September 2, 2022 8:30 AM
To: MBStrong2021@gmail.com
Cc: Steve Napolitano; List - City Council
Subject: [EXTERNAL] High Rose Project

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

9-2-2022

To: MB Strong/MB City Council:

My understanding, current City zoning would permit around 52 units not 79.

If correct:

1. Revise the State density bonus on legal precedent, listen to the Residents.... apply existing zoning regulations for +/- 52 units and move forward on the Project...
2. If 1. doesn't work financially for the Developer consider options; i.e. SFR units for sale, or a less dense commercial development all subject to Manhattan Beach zoning code.

In any event, development of the site at a minimum must include and be SUBJECT TO:

(a) completion and approval of comprehensive on-site environmental Studies to include Phase 1 and Phase 2 studies, and

(b) Traffic impact study(ies) and mitigation measures for whatever is developed.

Opinion Respectively Submitted,

Don

46 year MB resident.

Don Kustudia Broker/Principal
Commercial Property Investments
310-713-3004
Dkuspci@gmail.com
Commercialpropertyinvestments.com

Martha Alvarez, MMC

From: Randy Childs <randylchilds@gmail.com>
Sent: Friday, September 2, 2022 7:52 AM
To: List - City Council
Subject: [EXTERNAL] Chill the Build

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

Good morning City Council,

I'm begging you to hold off on approving the low income housing in Manhattan Beach.

Please do all the research before jumping into such a huge project.

I can't believe that you would allow housing right next to an oil refinery.

Plus the traffic is going to destroy that part of town.

I ride my back by there every weekend and as it is now I'm in fear of my life. I also use that thoroughfare on my commute. There is no way that the intersection of Highland and Rosecrans will be able to handle the influx of more housing near there.

So please let's take our time and get this correct. It not only affects us now but the future of our city.

I'm also assuming like always that I will not get a reply back. But if your so inclined I would love to hear what you have to say.

Sincerely,

Randy L Childs

Martha Alvarez, MMC

From: kelly viklund <sugarkell@me.com>
Sent: Friday, September 2, 2022 7:09 AM
To: List - City Council
Subject: [EXTERNAL] High rise Project/

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

Dear City Council

Just a note to say that I am highly opposed to this Highrose project and the impact it is going to have on our north end and all of Manhattan Beach. Our town has already lost so much of its charm with banks and real estate offices going in and the huge library and now this. Please help us keep Manhattan Beach the way it is meant to be.

Kindly,

Kelly Viklund

Martha Alvarez, MMC

From: Kathleen Hoagn <kmhogan3@aol.com>
Sent: Friday, September 2, 2022 6:55 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:

Please stop the build.

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,

Kathleen Hogan
Manhattan Beach resident.

Sent from my iPhone

Martha Alvarez, MMC

From: MELINDA MCKINLEY <lindymck@msn.com>
Sent: Friday, September 2, 2022 6:30 AM
To: List - City Council
Subject: [EXTERNAL] HighRose Apartments

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

Dear Council members,

The last time I emailed, I received a variety of responses that ranged from giving me follow up resources and steps to take to "there's nothing we can do. Sorry."

The last response (you know who you are) is an irresponsible attempt to discourage any contrary views.

I am requesting that you vote to have impact studies performed based on the location of the proposed complex (next to a refinery) and also to analyze traffic concerns. By now, you have heard from the public concerning this project and it is very evident that there IS something we can do and Manhattan Beach would like for you to do it. Thank you!

Melinda McKinley

Martha Alvarez, MMC

From: Mike Bakos <mikebakos@gmail.com>
Sent: Friday, September 2, 2022 6:27 AM
To: List - City Council
Subject: [EXTERNAL] Highrose Project - Rosecrans

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

Hello City Council,

I vehemently oppose the approval of this newly approved apartment complex, it's terrible for this upscale community! You all should know better than to authorize this type of project.

Thank you!

Sent from my iPhone

Martha Alvarez, MMC

From: Lee Hoven <Growing_wild@earthlink.net>
Sent: Friday, September 2, 2022 6:20 AM
To: List - City Council
Subject: [EXTERNAL] Highrose project

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

I can't begin to tell you how opposed I'm am to this project.

It should have never been considered~

Lee Bakos
Owner - Growing Wild

Martha Alvarez, MMC

From: Melinda Arentsen <melinda.arentsen@gmail.com>
Sent: Friday, September 2, 2022 6:14 AM
To: List - City Council
Subject: [EXTERNAL] No on Highrose

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

Members of City Council,

Please vote no and do what you can to stop this project. Our neighborhood doesn't need more people or more construction.

I don't need to list all the reasons why this is a bad idea for our town. You are well aware of them.

Just know that no one, except the people who stand to make the money from this deal, think it's a good idea.

Melinda~

Sent from my iPhone

Martha Alvarez, MMC

From: wjpeterman@icloud.com
Sent: Friday, September 2, 2022 6:02 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: CityOfManhattanBeach@manhattanbeach.gov on behalf of City of Manhattan Beach
<CityOfManhattanBeach@manhattanbeach.gov>
Sent: Thursday, September 1, 2022 2:23 PM
To: List - City Council
Subject: Please don't destroy North MB!

Message submitted from the <City of Manhattan Beach> website.

Site Visitor Name: Jan Pope
Site Visitor Email: Jepope@verizon.net

Dear City Council,

My husband Tom and I live at 309 32nd Street in North MB. We purchased our townhome in 2008 and have been delighted with how our little neighborhood has evolved.

The proposed Highrose project will have a very negative impact on our neighborhood.

Traffic is already really high through Rosecrans and Highland - this will back it up significantly.

The height and size of the complex is totally out of character with our neighborhood.

This project removes a lot of parking and also has very little parking for the residents of this new proposed complex.

Please don't destroy our little corner of paradise!

Jan Pope and Tom Frick
309 32nd Street, MB



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: Diana Lopez <diana@theryanlawgroup.com>
Sent: Thursday, September 1, 2022 2:07 PM
To: Steve Napolitano; Richard Montgomery; Suzanne Hadley; List - City Council; Hildy Stern
Subject: [EXTERNAL] Chill the Build
Attachments: 22.09.01-Ltr to MB City Council.pdf

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

Good afternoon,

Please see attached correspondence.

