

ROUGHLY EDITED COPY

MANHATTAN BEACH CITY COUNCIL  
REGULAR MEETING  
REMOTE BROADCAST CAPTIONING  
THURSDAY, JANUARY 19, 2023

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>> Mayor Napolitano: OKAY.  
GOOD EVENING, EVERYONE.  
WE ARE LIVE SO WELCOME TO YOUR CITY COUNCIL MEETING ON AN OFF NIGHT  
HERE, THURSDAY, JANUARY 19<sup>th</sup> AT 6 P.M.  
WE'RE GOING TO -- ARE WE GOOD?  
AM I ECHOING?  
HELLO, HELLO, HELLO...  
ALL RIGHT.  
WE'RE READY?  
IF EVERYONE CAN RISE WITH ME, WE WILL PLEDGE TO THE FLAG LED BY OUR  
CITY ATTORNEY.  
>> PUT YOUR HAND OVER YOUR HART.  
I PLEDGE ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA.  
AND TO THE REPUBLIC FOR WHICH IT STANDS, ONE NATION, UNDER GOD,  
INDIVISIBLE, WITH LIBERTY AND JUSTICE FOR ALL.  
>> RECORD IN PROGRESS.  
GOT IT.  
PUSH YOUR BUTTON.  
WE'RE GOOD?  
ALL RIGHT.  
ROLL CALL.  
>> COUNCILMEMBER FRANKLIN.  
>> Councilmember Franklin: HERE.  
>> COUNCILMEMBER HOWORTH.  
>> Councilmember Howorth: HERE.  
>> COUNCILMEMBER LESSER.  
>> HERE.  
>> Councilmember Lesser: HERE.  
>> MAYOR PRO TEM MONTGOMERY.  
>> Vice Mayor: HERE.  
>> MAYOR NAPOLITANO MAYOR PRO TEM MONTGOMERY HERE.  
AND DO WE NEED ITEM E, APPROVAL OF AGENDA AND WAIVER OF FULL READING  
OF ORDINANCES?  
>> IT'S NOT NECESSARY FOR TONIGHT.  
>> Mayor Napolitano: WE'LL MOVE ON THEN TO PUBLIC COMMENTS.  
THESE ARE COMMENTS OF THREE MINUTES EACH PER PERSON AND YOU CAN COME  
DOWN AND SPEAK ON ANY SUBJECT MATTER WITHIN THE JURISDICTION OF THE  
CITY OR THE CITY COUNCIL, INCLUDING ITEMS ON THE AGENDA.  
IF YOU DO SPEAK ON HIGHROSE OR VERANDAS AT THIS POINT IN THE MEETING,  
THEN WE'RE GOING TO ASK THAT YOU DON'T SPEAK FIVE MINUTES LATER OR  
HOWEVER LONG IT TAKES WHEN WE GET TO THE ITEM.  
NO SPEAKING TWICE AT THE ITEM.  
NO TWO BITES AT THE ITEM.  
IF YOU SPEAK DURING PUBLIC PARTICIPATION, THAT'S IT.  
IF YOU WANT TO WANT UNTIL AFTER WE HAVE THE AGENDA ITEM AND THE CITY'S  
PRESENTATION AND THE APPELLATE'S PRESENTATION, THEN YOU CAN SPEAK  
THEN BUT NOT TWICE.

OKAY?

APPRECIATE IT.

[INAUDIBLE]

>> Mayor Napolitano: CORRECT, TWO MINUTES AT THAT TIME, THREE MINUTES OF PUBLIC PARTICIPATION.

THANK YOU.

SO WE'LL START WITH PUBLIC COMMENTS.

THESE INCLUDE ANYTHING, WHETHER IT'S ON TONIGHT'S AGENDA OR NOT.

YOU HAVE SOMETHING, COME DOWN AND SPEAK.

>> GOOD EVENING.

MY NAME IS MICHAEL, I'M A 51-YEAR RESIDENT OF MANHATTAN BEACH.

AND I READ IN THE BEACH REPORTER THAT THE PROJECT DEVELOPER SUED THE CITY ON NOVEMBER 2<sup>nd</sup>.

AND IN THE SAME MONTH THE STATE HOUSING AGENCY SENT A LETTER TO THE CITY.

BOTH DOCUMENTS ADDRESS THE MINISTERIAL APPROVAL AND DENSITY BONUS LAW, BUT DON'T APPEAR TO ADDRESS THE REASON THAT THE CITY COUNCIL DENIED, WITH A 3-2 VOTE DENIED THE PROJECT BACK LAST YEAR FOR HEALTH AND SAFETY REASONS, AFFECTED BY INTENSE AND UNANSWERED ENVIRONMENTAL CONCERNS.

THOSE CONCERNS ARE AS FOLLOWS.

NUMBER ONE, DECADES AGO CHEVRON ACKNOWLEDGED THE EFFECTS OF THEIR REFINERY'S POLLUTION BY INSTALLING RESTRICTIONS ON DEEDS OF SALE OF THEIR PROPERTY EAST OF THE REFINERY BETWEEN SEPULVEDA BOULEVARD AND DOUGLAS STREET.

AND THOSE PROHIBITIONS WERE NO RESIDENTIAL OVERNIGHT, THAT WOULD BE SINGLE-FAMILY RESIDENCES, HOTELS, APARTMENTS, ET CETERA.

CHEVRON HAS PAID MILLIONS OF DOLLARS IN FINES FOR RELEASE OF HYDROS OXIDE INTO THE SOUTH BAY AREA FROM THE PROJECT.

CHEVRON'S REFINERY IS AT THE LIST OF THE HEAVIEST AIR POLLUTERS.

THE BLAST RADIUS OF THE POTENTIAL EXPLOSION OF CHEVRON'S REFINERY WAS ARTICULATED BY FRANK, A FORMER BATTALION CHIEF WHO DID A LOT OF THE INSPECTIONS OF THE REFINERY AND MARK BURTON.

MY HATS OFF TO THEM FOR INCLUSION IN THIS LIST.

THE PENDING, I BELIEVE IT'S SB2011.

I KNOW THERE'S AN 1137 THAT MIGHT BE INVOLVED TOO.

BUT I THINK IT'S 2011 WHICH PROHIBITS RESIDENTIAL BEING WITHIN 3200 FEET OF A REFINERY.

AND IF MEMORY SERVES, THAT LAW BECOMES EFFECTIVE IN APRIL OF THIS YEAR.

WHY TRY TO GRANDFATHER HIGHROSE IN BEFORE THAT GIVEN THE SAME HEALTH AND SAFETY CONCERNS.

AND I WILL KIND OF POSE THE SAME QUESTION I DID TO THE CITY COUNCIL AT THE LAST CITY COUNCIL MEETING I SPOKE AT AND I WILL POSE THAT QUESTION TO DEVELOPMENTS OR LEGISLATURES AND OTHERS, WOULD YOU WANT ANYBODY IN YOUR FAMILY TO BE LIVING IN THIS PROJECT.

THE LAST ITEM I HAVE IS THAT THE REPRESENTATIVES OF BOTH THE STATE

AGENCY AND THE DEVELOPER NEED TO READ THE OCTOBER 10<sup>th</sup>, 2022, LETTER TO THE CITY COUNCIL WHICH INVOKES THE DUE PROCESS CLAUSE OF THE CONSTITUTION.

MR. REDISH IS SENIOR COUNCIL OF A FIRM WHICH IS LAST I READ IS READY TO DEFEND THE CITY PRO BONO ON ANY LAWSUITS THAT RESULT TONIGHT FROM THE SUBJECT PROJECT ONCE AGAIN.

THE SUBJECT PROJECT CAN BE CHANGED FOR A COMMERCIAL PROJECT NO OVERNIGHT RESIDENCY FOR WHICH THE LAND IS ZONED UNLESS THE DEVELOPER PAID TOO MUCH FOR THE PROPERTY IN ANTICIPATION OF A RESIDENTIAL PROJECT.

THANK YOU FOR THIS OPPORTUNITY.

>> Mayor Napolitano: OKAY.

OTHER SPEAKERS AT THIS TIME?

>> HELLO, MAYOR AND COUNCILMEMBERS.

I'M GAIL FORTIS, I'M AGAINST HIGHROSE VERANDAS AS PROPOSED.

I'VE SPOKE ON THE IRREGULARITY OF EXPLOSIONS AND THE OTHER GRAND CONTAMINATES.

STATE LAW AB2011'S 3200-FOOT BUFFER ZONE REQUIREMENT, THE LACK OF ENOUGH PARKING, 100-PLUS CARS ADDED TO EL PORTO CONCENTRATED AT ROSECRANS AND HIGH LAND.

THE NEED FOR A CITY REMANDED EIR, LAND USE ATTORNEY, TRANSPARENCY, OPPORTUNISM.

THIS IS A BLATANT DISREGARD FOR THE RESIDENTS WELL-BEING.

OUR CITY NEEDS AFFORDABLE HOUSING WHICH THIS WON'T BE.

THE CITY NEEDS TO GET ON BOARD CAN STATE MANDATES TO ADD HOUSING BUT THIS ISN'T THE RIGHT WAY TO DO IT.

AND NOW WHAT'S GOING ON HERE.

I SEE A HUGE INEQUITY THAT THE CITY REHEARS THE BUILDING APPLICATION TODAY THAT WAS ALREADY DECIDED AND VOTED ON ON OCTOBER 18<sup>th</sup> BECAUSE OF NEW INFORMATION, BUT NOT THE APPELLANTS WHO ARE ALSO SUBJECT TO THE RESULTS OF THE NEW INFORMATION?

DOES THAT SEEM JUST?

SOMETHING IS AMISS HERE.

PLEASE DO WHAT'S RIGHT, BEST FOR THE CITY AND YOUR RESIDENTS.

YOU VOTED NO ON OCTOBER 18<sup>th</sup>.

VOTE NO AGAIN.

THANK YOU FOR LISTENING AND YOUR CONSIDERATION.

>> HONORABLE MAYOR AND CITY COUNCIL MEMBERS, MY NAME IS PHILLIP COOK, I LIVE AT 120 SECOND STREET AN I RUN MY BUSINESS IN THE 800 BLOCK OF MANHATTAN BEACH BOULEVARD.

I HAVE MANY PROBLEMS WITH HIGHROSE BASED ON WHAT I'VE SEEN, READ AND HEARD AND SO DO MOST OF THE RESIDENTS.

THE PRESENTATION THAT HE LOOKED AT EVERY POSSIBLE USE, COMMERCIAL, SENIOR HOUSE,, ENTERTAINMENT.

AND THE ONLY POSSIBLE USE HE COULD CONCLUDE WAS IT WAS A 79-UNIT APARTMENT BUILDING.

SO I ASK YOU, IF YOU TRULY THINK THAT HE DID -- ALL THIS WAS DONE

AFTER THE PROPERTY WAS PURCHASED, NO, NO, NOT AT ALL.  
HE'S A PRIVATE EQUITY GUY.  
HE'S A BROKER FOR HELPING INVEST RICH PEOPLE'S MONEY AND HE DID ALL  
OF HIS HOMEWORK BEFORE ANY MONEY TRADED HANDS, BEFORE HE BOUGHT THE  
PROPERTY.  
HE LOOKED AT IT AND HE SAID, I'M GOING TO PUT -- I'M GOING TO PUT  
THE THING THAT GIVES ME THE BEST RETURN ON MY MONEY.  
ALL OF THAT BUSINESS THAT HE TRIED TO PUT ON THE LOT WAS A SALES JOB  
TO GET THE CITY COUNCIL TO CONCLUDE THAT THE ONLY THING THAT COULD  
GO ON THERE IS HIS PROJECT.  
AND IN THE SIZE HE WANTS TO BUILD IT.  
FOR THOSE WITH COMPASSION FOR THE HOMELESS, DO YOU THINK THAT SIX  
UNITS OUT OF 79 OR 3.3% OF ALL OF THE UNITS WAS THE MOST HE COULD  
PUT ON THE PROPERTY OR THE LEAST HE HAD TO PUT ON THE PROPERTY TO  
GET A HALL PASS FROM SACRAMENTO.  
I BUILT MY HOUSE AND MY OFFICE BUILDING BY THE BUILDING CODE, I  
RESPECTED MY NEIGHBORS WITH, THE BUILDING CODE AND THE SMALL-TOWN  
FEEL.  
THE BUILDER DOES NOT RESPECT ANY OF THAT.  
IN FACT I WOULD BE SURPRISED IF HE LIVES ANYWHERE NEAR ROSECRANS AND  
HIGHLAND.  
YOU MUST NOT THROW UP YOUR HANDS AND SAY THERE IS NOTHING MORE WE  
CAN DO.  
BUT NOT TO BE TOO DRAMATIC.  
BUT IF THE COLONISTS WOULD HAVE SAID THAT IN 1776, DO YOU THINK WE  
WOULD STILL BE RUN BY AN OPPRESSIVE ENGLAND?  
POSSIBLY.  
WHAT IF THE CIVIL RIGHTS MOVEMENT DID THAT.  
WOULD THERE STILL BE SEGREGATED SCHOOLS AND RESTAURANTS?  
THE MAJORITY OF ELIGIBLE VOTERS DO NOT VOTE AND DO NOT WRITE THEIR  
CONGRESS PEOPLE.  
SO GOVERNMENT DOES WHAT GOVERNMENT WANTS TO DO BECAUSE NOBODY  
COMPLAINS.  
LET SACRAMENTO NO WE'RE MAD AS HELL AND WE'RE NOT GOING TO TAKE THE  
ANYMORE.  
TUESDAY NIGHT ONE COUNCILMEMBER SAID THEY WERE CONCERNED ABOUT CRIME  
IMPACT ALL RESIDENTS AND NOT JUST FRIENDS AND NEIGHBORS.  
I HOPE THIS CITY COUNCIL IS CONCERNED ABOUT THE IMPACT OF HIGHROSE  
ON ALL MANHATTAN BEACH RESIDENTS, NOT JUST FRIENDS AND NEIGHBORS.  
IF YOU VOTE ON THIS PROJECT AND OPEN THE DOOR FOR 80 MORE  
HIGHROSES -- I DID THE MATH.  
SO VOTE THIS MEASURE DOWN.  
IF YOU'RE WORRIED ABOUT SPENDING MONEY, THINK OF THE MONEY WE SPENT  
ON THE DOWNTOWN SPECIFIC PROJECT THAT WAS TOTALLY WASTED, OVER A  
MILLION DOLLARS [ BEEPING ] TO KEEP OUR CULTURE.  
>> Mayor Napolitano: THANK YOU.  
NEXT UP.

>> GOOD EVENING, EVERYONE.

I'M A SPECIAL REPRESENTATIVE FOR THE CARPENTER'S UNION.  
WE REPRESENT OVER 4,000 MEMBERS THAT LIVE IN THE SOUTH BAY AREA.  
WE'RE HERE BECAUSE AS THE PROJECT IS RIGHT NOW WE OPPOSE IT.  
THERE'S CURRENTLY NO PREVAILING WAGES THAT OFFER A LIVABLE  
WAGE -- THAT OFFER WAGE PROTECTIONS.

OUR INDUSTRY IS PLAGUED WITH WASTE, THEFT AND HUMAN TRAFFICKING.  
THIS DOES NOT PROVIDE ANY PROTECTIONS FOR THAT.

ALSO THE PROJECT DOES NOT -- WE URGE THAT YOU ADOPT A LOCAL HIRE  
PROVISION THAT WOULD ALLOW THE COMMUNITY OF MANHATTAN BEACH AND THE  
SURROUNDING AREAS TO BE ABLE TO WORK IN PROJECTS SUCH AS THIS.  
THIS WILL REDUCE TRAFFIC, WHICH WOULD IN TURN REDUCE GREENHOUSE  
EMISSIONS.

WE URGE YOU TO ADOPT THE PREVAILING WAGE PROVISION FOR THIS PROJECT.  
THANK YOU VERY MUCH.

>> GOOD EVENING, COUNCIL.

MY NAME IS CHRISTINA REYES.

I REPRESENT THE SOUTHWEST CARPENTER'S UNION LOCAL 562.

I LIVE NO MORE THAN 5 MILES AWAY FROM THE AREA AND I BELIEVE -- SORRY,  
I'M A LITTLE NERVOUS.

>> Mayor Napolitano: TAKE YOUR TIME.

>> I BELIEVE I WOULD BE IMPACTED BY THIS PROJECT BECAUSE I LIVE IN  
THE AREA, YOU KNOW.

AT THE MOMENT I WORK IN HOLLYWOOD.

IT TAKES ME AN HOUR, HOUR AND A HALF TO GET HOME FROM WORK ON A GOOD  
DAY.

ON A BAD DAY IT'S ABOUT TWO, TWO AND A HALF HOURS.

AND I THINK IT WOULD BENEFIT ME A LOT TO, YOU KNOW, BE VERY CLOSE  
AND STILL HAVE A SOCIAL LIFE TO SPEND TIME WITH MY FAMILY AND FRIENDS  
OUTSIDE OF WORK.

AND THAT'S ALL I HAVE FOR RIGHT NOW.

THANK YOU.

>> Mayor Napolitano: THANK YOU.

>> HELLO.

MY NAME IS JAMES MATTHEWS.

I AM ALSO A MEMBER OF THE SOUTHWEST CARPENTERS IN THE SOUTH BAY AREA.  
JUST TO ADD A LITTLE BIT OF WHAT WAS SAID EARLIER ABOUT BEING OPPOSED  
TO THE PROJECT, ONLY BECAUSE WE WANT TO MAKE SURE THAT WE HAVE MEASURES  
IN PLACE THAT PROVIDE THE OPPORTUNITY FOR LOCAL HIRE, FOR GOOD WAGES  
AND BENEFITS, BUT THE BIGGEST THING IS WOULD BE FOR THE LOCAL HIRE,  
WE HAVE A GREAT OUTSTANDING APPRENTICESHIP PROGRAM THAT PROVIDES  
OPPORTUNITIES FOR THOSE THAT WANT TO GET INTO THE TRADE OR JUST TO  
BE ABLE TO WORK.

AND HAVING THAT PUT INTO PLACE IN THIS PROJECT THAT'S BEING BUILT  
AND HAVE THAT AS PART OF THE PROJECT, IT DOES ALLOW THE LOCAL HIRES,  
THE STUDENTS, KIDS THAT WILL BE ABLE TO -- WHO ARE LOOKING FOR JOBS  
BE ABLE TO REACH A JOB BECAUSE THEY HAVE THE LOCAL HIRE COMPONENT.

JUST HERE IN MANHATTAN, THOSE WHO LIVE IN A PARTICULAR MILE RADIUS, THEY DON'T HAVE TO GO FAR OUT TO GET A JOB. MYSELF FOR EXAMPLE, I LIVE IN BAKERSFIELD. I DRIVE ALL THE WAY OUT HERE AND WORK AT THE CHEVRON REFINERY. A LOT OF THAT IS BECAUSE THERE'S NOT A LOT OF WORK LOCALLY AND WE HAVE TO GO OUT TO GET OUR JOBS. I DON'T HAVE A PROBLEM DOING THAT BUT A LOT OF PEOPLE AREN'T ABLE TO DO THAT. THERE'S A LOT THAT DOES DO THAT BUT WE WANT TO HAVE THEM STAY CLOSE TO HOME. IT HELPS OUT THE CITY, THE SURROUNDING AREAS BECAUSE WHEN THEY'RE MAKING THAT MONEY AND THEY ARE ENJOYING THAT LOCAL AREA, THAT MONEY FILTERS BACK INTO THE CITY. YOU KNOW, IT HELPS THE COMMUNITY OUT. YOU KNOW, WE'RE NOT DRIVING, SPENDING OUR MONEY OUT IN ONTARIO. WE'RE NOT SPENDING OUR MONEY OUT IN THE VALLEY. IT STAYS WITHIN THE LOCAL AREA AND HELPS BUILD THE COMMUNITY UP. IT'S VERY IMPORTANT THAT WE HAVE THAT PUT IN PLACE FOR THE PROJECT THAT IS BEING DONE. THANK YOU.

