



CITY OF MANHATTAN BEACH CITY HALL

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TO: Honorable Mayor and Members of the City Council
FROM: Talyn Mirzakhanian, Acting Community Development Director
MEETING: City Council Adjourned Regular Meeting (Highrose), January 19, 2023
SUBJECT: Agenda Item No.1 – 401 Rosecrans Avenue and 3770 Highland Avenue (Highrose)
DATE: January 19, 2023

SUPPLEMENTAL MEMO

Response to Public Comment

Staff has reviewed all public comment received for this item after the October 18, 2022 Council meeting, including material submitted by an Appellant. Previous staff reports have not addressed recent comments that the proposed project is "next to the Chevron refinery (on record as one of the biggest polluters in the state)."

As stated in prior staff reports, under the Housing Accountability Act (HAA), the City shall not disapprove a housing development project... unless it makes written findings, based upon preponderance of the evidence in the record" that:

1. "the housing development project... as proposed would have a specific, adverse impact upon the public health or safety, and
2. there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact..."

The HAA defines "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.

Accordingly, under the HAA's stringent standard, the City shall not disapprove the Project unless the Project has a significant, quantifiable, direct, and unavoidable impact upon the public health or safety. To date, no such adverse impact arising from the Project has been identified by the appellants or the public. Proximity to Chevron is not a significant, quantifiable, direct, and unavoidable impact resulting from the construction or operation of the proposed housing development project.

The comments from Mark Burton regarding CEQA have previously been addressed, but – given the comments asserting potential environment harms arising from the construction and operation of the Project – the following discussion from the October 18, 2022 Highrose staff report is worth recirculating:

Being "exempt" under CEQA means that the City cannot require an Initial Study and Environmental Impact Report (EIR) or Negative Declaration (including Mitigated Negative Declaration). Being "exempt" from CEQA does not mean there will be inadequate environmental protection to residents, or that the analysis contained in a typical EIR, such as soil assessments or traffic studies, is precluded. For instance, Phase I and Phase II Environmental Site Assessments (ESAs) have been prepared. The ESAs included a subsurface investigation, including nine borings at various locations, 21 soil samples and several soil vapor probes, samples and related analyses. After taking soil samples and reviewing relevant databases, the ESAs concluded: (a) there are no conditions on the site that pose a threat to the environment and/or human health; and (b) "the [Chevron] Refinery is not considered to represent a significant environmental concern to the Site at this time."

Equally important, the property owner must comply with federal, state, and local environmental and public health regulations prior to and during demolition, excavation, and construction. If, for instance, hazardous waste is uncovered during demolition, excavation, or construction, all work on the project is stopped until such time it is safe to resume without any threat to health or safety. These environmental and public health regulations extend to all projects approved through building permits, of which the City issues several hundred annually. This is also not the first time environmental concerns have been raised regarding the potential redevelopment of a site. For example, the Met/ox project was built on a site occupied by Met/ox Pottery, which closed in 1989. An article published at the time by the L.A. Times titled, "Poisoned Past: Metal Waste Contaminates Site of Closed Pottery Factory in Manhattan Beach," stated that officials estimated remediation could take at least two years. Pursuant to federal, state, and local environmental regulations, the developer complied with all necessary environmental protections during demolition, excavation, and construction.