Thank you,

Diana Lopez
Legal Assistant

THE RYAN LAW GROUP
PERSONAL INJURY LAWYERS

317 Rosecrans Ave.
Manhattan Beach, CA 90266
P: 310-321-4800
F: 310-496-1435



THE RYAN LAW GROUP

August 1, 2022

VIA ELECTRONIC MAIL

City Hall
Manhattan Beach City Council
1400 Highland Avenue
Manhattan Beach, CA 90266

Developer's GSI Powerpoint Fails to Investigate Potential Petroleum/Methane Indoor Intrusion Risk And Fails to Align With Objective, Quantifiable and Specific Technical Review Contemplated By Federal, State and Local Standards And Omits Critical, Material Information

1. On August 15, 2022, the day before the City Council meeting, the Developer slipped in a previously undisclosed environmental powerpoint prepared by its paid consultant GSI so that the opponents would not have any meaningful opportunity to review and comment.

<https://www.manhattanbeach.gov/home/showpublisheddocument/50709/637962614442470000>

2. Developer's paid consultant attempts to deceive the City Council by referencing the risk from the adjacent Chevron refinery and discussing non-issues such as whether the project site was an oil field in order to distract the City Council. Does the City determine that Developer's expert presents a thorough investigation of potential petroleum/methane indoor intrusion risk? What is the city's evaluation of Environmental Data Resources Inc.'s (EDR) GeoCheck Physical Setting Source Addendum which was provided in developer's Phase 1 ESA (Page A-1) "to assist the environmental professional in forming an opinion about the impact of potential contaminant migration." What was the investigative components of the City's assessment of the impact of contaminant migration? What consideration did the City give to (1) groundwater flow direction and (2) groundwater flow velocity, particularly how it might impacted by surface topography, hydrology, hydrogeology, characteristics of the soil, and nearby wells.

Where does Developer's expert analyze the impact of dealing with **a refinery**, which presents a completely different suite of risk evaluation tools? Why where such tools not used? Where is the expert's alignment of its investigation with established standards including:

- A. USEPA's Vapor Intrusion Guide (October 2015)
- B. USEPA's Office of Solid Waste and Emergency Response, Technical Guide for Assessing and Mitigating the Vapor Intrusion Pathway from Subsurface Vapor Sources to Indoor Air, Pub. No. 9200.2—154 (June 2105)
- C. ASTM Method E2600 (Vapor Encroachment Condition)

D. Screening and Evaluating Vapor Intrusion, Cal-EPA - California Department of Toxic Substances Control and California Water Resources Control Boards (February 2020)

3. Where is Developer's paid consultant's analysis on the following?

A. Where are the laboratory/chemical analyses for the 2020 borings or the two cone penetration test?

B. Where is the analysis of the Light Non-Aqueous Phase Liquids (LNAPL)-forming methane and vapor intrusion risk.

Where is the consultant's analysis aligned pursuant to guidelines and standards listed in paragraph 2 A-D above: an objective, quantifiable, and specific technical review.

Since the Developer and its experts failed to provide specific, quantifiable information about the risks described above, why isn't the City insisting on doing its own independent analysis measured against applicable standards, including those listed above in Section 2 A-D?

4. Please explain the inconsistencies and omissions contained in Developer's paid consultant powerpoint:

A. Referring to the GSI presentation. In the points below, we refer to the publicly posted presentation

(<https://www.manhattanbeach.gov/home/showpublisheddocument/50709/637962614442470000>)

B. On slide 14, Developer's expert tries to conflate topography of the surface with the geological characteristic of bedrock below to create an incorrect inference that any liquid petroleum floating on top of any groundwater 100 feet below would follow the topography above. **EDR's GeoCheck Physical Setting Source Summary, provided in developer's Phase 1 ESA (Page A-3) states: "Hydrogeologic information obtained by installation of wells on a specific site can often be an indicator of groundwater flow direction in the immediate area. Such hydrogeologic information can be used to assist the environmental professional in forming an opinion about the impact of nearby contaminated properties or, should contamination exist on the target property, what downgradient sites might be impacted."**

Site-Specific Hydrogeological Data*:

Search Radius: 1.25 miles

Location Relative to TP: 1 - 2 Miles East

Site Name: Allied Chem Corp El Segundo Works

Site EPA ID Number: CAD008326589

Groundwater Flow Direction: NOT AVAILABLE.

Measured Depth to Water: 70 feet at an adjacent property

And even if you accept Developer's flawed inference, information/data from **closest Refinery Observation Wells (and of course, most relevant) (ROWs 034, 094 and 052) to**

the High Rose site have been omitted in the accompanying table. Why were they omitted?

- C. On Slide 15, Developer's expert tries to explain that there are no impacts observed in geotechnical exploration. Developer's expert does not mention who did the 90' boring in 2020 and **Why was the Report presenting analysis of this Boring Log apparently not submitted to the City with the development application or even included in the powerpoint? Please explain.**
- D. Developer's consultant states on slide 15 that exploration was done to 90' and that no groundwater was present and that there were no signs of hydrocarbon impacts. There is no supporting documentation (logs) presented; however, that verify this assertion. We are led to assume that SPC Engineering did the 90' exploration as is depicted on the location map on slide 15, but we do not see the boring log associated with the exploration for supporting evidence. **Why is there is no supporting documentation?**

Furthermore, in slide 15, the Developer's consultant includes a map of two bore holes that were performed in November 2020 by SPC Engineering; however, slide 16 only includes the boring log for the B-1 location. The B-2 boring log is omitted in the presentation and does not appear in any Reports submitted to the city with the application. **Why is the supporting evidence of Log B-2 is missing?**

CONCLUSION: Why shouldn't the City Council require complete and accurate answers to these questions and verify the answers with an independent, third party expert due to the important implications of the disclosures (or lack thereof) provided by the Developer to date?

Very Truly Yours,

THE RYAN LAW GROUP



Andrew T. Ryan

Martha Alvarez, MMC

From: Andrew T. Ryan <andrew.ryan@theryanlawgroup.com>
Sent: Thursday, September 1, 2022 11:26 AM
To: List - City Council
Cc: Quinn Barrow (External)
Subject: [EXTERNAL] High Rose
Attachments: 22.09.01-Ltr to City Council re High Rose GSI.pdf

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

Dear Members of City Council,

Please see the attached correspondence of today's date.

Andrew T. Ryan
Founding & Managing Attorney
THE RYAN LAW GROUP
PERSONAL INJURY LAWYERS

317 Rosecrans Ave.
Manhattan Beach, CA 90266
P: 310-321-4800
F: 310-496-1435



THE RYAN LAW GROUP

September 1, 2022

VIA ELECTRONIC MAIL
citycouncil@manhattanbeach.gov

City Council of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 90266

Re: High Rose Project

Dear Members of City Council:

Upon review of the GSI Powerpoint presented by the Developer of the High Rose project, I have several questions concerning the data that I believe would be beneficial to consider prior to the September 6, 2022 Council meeting.