>> Mayor Napolitano: THANK YOU.

>> GOOD EVENING.

THANK YOU SO MUCH FOR THE TIME. FIRST I JUST WANT TO SAY THANK YOU SO MUCH TO THE FRIENDS THAT HAVE RESPONDED IN THE AREA, A HOT TOPIC FOR WHAT HAPPENED NEARBY. NOT NECESSARILY IN MANHATTAN BEACH. I APPRECIATE THOSE WHO KNOW WHAT HAPPENED. THANK YOU FOR THAT. I HAVE SPOKEN ON THE TOPIC BEFORE. I WOULD BE GRATEFUL FOR YOUR EARS JUST FOR A MINUTE AGAIN TO OPPOSE THE HIGHROSE PROJECT. I'VE LIVED IN L.A. FOR 17 YEARS. IN MANHATTAN BEACH, EL PORTO PARTICULAR FOR THREE BUT IN PLAYA DEL REY FOR 7. YOU DON'T HAVE THE SAME OPPORTUNITY TO HAVE PEOPLE THAT ARE SUPPORTING YOU, RIGHT. IT'S REALLY DIFFERENT. MANHATTAN BEACH, I FEEL LIKE WE HAVE PEOPLE THAT REALLY SUPPORT US. THAT'S KIND OF THE POINT. BUT AS A MID 30s SOMEBODY IN THE AREA THAT I CAN AFFORD, THIS DEVELOPMENT, I JUST DON'T KNOW THAT I GET IT, YOU GUYS. WE ELECTED YOU GUYS. WE HONOR YOU. I TRUST YOUR DECISIONS. THIS DOESN'T SEEM TO BE ENVIRONMENTALLY PALATABLE. IF IT'S AFFORDABLE HOUSING, I DON'T KNOW THAT I GET THAT EITHER. IT'S ONLY A COUPLE OF PLACES.

EVERY TIME MY FRIENDS MOVE OUT OF ONE PLACE TO ANOTHER, AT LEAST A 30% INCREASE TO WHERE THEY'RE GOING.  
HOW IS THIS DEVELOPMENT GOING TO HELP THAT.  
WE'RE NOT GOING TO CREATE A PASS-THROUGH TO MAKE IT EASIER TO GET THROUGH THAT AREA.  
IF YOU'VE EVER WALKED THAT INTERSECTION, IT'S TERRIFYING.  
I DO IT TWICE A DAY.  
PEOPLE DON'T LOOK.  
IT'S SCARY.  
WHERE I LIVE, I PAY TAXES, THAT'S MY COMMUNITY.  
WE GIVE EACH OTHER THINGS, NOT JUST SUGAR BECAUSE IT'S MANHATTAN BEACH.  
WE GIVE EACH OTHER LOW CARB THINGS, ALL THAT STUFF.  
I'M JUST NOT SURE WHAT IT IS THAT WE'RE SEEKING.  
AND I THINK AT THE END OF THE DAY THAT DEVELOPMENT BECOMES A PLACE WHERE THERE'S A STARBUCKS ON THE CORNER AND TWO GUNS DESPITE THEIR OVERPRICED COFFEE, I LOVE IT, IF THEY GO OUT OF TOWN, WHAT DO WE HAVE.  
I DON'T KNOW.  
I USUALLY HAVE SPEAKER'S NOTES, I DON'T TODAY.  
THIS IS MY LAST OPPORTUNITY TO SHARE WE TRUST YOU GUYS, ELECTED YOU FOR A REASON.  
TONIGHT IS ONE OF THOSE NIGHTS.  
I REALLY HOPE THIS IS NOT A SAD NIGHT FOR THIS BEAUTIFUL PLACE I CALL HOME.  
WE TRUST YOU GUYS.  
BUT IF YOU CAN GO HOME AND SLEEP WITH THE DECISION YOU MADE, BY GOLLY.  
>> Mayor Napolitano: THANK YOU.  
OTHER SPEAKERS THAT WANT TO SPEAK NOW?  
>> MY NAME IS KATHLEEN, I'VE LIVE HERE PROBABLY 40 YEARS ALMOST.  
I THINK I'M ONE OF THE SILENT MAJORITY.  
WE'VE KIND OF BEEN AWARE OF WHAT'S GOING ON.  
BUT THE IMPACT OF THIS DEVELOPMENT I THINK IS GOING TO BE VERY DETRIMENTAL TO THE CITY.  
I REMEMBER COMING TO MEETINGS WHEN WE WERE DISCUSSING SAND DUNE AND IT WASN'T UNTIL A KID GOT HURT AND THE CITY WAS OPEN TO ALL OF THE LITIGATION POSSIBLE THAT THAT CAME UP WITH A SOLUTION.  
I THINK THIS IS GOING TO BE VERY DANGEROUS, JUST THE ENVIRONMENTAL IMPACT, CHEVRON.  
I THINK IT'S GOING TO OPEN THE CITY UP TO A LOT OF LITIGATION IN THIS PROJECT GOES THROUGH.  
THERE ARE A LOT OF PEOPLE LIKE ME WHO ARE GOING TO FIND OUT ABOUT IT, AFTER THE FACT THEY'RE GOING TO BE PRETTY UPSET.  
AND I THINK THIS CITY IS FULL OF LAWYERS, DOCTORS, INDIAN CHIEFS.  
WE SHOULD BE ABLE TO COME UP WITH AN ENVIRONMENTAL REASON NOT TO HAVE THIS PROJECT.  
AND IF WE'RE REALLY INTERESTED IN HELPING THE HOMELESS, LET'S COME UP WITH A BETTER PLAN AND A BETTER SOLUTION.



THANK YOU.

>> Mayor Napolitano: THANK YOU.

OTHER SPEAKERS?

ANYONE BY ZOOM?

>> HI.

51-YEAR RESIDENT.

I'VE BEEN OUT TO THE PROJECT MANY TIMES AND I'VE SAT AT THOSE FOUR CORNERS OR FIVE CORNERS, WHATEVER WE WANT TO COUNT THEM THERE, AND THE TRAFFIC LIGHTS THAT WE PUT IN SOME TIME BACK, SIGNALS AND SUCH, DON'T WORK.

PEOPLE HAVE TO WAIT TEN MINUTES TO GET ACROSS THE STREET.

WE HAVEN'T EVEN FIXED THAT.

AND THIS BUILDING, THE TRAFFIC BACKS UP BETWEEN 3:00 AND 5:00 IN ALL DIRECTIONS.

HOW ARE THESE PEOPLE GOING TO GET IN AND OUT OF THERE.

I'VE WATCHED THE ROTATION FACTOR AND WHAT'S GOING ON AS FAR AS THE PARKING, IT'S NOT WORKING.

THE LIGHTS THAT WERE PUT IN ARE NOT WORKING.

THE LIGHT THAT'S ON HIGHLAND THAT WAS KNOCKED DOWN, NEVER GOT PUT BACK IN AND IT DOESN'T WORK HALF THE TIME.

YOU PRESS THE BUTTON, NOT WORKING FROM THERE.

THAT HASN'T BEEN CURED YET.

WHAT'S GOING TO HAPPEN WHEN YOU HAVE, WHAT, 75 MORE CARS COMING INTO THAT AREA THERE.

THE OTHER FACTOR IS THE POLLUTION IN FACT, WHICH -- NOBODY HAS REALLY DONE THIS YET.

FIRST FIND OUT IF THERE IS POLLUTION THERE AND THEN WE'LL PUT A PROJECT THERE.

BUT, I MEAN, HAVING RESIDENTIAL AND -- WHAT IS A LOW-COST UNIT.

WHAT'S THE COST OF A LOW-COST UNIT.

I TRIED TO FIND THIS FROM SOMEBODY.

NOBODY HAS TOLD ME.

IS A LOW-COST UNIT GOING TO BE \$3,000 A MONTH?

BECAUSE THAT'S WHAT IT WAS GOING TO RANGE FOR IN MANHATTAN BEACH, AT LEAST WHAT I THINK I SAW ON SOME OF THE PAPERWORK.

YOU'VE GOT THAT INVOLVED.

YOU'VE GOT A PROJECT THAT IS REALLY DENSE FROM THAT STANDPOINT.

AND WHY DID WE GIVE AWAY ALL OF THE SETBACKS.

I MEAN SO YOU COULD BUILD MORE?

I MEAN, NORMALLY YOU DON'T GIVE AWAY SETBACKS.

I CAN'T GET A SETBACK GIVEAWAY ON MY HOUSE.

WHY WOULD THIS PROJECT GET SETBACK GIVE AWAYS.

YOU WEREN'T REQUIRED TO DO THOSE FOR THE STATE OF CALIFORNIA.

MIGHT AS WELL TAKE THEM RIGHT NOW.

I MEAN IF THE SETBACKS CAN'T BE TAKEN BACK, THEN YOU'RE GOING TO HAVE TO BUILD LESS UNITS.

BUT STILL THE FACT IS THERE'S REALLY NOT GOING TO BE LOW-CLASS -- OR

LOW-COST HOUSING THERE.

THANK YOU.

>> Mayor Napolitano: THANK YOU.

OTHER SPEAKERS AT THIS TIME?

ALL RIGHT.

ZOOM?

WHO'S THAT?

MITCHELL?

>> HELLO, CAN YOU HEAR ME?

>> Mayor Napolitano: YES.

>> GREAT.

THANK YOU, MAYOR AND COUNCILMEMBERS FOR THE OPPORTUNITY TO SPEAK.  
I'M A 20-YEAR RESIDENT OF MANHATTAN BEACH.

FULLY SUPPORT THE DECISION IN DECEMBER TO DENY THE PROJECT AND IT  
WAS BASED ON THE HEALTH AND SAFETY CONCERNS RELATED TO BUILDING NEXT  
TO AN ACTIVE OIL REFINERY.

THERE IS NO HARD EVIDENCE TO SUPPORT THE PETITION, INCLUDING THE  
DANGER FROM THE REGULAR BURN-OFFS AND ALL TOO FREQUENT MULTI-ALARM  
FIRES THAT OCCUR, ESPECIALLY THE ONE IN DECEMBER.

YOU CAN GO ON NEXT DOOR AND SEE THE VIDEO.

IT IS FRIGHTENING AND LITERALLY ADJACENT TO THE PROJECT LOCATION.  
THE REPORTS ARE GOING BACK DECADES LISTING THE REFINERY AS A MAJOR  
IF NOT THE BIGGEST POLLUTE ANY THE STATE.

INADEQUATE STUDIES CONDUCTED THE HAZARDS AT THE SITE.

I QUESTION IF THE STUDIES THAT HAD BEEN DONE ARE STILL VALID.

ARGUMENTS RELATED TO DUE PROCESS AROUND THIS PROJECT.

SOCIAL JUSTICE ARGUMENTS AROUND PUTTING LOW-INCOME HOUSING ON A STATE  
REFINERY, PROVIDING FOR DISCRETIONARY REVIEW OF THE PROJECTS WITHIN  
3200 FEET OF A REFINERY.

THE LAW WAS PUT IN PLACE AFTER THE FACT BUT IT SHOWS WE ARE FULLY  
ALIGNED AT LEAST MORALLY, ETHICALLY WITH THE STATE ON THESE ISSUES.  
AND I FIND IT [INAUDIBLE] THAT THE SAME GROUPS THAT HAVE SENT THE  
CITY ILL-INFORMED THREATENING LETTERS ARE THE SAME GROUPS THAT  
SUPPORTED AB2011.

I URGE THE CITY TO STAND BY ITS DECISION AND IF IT HASN'T DONE SO,  
HIRE A QUALIFIED LAND USE EXPERT TO HELP DEFEND THE CITY AND SEPARATE  
THE FACTS FROM THE FICTION.

THANK YOU.

>> Mayor Napolitano: THANK YOU.

EVAN.

>> GOOD EVEN, CITY COUNCIL.

THANK YOU FOR THIS OPPORTUNITY TO SPEAK.

I REALLY HAVE TWO POINTS FOLLOWING UP ON SOME OF THE SPEAKERS THAT  
HAVE SPOKEN EARLIER.

THE FIRST OF THIS IS WE WOULD CERTAINLY ENCOURAGE THE CITY TO  
BASICALLY GET THE RESOURCES THAT IT NEEDS TO DEFEND THE CITY.  
WE HAVE AN EXISTENTIAL THREAT.

ALL OF YOU GUYS ARE SUPPOSED TO PROTECT THE MISSION STATEMENT OF THE CITY.

AND YOU HEAR A LOT ABOUT THE COST.

AND MR. MAYOR AND COUNCILMEMBER LESSER, YOU ARE EXPERIENCED LAWYERS.

YOU HEAR THESE NUMBERS, MILLIONS OF DOLLARS IN LITIGATION.

YOU GUYS KNOW LITIGATION IS LIKE A HIGHWAY.

THERE ARE EXITS OFF OF THE HIGH AND YOU STAGE THINGS OUT.

DEVELOPERS GASLIGHTING THE AMOUNTS IT'S GOING TO COST, THAT'S FAIRLY SHORTSIGHTED.

AND I NOTED FROM THE MEETING ON TUESDAY THAT YOU GUYS WERE TALKING ABOUT SPENDING \$300,000 ON A CROSSWALK, WHICH IS GREAT.

BUT WHAT'S THE VALUE OF DEFENDING THE HEALTH AND SAFETY OF OUR RESIDENTS AS WELL AS JUST THE WAY OF LIFE HERE IN MANHATTAN BEACH.

I JUST ASK YOU TO BASICALLY MAKE SURE YOU HAVE THE RESOURCES.

THERE WAS AN EARLIER SPEAKER THAT TALKED ABOUT OUR LAW FIRM'S WILLINGNESS TO ASSIST.

WE STILL ARE.

I'VE SPOKEN TO THE CITY ATTORNEY AND HE KNOWS THERE CAN BE POSITIONAL CONFLICTS BETWEEN OUR REPRESENTATION OF THE CITY IN TERMS OF THE RESIDENTS AND THE RESIDENTS THROUGH CHILL TO BUILD.

BUT WE WOULD BE SO WILLING TO COOPERATE TO THE EXTENT THAT WE CAN.

BUT YOU HAVE AN INCREDIBLE POPULATION THAT ARE AGAINST THIS.

IF THIS GOES THE WRONG WAY, WE ARE ANTICIPATING A LOT OF SUPPORT.

AND SO WE JUST ASK YOU TO MAKE THE RIGHT DECISION, STAND BY THE DECISION, STAND BY YOUR RESIDENTS.

THANK YOU.

>> Mayor Napolitano: THANK YOU.

NO FURTHER ZOOM?

OKAY.

ANYONE ELSE HERE IN THE AUDIENCE FOR PUBLIC PARTICIPATION?

OKAY.

SEEING NONE, THEN WE WILL MOVE ON TO -- OH.

CONSIDERATION OF AN APPLICATION FOR PRECISE DEVELOPMENT PLAN.

YOU KNOW WHY WE'RE HERE.

IN FACT CITY ATTORNEY HAS GIVEN ME A SCRIPT.

SAYS NUMBER ONE, MAYOR, WE ARE HERE TONIGHT TO CONSIDER THE HIGHROSE PROJECT AGAIN.

FIRST ARE THERE ANY COUNCIL COMMENTS.

ANYONE HAVE ANY COMMENTS TO START WITH.

I DON'T KNOW WHY WE'RE DOING COMMENTS RATHER THAN QUESTIONS BUT COMMENTS.

COUNCILMEMBER LESSER.

>> Councilmember Lesser: AS THE NEW KID ON THE BLOCK I NEED TO MAKE A STATEMENT.

I HAVE REVIEWED THE RECORD IN THE STATEMENT WHICH INCLUDES 2000 PAGES OF PRINTED DOCUMENTS THAT HAVE BEEN PRINTED OUT FOR ME AND I HAVE REVIEWED AND WATCHED THE VIDEOS OF ALL OF THE PRIOR PROCEEDINGS.

ALL OF THE VIDEOS.  
THE RECORD INCLUDES THE STAFF REPORTS, THE APPEALS, LETTER FROM THE  
APPLICANTS AND APPELLANTS.  
HUNDRED OF E-MAILS.  
I WILL LISTEN TO THE PUBLIC STATEMENTS TONIGHT BEFORE REACHING A  
DECISION.  
BUT I'M FULLY INFORMED, COMFORTABLE TO PARTICIPATE IN TONIGHT'S  
PROCEEDING AND ABLE TO MAKE A DECISION ONCE THE TESTIMONY HAS BEEN  
MADE.  
>> Mayor Napolitano: COUNCILMEMBER FRANKLIN.  
>> Councilmember Franklin: THANK YOU, MAYOR.  
SO AS THE PUBLIC MAY BE AWARE, I VOTED NO ON THIS PROJECT BACK IN  
OCTOBER.  
I WAS CANDID WITH MY CONCERNS ABOUT THE PROJECT'S POTENTIAL EFFECT  
ON THE CITY'S CHARACTER AND OUR RESIDENTS' QUALITY OF LIFE AND  
OVERREACH BY THE STATE.  
SINCE THAT TIME, THE APPLICANT HAS SUED THE CITY AND HCD SENT A NOTICE  
OF VIOLATION.  
I COME INTO THIS PROCEEDING WITH AN OPEN MIND.  
ACCORDINGLY I'VE NOT MADE UP MY MIND ON THE PROJECT.  
I INTEND TO LISTEN OBJECTIVELY TO ALL PARTIES AND THE PUBLIC BEFORE  
MAKING UP MY MIND AND MAKING ANY DETERMINATION ONLY AFTER WE RECEIVE  
TONIGHT'S INPUT.  
THANK YOU.  
>> Mayor Napolitano: THANK YOU.  
COUNCILMEMBER HOWORTH.  
>> Councilmember Howorth: OKAY.  
ME TOO.  
LIKE COUNCILMEMBER LESSER, I WANT TO ASSURE THE COMMUNITY THAT I HAVE  
READ -- MINE ARE UNDERNEATH MY DESK -- THE 2000-PLUS PAGES  
DOCUMENTATION WHICH INCLUDES HUNDREDS OF E-MAILS STARTING BACK IN  
AUGUST.  
I'VE ALSO WATCHED -- I WATCHED AT THE TIME ALL OF THE CITY COUNCIL  
MEETINGS AND HAVE SINCE REWATCHED THE ONES I WAS NOT A PART OF.  
I HAVE MET WITH -- WELL DURING THE CAMPAIGN AND UNTIL THIS WEEKEND  
I'VE MET WITH RESIDENTS BOTH FOR AND OPPOSED TO THE PROJECT.  
I'VE READ THE STAFF REPORTS, AS I SAID, THOUSANDS OF E-MAILS.  
AND I TOO WANT TO HEAR FURTHER PUBLIC COMMENT, THE STAFF REPORT AND  
THE COMMENTS BY MY COLLEAGUES AND THEN I WILL BE READY TO MAKE AN  
INFORMED DECISION.  
SO THANK YOU.  
>> Mayor Napolitano: MAYOR PRO TEM MONTGOMERY, ANYTHING FROM YOU AT  
THIS TIME?  
>> Mayor Pro Tem Montgomery: NOTHING NEW FROM ME, YOUR HONOR.  
APPRECIATE THAT.  
>> Mayor Napolitano: I DIDN'T GET THAT MEMO.  
SO WE'LL CONTINUE ON.

ALL RIGHT.

WE HAVE A STAFF PRESENTATION.

AND THEN BEFORE WE GO TO THE STAFF PRESENTATION, I ALSO KNOW THAT WE'RE GOING TO REITERATE WHAT WE SAID AT THE PRIOR MEETINGS.

WE APPRECIATE THAT THIS PROJECT HAS CREATED A LOT OF PASSION OUT THERE ON BOTH SIDES.

WE HOPE THAT YOU RESPECT EACH OTHER AND RESPECT THE PROCESS TONIGHT. WE ASK THAT YOU NOT APPLAUD OR BOO OR MAKE ANY GESTURES THAT WOULD BE BOTH FOR OR AGAINST, BECAUSE THAT CAN INTIMIDATE SPEAKERS.