I. Developer's GSI Powerpoint Fails to Investigate Potential Petroleum/Methane Indoor Intrusion Risk And Fails to Align With Objective, Quantifiable and Specific Technical Review Contemplated By Federal, State and Local Standards And Omits Critical, Material Information

1. On August 15, 2022, the day before the City Council meeting, the Developer slipped in a previously undisclosed environmental PowerPoint prepared by its paid consultant GSI so that the opponents would not have any meaningful opportunity to review and comment.

<https://www.manhattanbeach.gov/home/showpublisheddocument/50709/637962614442470000>

2. Developer's paid consultant attempts to deceive the City Council by referencing the risk from the adjacent Chevron refinery and discussing non-issues such as whether the project site was an oil field in order to distract the City Council. Does the City determine that Developer's expert presents a thorough investigation of potential petroleum/methane indoor intrusion risk? What is the city's evaluation of Environmental Data Resources Inc.'s (EDR) GeoCheck Physical Setting Source Addendum which was provided in developer's Phase 1 ESA (Page A-1) "to assist the environmental professional in forming an opinion about the impact of potential contaminant migration." What was the investigative components of the City's assessment of the impact of contaminant migration? What consideration did the City give to (1) groundwater flow direction and (2) groundwater flow velocity, particularly how it might impacted by surface topography, hydrology, hydrogeology, characteristics of the soil, and nearby wells.

Where does Developer's expert analyze the impact of dealing with **a refinery**, which presents a completely different suite of risk evaluation tools? Why were such tools not used? Where is the expert's alignment of its investigation with established standards including:

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3. Where is Developer's paid consultant's analysis on the following?
- A. Where are the laboratory/chemical analyses for the 2020 borings or the two cone penetration test?
 - B. Where is the analysis of the Light Non-Aqueous Phase Liquids (LNAPL)-forming methane and vapor intrusion risk.

Where is the consultant's analysis aligned pursuant to guidelines and standards listed in paragraph 2 A-D above: an objective, quantifiable, and specific technical review.

Since the Developer and its experts failed to provide specific, quantifiable information about the risks described above, why isn't the City insisting on doing its own independent analysis measured against applicable standards, including those listed above in Section 2 A-D?

4. Please explain the inconsistencies and omissions contained in Developer's paid consultant PowerPoint:
- A. Referring to the GSI presentation. In the points below, we refer to the publicly posted presentation (<https://www.manhattanbeach.gov/home/showpublisheddocument/50709/637962614442470000>)
 - B. On slide 14, Developer's expert tries to conflate topography of the surface with the geological characteristic of bedrock below to create an incorrect inference that any liquid petroleum floating on top of any groundwater 100 feet below would follow the topography above. **EDR's GeoCheck**

Physical Setting Source Summary, provided in developer's Phase 1 ESA (Page A-3) states: "Hydrogeologic information obtained by installation of wells on a specific site can often be an indicator of groundwater flow direction in the immediate area. Such hydrogeologic information can be used to assist the environmental professional in forming an opinion about the impact of nearby contaminated properties or, should contamination exist on the target property, what downgradient sites might be impacted."

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Site EPA ID Number: CAD008326589

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Measured Depth to Water: *70 feet at an adjacent property*

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- C. On Slide 15, Developer's expert tries to explain that there are no impacts observed in geotechnical exploration. Developer's expert does not mention who did the 90' boring in 2020 and **Why was the Report presenting analysis of this Boring Log apparently not submitted to the City with the development application or even included in the PowerPoint?**
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Why shouldn't the City Council require complete and accurate answers to these questions and verify the answers with an independent, third-party expert due to the

important implications of the disclosures (or lack thereof) provided by the Developer to date?

Thank you for your consideration of these issues.

Very Truly Yours,

THE RYAN LAW GROUP

A handwritten signature in black ink, appearing to read "Andrew Ryan". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Andrew T. Ryan

Martha Alvarez, MMC

From: Carrie Tai, AICP
Sent: Thursday, September 1, 2022 11:06 AM
To: Martha Alvarez, MMC; Liza Tamura, MMC; Quinn Barrow (External); Quinn Barrow; Brendan Kearns (External); Bruce Moe
Cc: Talyn Mirzakhanian
Subject: Fwd: [EXTERNAL] Verandas - 401 Rosecrans and 3770 Highland: City Council Appeals
Attachments: image001.png; image003.png; image004.png; image005.png; Ltr to City of Manhattan Beach City Council 9-1-22.PDF

Martha,

For inclusion in Highrose comments.

Bcc: City Council

Sent from my iPhone

Begin forwarded message:

From: Ruby Williams <Ruby.Williams@ndlf.com>
Date: September 1, 2022 at 13:02:23 EDT
To: cityclerk@cityofmanhattanbeach.gov
Cc: "Michael W. Shonafelt" <Michael.Shonafelt@ndlf.com>, "Quinn Barrow (External)" <qbarrow@rwglaw.com>, "Carrie Tai, AICP" <ctai@manhattanbeach.gov>, Ted Faturos <tfaturos@manhattanbeach.gov>, Apollofrank@gmail.com
Subject: [EXTERNAL] Verandas - 401 Rosecrans and 3770 Highland: City Council Appeals

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

Sent on behalf of Michael Shonafelt



CARRIE TAI, AICP
COMMUNITY DEVELOPMENT DIRECTOR

310-802-5503
ctai@manhattanbeach.gov

The City of Manhattan Beach continues to care about your health and safety. The [Citizen Self Service \(CSS\) Online Portal](#) is available for City permit and planning applications and inspections. Most Community Development services are available [online](#) and various divisions can be reached at (310) 802-5500 or [Email](#) during normal City business hours. When visiting City Hall, please sign in 15 minutes prior to close of business.

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](#)



Newmeyer & Dillion LLP
895 Dove Street
Fifth Floor
Newport Beach, CA 92660
949 854 7000

September 1, 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 continues to represent Highrose El Porto, LLC (“Highrose”), the landowner and applicant in the above-referenced matter. This letter follows our August 15, 2022, letter to the City Council and presents a brief response to additional legal issues raised during the August 16, 2022, hearing on 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. Appellants’ Assertions of Incompatibility with General Plan Are Refuted by Statute and by the Evidence in the Record.

Highrose is sympathetic to the sensibilities concerning the character of the City and the need to preserve the City’s beauty and unique small-town feel. To that end, Highrose invested significant time and resources on achieving a high-end design and functionality for a proposal that helps the City deliver on its housing shortfall by activating a set of long-underutilized parcels, while avoiding additional density and massing that it could have sought under state law.

In any calculus of harmonizing housing supply with local concerns, balance is key. Unbalanced deference to local sensibilities is one of the chief factors that has given rise to California’s housing emergency. The new housing legislation from the State reminds us that local communities are constituent elements of the larger community of the State of California, and they are being summoned to shoulder some of the burden of the State’s housing crisis in a manner that ensures a semblance of fairness and equity.

Despite the repeated efforts of the Legislature to address the housing crisis, the Court of Appeal for the First District ruefully observed that the effort “has historically

failed.” (*California Renters Legal Advocacy & Education Fund v. City of San Mateo* (2021) 68 Cal.App.5th 820 [283 Cal.Rptr.3d 877] (hereinafter, “*CaRLA*”).) In 2019, the State Legislature enacted the Housing Crisis Act of 2019 (SB 330) (“HCA”). The touchstone of the HCA is a legislatively declared, statewide housing crisis -- a housing crisis of “historic proportions.” As we noted in our August 15, 2022, letter to the City Council, the HCA features a litany of urgent declarations squared directly at cities like Manhattan Beach. Among other things, the Legislature noted that “[t]he lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California” and “[t]he 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.” (SB 330, § 2, subd. (a); Gov. Code, § 65589.5, subd. (a)(2)(K).)

The above legislative admonitions served as the impetus for several provisions adding additional teeth to the Housing Accountability Act (Gov. Code, § 65589.5) (“HAA”), including provisions intended to prevent delays in processing permits for housing projects and to reduce barriers to approval of housing projects. The purpose of the HAA is to “meaningfully and effectively curb[] the capability of local governments to deny, reduce the density for, or render infeasible housing development projects.” (*Id.*, § 65589.5, subd. (a)(2)(K).) One of the ways the HAA facilitates housing is to curb denials of housing projects based on subjective planning criteria.

Assertions have been raised by the appellants, specifically the Burton appeal, that the Project conflicts with various elements of the City’s General Plan. Invariably, the inconsistency analysis presented by the appellants hinges on General Plan elements that are both generalized and inherently subjective in nature, such as policies intended to maintain neighborhood “character,” “small-town community feel” and a “sense of community.” Such criteria are not objective and therefore cannot serve as the basis for a project denial under the HAA.

The HAA defines “objective” as “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, subd. (h)(8); see *CaRLA*, *supra*, 68 Cal.App.5th at p. 840.) “[T]he HAA requires municipalities to apply standards that are both ‘objective’ and ‘in effect at the time that the application was deemed complete’ ... not to apply standards that are rendered objective only by adding an after-the-fact interpretive gloss.” (*CaRLA*, *supra*, 68 Cal.App.5th at p. at p. 844.) The Legislature added clarity to this restriction by defining what it means to comply with such standards: “a housing development project is deemed to comply if ‘substantial evidence ... would allow a reasonable person to conclude’ that it does.” (*Id.*, at p. 830 [finding that this standard provides “an excellent backstop to ensure that the standards a municipality are applying are indeed objective.”].) (*Id.* at 845.)

More importantly, the Project is consistent with the General Plan **as a matter of law because the City did not make a determination to the contrary within the 60-day deadline prescribed by the HAA.** Under the HAA, a city must provide “written documentation identifying the provision or provisions, and an explanation of the reason or reasons it considers the housing development to be inconsistent, not in compliance, or not in conformity” **within 60 days of the date the application is complete.** (*Ibid.*) If the jurisdiction “fails to provide the required documentation,” then the project is **“deemed consistent, compliant, and in conformity with the applicable plan, program, policy, ordinance, standard, requirement, or other similar provision.”** (*Id.*, Gov. Code, § 65589.5, subd. (j)(2)(B), emphasis added.)¹

Far from making any inconsistency determination, in this case, the City’s planning staff -- **and its own Planning Commission** -- definitively established that the Project **is, in fact, consistent** with the objective criteria of the City’s General Plan.² Given the absence of any inconsistency determination -- and the otherwise durable and repeated theme of consistency that runs throughout the Administrative Record any contention of inconsistency cannot serve as a legitimate or lawful basis for denial of the Project.

2. Assertions Regarding Inability to Invoke the State Density Bonus Law in the Coastal Zone Are Incorrect.

The appellants contend that that the State Density Bonus Law (Gov. Code, § 65915) (“SDBL”) somehow does not apply to the Property because it is in the Coastal Zone. The appellants cite no case law or other support for that contention, aside from oblique references to a court case (presumably *Kalnel Gardens, LLC v. City of Los Angeles* (2016) 3 Cal.App.5th 927). The court in *Kalnel Gardens* concluded that, while the Coastal Act does not preempt the SDBL, the SDBL is nevertheless subordinate to the Coastal Act (Pub. Resources Code, 30000) (“Coastal Act”). Notably, the decision of the

¹ This requirement was added to the HAA in 2017 as part of a series of amendments the Legislature enacted because it was “dissatisfied with the dearth of housing in this state.” (*CaRLA, supra*, 68 Cal.App.5th at 836.) The amendment took effect on January 1, 2018, and so City’s 60-day deadline to identify inconsistencies began to run on that date at the earliest.

² Among other things, City staff and the Planning Commission found that the Project was consistent with: (1) Housing Element Goal II (Provide a variety of housing opportunities for all segments of the community commensurate with the City’s needs, including various economic segments and special needs groups); (2) Housing Element Policy 3 (Provide adequate sites for new housing consistent with the Regional Housing Needs Assessment and the capacity of roadways, sewer lines, and other infrastructure to handle increased growth); (3) Housing Element Program 3a (Continue to facilitate infill development in residential area); (4) Housing Element Program 3b (Facilitate multi-family residential development in the CL, CD, and CNE commercial districts); (5) Housing Element Program 3d (Ensure that development standards for residential uses in the CD and CNE Districts do not pose unreasonable constraints to housing); (6) Housing Element Policy 5 (Encourage the development of additional low- and moderate-income housing); (7) Housing Element Program 5a (Provide incentives for housing affordable to low-income households and senior housing) and (8) Housing Element Program 5b. Streamline the development process to the extent feasible.