WE WANT EVERYONE TO FEEL THEY CAN COME DOWN HERE AND SPEAK FREELY WHETHER THEY'RE FOR OR AGAINST THE PROJECT.

THAT'S WHAT THE RESPECT IS FOR.

WE ASK THAT YOU RESPECT THE PROCESS AND EACH OTHER AND REFRAIN FROM ANY APPLAUSE OR BOOING OR ANY GESTURES THAT MIGHT, AGAIN, BE CONSTRUED FOR WHAT THEY ARE OR MISCONSTRUED.

WE APPRECIATE THAT.

AGAIN, EVERYONE HERE, COUNCILMEMBER FRANKLIN, MAYOR PRO TEM MONTGOMERY, MYSELF, HAVE BEEN THROUGH THIS.

OUR NEW COUNCILMEMBERS HAVE BEEN BROUGHT UP TO SPEED ON EVERYTHING. THIS COMES WITH THE TERRITORY, A PART OF THE JOB, MAKING THESE DECISIONS.

AND WE HOPE THAT YOU UNDERSTAND THAT EVERYONE IS GOING TO MAKE THEIR BEST-INFORMED DECISION TONIGHT.

WITH THAT I'LL TURN IT BACK OVER TO STAFF.

>> GOOD EVENING WITHIN HONORABLE MAYOR AND COUNCILMEMBERS.

AT THIS TIME I WILL TURN IT OVER TO ASSOCIATE PLANNER TED TO PRESENT THE REPORT THIS EVENING.

>> GOOD EVENING, MAYOR NAPOLITANO, MEMBERS OF THE CITY COUNCIL. MY NAME IS TED.

I'M HERE TO PRESENT FOR YOUR CONSIDERATION AN APPLICATION FOR A 79-UNIT HOUSING PROJECT LOCATED AT 401 ROSECRANS AVENUE AND 3770 HIGHLAND AVENUE.

I'LL BE PROVIDING A TIMELINE OF THE PROJECT AS WELL AS A PROJECT OVERVIEW WITH THE DETAILS OF THE PROPOSED BUILDING.

STARTING WITH THE TIMELINE OF HOW WE GOT HERE TODAY, ON MARCH 4<sup>th</sup>, 2021, THE APPLICANT APPLIED FOR A PRECISE DEVELOPMENT PLAN AND ASSOCIATED ENTITLEMENTS.

ON JANUARY 6 OF 2022 THE PROJECT APPLICATION WAS DEEMED COMPLETE AND IN LATE MARCH 2022 THE COMMUNITY DEVELOPMENT DIRECTOR APPROVED THE PROJECT.

IN APRIL OF 2022 FOUR INDEPENDENT APPEALS OF THE DIRECTOR'S DECISION WERE SUBMITTED AND ON JUNE 8<sup>th</sup>, 2022, THE PLANNING COMMISSION CONSIDERED THOSE APPEALS AND AFFIRMED UNANIMOUSLY AFFIRMED THE DIRECTOR'S DECISION AND APPROVED THE PROJECT.

SUBSEQUENT TO THE PLANNING COMMISSION'S DECISION FIVE INDEPENDENT APPEALS WERE FILED APPEALING THAT DECISION TO THE CITY COUNCIL.

ON AUGUST 16<sup>th</sup>, 2022, THE CITY COUNCIL CONSIDERED THOSE APPEALS AND

AT A SUBSEQUENT MEETING ON OCTOBER 18<sup>th</sup>, 2022, THE CITY COUNCIL UPHELD THOSE APPEALS AND THE PROJECT WAS DENIED.

ON NOVEMBER 28<sup>th</sup>, 2022, THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT KNOWN AS HCD SERVED A NOTICE OF VIOLATION TO THE CITY ASSERTING THAT THE DENIAL VIOLATED THE HOUSING ACCOUNTABILITY ACT AND STATE DENSITY BONUS LAW.

THE PROJECT UNDER CONSIDERATION AGAIN THIS EVENING IS A DENSITY BONUS PROJECT THAT PROPOSES 79-UNIT MULTIFAMILY APARTMENT BUILDING. FOR THE BENEFIT OF THE CURRENT COUNCIL I'LL REVIEW SOME THE PROJECT DETAILS AS WELL AS THE REGULATIONS THAT THE PROJECT WAS REVIEWED UNDER.

THE SITE WHERE THE PROJECT IS PROPOSED IS CURRENTLY COMPOSED OF TWO PARCELS, 401 ROSECRANS AVENUE AND 3770 HIGHLAND AVENUE.

THE APPLICANT PROPOSES TO MERGE THOSE LOTS THROUGH A TENTATIVE PARCEL MAP.

AND THE APPLICANT HAS BASICALLY APPLIED FOR A PRECISE DEVELOPMENT PLAN, A PDP.

PRECISE DEVELOPMENT PLANS ARE INTENDED TO ENCOURAGE THE DEVELOPMENT OF AFFORDABLE HOUSING THROUGH A STREAMLINE PERMITTING PROCESS.

THAT MEANS THE PROCESS IS ADMINISTRATIVE AND NONDISCRETIONARY IN NATURE.

THE APPLICANT IS ALSO UTILIZING BOTH STATE AND LOCAL DENSITY BONUS LAW.

AND THE CONCEPT OF THE DENSITY BONUS LAW IS THAT IF A DEVELOPER SETS ASIDE A CERTAIN PERCENTAGE OF THE UNITS AS AFFORDABLE HOUSING, THE DEVELOPER IS ALLOWED TO BUILD MORE UNITS THAN WHAT THE CODE WOULD ALLOW OTHERWISE.

IN EXCHANGE FOR THOSE AFFORDABLE UNITS.

AND DENSITY BONUS LAW IS BOTH A STATE LAW AND HAS BEEN PART OF THE CITY'S LOCAL REGULATION SINCE 2013.

MOVING ON TO SOME THE PROJECT DETAILS, THE APPLICANT IS PROPOSING THE DEMOLITION OF THE EXISTING STRUCTURES AND THE CONSTRUCTION OF A NEW 96,217 SQUARE FOOT MULTIFAMILY STRUCTURE.

THE PROPOSED BUILDING CONTAINS 79 UNITS, INCLUDING SIX UNIT SET ASIDE FOR VERY LOW-INCOME RESIDENTS.

THE VEHICULAR ACCESS IS AT ROSECRANS AND THE BUILDING IS FOUR STORIES, RANGING FROM 37 FEET TO 50 FEET IN HEIGHT MEASURES FROM THE AVERAGE GRADE AS REQUIRED BY THE CODE.

THERE IS A MIX OF STUDIOS, ONE, TWO AND THREE-BEDROOMS AT THE -- AS PART OF THE BUILDING.

AND THE BUILDING ALSO INCLUDES A SUBTERRANEAN PARKING GARAGE. SOME DETAILS ON THE PARKING.

THE APPLICANT IS PROPOSING 127 PARKING SPACES, WHICH INCLUDE 114 STANDARD-SIZE SPACES, INCLUDING 48 TANDEM SPACES AND 38 COMPACT SPACES.

THE MINIMUM REQUIRED PARKING UNDER STATE LAW IS 103 PARKING SPACES. SO THE APPLICANT IS PROVIDING MORE PARKING THAN REQUIRED UNDER STATE

LAW.

THE APPLICANT IS ALSO PROVIDING SEVEN MOTORCYCLE SPACES AND 27 BICYCLE PARKING SPACES.

THE PROJECT QUALIFIES FOR WAIVERS AND CONCESSIONS WHICH ARE SPELLED OUT IN DENSITY BONUS LAW.

A WAIVER IS WHEN THE DEVELOPER GETS TO NOT FOLLOW A DEVELOPMENT STANDARD BECAUSE FOLLOWING THE DEVELOPMENT STANDARD WOULD CREATE A PHYSICAL LIMITATION ON THE BUILDING FROM REACHING THE DENSITY ALLOWED UNDER THE DENSITY BONUS LAW.

THE APPLICANT IS ALSO ENTITLED TO A -- TWO CONCESSIONS ALTHOUGH THE APPLICANT IS ONLY REQUESTING ONE.

AND THE CONCESSION AROUND THE DENSITY BONUS LAW IS WHEN FOLLOWING THE DEVELOPMENT STANDARD WOULD CREATE A FINANCIAL LIMITATION ON THE STRUCTURE OR ON THE PROJECT AND PREVENT THE PROJECT FROM BEING BUILT. SO THE APPLICANT IS PROPOSING FIVE WAIVERS AS AFFORDED TO THEM BY STATE DENSITY BONUS LAW.

THEREFORE THE BUILDING FLOOR AREA FOR THE HEIGHT, THE NUMBER OF STORIES, THE SIDE YARD SETBACK FOR THE ELECTRICAL TRANSFORMER, NOT FOR THE ENTIRE BUILDING AND ALSO FOR THE REAR AND SIDE YARD SETBACK REQUIREMENTS FOR PORTIONS OF THE STRUCTURE OVER 24 FEET IN HEIGHT. THE APPLICANT IS REQUESTING ONE CONCESSION AND THAT IS FOR THE MAXIMUM WALL AND HEIGHT WITHIN THE SETBACKS.

THIS IS THE VIEW OF THE PROJECT FROM ROSECRANS AVENUE FACING NORTHWEST.

AS YOU CAN SEE, THE PROJECT, ROSECRANS SLOPES DOWN, WHEN YOU GO FROM EAST TO WEST, AND THE BUILDING EMERGES FROM THE SITE AS THE GRADE GOES DOWN.

ON THE EASTERN SIDE WHAT YOU SEE IS A TALLER ONE-STORY PORTION OF THE STRUCTURE.

AS YOU GO WEST YOU SEE MORE OF THE STORIES EMERGE.

THE MASSING OF THE BUILDING IS AWAY FROM ROSECRANS -- IS MOSTLY AWAY FROM ROSECRANS AVENUE, AS THE SITE REALLY BORDERS THE BORDER WHEN MANHATTAN BEACH AND SELL SEGUNDO.

THIS IS A VIEW IN THE CENTER OF THE PROJECT FACING NORTHEAST.

IN THE MIDDLE THERE WHAT YOU CAN SEE THE VEHICULAR ACCESS TO THE SUBTERRANEAN GARAGE.

AND AGAIN YOU'LL NOTICE FROM THIS SLIDE THE MASK MANDATING IS PULLED MOSTLY AWAY FROM ROSECRANS AVENUE.

THIS IS THE VIEW FROM ROSECRANS AVENUE FACING EAST.

I SHOULD POINT OUT THAT THIS RENDERING DOESN'T SHOW THE SURROUNDING BUILDINGS.

SO IN FRONT OF THE BUILDING IS THE CITY'S PARKING STRUCTURE, WHICH IS AT THE CORNER OF HIGHLAND AND ROSECRANS.

AND ALSO IN THIS AREA HERE IS A COMMERCIAL AND A RESIDENTIAL BUILDING THAT PARTIALLY OBSCURE THE STRUCTURE.

SO IN 1992 AND 2013 RESPECTFULLY, THE CITY CONDUCTED CEQA REVIEW AND ADOPTED NEGATIVE DECLARATION FOR THE MIXED-USE ZONING.

PURSUANT TO CEQA, ENVIRONMENTAL REVIEW DOES NOT APPLY TO MINISTERIAL PROJECTS.

THEREFORE, CEQA ENVIRONMENTAL REVIEW IS NOT REQUIRED FOR THIS PROJECT.

ALTHOUGH NOT REQUIRED, THE APPLICANT DID SUBMIT TO THE CITY AND THE CITY DID REVIEW AND CONCUR WITH THE FINDINGS OF A TRIP GENERATION STUDY FOR THE PROPOSED PROJECT.

AND PHASE ONE AND PHASE TWO ENVIRONMENTAL SITE ASSESSMENT THAT CONCLUDED THERE ARE NO CONS ON THE SITE THAT POSE A THREAT TO THE ENVIRONMENT AND/OR HUMAN HEALTH.

>> Mayor Napolitano: CAN YOU GO OVER WHAT -- WHY IT'S A MINISTERIAL PROJECT, THOUGH.

>> SURE.

GOING BACK TO THE NATURE OF THE PROJECT, THE PROJECT IS A DENSITY BONUS PROJECT, WHICH MEANS IT INCORPORATES AFFORDABLE HOUSING. UNDER OUR LOCAL COASTAL PROGRAM WHICH GOVERNS THE SITE, THE LOCAL COASTAL PROGRAM SPECIFICALLY SAYS THAT AFFORDABLE HOUSING PROJECTS THAT INCORPORATE DENSITY BONUS PROJECT, THAT A DENSITY BONUS ARE SUBJECT TO MINISTERIAL MON DISCRETIONARY REVIEW.

SO THE LCP MAKES IT VERY CLEAR THAT THOSE TYPE OF PROJECTS, WHICH IS THIS, ARE NOT DISCRETIONARY REVIEW BUT ARE MINUTE STERILE.

>> Mayor Napolitano: HOW LONG HAS THAT BEEN IN PLACE?

>> SINCE 2013.

>> Mayor Napolitano: OKAY.

THANK YOU.

>> THERE'S BEEN A TREMENDOUS AMOUNT OF PUBLIC OUTREACH FOR THIS PROJECT OVER THE LAST SEVERAL MONTHS.

SPECIFICALLY FOR TONIGHT, A NOTICE WAS MAILED OUT ON JANUARY 10<sup>th</sup> TO RESIDENTS WITHIN A HUNDRED FEET OF THE SITE.

AN AD WAS PLACED IN "THE BEACH REPORTER" WHICH RAN IN LAST WEEK'S "BEACH REPORTER" AND ON THE CITY'S WEBSITE THERE IS A DEDICATED PAGE FOR THE HIGHROSE PROJECT WHICH INCLUDE ALL PUBLIC COMMENT, EVERY STAFF REPORT FROM THE CITY COUNCIL AND THE PLANNING COMMISSION AND A VERY LONG LIST OF FREQUENTLY-ASKED QUESTIONS THAT TRY TO EXPLAIN TO THE PUBLIC IN LAYMAN'S TERM WHAT THE PROJECT IS, THE PROCESS FOR REVIEW, ET CETERA.

IN ADDITION THE CITY HAS MAINTAINED AN INTERESTED PARTIES' E-MAIL LIST THAT HAS OVER 730 E-MAILS ADDRESSES IN THAT LIST.

EVERYONE ON THAT LIST WAS NOTIFIED OF TONIGHT'S CITY COUNCIL MEETING AND WAS ALSO GIVEN A LINK TO THE STAFF REPORT AND INFORMATION ON HOW TO MAKE A PUBLIC COMMENT.

SINCE THE PUBLICATION OF THE AGENDA IN THE STAFF REPORT LAST WEEK, I DO BELIEVE WE HAVE RECEIVED SOME PUBLIC COMMENT AS WELL, WHICH I BELIEVE HAS BEEN ENTERED INTO THE RECORD.

WITH THAT, STAFF RECOMMENDS THAT THE CITY COUNCIL ADOPT THE RESOLUTION AFFIRMING THE PLANNING COMMISSION'S DECISION AND APPROVE THE PROJECT.



AND WITH THAT I WILL TURN IT OVER TO ACTING DIRECTOR MIRZAKHANIAN.  
>> THANK YOU FOR THAT PRESENTATION, DID.

COUNCILMEMBERS, I DID WANT TO QUICKLY ANNOUNCE FOR THE RECORD THAT  
STAFF RELEASED A SUPPLEMENTAL STAFF REPORT AT APPROXIMATELY 5:15 THIS  
EVENING.

IT HAS BEEN ENTERED INTO THE RECORD AND MADE AVAILABLE FOR PUBLIC  
REVIEW.

THE SUPPLEMENTAL STAFF REPORT, IT ESSENTIALLY REITERATES THAT STAFF  
REVIEWED ALL OF THE PUBLIC COMMENT THAT WAS RECEIVED FOR THIS EVENING  
AND WE IDENTIFIED A SINGULAR COMMENT THAT WE FELT HAD NOT BEEN  
SPECIFICALLY ADDRESSED IN PREVIOUS STAFF REPORTS AND WE WANTED TO  
TAKE AN OPPORTUNITY TO ADDRESS THAT COMMENT.

AND THAT WAS A COMMENT THAT STATED, AND I QUOTE, THE PROJECT IS NEXT  
TO CHEVRON REFINERY ON RECORD AS ONE OF THE BIGGEST POLLUTERS IN THE  
STATE.

AND TO ADDRESS THIS STATEMENT WE WANTED TO JUST REMIND THE PUBLIC  
AND THE COUNCIL, THE LIMITATIONS UNDER -- THAT ARE APPLICABLE TO THE  
DECISION-MAKING FOR HOUSING DEVELOPMENT PROJECT SPECIFICALLY AS IT  
IS PROVIDED BY THE CALIFORNIA HOUSING ACCOUNTABILITY ACT, WHICH  
STATES THAT THE CITY SHALL NOT DISAPPROVE -- HOUSING DEVELOPMENT  
PROJECT UNLESS IT MAKES WRITTEN FINDINGS BASED UPON A PREPONDERANCE  
OF EVIDENCE IN THE RECORD THAT THE HOUSING DEVELOPMENT PROJECT AS  
PROPOSED WOULD HAVE A SPECIFIC ADVERSE IMPACT UPON PUBLIC HEALTH AND  
SAFETY.

AND THERE IS NO FEASIBLE METHOD TO SATISFACTORILY MITIGATE OR AVOID  
THE SPECIFIC ADVERSE IMPACT.

ACCORDINGLY UNDER THE HOUSING ACCOUNTABILITY ACT, AND THE STRINGENT  
STANDARD OF THE HOUSING ACCOUNTABILITY ACT, THE CITY SHALL NOT  
DISAPPROVE THE PROJECT UNTIL THE PROJECT ITSELF HAS A SIGNIFICANT,  
QUANTIFIABLE, DIRECT AND UNAVOIDABLE IMPACT MADE UPON PUBLIC HEALTH  
OR SAFETY.

TO DATE NO SUCH ADVERSE IMPACT ARISING FROM THE PROJECT HAS BEEN  
IDENTIFIED BY APPELLANTS OR THE PUBLIC.

AND THE PROXIMITY TO CHEVRON IS NOT CONSIDERED A SIGNIFICANT,  
QUANTIFIABLE, DIRECT OR UNAVOIDABLE IMPACT RESULTING FROM THE  
CONSTRUCTION OR OPERATION OF THE PROJECT ITSELF.

ADDITIONALLY, WE REITERATED IN THE MEMORANDUM THAT THERE HAVE BEEN  
ENVIRONMENTAL SITE ASSESSMENTS PERFORMED BY THE PROPERTY OWNER AND  
THE APPLICANT ON THE PROJECT SITE.

THERE WAS A PHASE ONE AND PHASE TWO WHICH TED JUST MENTIONED IN HIS  
STAFF REPORTING WITH AND THAT INCLUDED NINE BORINGS, 21 SOIL SAMPLES,  
MULTIPLE SOIL VAPOR SAMPLES AND AGAIN THE ASSESSMENTS CONCLUDED THAT  
THERE WAS NO SIGNIFICANT ENVIRONMENTAL CONCERN TO THE SITE AT THIS  
TIME.

WE ALSO TOOK THE OPPORTUNITY TO REITERATE THAT ANY PROJECT ON THE  
SITE WOULD HAVE TO COMPLY WITH FEDERAL, STATE, LOCAL, ENVIRONMENTAL  
AND PUBLIC HEALTH REGULATIONS PRIOR TO AND DURING DEMOLITION,

EXCAVATION AND CONSTRUCTION OF ANY PROJECT, AND THOSE ARE THE RULES THAT APPLY TO ALL PROJECTS.

IT INCLUDES CERTAIN REGULATIONS THAT THEY HAVE TO MEET FOR SAQMD AND OTHER LOCAL AND STATE REGULATORS.