Kalnel Gardens case spurred the State Legislature to adopt AB 2797 (Bloom). AB 2797 added a provision to the SDBL that requires the density bonus to be administered in the Coastal Zone in a manner that is consistent and harmonized with the Coastal Act. The bill overturned *Kalnel Gardens* by requiring local governments to strike a balance between the goals of the SDBL and the Coastal Act. (See Gov. Code, § 65915, subd. (m).) More pertinent yet, the Coastal Commission -- the state agency charged with overseeing and enforcing the Coastal Act -- itself formally ratified the City's "Precise Development Plan" (see discussion, Part 3, *infra*), which requires a **ministerial, non-discretionary** process for SDBL projects in the Coastal Zone. (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 Coastal Commission's ratification of the PD process in the Coastal Zone is conclusive on the issue of whether the SDBL applies in the Coastal Zone. In short, any assertion that the SDBL does not apply to the Property because it lies in the Coastal Zone is incorrect as a matter of law.

3. Appellants' Assertions Regarding the Non-Discretionary Character of the Project Are Based on Incorrect Legal Assumptions.

A recurring theme of the appellants' arguments is that the State of California has somehow placed the City in the position of being compelled to approve the Project and thereby upset the City's local planning scheme. The assertion is fallacious on its face. While the SDBL features some non-discretionary actions, such as the approval of the density bonus and qualifying incentives, the non-discretionary character of the Project does not derive from State law. It was the City -- not the State -- that created the Precise Development Plan ("PDP") to authorize non-discretionary approvals of affordable housing projects when the City Council adopted MBLCP Section A.84.010. That section 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 an 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 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.

4. Appellants' Arguments Concerning CEQA Review are Refuted by CEQA Itself.

By its own terms CEQA applies only to "discretionary projects proposed to be carried out or approved by public agencies." (Pub. Resources Code, § 21080.) CEQA Guidelines section 15357 defines a discretionary act is one that

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, or regulations.

(Cal. Code Regs., tit. 14 ("CEQA Guidelines"), § 15357.) By contrast, a ministerial decision is one

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 but uses no special discretion or judgment in reaching a decision. A ministerial decision involves only the use of fixed standards or objective measurements, and the public official cannot use personal, subjective judgment in deciding whether or how the project should be carried out.

(*Id.*, § 15369.)

As the courts have observed, the statutory distinction between discretionary and 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." (*Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 117.) In other words, for truly ministerial permits CEQA review is irrelevant. No matter what the CEQA review process (e.g., an EIR) might reveal about the environmental consequences of going ahead with a given project, the local government would lack the power (that is, the discretion) to significantly modify it in any relevant way. (*Ibid.*) Nor could the local government lawfully deny the permit nor condition it in a manner that would mitigate the environmental damage in any significant way. (*Leach v. City of San Diego* (1990) 220 Cal.App.3d 389, 394.)

CEQA recognizes that “[w]hether an agency has discretionary or ministerial controls over a project **depends on the authority granted by the law providing the controls over the activity. Similar projects may be subject to discretionary controls in one city or county and only ministerial controls in another.**” (CEQA Guidelines, § 15002, subd. (i)(2), emphasis added; see *Friends of Davis v. City of Davis* (2000) 83 Cal.App.4th 1004, 1014–1015, 100 Cal.Rptr.2d 413.)

Courts further continue to recognize that actions by a local agency are discretionary when they require the exercise of the decision-maker’s subjective judgment and are ministerial when they are taken under regulations that allow for little or no exercise of such judgment. (*Sierra Club v. County of Sonoma* (2017) 11 Cal.App.5th 11, 22.) A permit is ministerial if

the fixed approval standards delineate objective criteria or measures which merely require the agency official to apply the local law... to the facts of a given ... application. The approval process is one of determining conformity with applicable ordinances and regulations, and the official has no ability to exercise discretion to mitigate environmental impacts.”

(*Ibid.* citing *Sierra Club v. Napa County Board of Supervisors* (2012) 205 Cal.AP.4th 162, 180.) As City staff made clear in its August 16, 2022, presentation, the PDP process embodies this level of non-discretionary decision-making, with allowance only for a determination of compliance with fixed approval standards. Indeed, in this case, the legislative intent of the PDP process is clear:

[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.

(MBLCP Section A.84.010.) Under the fundamental principles of statutory construction, an ordinance is presumed to mean what its plain words say. (See, e.g., *Carmack v. Reynolds* (2017) 2 Cal.5th 844, 849-850 [courts required to give “the language its usual, ordinary import and accord[] significance....”].) An interpretation that a PDP requires CEQA review would turn the words of the City’s own ordinance on their head by converting what is supposed to be a “non-discretionary” process into the exact opposite: a discretionary process. The practical upshot would be that the ordinance would no longer result in a “streamlined” process. Such an interpretation would not survive even the passing scrutiny of a reviewing court.

5. Unlawful Denial of an Affordable Housing Project Like this Carries Significant Consequences.

The Record establishes that the Project indisputably qualifies as a “housing development” for the purposes of the HAA. The record further establishes that the Project is consistent with the City’s General Plan, Local Coastal Program and Zoning Code. Subdivision (j) of the HAA therefore 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.) Appellant contentions that the Project somehow gives rise to a “specific, adverse” impact to the public health and safety have been roundly refuted by overwhelming evidence 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 presented by Highrose’s experts, including its hydrogeologist, Tim Wood, and by the City’s own staff conclusively demonstrate that the Project will give rise to no such impacts. That

evidence has not been seriously controverted, nor has there been even a passing attempt to argue that any such putative specific, adverse impacts (there are none) cannot be feasibly mitigated.

In the face of the above conclusions of consistency with the City's planning documents, the definitive refutation of any argument of a specific, adverse impact to public health and safety, the Planning Commission's unanimous approval and the City staff's exhaustive analyses and clear explanation of the non-discretionary character of this process, two City Councilmembers nonetheless stated from the dais on August 16, 2022, that they would vote to deny the Project. Those "no" votes in the face of the City's own ordinance and the Record defy common sense and push at the boundaries of responsible leadership. If the City Council were to deny the Project in a formal vote, it would directly collide with the City's PDP process, the SDBL and the HAA. It would also give rise to a potential Fifth Amendment Takings Claim in inverse condemnation (also known as "regulatory takings") as the City's decision would make clear that a private property owner cannot develop the Property even when it complies with the City's own rules.

A prevailing party under **each** of the above claims is entitled to recover its attorneys' fees from the local government. (See, Gov. Code, § 65589.5, subd. (k)(1)(A)(ii) [prevailing party under HAA entitled to attorneys' fees]; Gov. Code, § 65915, subd. (e) [prevailing party under SDBL entitled to attorneys' fees]; Code Civ. Proc., § 1036 [prevailing party under inverse condemnation entitled to attorneys' fees].) An interested housing organization (e.g., Building Industry Association, Building Industry Legal Defense Fund, YIMBYs, California Renters Legal Advocacy) also would have independent standing to bring its own HAA action against the City. (Gov. Code, § 65589.5, sub. (k)(1)(A).) As with the applicant, if such a housing organization were to prevail in the case, the City also would be liable for reimbursement of the attorneys' fees of the organization (*ibid.*). Moreover a denial in the face of the Record established to date would likely give rise to a claim of "bad faith" under the HAA, which provides for a court order directly approving the project and for imposition of multiplied fines for failure to comply with the court's order. (Gov. Code, § 65589.5, subd. (k)(1)(B); (l).) The Takings Claim could seek damages for the value of the Project parcels under their highest and best use as a denial would deprive Highrose of any reasonable economic use of its private property.

6. 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

Mayor Napolitano
Members of the City Council
September 1, 2022
Page 9

at the September 6, 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 (qbarrow@rwqlaw.com)
Carrie Tai, Community Development Director (ctai@citymb.info)
Ted Faturros, Associate Planner (tfaturros@citymb.info)
Frank Buckley, Director – Real Estate, Project Verandas
(Apollofrank@gmail.com)

Martha Alvarez, MMC

From: Suzan Rude <suzanrude@gmail.com>
Sent: Thursday, September 1, 2022 8:00 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:

Do you live near this project like I do? If you knew our day-to-day better then you would know how our neighborhood barely holds the current balance of traffic and activity from students, tourists, athletes, construction, trash pickup, street sweeping, dog walking, and local business operations. A project the size of the planned Highrose development would be like a slap in the face and seriously affect all of the routine activity in this area (visitors and residents) and significantly affect the lifeblood of our community.

Gosh I am so glad that I no longer have to sit in traffic along Highland to go to or from my office. It was so messy years ago and Highrose will turn that slow drive into an exhaust spewing parking lot.

Too much. Too big for our skinny streets.

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: Megan Rossee <megan.rossee@gmail.com>
Sent: Thursday, September 1, 2022 7:47 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 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,
Megan Hirschmann

A concerned resident

Sent from my iPhone

Martha Alvarez, MMC

From: James Hirschmann <jhirschmann4@gmail.com>
Sent: Thursday, September 1, 2022 7:45 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,

Jimmy Hirschmann
A resident of 34 years

Martha Alvarez, MMC

From: AUDREY RITTERMAN <are@aol.com>
Sent: Thursday, September 1, 2022 7:07 AM
To: List - City Council
Subject: [EXTERNAL] Let's get in the weeds

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

Good morning Honorable City Council,

Can you please break down the percentage of payment from outside Government agencies(State/County/other cities) that was reimbursed to our city in 2020-2021 & 2021-2022 annual budget for the MB fire department services..

I hope you enjoy this hot 🔥 day..

Sincerely,

Audrey Ritterman Estes

Sent from my iPhone

Martha Alvarez, MMC

From: Mark Burton <markfburton@gmail.com>
Sent: Thursday, September 1, 2022 5:40 AM
To: Martha Alvarez, MMC
Cc: Bruce Moe; Carrie Tai, AICP; Ted Fatuross; Liza Tamura, MMC
Subject: [EXTERNAL] Request To Post Photo for Highrose 4-Story STR Luxury Hotel
Attachments: IMG_1023.jpg

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

Hello Martha! For my hearing, I would like to show the attached photo. Thank you! Kind regards, Mark



STOP

SUMMER'S

State

SOUND VILLAGE

38th

Martha Alvarez, MMC

From: johnwilcoxrealty@gmail.com
Sent: Wednesday, August 31, 2022 10:30 PM
To: List - City Council
Cc: 'John'
Subject: [EXTERNAL] Please vote NO on the TOOHIGHRose project as proposed

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

Dear City Council Members,

As a 20 year Rosecrans homeowner living across the street from the proposed project location, I would like to let you know I am adamantly opposed the project as proposed.

My position on the project is based on my own thoughtful opinions as a Rosecrans homeowner of 20 years whose health (and that of my 2 young daughters), quality of life, and home value will be negatively impacted by this project as proposed.

That said, I am not opposed to a housing project on the proposed project site, as long as it conforms to the 30 ft height restriction that every lot in the sand section is restricted to. The almost double the 30 foot height ordinance of 50 feet will obstruct my ocean view and have a significant negative impact on the value of my property and that of other Rosecrans property owners.

Below are the many project related concerns I have:

Regarding the soil samples taken, has anyone from the city met with a representative from the company who took and tested those samples at the project site to see the location(s) they were taken from? From what I saw when that work was done, they focused on a very limited area located close to Rosecrans, not close to the Chevron property line. What happens when they start digging the 2 level sub terranean parking structure and they hit contaminated soil/sand? How many years of litigation/clean-up is it going take to work through that? The rep from the Frank's environmental firm stated there has been no oil drilling on that side of the refinery, but you and I know there are 2 "very old" crude oil holding tanks (998 and 999) the have had gazillions of gallons of crude oil pumped in and out of them over I am guessing the last 50 plus years (998 and 999) right on the Verandas/Chevron property line. There was mention of a protective barrier, but if it even exists and is effective (it is older than dirt as well), how far down does it go?

No visitor parking in the proposal (no worries, we don't have a parking problem in NMB)

Traffic – Residents will be unable to exit the parking structure as they leave for work as the traffic backup on Rosecrans will block the exit point. Installing a traffic signal at that location will only cause traffic to back up further east (in front of my home) and generate more emissions from idling vehicles. Adding a traffic signal is approx. half a million dollars, a cost that Frank will unlikely be willing to absorb should that be the recommendation of the city traffic study. The traffic study Frank had done is generic and does not even include a true vehicle count. And it is not so much about the total vehicle count, but the timing of vehicle egress. There will be large volume of vehicles exiting the building during the AM commuter hours, currently a non-issue due to the hours of operation for the merchants that now occupy the site. Many of those vehicles exiting the property during the AM commuter hours will be making a left onto Rosecrans at a time when traffic on Rosecrans traffic is at its peak.

Why hasn't the project money guy been at any of the meetings? Shouldn't he be present to field questions? He should be at the meeting on the 6th.

Frank made it clear of his intention to include short term rentals when he stated he would do what the law allows. No one wants to see that happen, and while the attorney speaking on behalf of the city stated we can create a covenant preventing that, current law allowing that could change at any time. Do we really want to take that chance. And why wouldn't Frank want to include short term rentals when the ROI is approx. 3X that of long term rentals. Good for Frank, not good for NMB.

Voting yes sends a message to other developers who want to line their pockets with cash at the expense of the residents of our great town, that it is fine to overbuild/overdevelop. The scale of HighRose aligns with Ocean Avenue properties in Santa Monica, not the North End of MB.