SO THEY WOULD BE -- THEY WOULD CONTINUE TO BE SUBJECT TO THIS JUST AS ANY PROJECT IN THE CITY WOULD.

AND THAT IS THE SUMMARY OF THE REPORT THAT WAS RELEASED THIS AFTERNOON.

TED AND I ARE BOTH AVAILABLE FOR QUESTIONS.

>> Mayor Napolitano: THANK YOU.

QUESTIONS FROM COUNCIL.

COUNCILMEMBER HOWORTH.

>> Councilmember Howorth: THANK YOU, MR. MAYOR.

EITHER ONE OF YOU.

THIS IS A FOLLOW-UP THAT THE QUESTION THAT THE MAYOR ASKED ABOUT, AT WHAT POINT DID IT BECOME MINISTERIAL OR AT WHAT POINT DID THAT -- AND YOU MENTIONED THE 2013, I THINK, WAS THE GENERAL PLAN UPDATE.

AND WASN'T THAT NECESSARY -- THAT WASN'T JUST SOMETHING THE COUNCIL OR STAFF DECIDED.

IT WAS IMPOSED AS FAR AS COMPLYING WITH STATE LAW OR IN ORDER TO GET OUR GENERAL PLAN APPROVED.

>> THAT IS CORRECT.

IN 2013 THE CITY WAS WORKING ON THE FOURTH HOUSING ELEMENT AND WE WERE LATE TO GET THAT CERTIFIED, AND THE FIFTH CYCLE CAME SHORTLY AFTER THAT.

BUT IT WU DURING THE FOURTH CYCLE HOUSING ELEMENT WHERE THIS IDEA OF THE PRECISE DEVELOPMENT PLAN AS A TOOL TO STREAMLINE PROCESSES AND LIFT ANY IMPEDIMENTS FROM THE POTENTIAL OF HAVING MULTIFAMILY HOUSING THAT INCLUDES AFFORDABLE HOUSING BUILT WITHIN THE CITY.

AND THAT WAS WHEN IT WAS INITIALLY INTRODUCE.

>> Councilmember Howorth: BUT YOU SAY THE IDEA WU INTRODUCED 0 FOR PLAN WAS CREATED.

IT WASN'T CREATED BY THE PLANNING DEPARTMENT.

IT WAS CREATED BY HOUSING AUTHORITIES, STATE LAW.

OKAY.

>> THE EFFORT OF THE HOUSING ELEMENT UPDATE IS DRIVEN BY STATE LAW, AS YOU KNOW.

AND THE STAFF HAS TO COOPERATE WITH HCD AND THE REQUESTS AND THE ULTIMATE GOAL, JUST LIKE WE'RE IN THE PROCESS TODAY, TO BE ABLE TO ADDRESS THE NEEDS, THE REQUIREMENT OF THE STATE BY DEMONSTRATING HOW THE CITY WOULD LIFT ANY IMPEDIMENTS TO HOUSING PRODUCTION.

AND AS A RESULT OF THAT EFFORT THAT POLICY WAS INTRODUCED IN OUR HOUSING ELEMENT.

>> Mayor Napolitano: OTHER QUESTIONS?

>> Councilmember Howorth: NO, I'M GOOD.

THANK YOU.

>> Mayor Napolitano: COUNCILMEMBER LESSER.

>> Councilmember Lesser: MR. CITY ATTORNEY, I HAVE SOME QUESTIONS FOR YOU.

A MEMBER OF THE PUBLIC ASKED IN HER COMMENT, WHAT HAS CHANGED SINCE OCTOBER 18<sup>th</sup>, 2022, WHEN THE PRIOR COUNCIL MADE THE DECISION IT DID. I THINK MANY PEOPLE ARE ASKING THAT SAME QUESTION.

HOW WOULD YOU ARTICULATE WHAT HAS BEEN THE CHANGE OF CIRCUMSTANCE.

>> WELL THE TWO BIGGEST CHANGES WERE THE NUMBER ONE -- WELL NUMBER ONE IS THE LAWSUIT WHERE THE APPLICANT IS SEEKING \$50 MILLION IN DAMAGES AND THEN BUT EVEN MORE IMPORTANTLY THAN THAT, ALTHOUGH THAT'S A BIG NUMBER, IS THE NOTICE OF VIOLATION BY HCD.

HCD SERVED A NOTICE OF VIOLATION ON THE CITY THAT SAID IF YOU DON'T RESCIND THE PRIOR RESOLUTION AND APPROVE THIS PROJECT, THEY'RE GOING TO CONTACT THE ATTORNEY GENERAL.

IT'S ACTUALLY QUOTED IN THE STAFF REPORT WHAT HCD SAID.

BUT THEY SAID THIS ILLEGAL.

THERE IS NO EVIDENCE TO SUPPORT THE DECISION.

>> Councilmember Lesser: LET'S PAY THAT OUT.

MANY ARE WANTING THE COUNCIL TO STAND STRONG AND DEFEND THAT EARLIER POSITION.

WHAT WOULD BE THE NEXT STEP WITH THAT?

WHAT IF WE SAY WE'VE ALREADY DECIDED, WE STICK TO OUR EARLIER DECISION.

>> WELL WE HAVE TO DEFEND THE LAWSUIT.

WE'VE BEEN THREATENED -- IN FACT ANOTHER LETTER CAME IN TODAY FROM HOUSING ADVOCACY GROUPS THAT THEY'LL FILE THREE SEPARATE LAWSUITS. THE CONSEQUENCES OF THAT IS SPELLED OUT IN THE STAFF REPORT, IS IF HCD IS CORRECT AND THE HOUSING ADVOCACY GROUPS ARE CORRECT THAT THIS VIOLATED WHAT IS KNOWN AS THE HAA, WHICH IS THE HOUSING ACCOUNTABILITY ACT, THEY'RE ENTITLED TO THEIR ATTORNEYS' FEES.

THAT'S ONE OF THE CONSEQUENCES.

TWO, A COURT CAN ORDER THAT THE CITY APPROVE THE PROJECT WITHIN 60 DAYS AND NUMBER TWO -- WELL, THERE'S MORE.

BUT THE OTHER SIGNIFICANT ONE IS THE COURT COULD ACTUALLY APPROVE THE PROJECT ON ITS OWN.

>> Councilmember Lesser: I GUESS THE LARGER QUESTION THAT I HAVE AS IT RELATES TO CEQA AND ENVIRONMENTAL SAFETY IS THE ROLE OF THE CITY WHEN A PROJECT IS PROPOSED UNDER THIS SORT OF LEGAL TEMPLATE THAT WE HAVE HERE IN AN INHERENTLY UNSAFE LOCATION.

WHAT IS THE ROLE OF THE CITY THEN TO THE EXTENT THAT IT LACKS DISCRETION?

WHAT ROLE DOES IT HAVE TO SEEK TO PREVENT WHAT APPEARS TO BE AN INHERENTLY UNSAFE PROJECT?

>> SO I WOULD NOT DESCRIBE THIS PROPERTY AS INHERENTLY UNSAFE.

IN FACT, THEY'VE DONE TWO DIFFERENT -- THEY'VE DONE THE PHASE ONE AND PHASE TWO AND FOUND NO CONDITION AS POINTED OUT IN THE STAFF REPORT AND INTO THE RECORD -- FOR THE BENEFIT OF THE PUBLIC, I THINK MOST

OF THE PUBLIC UNDERSTANDS AFTER WATCHING THESE PROCEEDING.  
BUT BEFORE SOMEONE BUYS A PROPERTY, ESPECIALLY IF IT'S CLOSE TO AN  
OIL REFINERY BUT IT'S A GOOD IDEA FOR ANYTIME YOU BUY PROPERTY IN  
SOUTHERN CALIFORNIA, YOU DO A PHASE ONE AND A PHASE TWO TO SEE IF  
THERE'S ANY SUB SURFACE PROBLEMS WITH THAT SITE.  
BECAUSE YOU DON'T WANT TO BUY PROPERTY, SPEND WHATEVER THEY SPENT  
ON THIS PROPERTY AND THEN START EXCAVATING AND THEN FIND OUT IT'S  
A SUPER FUND SITE.  
SO THEY DID THE PHASE TWO, THEY FOUND ABSOLUTELY NOTHING.  
THIS IS BEFORE THEY BOUGHT THE PROPERTY.  
IT WAS ACTUALLY I THINK TWO PHASE ONES, BUT -- SO THEY DID THEIR  
ANALYSIS, DUE DILIGENCE BEFORE THEY BOUGHT THIS PROPERTY.  
AND SOME PEOPLE HAVE SAID THAT'S A LITTLE DATED.  
I THINK THE LAST ONE WAS IN 2020.  
BUT I'M NOT SURE WHAT THE DATE IS.  
THERE IS NO IMPACT FROM CHEVRON THAT HAS SOMEHOW MIGRATED AFTER THAT  
PHASE TWO.  
BUT THE MOST IMPORTANT PART ABOUT THIS, IF THERE IS, DURING  
CONSTRUCTION AND EXCAVATION, THERE'S -- I'M NOT GOING TO COUNT  
BECAUSE I'M NOT GOING THE SAY COUNTLESS EITHER BECAUSE SOMEONE WILL  
BE ABLE TO COUNT THEM.  
THERE'S SEVERAL ENVIRONMENTAL PROTECTIONS DURING CONSTRUCTION.  
IF THEY FIND SOMETHING THE PHASE TWO DIDN'T FIND, THE CONSTRUCTION  
STOPS.  
>> AND WHICH ENTITIES WOULD OVERSEE THAT.  
>> IT'S IN THE STAFF REPORT.  
IT'S MORE THAN JUST -- IT'S THE COUNTY.  
THERE'S TWO OR THREE DIFFERENT GROUPS.  
I THINK FEDERAL.  
I'M NOT SURE ABOUT THAT.  
BUT IT'S IN THE STAFF REPORT.  
>> Councilmember Lesser: THANK YOU.  
>> Mayor Napolitano: COUNCILMEMBER HOWORTH.  
>> Councilmember Howorth: I HAVE A QUESTION FOR YOU MR. CITY ATTORNEY  
AND IT WAS SPURRED BY A COMMENT THAT WAS MADE TONIGHT THAT WE WOULD  
BE OPEN TO LITIGATION BECAUSE OF THE ENVIRONMENTAL IMPACT THAT COULD  
HAPPEN IF SOMETHING LIKE, YOU KNOW, IF THEY HIT SOMETHING, METHANE,  
I DON'T KNOW WHAT IT WOULD BE, THAT WE WOULD BE ON THE HOOK.  
IT WAS ALSO -- I THINK THEY WERE SAYING IF THERE ARE WITH IMPACTS  
WITH CHEVRON THAT WE WOULD BE ON THE HOOK FOR THAT.  
COULD YOU EXPLAIN THAT OR ANSWER THAT?  
>> YES.  
AND I'M GLAD YOU ANSWERED THAT QUESTION BECAUSE THIS ISSUE WAS  
ADDRESSED AT THE PRIOR PROCEEDINGS.  
BUT THE CITY HAS IMMUNITY UNDER THE GOVERNMENT CODE FOR SUGAR BUILDING  
PERMITS AND ENTITLEMENTS.  
SO IN OTHER WORDS, LET'S SAY THE CITY ISSUES A BUILDING PERMIT FOR

SOME SITE, THIS IS A HYPOTHETICAL, THAT'S ACTUALLY CONTAMINATED AND THEY START BUILDING AND SOMEHOW IT KEEPS GETTING BUILT AND AFTER ALL OF THE ENVIRONMENTAL PROTECTIONS DURING CONSTRUCTION, AND PEOPLE START GETTING SICK.

WE HAVE IMMUNITY FROM THAT.

WE'RE IMMUNIZED FROM LAWSUITS.

AND A LOT OF TIMES IT COMES UP IN LANDSLIDE CASES AS WELL.

IT'S A CLEAR IMMUNITY FOR THE ISSUANCE OF A BUILDING PERMIT OR LAND USE ENTITLEMENT.

>> Councilmember Howorth: THANK YOU.

>> Mayor Napolitano: COUNCILMEMBER FRANKLIN.

>> Councilmember Franklin: YES.

THANK YOU.

INTERIM DIRECTOR, SO THE MEMO THAT YOU DISTRIBUTED TODAY, IT TALKED ABOUT THAT IF THERE IS SOMETHING WRONG, IF DURING THE CONSTRUCTION PROCESS THEY DO FIND CONTAMINANTS AND THINGS LIKE THAT, IT SEEMS TO ME, AND I THINK YOU MENTIONED IN HERE, BUT I THINK FOR MY BENEFIT AND OTHERS, IS WHAT WOULD THAT LOOK LIKE?

I MEAN A LOT OF US LIVED THROUGH METLOX AND THE REMEDIATION OF WHEN LEAD WAS FOUND IN THE SOIL.

WHAT WOULD THAT LOOK LIKE IF THEY DISCOVERED A CONTAMINATE, SIMILAR TYPE OF CONTAMINATE.

>> JUST AS THE CITY ATTORNEY JUST DESCRIBED, WHAT HAPPENS IN SITUATIONS LIKE THIS, THEY'RE CONSTANTLY TESTING ON SITE.

AND IF AT ANY POINT THERE IS AN EXPECTED RESULT AND SOMETHING IS FOUND, THEY IMMEDIATELY HAVE TO HALT CONSTRUCTION UNTIL THERE'S FURTHER INVESTIGATION CONDUCTED.

IF THERE'S SOMETHING THAT NEEDS TO BE ADDRESSED, THAT WOULD HAVE TO BE ADDRESSED BEFORE PROGRESSING ANY FURTHER IN THE CONSTRUCTION.

A GOOD EXAMPLE OF THIS IS SOMETIMES YOU'LL HAVE PROJECTS ON SITES THAT HAVE INTEREST FROM THE NATIVE AMERICAN TRIBES AND THEY'LL WANT EITHER A MONITOR ON SITE OR THERE WILL BE A CONDITION OF APPROVAL, FOR EXAMPLE, THAT IF SOMETHING WERE TO BE UNCOVERED ON THAT SITE, YOU WOULD HAVE TO HALT CONSTRUCTION UNTIL THERE'S SOME INVESTIGATION. THEY'LL SEND A SPECIALIST OUT.

THEY'LL SEE IF IN FACT THAT IS AN ARTIFACT THAT IS OF CONCERN.

AND EVERYTHING WILL HALT UNLESS AND UNTIL THERE'S CLEARANCE TO MOVE GUARD.

IT'S A SIMILAR SITUATION WITH ENVIRONMENTAL HAZARDS.

>> Councilmember Franklin: WE SEE AROUND TOWN, IN FACT AROUND HIGHLAND IN EL PORTO, THERE'S VENTS COMING UP ON THE SIDEWALK, THERE'S VENTS AND THERE'S VENTS ON THE PROPERTY NOW.

WHAT ARE THOSE AND ARE THEY JUST A PRECAUTION OR WAS SOMETHING FOUND AND IT'S VENTING?

>> I CANNOT DEFINITELY SAY WHAT'S HAPPENING ON THOSE OTHER PROPERTIES.

I DO NOT EXAMPLES IN OTHER AREAS IN SOUTHERN CALIFORNIA OF PROJECTS

THAT ARE REQUIRED TO BUILD METHANE VENTS INTO THE PROJECT, THE GROVE IS AN EXAMPLE OF THIS.

THERE WAS METHANE IN THE GROVE SITE.

THEY DID HAVE TO BUILD METHANE VENTS WHICH EMITS FROM THE SOIL THROUGH THE BUILDING AND OUT.

ON THIS PARTICULAR SITE I'M NOT SURE THAT WOULD BE NECESSARY.

WE HAVE NOT FOUND ANY EVIDENCE OF THAT TO DATE.

AND I ALSO WOULDN'T BE ABLE TO CONFIRM OR DENY WHETHER THE VENTS YOU'RE DESCRIBING ARE MET THANE VENTS OR SOMETHING ELSE.

>> Councilmember Franklin: HOW MANY BORINGS WERE TAKEN?

>> NINE.

>> Councilmember Franklin: WHAT IS A LOT COMBINED?

DID I READ ONCE IT WAS 20,000 SQUARE FEET?

>> IT'S 45, 46, 47,000.

>> Councilmember Franklin: OKAY.

SO THAT'S -- THAT'S 42-SOME-ODD FEET, OR 42,000 FEET IN AN ACRE?

MY MATH IS WRONG OR MY MEMORY.

HOW MANY ACRES.

>> 453560.

>> Councilmember Franklin: IT'S HOW MANY ACRES.

>> APPROXIMATE ACRE.

>> HOW MANY BORINGS WERE TAKEN?

>> NINE.

>> Councilmember Franklin: NINE.

>> UH-HUH.

>> Councilmember Franklin: AND THE BORINGS ARE APPROXIMATELY 6 INCHES, 4 INCHES?

>> MORE THAN THAT.

I DON'T KNOW DEFINITELY RIGHT NOW.

WE WILL HAVE TO TAKE A LOOK AT THE ENVIRONMENTAL ASSESSMENT TO CONFIRM THE WIDTH OF THE BORING HOLES.

>> Councilmember Franklin: AND WERE THEY SPREAD OUT?

>> YES.

>> Councilmember Franklin: WHEN THEY WERE TAKEN?

>> THAT'S HOW IT'S DESCRIBED.

>> Councilmember Franklin: I'M TRYING TO PICTURE AS THE CONSTRUCTION GOES ALONG, THE SOIL IS TESTED, COMES TO A HALT BECAUSE THEY FIND SOME CONTAMINATE.

WHAT IF IT'S MAJOR.

WHAT ARE THE OPTIONS FOR THE DEVELOPER AT THAT POINT?

OBVIOUSLY THEY HAVE TO PAY FOR, YOU KNOW, THE MITIGATION.

WHAT IF IT JUST EXCEEDS THEIR ABILITY TO, YOU KNOW -- EXCEEDS THEIR BUDGET AND THEY JUST SAY HEY, WE REALLY CAN'T GO THROUGH WITH THIS.

WE CAN'T FINISH THIS.

>> AND THE CITY ATTORNEY CAN CORRECT ME IF I'M WRONG, BUT AGAIN, IT IS THEIR RESPONSIBILITY ENTIRELY TO ADDRESS THOSE SITUATIONS.

>> AND JUST -- WHICH IS A GOOD SEGUE.

I STARTED WRITING DOWN THE DIFFERENT GROUPS.  
AND IT'S THE EPA, BOTH STATE AND FEDERAL EPA, THE WATER BOARD, THE  
STATE ATTORNEY GENERAL.

YOU'VE GOT A LOT OF FEDERAL AND STATE AGENCIES THAT ARE MONITORING.  
AND IF THEY FIND SOMETHING THEY HAVE TO REPORT IT IMMEDIATELY.  
AND THIS HAS HAPPENED -- IT'S NOT JUST THIS ITEM, OF COURSE.  
THIS HAPPENS AND THEY HAVE TO STOP CONSTRUCTION AND REPORT IT AND  
THEN THE COUNTY COMES AND OTHER GROUPS COME WITH THEIR HAZMAT SUITS  
AND EVERYTHING ELSE.

>> IT CANNOT REMAIN UNADDRESSED, ESSENTIALLY.

>> Councilmember Franklin: OKAY.

THAT'S ALL FOR NOW.

THANK YOU.

>> Councilmember Howorth: CAN I FOLLOW UP ON SOMETHING TO CLARIFY.

>> Mayor Napolitano: COUNCILMEMBER HOWORTH.

>> Councilmember Howorth: THANK YOU MAYOR, FOR ACKNOWLEDGING THE  
BUTTON.

THE OWNER, THE DEVELOPER IS RESPONSIBLE WHAT IF THEY DECIDE TO ABANDON  
THE PROJECT.

WILL THEY STILL RESPONSIBLE FOR MITIGATING THE ENVIRONMENTAL DAMAGE?

>> YES.

>> Mayor Napolitano: COUNCILMEMBER FRANKLIN.