Larger scale project equals larger scale construction related emissions. How many truck loads of dirt will it take to dig a 2 story subterranean parking structure vs a 1 story subterranean parking structure if the project conformed to the 30 foot height ordinance. Not to mention the other construction related emissions. The larger the project, the more pollution NMB residents will be subjected to. With the climate change devastation we are currently experiencing, do we really want to support an oversized project that will result in oversized pollution?

Not even the NMB merchants are in favor of this project as expressed through their refusal to meet with Frank.

In closing, well intentioned developers engage all stakeholders during the planning stages of a project. Especially as a MB resident, Frank should have held forums with residents of MB (especially those in close proximity to the project) to get their feedback, and create a project that conforms with the current landscape of the community, as well as the will of the community. The back door approach he took does not fly, especially in a community with well educated members such as MB. He could have saved himself a lot of time, frustration, and \$\$ had he taken a transparent community buy-in planning approach. Shame on him for not doing so! But there is still time for him to do the right thing!

If you are considering voting yes on this project at it's current scale, I hope you will reconsider and have the backs of the overwhelming majority (except for Frank and friends) who oppose this project as proposed and vote NO on Tuesday night. This will force Frank's hand to build a project that conforms with the 30 foot ordinance, as no developer wants to drag things out with litigation. He will sharpen his pencil and figure out a way to make a smaller scale project work. (we know he already has that plan in his back pocket).

Thank you for all you do for our great city.

Kind regards,

John Wilcox
462 Rosecrans Ave

Martha Alvarez, MMC

From: amanda collins-garcia <amandagc86@yahoo.com>
Sent: Wednesday, August 31, 2022 5:39 PM
To: List - City Council
Subject: [EXTERNAL] Support for Project Verandas

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

I write this email in my utmost support for the Verandas.

I have, for a very long time now, wanted the opportunity to live in the South Bay. For years I would frequent manhattan beach and the surrounding beach towns and vision myself living there. I still do. As, a recently divorced woman with an 8 year old, and post covid struggle, my income has significantly decreased as a barber. I am an aspiring entrepreneur trying to start a business so I can supplement income for myself and daughter. Living in the suburbs, I cannot charge what i need to for a life that isn't month to month. I believe I could be a great asset to the local economy in Manhattan Beach. This is just my story. Not one of a drug addict. Not of one who takes advantage of government assistance. Not one who has ever been given handouts. I find it absolutely disturbing that someone of my character, someone who works hard, and someone always strives to do better could be viewed as someone who doesn't "deserve" a nice place to live. One where I can make more money to support myself and daughter.

I am absolutely disturbed by:

- all of the excuses and "reasons" being presented by the council and locals of the community. It's sad that the idea of apartments are so "harmful" to the community. Are people really that scared that an apartment building will drag down the value of their \$3 million dollar homes? Sure sounds like it.

-the overall judgement of people against this project who believe people of low income will "look bad" in the community. (We all know people in opposition are thinking this when they address the council, but wouldn't be caught dead saying it.)

-People with low incomes can work in Manhattan Beach, but have to commute from low income communities. Myself aside, what about hospital workers, city employees, teachers, the waiter who brings you your breakfast as you overlook the beach? They drive for long distances in LA area traffic. Time they are not paid for. Time they could be spending with their families. Time that opposing members of the city don't deem as valuable. The people who live in manhattan beach LITERALLY depend on these people to keep the city functioning.

- I am bothered that younger people trying to make lives for themselves, when the cost of living has gone up, are being completely disregarded by opposing this. I am talking about the ones who moved out of mom and dads homes when it has become the norm to live at home until 25 years. Why should they have to live in lower income neighborhoods with 4 roommates? Chances are they are bussing your tables, serving you your food, or working in a local shop of the community while they put themselves through school.

Besides the apartment units being reserved for 6 low income dwellings, what are the other unjustified fears? Approving the Verandas will bring MORE patrons to the local community and its businesses. I am just baffled that in this day and age, the people who are better off financially do not see the value of the people who cannot afford an extravagant home to live in a nice area.

Regards,
Amanda Collins, hopeful future resident of Manhattan Beach, CA

[Sent from Yahoo Mail for iPad](#)

Martha Alvarez, MMC

From: Sue Cugini <outlook_58782A3F431843FB@outlook.com>
Sent: Wednesday, August 31, 2022 5:31 PM
To: City Clerk
Subject: [EXTERNAL] Wildlife Control

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

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.

Sent from [Mail](#) for Windows

Martha Alvarez, MMC

From: Carrie Tai, AICP
Sent: Friday, August 26, 2022 2:16 PM
To: Martha Alvarez, MMC
Cc: Liza Tamura, MMC
Subject: Comment to CC related to Highrose: FW: FYI
Attachments: Screensho.jpg; IMG_9950.jpg; IMG_9951.jpg; IMG_9952.jpg; IMG_9953.jpg

Hi Martha,

Please see this comment from Frank Buckley. Thank you.

Carrie

Bcc: City Council



CARRIE TAI, AICP
COMMUNITY DEVELOPMENT DIRECTOR

310-802-5503
ctai@manhattanbeach.gov

The City of Manhattan Beach continues to care about your health and safety. The [Citizen Self Service \(CSS\) Online Portal](#) is available for City permit and planning applications and inspections. Most Community Development services are available [online](#) and various divisions can be reached at (310) 802-5500 or [Email](#) during normal City business hours. When visiting City Hall, please sign in 15 minutes prior to close of business.

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

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From: Frank Buckley <FBuckley@marlinoperations.com>
Sent: Friday, August 26, 2022 9:53 AM
To: Ted Faturos <tfaturos@manhattanbeach.gov>
Cc: Carrie Tai, AICP <ctai@manhattanbeach.gov>; Talyn Mirzakhania <tmirzakhania@manhattanbeach.gov>
Subject: [EXTERNAL] FYI

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

Please send to City Attorney and City Council, as this is the barrage of social media posts that I'm faced with every single day. All falsehoods, that create hysteria, and are misleading the public in to believing you, the Planning Staff have done something wrong, or illegal, as well as the developer, somehow not complying. And then City Councilmembers base their decisions on the un-informed citizens.

Thank you.

Frank L. Buckley | Director – Real Estate
Marlin Equity Partners | Operations Group
338 Pier Avenue | Hermosa Beach, CA 90254
T: 310.744.6307 | M: 310.251.8864
fbuckley@marlinoperations.com | www.marlinequity.com

DRE# 01986956

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From: +13102518864@tmomail.net <+13102518864@tmomail.net>

Sent: Friday, August 26, 2022 9:43 AM

To: Frank Buckley <FBuckley@marlinoperations.com>

Subject:

**Mark Francis Burton**

19m ·



Dear MB Residents: Here is my 5 minute Statement that I gave during my hearing before the City Council on August 16. Although it may be a little long, it does provide the foundation for why I am adamantly opposed to this project. Kind regards, [Mark Francis Burton](#)

p.s...I think the best option is for the City to buy these two parcels and development the entire northeast corner of Highland and Rosecrans. Or, take these two parcels by eminent domain.

HEARING FOR HIGHROSE

This development before you tonight is for a "BEHEMOTH OF A BUILDING", a 4-Story, 79 Unit Luxury Apartment building that will literally dwarf all other two story commercial and residential buildings in that area. It is completely out of character and repugnant to overarching low-profile development theme in our General Plan and our Local Coastal Program. Our low-profile character defines us as a community. It is one of the reasons why we are such a great community. It's worth fighting for!

A prior City Council thought it was important to ban the use of plastic bags to protect our environment. More importantly, they had the resolve to defend that ban in litigation all the way to the Supreme Court where they won. In that spirit, our residents expect you to deny this project in order to protect our low-profile character, all the way to the Supreme Court if necessary! Heck, you've spent money on rainbows and plaques! Why not invest in protecting our low-profile character? And, you will win in court! Here's why.



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Shockingly, this development is not even eligible for the density bonus "streamlined, ministerial approval process". That's right. The statute and guidelines are crystal clear that a site located in the coastal zone is not eligible, nor are sites located within sensitive areas such as the wetlands, a hazard waste site, within a very high fire hazard severity zone, and several other locations. Maybe a discretionary conditional use permit process is in order? Furthermore, since this development is in the North End Commercial zone, it may not be eligible as well, since the site must be in residential zone, and these two parcels are not. As we know, the intersection of Highland and Rosecrans has all four corners zoned commercial. It is vitally important to our El Porto and North MB residents that these four corners be for commercial uses.

SB 35, the density bonus statute, was part of a package of 15 low-income housing bills.

In discerning the legislature intent and meaning of these bills, you need to ask two questions: What is the problem the legislature was trying to fix? And, how did the legislation fix the problem?

Here's the problem the legislature was trying to fix.

After an application for a low-income housing project was processed by City staff and an EIR was completed, that low-income housing project needed to go through a purely discretionary conditional use permit process for approval before a Planning Commission and City Council causing substantial delays with many worthwhile low income housing projects being denied for one reason or another, and in many instances no good reason at all, "despite the absence of adverse environmental impacts". Here's how the legislation was able fix the problem.

The Legislative Counsels' Digest for SB 35 and the statute provide: "This bill would authorize a development proponent to submit an application for a multifamily



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The Legislative Counsel's Digest for SB 35 and the statute provide: "This bill would authorize a development proponent to submit an application for a multifamily housing development...that is subject to a streamlined, ministerial approval process...and not subject to a conditional use permit."

The fix was simple. The Legislature scuttled the discretionary conditional use permit process and substituted in a new "streamlined, ministerial approval process" to the alleviate the delays and mischief caused by Planning Commissions and City Councils.

Importantly, SB 35, and the package of 15 low-income housing bills did not establish an exemption from CEQA requirements, including completing an EIR, for low-income housing projects.

If you exercise good common-sense judgment, you would know that this Governor and this Legislature would never exempt low income housing projects throughout the State from CEQA and the EIR process. With many low-income housing projects being in poor, disadvantaged communities, it would be discriminatory to do so. These communities are already disproportionality impacted by environmental, safety and health challenges.

SB 35 and the package of bills do in fact exempt certain projects from CEQA, but not low income housing projects. For instance, the statutes specifically exempt BART leases and improvements and a scoping consultation for projects in the geographic area of any California Native American Tribe for instance.

In analyzing SB 35 and the package bills it would be a serious and fatal flaw to conflate the density bonus phrase "streamlined, ministerial approval process" with the CEQA Regulations phrase "ministerial project". A process is not a project. Examples of a "ministerial project" are the issuance of building permits, the issuance of a business license, or approval of final



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project are the issuance of building permits, the issuance of a business license, or approval of final subdivision maps, the approval of individual utility service connections and disconnections. Obviously, this 4-story, 79 unit, Behemoth of Building is of quite a different character. Under CEQA Regulations and existing case law, CEQA must be interpreted to afford the fullest possible protection to the environment. All you must really do is ask "Will the project have a significant impact on the environment". The answer in regard to this development is ABSOLUTLEY YES. In fact, in all of Manhattan Beach, I can't think of two parcels of land more environmentally and safety challenged than these two that are directly downslope from 100-year-old oil storage tanks, with high voltage transmission lines directly above and a large natural gas line directly adjacent. Can you say Methane? It would be negligent, maybe grossly negligent to not do an EIR. Like the Council that banned plastic bags, our residents need you to deny this permit and remand the matter back to the CDD Director with direction to complete an EIR and you need to do it with the resolve to defend your action in litigation all the way to the California Supreme Court, if necessary. It's simply the legal thing to do, and it's the right thing to do. I urge you to stand with our residents, not with the State and developer.

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Kyle Ransford

That might be politically popular and correct in idealism. But it is not correct in law, if you are a responsible Steward of our city's future and funds, we should be very careful starting a fight with the state where the law is not on our side and we will quickly spend millions of dollars in legal expenses to lose that should be used for many other city services and projects. Wishing you were on the right side of the law when you should be is not a strategy.

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Mark Francis Burton Author

Kyle Ransford Hello Kyle! I hope you and your family are doing well! Respectfully, not even close. In the opinion of this simple government lawyer in the public service, this STR project should is not even eligible for the DBL...and, it is subject of our CEQA will a EIR necessary. That's the law, not the "story" that has been pitched by some. Happy to meet and bring you up to speed. Kind regards, Mark Francis Burton

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Martha Alvarez, MMC

From: Robert Cecconi <rceconie@verizon.net>
Sent: Friday, August 26, 2022 11:19 AM
To: List - City Council
Subject: [EXTERNAL] HighRose Appartment Project

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

I live in a townhouse in El Porto. My unit faces Crest Drive. Crest Drive is a speedway every morning as many people use it a shortcut to the end going north to avoid the traffic on Highland. The signs reflect a 15 mile speed limit. We should have speed bumps to curtail these speeding cars. What will it be like once HighRose apartments are completed. We have lived here for 33 year and have seen an increase in traffic. We are very against building these apartments.

Sincerely, Elena Cecconi
4216 Highland Ave., Unit F
Manhattan Beach, 90266