>> Councilmember Franklin: I DID HAVE ONE ADDITIONAL QUESTION FOR  
CITY ATTORNEY BARROW.

DURING THE HEARINGS WE KIND OF APPROACHED THE SUBJECT OF SHORT-TERM  
RENTALS.

AND EVEN THOUGH IT'S IN THE COASTAL ZONE, WE DISCUSSED THAT AND FOR  
ME THE CONCERN WAS THE DEVELOPERS IS A HOTEL DEVELOPER.

THERE'S A TREND IN THE INDUSTRY NOW THEY EITHER BUILD APARTMENT  
BUILDINGS OR TAKE OVER APARTMENT BUILDINGS AND YOU CAN RUN THEM AS  
A SORT-TERM RENTAL HOTEL.

AND WE DISCUSSED A COVENANT ON THE AFFORDABLE HOUSING AGREEMENT OR  
ON THE LAND OR ON THE TITLE.

SO IT'S BEEN A COUPLE OF MONTHS AND I KNOW YOU LOOKED INTO IT.

YOU HAD DETERMINED THAT THE STATE WOULD NOT ALLOW SHORT-TERM RENTALS  
EITHER BY THE OPERATOR OR BY THE TENANTS THAT MIGHT BE THERE AND I  
JUST WANT TO MAKE SURE THAT THAT IS STILL THE CASE.

>> DEFINITELY.

BECAUSE I CANNOT IMAGINE WITH THE STRONG STATEMENT THE STATE HAS MADE  
ABOUT HOW SHORT-TERM RENTALS TAKE AWAY HOUSING, NEEDED HOUSING AND  
HOW CITIES CAN DEVELOP THEIR OWN POLICIES WITH RESPECT TO ADUs, FOR  
INSTANCE, IN SB9, I DON'T THE CITY HAS THAT DISCRETION.

IF PEOPLE TAKE ADVANTAGE OF SB9, THEY CANNOT RENT THAT OUT UNDER STATE  
LAW ON A SHORT-TERM BASIS.

SO IT WOULD BE -- SO THE COVENANT IS GOING TO BE -- YEAH.

IF THE COUNCIL DECIDES THE APPROVE THIS PROJECT, THERE WILL BE A  
COVENANT THAT RESTRICTS ALL 79 UNITS FROM BEING USED ON A SHORT-TERM

BASIS.  
AND IT'S GOING TO BE THERE.  
THERE'S NO QUESTION IN MY MIND.  
I CAN JUST, YOU KNOW, IF THE DEVELOPER -- I'M NOT SAYING THIS  
DEVELOPER WOULD DO THIS.  
BUT IF THEY ON ANY TYPE OF HOUSING PROJECT, HCD WOULD BE THE FIRST  
ONE COME IN AND THE ATTORNEY GENERAL AS WELL.  
YOU TOOK -- YOU GOT CONCESSIONS AND WAIVERS BECAUSE YOU'RE PROVIDING  
HOUSING.  
SO THAT'S CONTRARY TO ALL OF THE STATE HOUSING CRISIS ACTS, LIKE THE  
HAA AND OTHERS.  
>> Councilmember Franklin: SO THAT WOULD BE THEM AS AN OPERATOR IF  
THEY WERE OPERATING IT.  
BUT THEY HAD MENTIONED THEY MIGHT HAVE A MANAGEMENT COMPANY DOING  
IT, IT WOULD APPLY TO THEM AND THE INDIVIDUAL TENANTS.  
>> YES.  
>> Councilmember Franklin: SO IF THE COMPANY RENTED ONE OF THOSE  
UNITS, THEY COULD NOT SET THAT UNIT UP AS A SHORT-TERM RENTAL.  
>> GOOD ANALOGY IS THE AFFORDABLE UNITS.  
THE AFFORDABLE UNITS HAVE TO BE AFFORDABLE.  
YOU CAN'T HAVE SOMEONE COME IN AND PAY WHATEVER MEETS THE CRITERIA  
AND THEN TURN AROUND AND SUBLEASE IT TO SOMEONE AT MARKET RATE.  
>> Councilmember Franklin: THANK YOU.  
>> Mayor Napolitano: OKAY.  
OTHER QUESTIONS AT THIS TIME?  
SEEING NONE --  
>> I JUST WANTED TO ADD TWO THINGS, FIRST ABOUT THE NOTICE.  
AS TED MENTIONED, THE ADDITIONAL NOTICE PROVIDED ON THIS PROJECT,  
BUT INCLUDING THE E-MAIL BLAST THAT WENT TO, WHAT, 700 PEOPLE, THAT  
INCLUDED THE APPLICANT AND THE APPELLANT.  
THAT WENT OUT TEN DAYS AGO.  
THAT WENT OUT ON THE 9<sup>th</sup>.  
THAT WAS JUST ADDITIONAL NOTICE.  
THE CITY HAS GONE WAY BEYOND WHAT'S REQUIRED UNDER THE LAW TO NOTIFY  
THE PUBLIC ABOUT THE PROJECT AND THIS HEARING.  
>> Mayor Napolitano: OKAY.  
THANK YOU.  
THEN WE WILL MOVE ON TO MY NEXT SCRIPT POINT HERE, NUMBER FIVE, IF  
THE APPLICANT AND APPELLANTS ARE HERE, I WOULD LIKE TO PROVIDE THEM  
EACH WITH TEN MINUTES, UP TO TEN MINUTES TO SPEAK, THE APPLICANT FIRST  
AND THEN THE APPELLANTS.  
IS THERE AN APPLICANT OR THE REPRESENTATIVE OF THE APPLICANT HERE  
AND WANTS TO SPEAK, COME ON DOWN.  
YOU HAVE UP TO TEN MINUTES ONCE THE CLOCK STARTS.  
>> GOOD EVENING, MR. MAYOR, MEMBERS OF CITY COUNCIL.  
I'M HERE ON BEHALF OF HIGHROSE EL PORTO, LLC.  
WE DID NOT COME PREPARED FOR PRESENTATION.



WE'RE HERE TO OBSERVE.  
THIS IS SORT OF A UNIQUE SITUATION THAT FRANKLY IS A FIRST IN MY CAREER.  
WE'RE CURRENTLY IN COURT RIGHT NOW ON THE DENIAL.  
AND WE WERE JUST SORT OF ASCERTAINING WHAT THE OUTCOME OF THIS EVENING MEANS FOR THAT LITIGATION AND WHAT THE CITY COUNCIL IS GOING TO DO.  
SINCE I'M HERE I MIGHT INCORPORATE THE REVERENCE TO THE EXTENT I NEED TO.  
ALL OF MATERIAL WRIT.  
AND OTHERWISE THAT WE'VE PRESENTED TO THE CITY COUNCIL UP TO THIS TIME AND WITH THAT WE ARE, AGAIN, JUST ON HAND.  
THANKS.  
>> Mayor Napolitano: THANK YOU.  
ALL RIGHT.  
ARE ANY OF THE APPELLANTS HERE?  
COME ON DOWN.  
YOU'RE GOING TO HAVE UP TO TEN MINUTES TO SPEAK.  
IT'S UP TO YOU.  
WE HAVE SPECIAL TIME LIMITS FOR THE APPLICANT AND APPELLANTS.  
AS YOU KNOW, THAT'S PART OF THE PROCESS.  
>> THERE ARE A NUMBER OF THINGS THAT NEED TO CLARIFY.  
THERE'S NO DOUBT THAT YOUR VIEW PROCESS IS MINISTERIAL.  
THAT'S THE CHANGES MADE IN 2017 TRYING TO CHANGE THE PROBLEM OF CONDITIONAL USE PERMITS.  
WHAT WOULD HAPPEN IS AN APPLICANT FOR LOW-INCOME HOUSING WOULD FILE AN APPLICATION, PROCESS THE APPLICATION, IT WOULD GO THROUGH CEQA ENVIRONMENTAL REVIEW, WOULD BE IDENTIFIED SIGNIFICANT IMPACTS AND THOSE WOULD BE MITIGATED AND COME TO COUNCIL AND THEY WOULD DENY THE PROJECT.  
AND THE STATE GOT TIRED OF THAT.  
SICK AND TIRED OF IT.  
THEY MADE AMENDMENT TO THE HOUSING ACCOUNTABILITY ACT AND THE STATE BONUS LAW OVER THE YEARS AND CITIES KEPT ON DENYING IT.  
THEY SAID, YOU KNOW WHAT?  
YOU'RE NOT GOING TO HAVE THAT DISCRETIONARY USE ANYMORE.  
YOU CAN'T DO THAT.  
THAT DISCRETION YOU HAD, WE'RE TAKING IT AWAY FROM YOU.  
BUT THE PROCESS IS THE SAME.  
WHEN AN APPLICATION COMES YOU HAVE TO DO AN ENVIRONMENTAL ASSESSMENT AND THAT'S CEQA, WITH ENVIRONMENTAL IMPACT REPORT.  
AND IF IN FACT YOU IDENTIFY SIGNIFICANT IMPACTS, AND THEY'RE ALL MITIGATED, YOU DON'T HAVE ANY DISCRETION ANYMORE.  
YOU HAVE TO APPROVE IT.  
HOWEVER, IN THOSE RARE INSTANCES WHERE THOSE SIGNIFICANT IMPACTS ARE NOT MITIGATED, THEN YOUR OBLIGATION NOW IS TO HAVE FINDING, DOCUMENT THAT.  
AND THE HISTORY RECOGNIZES THAT'S GOING TO BE RARE.

BUT THEY THINK THEY'VE SOLVED THE PROBLEM.  
WHAT'S CHANGED BETWEEN NOW AND OCTOBER IS TWO THINGS.  
YOU DON'T MAKE THE FINDINGS.  
WHAT THEY'RE REALLY SAYING IS YOU DEPARTMENT COMPLY WITH CEQA AND  
GO THROUGH THE PROCESS.  
WE WERE UNCERTAIN AT THE TIME, WAS IN GREAT COMPLIANCE WITH  
ADMINISTRATIVE LAW IN CALIFORNIA.  
MADE THE FINDINGS AS THE RECORD SUPPORTED.  
THAT'S NOT WHAT WE'RE TALKING ABOUT.  
WE'RE NOT TALKING ABOUT THOSE FINDINGS.  
IF YOU LOOK AT THE LANGUAGE IN THE STATUTES, IT GRAPHS, DOESN'T COPY,  
GRAPHS THE CONCEPT IN THE LANGUAGE IN THE ENVIRONMENTAL REVIEW  
PROCESS.  
DO YOU THINK FOR ONE SECOND RIGHT NOW YOU'RE STANDING HERE, DO YOU  
THINK THIS CALIFORNIA LEGISLATURE INTENDED FOR LOW-INCOME HOUSING  
PROJECTS AND RESIDENTS OF COLOR AND DISADVANTAGED TO NOT HAVE THE  
PROTECTIONS OF THE CALIFORNIA [INAUDIBLE] ACT?  
AND TO DISBAND THE ENVIRONMENTAL REVIEW PROCESS.  
THERE'S IN WAY IN GOD'S GREEN EARTH THEY INTENDED THAT.  
AND YOU CAN SEE THAT.  
YOU'VE GOT DISCRETION.  
AND PEOPLE CAN KEEP ON CONFLATING WITH, WAIT A SECOND, THERE'S NO  
ENVIRONMENTAL REVIEW REQUIRED BECAUSE THERE THIS IS A MINISTERIAL  
REVIEW.  
REVIEW HAS NOTHING TO DO WITH IT.  
IS IT A MINISTERIAL PROJECT OR DISCRETIONARY PROJECT.  
THOSE ARE CLEARLY DEFINED ITEMS IN THE LAW AND IT'S CLEARLY  
DISCRETIONARY.  
BECAUSE BOTH STATE LAWS ALLOW YOU TO EXERCISE DISCRETION.  
AND IF YOU CAN EXERCISE DISCRETION, IT'S A DISCRETIONARY PROJECT.  
AND UNDER THE LAW, THE REGULATIONS AND CASE LAW, IF YOU LOOK AT THE  
MAGNITUDE AND SCOPE OF THIS, YOU CAN SEE THERE'S GOING TO BE SOME  
TYPE OF ENVIRONMENTAL IMPACT.  
THAT DISQUALIFIES IT FROM BEING MINISTERIAL.  
IT'S INDISPENSABLE.  
THERE'S IN WAY THAT THIS LEGISLATURE, WHICH IS A CHAMPION OF  
ENVIRONMENTAL JUSTICE, WOULD ABROGATE AND SAY, YOU KNOW WHAT, I'M  
SORRY, RESIDENTS OF LOW-INCOME, PEOPLE OF COLOR AND DISADVANTAGE,  
WE'RE NOT GOING TO PROTECT YOU, NOT GOING TO GIVE YOU THOSE  
PROTECTIONS.  
YOU'RE ON YOUR OWN.  
YET IF THIS PROJECT WAS FOR WEALTHY PEOPLE, YOU CAN HAVE THOSE  
PROTECTIONS.  
THAT'S JUST ABSURD.  
THAT IS JUST SO ABSURD IT'S UNBELIEVABLE.  
NOW LET'S TALK ABOUT LITIGATION.  
IF YOU IN FACT -- I DON'T THINK YOU COULD DENY THIS PROJECT TONIGHT

BECAUSE YOU HAVEN'T COMPLIED WITH CEQA.  
I REALLY DON'T THINK IT.  
YOU HAVE TO COMPLY WITH CEQA.  
THE BEST ALTERNATIVE IS TO REMAND THIS PROJECT AND DO IT RIGHT.  
OTHERWISE YOU'RE GOING TO GET SUED AGAIN.  
AND IT'S GOING TO BE A SIMPLE LAWSUIT.  
BECAUSE THE JUDGES THAT DEAL WITH THESE MANDATES ARE EXPERTS ON CEQA.  
THEY'RE NOT GOING TO CARE ABOUT THE REVIEW.  
THEY KNOW THE REVIEW IS MINISTERIAL.  
THEY'RE GOING THE SAY IS THIS A MINISTERIAL PROJECT OR DISCRETIONARY  
PROJECT.  
THEY HAVE THE EXPERIENCE TO KNOW IT'S DISCRETIONARY.  
UNDER THE LAW AND REGULATIONS AND JUST GOOD COMMON SENSE.  
YOUR TONIGHT DECISION IS SO VITALLY IMPORTANT, NOT TO JUST THIS CITY  
AND FUTURE PROJECTS, ALL OF THE LOW-INCOME PROJECTS THAT WE SEE IN  
THE FUTURE AND THERE'S GOING TO BE IN PROTECTION FROM CEQA?  
THAT'S GOING TO IMPACT CALIFORNIA.  
I DON'T SEE THAT AS BEING A REASONABLE INTERPRETATION.  
YOU CAN CONFLATE THE TWO AND CONFUSE PEOPLE, BUT MINISTERIAL REVIEW  
PROCESS DOES NOT MAKE IT A MINISTERIAL PROJECT.  
IT'S QUITE SIMPLE.  
AND IF YOU LOOK AT THIS PARTICULAR, I CAN'T THINK OF AN AREA THAT  
IS SCREAMING OUT FOR AN ENVIRONMENTAL REVIEW PROCESS WHERE YOU CAN  
ACTUALLY IDENTIFY IMPACTS AND SAY, ARE THESE SIGNIFICANT AND THEN  
MITIGATE THEM.  
YOU HAVE ONE OF THE MOST CHALLENGING LOCATIONS IN THE CITY.  
ENVIRONMENTAL CHALLENGE, SAFETY CHALLENGES.  
THAT'S JUST OBVIOUS.  
YOU HAVE A NATURAL GAS LINE UP FRONT.  
YOU HAVE CRUDE OIL LINES UNDERNEATH.  
MAJOR ELECTRICAL WIRES THERE AND IT'S DOWNSLOPE FROM THE REFINERY.  
NOT ONLY THAT YOU HAVE CRUDE OIL TANKS THERE.  
AND YOU KNOW WHAT'S GOING TO HAPPEN THERE.  
THERE'S OOH FIRE.  
LOOK AT HOW MANY FIRES WE'VE HAD RECENTLY.  
SHOULDN'T THAT BE STUDIED UNDER CEQA?  
CEQA HAS BEEN IN PLACE FOR A LONG TIME.  
IF THE LEGISLATURE PASSED A STATUTE AND WANT TO EXEMPT IT FROM CEQA,  
THEY SAY IT.  
BUT YOU DIDN'T SEE THAT AT ALL ANYWHERE.  
ARE THERE HOUSING PROJECTS THAT ARE SUBJECT TO STREAMLINED LOW-INCOME  
HOUSING PROJECTS TO STREAMLINE, YES, IT'S RIGHT THERE IN THE CODE.  
HERE'S WHAT'S HAPPENING.  
YOU CAN'T GET MYOPIC.  
YOU CAN'T LOOK AT ONE REGULATION THAT SAYS HERE'S THE DEFINITION OF  
MINISTERIAL PROJECTS AND WE'RE GOING TO SAY OKAY.  
THAT'S IT.

YOU'VE GOT TO LOOK AT EVERYTHING COMPREHENSIVELY AT ALL OF THE HOUSING STATUTES AND IT'S REALLY CLEAR. CERTAIN PROJECTS ARE EXEMPT FROM CEQA AND THEY'LL SAY IT. THEY DIDN'T SAY IT REGARDING LOW-INCOME HOUSING PROJECT. THAT'S A MISINTERPRETATION OF THE MINISTERIAL PROJECT DEFINITION. YOU'RE TAKING THAT AND CONFLATING IT. YOUR NUMBER ONE DUTY IS TO KEEP OUR RESIDENTS SAFE. AND YOU DO SO BY FOLLOWING CEQA IN THIS INSTANCE. I CAN'T THINK OF A PROJECT THAT NEEDS MORE OF AN ENVIRONMENTAL IMPACT PROCESS. IT'S A FUNDAMENTAL FLAW TO SAY THIS IS A MINISTERIAL PROJECT. IT'S NOT AT ALL. IT'S NOT EVEN CLOSE. I THINK THE SMART DECISION IS TO REMAND IT AND MAKE SURE YOU DO WHAT THE LEGISLATURE CONTEMPLATED SO YOU'LL HAVE THE STUDY TO SAY ARE CERTAIN THINGS SIGNIFICANT OR NOT. AND MAKE NO MISTAKE ABOUT IT, IF YOU GO THROUGH IT AND THEY'RE ALL MITIGATED, THEN YOU DON'T HAVE DISCRETION AT ALL. THEN YOU HAVE TO APPROVE IT. THAT'S HOW THE SCHEME SIT SET UP. AND YOU HAVE TO GET IT RIGHT, IT HAS SO MUCH SIGNIFICANCE TO A PRECEDENT. NOT JUST OUR CITY BUT EVERY. AND IF YOU DON'T FOLLOW THAT, YOU WATCH HOW THAT LITIGATION MIGHT SHAPE OUT. EVERY CITY IS GOING TO BE INTERESTED IN IT. EVERY CITY. EVERY ENVIRONMENTAL GROUP MIGHT JOIN IN. NOBODY IN THIS STATE WANTS THAT TO BE THE RULE OF LAW THAT GUESS WHAT WERE LOW-INCOME HOUSING PROJECTS AND PEOPLE OF COLOR AND DISADVANTAGED DON'T GET THE PROTECTIONS OF CEQA. THAT WOULD BE FRIGHTENING FOR THE STATE OF CALIFORNIA. THAT'S JUST NOT WHAT THE LEGISLATURE INTENDED AT ALL. THERE WERE 11 BILLS PASSED IN 2017. LOOK AT THEM ALL. THEY'LL TELL YOU EXACTLY WHAT THEY INTENDED TO DO. THAT'S GET RID OF THE PROCESS AND THAT DISCRETION ONCE IT COMES TO YOU, GET RID OF CEQA. YOU DON'T SEE THAT ANYWHERE. WHEN THERE'S SOMETHING THEY WANT TO EXEMPT FROM CEQA, THEY'LL SIGH THE. CEQA, THESE PROJECTS ARE NOW EXEMPT FROM CEQA. YOU DON'T SEE THAT ANYWHERE IN THE LAWS AND STATUTES, YOU DON'T SEE IT IN CEQA. THAT'S BECAUSE THERE'S A GROSS MISINTERPRETATION. I THINK IT WOULD BE PRUDENT TO SEND THIS BACK IN REMAND FOR THIS COUNCIL AND FOR THOSE RESIDENTS THAT LIVE THERE AND FOR OUR COMMUNITY.

THANK YOU.  
>> Mayor Napolitano: THANK YOU.  
ARE THERE OTHER APPELLANTS HERE IN THE AUDIENCE?  
ANY APPELLANTS ON ZOOM THAT WE KNOW OF?  
>> ED McFEARSON IS ON THERE.  
>> OH, YEAH.  
>> YES.  
>> THINKING OF DON.  
>> DON IS...  
>> I DON'T THINK HE IS.  
>> Mayor Napolitano: DO WE KNOW IF THERE ARE ANY OTHER APPELLANTS --  
[INAUDIBLE]  
HE'S ON ZOOM?  
YEAH?  
LET'S DO IT.  
>> THIS IS FOR THE APPELLANTS AND THERE'S ALSO MEMBERS OF THE PUBLIC.  
SO IF THERE'S NO OTHER APPELLANT THAT WANTS TO SPEAK AT THIS TIME,  
OPEN IT UP TO THE PUBLIC.  
>> Mayor Napolitano: DID MR. [INAUDIBLE] RAISE HIS HAND?  
>> HE HAS NOW.  
>> Mayor Napolitano: MR. SHINDALE, ARE YOU THERE?  
RON?  
IS HE MUTED?  
UNMUTED?  
WHEN HE RAISED HIS HAND?  
MR. SHINDALE, ARE YOU THERE?  
ALL RIGHT.  
WE'LL MOVE ON THEN AND COME BACK TO HIM IF HE WANTS TO TAKE ADVANTAGE  
OF THAT TEN MINUTES LATER.  
ALL RIGHT.  
THEN WE WILL OPEN IT UP TO THE PUBLIC AGAIN.  
AT THIS TIME IF ANY OF THE APPELLANTS RAISE THEIR HAND OR WANT TO  
SPEAK, I'LL DO THAT AT THIS TIME.  
IN THE MEANTIME WE'LL GO WITH THE PUBLIC AND PUBLIC PARTICIPATION.  
COUNCILMEMBER HOWORTH DO YOU HAVE A QUESTION?  
>> Councilmember Howorth: A QUESTION ON THE PROCESS.  
IF WE HAD FOLLOW-UP QUESTIONS FOR THE CITY ATTORNEY BASED ON THE  
APPELLANT'S COMMENTS, SHOULD WE WAIT UNTIL AFTER PUBLIC COMMENT.  
>> Mayor Napolitano: YES.  
>> Councilmember Howorth: THANK YOU.  
>> I LIVE ON 44<sup>th</sup> STREET.  
I CURRENTLY REQUEST THAT YOU VOTE NO ON HIGHROSE.  
THE PROJECT IS A DIRECT ATTACK ON OUR SMALL BEACH TOWN CHARACTER.  
THE EXCESSIVE SCALE, THE INCREASE IN TRAFFIC, POSSIBLE ENVIRONMENTAL  
ISSUES, AND TURNING OUR BEAUTIFUL CITY INTO REDONDO BEACH.  
LET'S SEND A LOUD MESSAGE TO DEVELOPERS THAT IF YOU AREN'T GOING TO  
IMPROVE OUR COMMUNITY, DON'T EVEN APPLY.

LET'S ALSO SHOW DEVELOPERS THAT THIS CITY WILL NOT BE INTIMIDATED JUST BECAUSE THE DEVELOPER DID NOT GET THE ANSWER THEY WANTED.

I ASK A SIMPLE QUESTION OF WHY.

WHY ANYONE ON THE COUNCIL COULD SAY YES.

PLEASE REREAD AND REFLECT ON THE COUNCIL'S MISSION STATEMENT, QUOTE, PRESERVING OUR SMALL BEACH TOWN CHARACTER AND ENHANCING THE QUALITY OF LIFE FOR RESIDENTS.

DOES THIS PROJECT MEET THIS CRITERIA?

OKAY.

THAT'S PROBLEM ONE.

WHAT IS THE BENEFIT TO MANHATTAN BEACH AND ITS RESIDENTS FROM THIS PROJECT.

OKAY.

THAT'S PROBLEM NUMBER TWO.

PLEASE VOTE NO AND SAVE OUR TOWN FROM LOOKING LIKE REDONDO BEACH. THANKS.

>> Mayor Napolitano: THANK YOU.

>> GOOD EVENING MAYOR NAPOLITANO AND COUNCILMEMBERS.

I'M A LONG-TIME MEMBER, CITY RESIDENTS.

BEEN TO THE CITY COUNCIL MEETINGS OFTEN.

I'M AGAINST THE PROJECT.

I LIVE AT THE BOTTOM OF HIGHLAND AND ROSECRANS.

I AM IMPACTED BY THAT INTERSECTION EVERY DAY OF MY LIFE.

I CAN'T SEE HOW THIS PROJECT WOULD NOT SIGNIFICANTLY IMPACT OUR CITY, THAT INTERSECTION, INGRESS AND EGRESS, EVERYTHING ABOUT OUR ENTIRE CITY, NOT JUST THAT INTERSECTION, BUT WE'VE BEEN THROUGH A LOT OF ISSUES ON OCEAN DRIVE AND COMING DOWN HIGHLAND, SPEED LIMITS, PARKING, YOU KNOW, LANES OF TRAFFIC, AND THIS WE CAN'T HANDLE ANY MORE DENSITY, TRAFFIC DOWN THERE.

AND I THINK IT NEEDS TO BE STUDY.

AND I WAS QUESTION ANYTHING DONE DURING THE PANDEMIC BECAUSE THAT IS NOT A REALISTIC VIEW OF ANY KIND OF IMPACT WHEN EVERYBODY WAS AT HOME, NO WIN WAS TRAVELING AROUND, PEOPLE WEREN'T GOING TO WORK, PEOPLE WEREN'T COMING IN AND OUT OF THE COMMUNITY.

I THINK IT HAS TO BE REVIEWED.

BUT I WANT TO SAY ON A PERSONAL COMMON-SENSE LEVEL, THIS IS A SIGNIFICANT IMPACT, ONE THAT I DON'T THINK THE CITY CAN BEAR.

AND I WOULD SAY DON'T BE BULLIED, STAND UP AND MAINTAIN WHAT IS IMPORTANT TO YOU AND WHAT MAKES MANHATTAN BEACH MANHATTAN BEACH. THAT'S WHAT YOUR JOB IS IN MY MIND.

THANK YOU.

>> Mayor Napolitano: THANK YOU.

IF YOU DO PLAN ON SPEAKING AND YOU HAVEN'T SPOKEN BEFORE, COME ON DOWN TO THESE SEATS HERE.

KEEP THINGS GOING.

>> HI.

LIZ GRIGGS, I LIVE AT THE NORTH END, LONG-TIME RESIDENT HERE IN

MANHATTAN BEACH.

I DO REALLY HONESTLY MAYOR, CITY COUNCIL MEMBERS APPRECIATE THE WORK YOU PUT INTO THIS.

WE HAVE A HISTORY WITH THE CITY COUNCIL, YOU GUYS DO YOUR WORK, DO YOUR RESEARCH AND YOU SINCE THAT YOU'RE GOOD STEWARDS OF OUR COMMUNITY AND DO WHAT'S IN THE BEST INTEREST OF THE COMMUNITY.

AND WE KNOW IT AS NOT EASY.

AND WE YOU HAVE TO LOOK AT ALL OF THE BEST INTEREST OF WHAT'S THERE FOR THE CITY COMMUNITY AND THE OVERALL WELL-BEING OF THOSE WHO LIVE WITHIN THE CITY.

AND YOU DO THE RIGHT THING, YOU DO YOUR RESEARCH AND YOU HAVE TO MAKE EDUCATED DECISIONS AND WE KNOW THAT IT'S TOUGH.

WE KNOW THAT YOU HAVE TO COMPLY WITH LAW, LEGAL ISSUES, BUT YOU ALSO HAVE TO DO WHAT'S BEST FOR THE COMMUNITY, THE RESIDENTS THAT LIVE IN THE COMMUNITY.

AND BASED ON YOUR HISTORY I KNOW THE CITY IS NOT AFRAID TO PUT UP A FIGHT.

I'VE SPENT MANY HOURS IN HERE GOING THROUGH PLANNING COMMISSION MEETINGS AND CITY COUNCIL MEETINGS AND THERE HAS TO BE COMPROMISE AND THERE ARE WAYS TO DO IT.

AND I KNOW THAT IN THE PAST THE CITY COUNCIL HAS DONE A GOOD JOB IN REPRESENTING THE COMMUNITY'S INTEREST.

SO I STRONGLY ENCOURAGE YOU TO STAND YOUR GROUND.

I DO THINK THAT THE MEMO THAT THE CITY PUBLISHED, THE SUP MENTAL MEMO, IF YOU LOOK ON THE BACK PAGE, THE PARAGRAPH HERE, LINES THREE TO FIVE, IT DOES LET YOU KNOW THAT YOU HAVE RESPONSIBILITIES AND YOU HAVE OPTIONS TO FOLLOW CEQA AND I STRONGLY RECOMMEND YOU DO THAT BECAUSE I DO LIVE AT THE NORTH END AND I DON'T LIVE 100 FEET FROM THE PROJECT, MAYBE 100 YARDS FROM THE PROJECT.

I CAN SEE THE PROJECT WHEN I WALK OUT MY FRONT DOOR.

AND I DRIVE AND BASED ON THE RENDERING THAT I SAW, THE EGRESS FROM THAT PROJECT WILL DUMP ON THE INTERSECTION THAT IS VERY BUSY AND IT WOULD NOT BE RESPONSIBLE OF THE CITY COUNCIL TO APPROVE THIS PROJECT WITHOUT REQUIRING A PROPER ENVIRONMENTAL STUDY.

THANK YOU SO MUCH.

>> Mayor Napolitano: THANK YOU.

>> GOOD EVENING, COUNCIL.

I'M PATRICK SHARPLESS AND I OPPOSE THE PROJECT.

I'M FROM REDONDO BEACH, SO I CAN RESPECT THAT.

BUT I'M REALLY CONCERNED, I CAME INTO THIS LATE.

I DIDN'T REALLY LOOK INTO THIS VERY CAREFULLY UNTIL RECENTLY, THE LAST FEW DAYS.

WHAT I'M FINDING IS VERY TROUBLING.

THE HOUSING ACCOUNTABILITY ACT AND THE STATE DENSITY BONUS LAW, THEY REQUIRE THOSE WRITTEN FINDINGS WHEN YOU HAVE A QUALIFYING PROJECT. BUT TECHNICALLY THIS PROJECT WENT THROUGH THE REVIEW PROCESS.

IT GOT APPEALED TO THE COUNCIL AND IT GOT DENIED BY THE COUNCIL.

SO THAT PROJECT WASN'T A QUALIFYING PROJECT IN MY VIEW.  
SO RIGHT AWAY YOU'VE GOT THAT PROTECTION FROM THESE THREATS BEING  
MADE BY THE STATE AGENCIES.  
NOTWITHSTANDING THE PRELIMINARY FINDINGS, THIS PROJECT IS NOT A  
QUALIFY PROJECT.  
THE FORMER COUNCIL OVERRULED THE STAFF AND DISAPPROVED THE PROJECT.  
AND WITH REGARDS TO THE HOUSING ELEMENT, THE STREAMLINING REVIEW  
PROCESS IS FOR THE PROJECT'S DESIGN, NOT THE PRELIMINARY MATTERS LIKE  
CEQA.  
THIS WOULDN'T BE APPLICABLE FOR EXEMPTING FROM CEQA REVIEW.  
AND THE DETERMINATION THAT IS THIS A MINISTERIAL PROJECT IS  
MISGUIDING.  
THAT IS NOT A MINISTERIAL PROJECT.  
THIS PROJECT IS -- CEQA DEFINES IT.  
AND WHEN YOU LOOK AT THE LAST SECTION IN THAT -- LAST SUBPART IN THAT  
SECTION, IT SPECIFICALLY SAYS ANYTHING WHERE IT HAS A DISCRETIONARY  
DECISION AND A MINISTERIAL ASPECT COMPONENT TO IT, IT'S  
DISCRETIONARY, HAS TO BE TREATED AS DISCRETIONARY.  
THAT'S PART OF IT.  
TREATED AS MINISTERIAL AND IT'S NOT.  
THE LOCAL COASTAL PROGRAM, 84010, IT SAYS THAT -- IT DOESN'T  
SAY -- [ BEEPING ] IT SAYS IT SHALL BE ELIGIBLE --  
>> Mayor Napolitano: THANK YOU.  
>> MY COMMENTS WERE SUBMITTED EARLIER.  
>> Mayor Napolitano: WE GET E-MAIL EVEN FROM REDONDO.  
>> YOU DO?  
>> Mayor Napolitano: FILTER WAS OFF.  
>> YOU KNOW WHAT I'VE SAID MANY TIMES, YOU'VE READ EVERYTHING AND  
HEARD EVERYTHING.  
I'M HERE ON BEHALF OF ANDREW RYAN THAT HE WAS NOT INFORMED THAT THERE  
WAS AN OPPORTUNITY TO COMMENT TONIGHT.  
HE WAS ONE OF THE APPELLANTS.  
A CONFLICT.  
THANK YOU.  
>> Mayor Napolitano: OTHER SPEAKERS HERE IN THE AUDIENCE WHO HAVEN'T  
SPOKEN ALREADY.  
OKAY.  
WE'LL GO TO ZOOM.  
ED.  
>> THANK YOU VERY MUCH.  
I'VE BEEN A RESIDENT OF MANHATTAN BEACH FOR 40 YEARS AND I'M SPEAKING  
TO NIGHT MESS AS A RESIDENT AND MORE AS A LAWYER.  
LET ME START WITH THIS.  
IN JUNE, THE SUPREME COURT REVERSED ROE VERSUS WADE.  
EVERYBODY SCREAMED JUST BECAUSE THE SUPREME COURT CHANGED PERSONNEL  
DOESN'T MEAN THEY SHOULD GET TO CHANGE THE LAW.  
WE HAVE A NEW CITY COUNCIL.



DON'T BE LIKE THE SUPREME COURT.  
IS THE NEW COUNCIL LESS CONCERNED WITH PUTTING LOW-INCOME PEOPLE  
WITHIN 3200 FEET OF A REFINERY?  
BECAUSE THAT'S ALSO A HUGE STATE-WIDE CONCERN.  
OR IS A KNEE JERK REACTION TO THE LAWSUIT BY THE BIG, BAD DEVELOPER.  
BEFORE THE PROJECT WAS REJECTED IT WAS CLEAR THAT IF THE CITY APPROVED  
THE PROJECT THEY WOULD BE SUED BY THE RESIDENTS.  
AND I RESPECTFULLY DISAGREE WITH MR. BARROW, YOU CAN BE SUED BY THE  
RESIDENTS.  
I DID IT AGAINST THE CITY OF LOS ANGELES FROM A COUPLE OF YEARS AGO  
AND WE STOPPED THEM.  
IF THE CITY REJECTED THE PROJECT THEY WOULD BE SUED BY THE DEVELOPER.  
BUT THE DEVELOPER IS SUING FOR \$52 MILLION.  
DO YOU KNOW THE DIFFERENCE BETWEEN A LAWSUIT FOR \$52 MILLION AND A  
LAWSUIT FOR \$52?  
ABSOLUTELY NOTHING.  
IT'S SIX ZEROES ON THE COMPUTER.  
THAT'S THE ONLY DIFFERENCE.  
AND BY THE WAY, I DON'T THINK YOU CAN GET MONEY DAMAGES PURSUANT TO  
THE PETITION FOR MANDATE.  
THIS IS A REALLY BAD IDEA FOR TOO MANY REASONS TO COUNT.  
THE WORST THING THIS PROJECT IS GOING DO IS CHANGE THE ENTIRE  
COMPLEXITY OF THE CITY AS MANY PEOPLE HAVE INDICATED.  
THANK YOU VERY MUCH.  
I APPRECIATE IT.  
>> Mayor Napolitano: THANK YOU.  
DALE.  
>> HELLO, CAN YOU HEAR ME?  
>> Mayor Napolitano: YES, GO AHEAD.  
>> IT'S GREAT TO HEAR EVERYBODY.  
AND I AM IN FULL SUPPORT OF THIS BEAUTIFUL PROJECT.  
I'M THE ONE THAT LEFT MANHATTAN BEACH IN '92.  
I LIVED THERE SINCE '76 TO '92.  
I LEFT BECAUSE OF THE CONCRETE TOWERS THAT GOT BUILT.  
I HEARD SOMEBODY SAY THAT PEOPLE WITH MONEY WOULDN'T BE MOVING INTO  
THIS.  
YOU KNOW, THE PEOPLE WITH MONEY.  
I HAVE MONEY.  
I HAVE BEEN RETIRED.  
I HAVE MONEY.  
I GOT TONS OF MONEY AND I COULD HAVE BOUGHT THE PROPERTY THAT I  
DIDN'T -- THAT I WAS RENTING IN '92.  
I CHOSE NOT TO BECAUSE EVERYBODY WAS GOING TO TAKE MY VIEW AWAY IF  
I BOUGHT THAT BEAUTIFUL DUPLEX.  
SO I JUST LAUGHED.  
I'M IN CENTRAL CALIFORNIA NOW.  
IT'S GORGEOUS UP HERE.

BUT WHAT I WANT TO SAY IS PEOPLE ARE HURTING.  
EIGHT BILLION PEOPLE ARE ON THIS PLANET AND THEY NEED TO LIVE PLACES.  
THE PEOPLE THAT WOULD MOVE INTO THIS WOULD BE THE SERVERS OF THE RICH  
AND THEY WOULD HELP TO SUPPORT THE COMMUNITY.  
AND FOR THE PERSON THAT LEAVES THEIR HOUSE SEVEN DAYS A WEEK THAT  
LIVES BELOW ROSECRANS AND HIGHLAND, RIDE YOUR BIKE, WALK OR CONDENSE  
YOUR ERRANDS.  
I DON'T SEE THIS TO BE A PROBLEM.  
I'M SORRY.  
I'M NOT TRYING TO CONTROL YOU.  
REALLY SEVEN DAYS A WEEK YOU LEAVE.  
SO ONE OTHER POINT I WANT TO MAKE, BECAUSE YOU'VE HEARD MY SPIEL.  
WHEN THESE CONCRETE TOWERS WENT UP AND TOOK ALL OF THE VIEWS AWAY  
AND PUSHED RENTERS RIGHT OUT THE BACK DOOR WITHOUT A CARE IN THE WORLD,  
WHAT HASN'T BEEN THE DISCUSSED IS THE AMOUNT OF GARDEN PARTIES THAT  
YOU THREW WITH YOUR LIVE BANDS, BRICK WALLS, AND BEER DRINKING BUDDIES  
YUCKING IT UP.  
WE WANT THE CITY BACK.  
PLEASE LET THE WONDERFUL RENTERS -- [ BEEPING ]  
>> Mayor Napolitano: THANK YOU.  
MUST HAVE MISSED THOSE PARTIES.  
DEBBIE.  
>> YES.  
I THINK I MISSED THOSE PARTIES TOO.  
WHERE ARE THEY?  
ANYWAY, I'M A NORTH RESIDENT AND SPOKE AGAINST THE PROJECT IN THE  
BEGINNING.  
MY MAIN CONCERNS WERE PARKING AND TRAFFIC CONGESTION HERE, IT'S  
HORRIFIC, ESPECIALLY IN THE SUMMERTIME.  
BUT MOSTLY CHANGING THE SMALL-TOWN CHARACTER OF THE NEIGHBORHOOD AND  
THE TOWN AND THE ENVIRONMENTAL CONCERNS AGAINST NEXT TO CHEVRON.  
I THOUGHT WE HAD SETTLED THIS IN THE FALL BUT IT SEEMS LIKE FEAR OF  
LAWSUITS BOUGHT THIS UP AGAIN.  
WE DECIDED AS A CITY IT WAS WORTH THE FIGHT IN COURT.  
WE KNEW THIS WAS GOING TO HAPPEN HERE.  
I HAVEN'T SEEN ANYTHING NEW HERE OTHER THAN THE LAWSUITS.  
THERE'S BEEN NO CHANGE OF CIRCUMSTANCES.  
WE ALWAYS KNEW THEY WOULD FOLLOW AND THOUGHT WE HAD DETERMINED THAT  
IT WAS WORTH THE RISK OF FIGHTING THE LAWSUITS.  
WE HAD A LAW FIRM THAT WAS WILLING TO HELP PRO BONO OR REDUCED FEES,  
WE HAVE SMART ATTORNEYS IN TOWN TO HELP WITH THIS.  
I GET THIS WOULD BE WORK FOR THE CITY ATTORNEY AND PROBABLY A LOT  
MORE, BUT IF THIS ISN'T WORTH FIGHTING FOR, WHAT IS.  
THE STAFF SAID THERE'S NOT A PREPONDERANCE OF NEW EVIDENCE, THERE'S  
A RISK OF DEVELOPING AND SITE TESTS, DONE BY THE OWNER.  
SURPRISE THAT THE OWNER'S TEST CAME BACK NO PROBLEM.  
THAT'S A LITTLE BIT OF THE FOX IN CHARGE OF THE HEN HOUSE IF YOU ASK

ME.

THIS IS NOT ABOUT LOW-INCOME HOUSING.

THE DEVELOPER WOULDN'T CARE LESS ABOUT PROVIDING LOW-INCOME HOUSING. THEY'RE EXPLOITING THE FACT THEY USE THIS FOR BUILDING A MONSTROSITY LIKE THIS.

I CAN'T BELIEVE THESE LAWSUITS WOULD MAKE YOU GUYS RUN OFF WITH YOUR TAILS BETWEEN YOUR LEGS AND ALL OF THE SUDDEN OVERTURN THAT DECISION. PLEASE HAVE SOME CONVICTION AND DO THE WORK TO DO WHAT IS BEST FOR THE RESIDENTS BUT THE INTEGRITY OF THE TOWN.

>> Mayor Napolitano: THANK YOU.

THANK YOU, DEBBIE.

ZAC.

>> THANK YOU COUNCIL.

A MANHATTAN BEACH RESIDENT WITH NO FINANCIAL CONNECTION TO HIGH ROSE. I THOUGHT THE DENIAL WAS UNWISE BACK THEN AND I THINK IT'S UNWISE NOW.

I KNOW THAT SOME OF THE COUNCIL FEEL THAT THESE LAST-MINUTE ENVIRONMENTAL ISSUES ARE THE CITY'S BEST CHANCE IN COURT BUT I DON'T SEE THOSE FUELING ANYONE, LEAST OF ALL A COURT JUDGE.

THE CITY'S ELEMENT IDENTIFIED THIS SITE FOR HOUSING.

HERE'S ONE OF MY CONCERNS.

WILL THIS BE THE NEW NORMAL.

THERE WILL BE MORE NONDISCRETIONARY APPLICATIONS MOVING FORWARD.

EACH ONE OF THESE WILL NEED TO BE COMPELLED BY A COURT JUDGE.

THIS WILL 23409 BE A RESPONSIBLE USE OF TAXPAYER MONEY.

AS THE CITY PLANNING STAFF STATED OVER AND OVER AGAIN, THIS PROJECT IS IN COMPLIANCE WITH ALL OF THE CITY'S RULINGS AS DETERMINED BY THE DENSITY BONUS.

COUNCILMEMBER LESSER, YOU CAMPAIGNED WITH WORKING WITH PEOPLE AND TRYING TO FIND A COMMON GROUND.

IF IN PERMIT IS DENIED, NO ONE IS GOING TO TRUST THE CITY AGAIN.

AND THIS WILL BECOME STANDARD OPERATING PROCEDURE.

THERE WILL BE NO OPPORTUNITY FOR MIDDLE GROUND AND THAT WILL BE A NECESSARY FUND.

THE REASON WE'RE IN A US HOG CRISIS IN THE STATE IS CALIFORNIA HAS A SHORTAGE OF TWO MILLION HOMES AND WILL REMAIN THIS WAY UNTIL WE GET SERIOUS ABOUT BUILDING MORE HOMES.

I'VE BEEN REALLY DISAPPOINTED BY THE LOCAL GOVERNMENT AND WHAT FEELS LIKE A COMPLETE LACK OF SERIOUSNESS AND URGENCY ABOUT ADDRESSING THE HOUSING SHORTAGE.

DENYING THIS PROJECT FEELS LIKE MORE OF THE SAME.

APPROVING THIS SEEMS LIKE THE CITY IS TAKING ITS RESPONSIBILITY SERIOUSLY TO ENSURE THAT HOUSING CAN BE BUILT AS NEEDED.

THANK YOU.

>> Mayor Napolitano: THANK YOU.

ROSLYN.

>> OKAY.

CAN YOU HEAR ME?

>> Mayor Napolitano: YES.

>> HI.

YES.

I'M A RESIDENT OF MANHATTAN BEACH.

I ACTUALLY WAS IN FAVOR OF HIGHROSE.

I'M IN FAVOR OF FINDING HOUSING FOR PEOPLE.

BUT PERHAPS SIT IN AN UNSAFER AREA ENVIRONMENTALLY.

MORE TESTS NEED TO BE DONE.

MY REAL QUESTION IS CAN WE NEGOTIATE WITH THE DEVELOPER TO PUT A SIMILAR DEVELOP OR SEPULVEDA OR SOMEWHERE ELSE IN MANHATTAN BEACH.

I'M SORT OF DISAPPOINTED THAT THAT CORNER OF MANHATTAN BEACH BOULEVARD AND SEPULVEDA WENT TO ONE OF THE BANKS AND THEN ALSO SUNRISE IS COMING IN AND GOAT HILL WHEN THERE'S ONE JUST DOWN THE STREET, YOU KNOW, A COUPLE OF MILES IN HERMOSA.

HOUSING THIS FOR -- YOU KNOW, LOWER-COST HOUSING WOULD HAVE BEEN A GREAT IDEA.

I'M NOT SURE IF THIS SOUNDS NAIVE BUT IF IT'S POSSIBLE TO RENEGOTIATE WITH THIS DEVELOPER AND MAKE SURE HE -- I'M NOT AGAINST ANYONE MAKING MONEY OR DOING WHAT THEY NEED TO DO AND FOR OUR CITY TO CONTINUE TO GROW.

THINGS CHANGE.

YOU KNOW.

IT'S THE 21<sup>st</sup> CENTURY AND WE HAVE TO ACCEPT THE FACT THAT WE NEED MORE HOUSING.

THANKS AND I, YOU KNOW, I'M HOPING THAT THE BEST TURNS OUT BECAUSE IT'S A SHAME TO HAVE SO MUCH BAD FEELINGS BETWEEN ALL OF US WHO LIVE HERE.

THAT'S IT.

>> Mayor Napolitano: THANK YOU.

JAN.

>> GOOD EVENING.

I DON'T NEED TO REITERATE A LOT OF IT BUT WHAT THE PERSON SAID EARLIER ABOUT THE SERVANTS OF MANHATTAN BEACH BEING ABLE TO LIVE IN THIS DEVELOPMENT, ARE WE JOKING HERE?

DO YOU KNOW WHAT THE RENTS ARE GOING TO BE?

THOSE ARE NOT FOR PEOPLE WHO ARE SERVING THE CITY OF MANHATTAN BEACH.

SO WE GO BACK TO THE FACT AGAIN WHAT IS TRULY AFFORDABLE.

AND THERE ARE MANY PLACES WHERE WE COULD BUILD HOUSING THAT WOULD BE TRULY MUCH MORE AFFORDABLE FOR PEOPLE WHO COULD STILL GET HERE WITHIN TEN MINUTES.

AND AGAIN, THERE'S NO REASON FOR US TO APPROVE ANYTHING THAT HAS THIS KIND OF SITUATION FOR TRAFFIC AND THE LACK OF PARKING.

THANK YOU.

>> Mayor Napolitano: THANK YOU.

MR. SHINDALE, ARE YOU THERE?

RON, CAN YOU HEAR US?

WINK TWICE IF YOU'RE OKAY.

[INAUDIBLE]

>> Mayor Napolitano: OKAY.

MR. BORDOCAS.

>> CAN YOU HEAR ME?

>> Mayor Napolitano: YES.

AS AN APPELLANT YOU HAVE UP TO TEN MINUTES.

>> I DON'T THINK I'LL NEED THAT MUCH.

AS YOU KNOW I'VE BEEN OPPOSED TO THIS PROJECT.

APPEALED IT THE FIRST TIME, SECOND TIME AT COUNCIL WE'VE BEEN TOLD THIS IS FOR AFFORDABLE HOUSING AND AS MANY OF THE OTHER SPEAKERS HAVE ALSO STATED WITHIN MUCH MORE ELOQUENTLY THAN I CAN, IT CERTAINLY IS NOT.

IT PROVIDES SIX UNITS OUT OF 79 OF WHICH WILL BE 512 SQUARE FEET AND PROBABLY WILL BE FACING THE WALL THAT BLOCKS THE TANKS.

BUT IN ANY CASE, THE OTHER ONES WILL ALL BE 73 UNITS, LUXURY UNITS WITH A PENTHOUSE ON THE FOURTH FLOOR.

WE ASKED -- I DON'T HAVE A PROBLEM WITH AFFORDABLE HOUSING, AS I'VE STATED BEFORE.

I DON'T THINK THIS DOES ANYTHING REALLY FOR AFFORDABLE HOUSING, AS IT'S ONLY SIX UNITS.

AND IT'S REALLY JUST A GREAT PROFIT MACHINE FOR -- YOU KNOW, IT'S A WINDFALL FOR THE DEVELOPER TO MANEUVER THROUGH THE REGULATIONS THAT OTHER DEVELOPERS IN OUR TOWN WOULD HAVE TO PUT UP WITH, NOT BECAUSE THEY QUALIFY WITH THE AFFORDABLE HOUSING OF SIX UNITS.

THEY GET AROUND.

YOU GUYS KNOW ALL OF THAT.

ALSO, YOU KNOW, DOES IT REALLY DO ANYTHING FOR THE COMMUNITY?

NO.

AND AS YOU STATED, MAYOR NAPOLITANO, WHEN WE -- WHEN YOU VOTED AGAINST THIS, IT'S NOTHING TO DO WITH THE CHARACTER.

OBVIOUSLY, WE CARE ABOUT THE CHARACTER.

IT'S NOT NOTHING TO DO WITH IT BEING NOT -- NOT BEING UNDER AB2011 BECAUSE AB2011 IS NOT ENFORCE.

BUT THERE'S A REASON AB2011 WAS SIGNED AND I THINK PROBABLY AS MANY OTHER PEOPLE HAVE STATED THAT BUILDING HOUSING, ESPECIALLY AFFORDABLE HOUSING RIGHT NEXT TO A REFINERY, WHICH NINE BORING HOLES AN ACRE OBVIOUSLY HAS BEEN GIVEN SO MUCH CREDIT AS TO IDENTIFYING ANY POSSIBLE PROBLEMS.

THAT'S FINE HOLES OF WHATEVER SIZE THEY MIGHT BE.

IT DOESN'T SEEM LIKE IT'S ENOUGH.

SO WE'RE GOING TO PUT THESE PEOPLE AT RISK, WE'RE GOING TO RISK OR COMMUNITY AND WE'RE NOT EVEN REALLY ADDRESSING WHILE AB2011 WAS DONE.

SURE, IT DOESN'T AFFECT THIS PROJECT WHEN IT WAS FILED, BUT YOU CAN'T JUST IGNORE THAT, CAN YOU?

CAN YOU JUST SLIDE THIS IN AND THEN WORRY ABOUT THE POSSIBLE RISK TO THE TENANTS AND TO THE CITY.

AND ONE QUESTION THAT WASN'T REALLY ANSWERED, OKAY, SO THEY START DIGGING, RIGHT.

AND SO THEY FIND SOMETHING AND THEN THE DEVELOPER ABANDONS THE PROJECT SAYING WE DON'T HAVE ANY MONEY, WE CAN'T MITIGATE THIS, CAN'T FIX THIS.

NOBODY ANSWERED WHAT HAPPENS.

THEY JUST SAID THEY WOULD BE RESPONSIBLE.

YOU KNOW, THEY SHOULD BE RESPONSIBLE MEANS NOTHING.

IF THEY WALK AWAY AND GO BANKRUPT AND BANKRUPT THE LLC, WHO IS RESPONSIBLE?

WE ARE.

WE'RE GOING TO BE STUCK WITH IT.

WE'RE GOING TO BE STUCK WITH THAT, IN MY VIEW.

AND I THINK MAYBE YOU GUYS ARE LOOKING AT THAT.

WE'RE GOING TO BE STUCK THAT WITH LIABILITY, NOT THE DEVELOPER.

AND WHO ARE YOU GOING TO SUE, THE LLC WHICH IS NOW BANKRUPT AND LIQUIDATED?

I DON'T KNOW.

IT SEEMS TO ME THAT WE ALL WANT AFFORDABLE HOUSING.

THIS ISN'T THE WAY TO DO IT.

THIS ISN'T AFFORDABLE HOUSING.

ISN'T DOING ANYTHING.

IT'S OPTICS FOR THE STATE OF CALIFORNIA.

IT SHOWS THAT THEY'RE TRYING TO DO SOMETHING ABOUT AFFORDABLE HOUSING BUT ALL IT IS A BIG SCAM.

AND AT THE SAME TIME, IT'S TRAMPLING OUR RIGHTS AS A COMMUNITY.

OUR RIGHTS TO HAVE OUR VOICES HEARD.

AND I THINK THE ATTORNEY SAID THAT, IN THEIR OPINION, THAT IT VIOLATES DUE PROCESS AND VIOLATES THE 14<sup>th</sup> AMENDMENT WHICH SUPERCEDES STATE LAW.

WE ARE PROTECTED BY EQUAL PROTECTION UNDER THE LAW AND ALSO A DUE PROCESS.

WE HAVE THAT RIGHT.

AND IF THESE GUYS WANT TO SUE US, LET THEM COME SUE US BECAUSE OTHER CITIES IN THIS STATE ARE GOING TO BE RUINED BY THESE PEOPLE.

WE DON'T WANT MIAMI IN MANHATTAN BEACH.

REDONDO BEACH, I KIND OF LIKE REDONDO BEACH, THEY ONLY HAVE A FEW OF THESE BUILDINGS.

BUT WE DON'T WANT MIAMI HERE.

WE DON'T WANT TOWERS OF TEN AND 15 STORIES BECAUSE THE STATE NEEDS TO SHOW THAT THEY'RE DOING SOMETHING, YOU KNOW.

AND THEY'RE NOT REALLY DOING ANYTHING.

WE HAVE A RESPONSIBILITY FOR OVER 400 UNITS.

THIS IS SIX.

THIS IS A JOKE.

THIS IS A SCAM.

THIS IS BULLYING.

THIS IS INTIMIDATION.  
THIS IS, AS A PERSON BEFORE MENTIONED, THE GUY SUING FOR 52 MILLION,  
HE PAID 15 MILLION FOR THAT PROPERTY.  
HOW MUCH HAS HE INVESTED.  
MAYBE ANOTHER 5.  
OKAY.  
SO ANYWAY, I HOPE YOU GUYS STAY STRONG.  
I HOPE WE VOTE THIS DOWN.  
I HOPE THAT WE CAN PROTECT OUR TOWN, BECAUSE IT IS A BEACH COMMUNITY  
AND ALSO THE DEVELOPER CAME HERE TO BUILD HERE BECAUSE HE CAN MAKE  
A LOT OF MONEY.  
AND I DON'T BLAME HIM BECAUSE HE'S TRYING TO TAKE ADVANTAGE OF THE  
LAW.  
BUT AT THE SAME TIME, IT'S WITHIN OUR RIGHT TO PROTECT OUR TOWN, TO  
PROTECT OUR COMMUNITY AND NOT LET THIS HAPPEN AND ALSO PROTECT THE  
COAST, THE COASTAL TOWNS LIKE US.  
YOU KNOW WHY PEOPLE COME TO CALIFORNIA?  
IT'S NOT BECAUSE OF DISNEYLAND.  
THEY COME BECAUSE OF THE COASTAL COMMUNITIES AND WE HAVE ONE OF THE  
BEST COASTAL COMMUNITIES ON THE COAST AND THIS IS GOING TO CAUSE  
PEOPLE TO LEAVE.  
THIS IS GOING TO ERODE OUR TAX BASE.  
THIS IS GOING TO ERODE OR QUALITY OF LIFE HERE AND PEOPLE ARE GOING  
TO SAY, YOU KNOW SOMETHING?  
I DIDN'T COME HERE AND WORK HARD -- NOBODY GAVE ME THE HOUSE I LIVED  
IN.  
I WOKE UP AT 3:30 IN THE MORNING FOR THE LAST 40 YEARS TO MAKE THE  
MONEY I MAKE TO LIVE HERE AND SO DID OTHER PEOPLE AND OTHER PEOPLE  
INVESTED EARLIER THAN THAT AND IT WAS EXPENSIVE FOR THEM BACK THEN.  
AND TO HAVE THESE PEOPLE COME IN, THE STATE TELL US WHAT WE SHOULD  
DO IN OUR COMMUNITY AND TOTALLY TRAMPLE ON OUR AND OUR RIGHTS, I THINK  
IT'S WRONG AND WE SHOULD STAND UP AGAINST THEM AND, YOU KNOW, COME  
ON, LET'S DO IT.  
LET'S DO IT FOR THE STATE, NOT JUST FOR OUR TOWN BUT FOR OTHER TOWNS  
IN OUR STATE.  
THANK YOU VERY MUCH AND I HOPE YOU VOTE NO.  
THANKS.  
>> Mayor Napolitano: THANK YOU.  
>> CAN YOU HEAR ME THIS TIME?  
>> Mayor Napolitano: YES, WE CAN.  
>> I HAD TO SWITCH COMPUTERS.  
I APOLOGIZE FOR THAT.  
THIS PROJECT IS SO UP POPULAR.  
THE QUESTION IS LEGALITY.  
AND, STEVE, I THINK YOU HIT THE NAIL ON THE HEAD LAST TIME.  
EVEN THOUGH THE NEW LAW TAKES EFFECT JANUARY 1<sup>st</sup> DOES NOT APPLY TO  
THIS PROJECT.

THE BASIS FOR THIS LAW DOES APPLY AND IT PROVIDES THE PROPER RATIONALE AS TO WHY A CEQA SHOULD BE REQUIRED.

THERE'S YOUR LEGAL BASIS RIGHT THERE.

ALSO, IT'S BEEN SHOWN THAT THEY CAN BUILD 79 UNITS WITHOUT A HEIGHT WAIVER.

YOU KNOW, IT'S UNQUESTIONABLE.

SO, YOU KNOW, THERE'S THAT.

AND AS FAR AS THE ENVIRONMENTAL SPECIFIC CONSIDERATION, THERE'S A 16-INCH OIL PIPELINE THAT PARALLELS THE PROPERTY LINE GOING THROUGH THE CHEVRON PARKING LOT WITHIN SEVERAL FEET.

THAT MIGHT NOT BE A CONCERN FOR NORMAL CONSTRUCTION BUT IF YOU GO ON SUBTERRANEAN WITH THE PARKING AND YOU GOT THIS 16-INCH PIPELINE FULL OF OIL RIGHT NEXT TO IT, FIRST EARTHQUAKE IS GOING TO BE A DISASTER.

WE HAVE EARTHQUAKES.

WE HAVEN'T HAD ONE IN A WHILE BUT EVERYBODY KNOWS IT'S COMING.

I'M NOT TALKING ABOUT DOOMSDAY OR ANYTHING, BUT IT DOESN'T TAKE MUCH OF AN EARTHQUAKE TO MOVE THINGS AROUND AND THIS OLD PIPELINE WOULD FRACTURE.

THAT DOESN'T TALK ABOUT THE BOGUS TRAFFIC STUDY.

EVERYBODY KNOWS THAT THAT TRAFFIC STUDY IS BONUS IF NOT DOWNRIGHT FRAUD.

I MEAN THE IDEA THAT YOU HAVE LESS TRAFFIC DURING RUSH HOUR IN THE EVENING WITH RESIDENTIAL AREA THAN YOU WOULD WITH BUSINESS IS JUST ABSURD OP THE FACE OF IT.

AND, YOU KNOW, THESE PEOPLE SHOULD BE HELD TO TASK.

I'M RAMBLING NOW AND I APOLOGIZE.

I JUST -- YOU HAVE NEW COUNCILMEMBERS, I DON'T KNOW WHAT THEIR VIEWS ARE.

BUT THEY WEREN'T HERE FOR THE PREVIOUS MEETINGS WHERE JUST SO MANY DISSATISFIED CITIZENS UNHAPPY ABOUT THE FACT THAT IT'S EVEN UP FOR CONSIDERATION.

AND I ENCOURAGE YOU TO VOTE NO.

THANK YOU.

>> Mayor Napolitano: THANK YOU.

[INAUDIBLE]

>> Mayor Napolitano: WHO?

LUCIA.

>> CAN YOU HEAR ME?

>> Mayor Napolitano: YES, TWO MINUTES.

>> HI.

I'M A RESIDENT OF MANHATTAN BEACH.

AND I WOULD LIKE TO JOIN DEBBIE AND ALL OF THE OTHER PEOPLE WHO HAVE EXPRESSED CONCERN FOR THIS PROJECT.

I AM IN FAVOR OF DENSITY AND I'M IN FAVOR OF AFFORDABLE HOUSING.

AND I THINK THAT'S SOMETHING THAT THE CITY OF MANHATTAN BEACH HAS TO CONSIDER.



IN THE GUIDELINES PROVIDED BY THE CONSULTANTS THAT YOU HIRED FIVE YEARS AGO, AFFORDABLE HOUSING SHOULD BE DIRECTED TOWARDS THE -- IT IS MORE OF A RISK OF HOMELESSNESS IN MANHATTAN BEACH.

PROJECT LIKE SUNRISE, GO IN THAT DIRECTION.

BUT IN THIS CASE NOTHING HAS CHANGED TO JUSTIFY A DIFFERENT POSITION OF THE CITY COUNCIL COMPARED TO WHAT YOU ALREADY HAD DECIDED.

AND I'M CONFIDENT THAT YOU WILL CONFIRM THAT DECISION BECAUSE THE LEGAL ANALYSIS HAS NOT CHANGED.

IT JUST HAPPENED WHEN THEY THREATENED A LAWSUIT, BUT THAT DOESN'T -- THE EQUATION AND THE CONSIDERATION, ALL OF THE LEGAL RISKS REMAINS THE SAME.

SO I HOPE YOU CONFIRM YOUR PREVIOUS DECISION AND DO NOT GIVE YOUR APPROVAL FOR THIS PROJECT OR CONDITION YOUR APPROVAL THE A FULL EVALUATION OF THE ENVIRONMENTAL RISKS.

THANKS.

>> Mayor Napolitano: THANK YOU.

HEATHER.

>> HELLO.

>> Mayor Napolitano: YES, GO AHEAD.

>> YES.

HI.

HOW CAN THE CITY COUNCIL SIMPLY RUSH TO REVERSE ITSELF WITHOUT GIVING THE APPELLANTS WHO ACTUALLY WON AN OPPORTUNITY TO RESPOND.

YOU ARE DENYING THE APPELLANTS AND THE PEOPLE AFFECTED BY THIS WITHOUT THE DUE PROCESS OF LAW.

YOU'RE SO WORRIED ABOUT GETTING SUED BY THE GREEDY DEVELOPER AND ITS CRONIES THAT YOU FORGOT THE RESIDENTS.

LET'S BE CLEAR, THIS WHOLE THING HAS BEEN A SHAM TO CREATED QUITE A SHORT-TERM RENTAL HOTEL.

MR. CITY ATTORNEY ARE YOU GOING TO GIVE A LEGAL OPINION ON THIS.

I OPPOSE THE HIGHROSE DEVELOPMENT.

THANK YOU.

>> Mayor Napolitano: THANK YOU.

NOTHING ELSE ON ZOOM.

WE'LL TURN BACK TO THE AUDIENCE HERE, ANYONE WHO HASN'T SPOKEN WHO WANTS TO SPEAK TO THIS.

OKAY.

SEEING NONE, WE'LL MOVE ON TO OFFERING REBUTTAL TO THE APPLICANT, UP TO FIVE MINUTES.

OBSERVE AND REPORT.

>> MAYOR NAPOLITANO, MEMBERS OF THE CITY COUNCIL, MICHAEL [INAUDIBLE] HERE AGAIN.

I WANT TO REITERATE THAT WE FEEL THESE COMMENTS HAVE been RAISED IN THE PAST AND WE'VE RESPONDED TO THEM IN THE RECORD IN THE PAST.

I WANT TO REGISTER JUST AN OBJECTION TO ANY MOVE DURING THESE PROCEEDING TO IMPOSE ANY CONDITIONS THAT ARE MORE ONEROUS THAN THE ONES ALREADY PRESENTED, YOU KNOW, IN THE RESOLUTION, IN THE PACKETS.

I THINK THE HCD'S DIRECTION WAS PRETTY CLEAR, TO RESCIND AND APPROVE. THE HOUSING ACCOUNTABILITY ACT APPLIES NOT JUST TO DENIALS BUT ALSO TO CONDITIONS OF APPROVAL AND APPROVED PROJECTS THAT RENDER A PROJECT FEASIBLE.

BEAR THAT IN MIND.

AND ANY CONDITIONS THAT WOULD REDUCE DENSITIES BEYOND THOSE PROPOSED. OUR HOPE HERE -- AGAIN, WE WERE SORT OF, I GUESS, HERE WITHOUT, YOU KNOW, IN AN ANOMALOUS SITUATION OF BEING IN COURT AGAINST YOU RIGHT NOW.

BUT OUR REQUEST HERE IS TO THE LINE OF WHAT THE HCD ASKED AND AGAIN WE WOULD REGISTER OBJECTIONS BLANKET-WISE TO ANY RESTRICTIONS IMPOSED ABOVE AND BEYOND THOSE CONSIDERED IN THE PREVIOUS PROCEEDINGS.

THANK YOU FOR YOUR TIME.

I'M HERE FOR QUESTIONS.

>> Mayor Napolitano: ALL RIGHT.

COUNCIL QUESTIONS.

ANY QUESTIONS FOR ANYBODY?

>> MAYOR, AS THE COUNCILMEMBERS ARE GOING THROUGH SOME NOTES, I HAVE A FEW ANSWERS TO SOME OF THE QUESTIONS.

>> Mayor Napolitano: OKAY.

>> OR AT LEAST THE POINTS THAT WERE RAISED BY, WELL, TWO APPELLANTS AT LEAST AND MAYBE A FEW OTHERS.

SOME OF THE PEOPLE, THE MEMBERS OF THE PUBLIC.

>> Mayor Napolitano: WHY DON'T YOU GO AHEAD NOW.

THAT MIGHT ANSWER ANY QUESTIONS THAT COUNCIL HAS.

>> YES.

LET'S GO BACK -- ANDREW RYAN IS ONE OF THE APPELLANTS AND HE CLAIMS HE DIDN'T RECEIVE NOTICE, BROUGHT UP BY THE LAST SPEAKER AS WELL, OR THE PRIOR SPEAKER.

WE SENT HIM A PERSONAL E-MAIL ON JANUARY 9<sup>th</sup>, TEN DAYS AGO, TO LET HIM KNOW ABOUT THIS MEETING.

AND SO HE GOT MORE NOTICE THAN WHAT'S REQUIRED UNDER LAW.

AND ALL OF THE APPELLANTS GOT THAT NOTICE.

SOME OF THE APPELLANTS TOOK ADVANTAGE OF IT AND CAME HERE AND SPOKE AND SPOKE ON ZOOM.

PERHAPS HE WILL CLAIM HE NEVER SAW THAT E-MAIL, BUT WE'VE GOT A RECORD OF IT.

THAT'S NUMBER ONE.

MARK BURTON HAS ONCE AGAIN RAISED A NUMBER OF CEQA ISSUES AND THE PRIOR STAFF REPORTS ADEQUATELY ADDRESS THOSE ISSUES BUT I'M GOING TO DO A LITTLE RECAP OF THAT AND THEN FOCUS ON ONE FINAL ISSUE THAT HE BROUGHT UP TONIGHT.

SO ALL OF THE STAFF REPORTS HAVE EXPLAINED WHY THIS IS MINISTERIAL. IT'S NOT JUST STATE LAW.

THERE ARE TWO DIFFERENT ASPECTS OF STATE LAW.

IT'S OUR HOUSING ELEMENT AND OUR LOCAL COASTAL PROGRAM ADOPTED IN

2013.

IN CONNECTION WITH THE REZONING OF THIS PROPERTY TO ALLOW MIXED-USE BACK IN 1992 -- AND THIS WAS ONE OF THE SLIDES -- THERE WAS A [INAUDIBLE] WHICH IS FOR THE BENEFIT OF THE PUBLIC, A NEGATIVE DECLARATION IS THAT THE CITY HAS FULLY ANALYZED THAT REZONING AND DETERMINE THAT THERE ARE NOT ENVIRONMENTAL IMPACTS OF ALLOWING RESIDENTIAL AT THAT SITE.

AND ONE OF THE EARLIER E-MAILS FROM MR. BURTON -- CHEVRON IS A CHANGED CIRCUMSTANCE, BUT THAT'S NO NOT TRUE BECAUSE WE ALL KNOW THAT CHEVRON HAS BEEN THERE FOR ABOUT A HUNDRED YEARS.

SO THAT WAS THE FIRST TIME THIS SITE, AMONG OTHERS, HAVING RESIDENTIAL USES THERE WAS ANALYZED UNDER CEQA.

THE SECOND TIME WAS IN 2013 IN CONNECTION WITH THE HOUSING ELEMENT SPECIFICALLY WITH RESPECT TO THIS PROGRAM THAT ALLOWS THE NONDISCRETIONARY MINISTERIAL APPROVALS OF THESE TYPE OF PROJECTS. AND THAT WAS INCLUDED AND THAT WAS ACTUALLY -- BACK IN '92 THAT WAS ACTUALLY CERTIFIED BY THE COASTAL COMMISSION.

THE HOUSING ELEMENT WAS CERTIFIED BY HCD BACK IN 2013.

SO WE'VE HAD TWO STAGES OF ENVIRONMENTAL REVIEW ABOUT RESIDENTIAL USES AT THAT PROPERTY.

COMING FORWARD, BACK TO THE MINISTERIAL ASPECT, AND I'M JUST REPEATING MYSELF BUT SOMETIMES I DO THAT, OUR HOUSING ELEMENT SAYS IT'S MINISTERIAL, OUR LOCAL COASTAL PROGRAM SAYS IT'S MINISTERIAL. M. BURTON HAS REFERRED TO THE GLEN DALE CAUSE BUT WE ADDRESSED THAT OVER THE SUMMER.

IT SUPPORTS OUR POSITION STATING IT'S UP TO THE LOCAL JURISDICTION TO DETERMINE WHETHER IT'S MINISTERIAL OR NOT.

AND IN THIS CASE THE CITY DOES THIS BACK IN 2013.

SO THAT'S THE CEQA ISSUES.

THERE'S A LOT MORE TO IT BUT I THINK THE PUBLIC HAS HEARD THIS. AND THERE'S SO MUCH IN THE RECORD ON THIS VERY ISSUE, I DON'T WANT TO GO ANY FURTHER ON THAT.

SO I'VE COVERED THAT.

AND THEN THE SAN MATEO CASE THERE WAS SO -- OH.

ONE OF THE APPELLANTS BROUGHT UP THE CONSTITUTIONAL ISSUES.

IN FACT I THINK THE PROFESSOR BACK AT THE LAST PROCEEDING BROUGHT UP -- HE CLAIMED THERE WAS A SUBSTANTIVE DUE PROCESS ISSUE UNDER THE FEDERAL GOVERNMENT AND CLAIMED THAT THE DENSITY BONUS WERE UNCONSTITUTIONAL.

>> Mayor Napolitano: THIS IS BY LETTER.

HE WASN'T ACTUALLY PRESENT.

>> HIS LETTER STATED IT'S UNCONSTITUTIONAL.

WELL THE SAN MATEO CASE CITED IN THE STATE REPORT, THE SAME CLAIMS BASED ON THE CONSTITUTION THAT SOMEHOW THE RESIDENTS' DUE PROCESS WAS VIOLATED OR THAT THE HAA VIOLATED DUE PROCESS WAS REJECTED BY THE COURT OF APPEAL.

I THINK THOSE ARE THE THREE MAIN ISSUES.

FINALLY BACK TO MARK BURTON.  
THE ONE THING HE DID ADD WAS SOME PEOPLE CALL IT THE SOCIAL JUSTICE  
OR THERE'S SOME TERM FOR IT THAT I'M NOT FAMILIAR WITH IT.  
BUT HIS QUOTE WAS SOMETHING LIKE THE STATE DID NOT INTEND TO SUBJECT  
POOR PEOPLE TO A MINISTERIAL PROCESS OR SUBJECT THEM TO -- SOMETHING  
ALONG THOSE LINES.  
I DON'T WANT TO MISQUOTE HIM.  
BUT HE'S CORRECT.  
THERE'S NOTHING -- THERE'S NO BLANKET EXEMPTION IN CEQA RESERVED FOR  
LOW-INCOME HOUSING.  
THAT'S NOT THE POINT OF THIS PROCEEDING.  
THE POINT OF THIS PROCEEDING IS THERE'S NOTHING CEQA SAYS IT'S  
AFFORDABLE YOU JUST DON'T HAVE TO DO ANY TYPE OF ENVIRONMENTAL REVIEW.  
IT'S WITH RESPECT TO WHAT THE CITY HAS DONE BACK IN 2013 IN CONJUNCTION  
WITH THE STATE HOUSING LAWS AND THAT'S WHY IT'S MINISTERIAL.  
THOSE ARE THE BIG ITEMS THAT I THOUGHT NEEDED TO BE ADDRESSED.  
AND I'M OPEN FOR OTHER QUESTIONS.  
>> Mayor Napolitano: OKAY.  
COUNCILMEMBER HOWORTH.  
>> Councilmember Howorth: THANK YOU, MR. CITY ATTORNEY.  
HERE'S A QUESTION.  
LEGALLY WOULD THERE HAVE BEEN A WAY FOR US TO SAY, YEAH, THIS ISN'T  
A MINISTERIAL CASE.  
IT IS DISCRETIONARY.  
>> IT'S KIND OF AN OPEN-ENDED QUESTION.  
BACK IN 2013, AT THAT TIME YOU COULD HAVE SAID IT'S NOT GOING TO BE  
MINISTERIAL.  
>> Councilmember Howorth: BUT SINCE THAT HOUSING ELEMENT, THEN WE  
COULDN'T.  
>> RIGHT.  
BECAUSE THE GENERAL PLAN IS BASICALLY YOUR CONSTITUTION FOR THE CITY.  
AND TO GET CERTIFIED BY THE STATE, YOU'D HAVE TO TRY TO AMEND THAT  
AND GOING FORWARD.  
BUT BASED ON OUR MOST RECENT DISCUSSIONS WITH HCD ABOUT THE PRESENT  
HOUSING ELEMENT, THEY ACTUALLY WANT MORE MINISTERIAL PROJECTS FOR  
HOUSING.  
>> Councilmember Howorth: RIGHT.  
WE'VE ALREADY COVERED THAT THAT 2013 DECISION WAS IN CONJUNCTION WITH  
STATE LAW.  
SO BECAUSE THAT IS IN THERE, LEGALLY WE COULDN'T HAVE DECLARED IT  
AS DISCRETIONARY AT THIS TIME.  
>> AT THIS TIME NO.  
IT WOULD BE INCONSISTENT WITH YOUR GENERAL PLAN.  
>> Councilmember Howorth: EVEN IF IT WAS DISCRETIONARY MANY PEOPLE  
HAVE COMMENTED -- AND I UNDERSTAND -- YOU KNOW, I TOTALLY  
UNDERSTAND -- BUT CALLING IT A LOW-INCOME HOUSING PROJECT.  
IT'S NOT NECESSARILY A LOW-INCOME HOUSING PROJECTS.

IT'S GOT SIX UNITS.  
SO I THINK THAT'S SOMETHING -- I DON'T KNOW.  
IT'S A TECHNICAL THING BUT I THINK IT'S IMPORTANT THAT WE ARE VERY CLEAR.  
AND THERE WAS ALSO A COMMENT MADE THAT THE OIL TANKS AT CHEVRON ARE A RISK TO THE PEOPLE, THE LOW-INCOME PEOPLE.  
BUT AGAIN EVEN IF IT WAS DISCRETIONARY, CEQA DOESN'T LOOK AT THE OUTSIDE IMPACTS TO THE PROJECT, IT'S THE PROJECT TO THE SURROUNDING COMMUNITY, CORRECT?  
>> WELL, SO THERE ARE CERTAIN ASPECTS OF CEQA THAT COULD LOOK AT THAT.  
>> Councilmember Howorth: OKAY.  
>> BUT IT'S THE HAA, IT'S THE HOUSING ACCOUNTABILITY ACT THAT SAYS THESE SPECIFIC ADVERSE IMPACTS HAVE TO BE COMING FROM THE PROJECT.  
>> Councilmember Howorth: OKAY.  
>> FOR INSTANCE, YOU BUILD RESIDENTIAL HOUSING ACCOUNTABILITY -- OR RESIDENTIAL HOUSING IS NOT GOING TO CREATE FIRES, ET CETERA, ET CETERA.  
>> Councilmember Howorth: OKAY.  
>> SO YOU CANNOT ATTRIBUTE WHAT HAPPENS AT CHEVRON TO THE PROJECT. IT'S NOT AN ELEMENT OF THE PROJECT.  
>> Councilmember Howorth: I HAVE JUST ONE MORE QUESTION. IT'S VERY TECHNICAL.  
>> Mayor Napolitano: ASK THE QUESTION.  
>> Councilmember Howorth: THANK YOU.  
IT'S ALSO BEEN RAISED THAT OF COURSE THERE'S A SIGNIFICANT IMPACT THAT, YOU KNOW -- THIS PROJECT HAS SIGNIFICANT IMPACT BUT THAT'S A VERY TECHNICAL TERM, RIGHT, FOR STAFF.  
WHEN IT WAS FILED WITH STAFF AND STAFF SAID NO, THERE'S IN SIGNIFICANT IMPACT.  
IT'S A VERY TECHNICAL TERM.  
IT'S NOT LIKE STAFF COULD SAY OR I COULD SAY, WELL IT'S THERE. THE REFINERY, THERE COULD BE STUFF IN THE GROUND.  
MAYBE THEY SHOULDN'T.  
WE WOULD HAVE TO PROVE THAT AHEAD OF TIME.  
>> I THINK THE WAY TO PHRASE IT -- AND I REALIZE IT'S COMPLEX. IT'S SUCH A TOUGH STANDARD.  
WE'VE LOOKED AT THIS FOR TWO YEARS NOW AND IT'S VERY DIFFICULT TO IMMEDIATE THAT STANDARD.  
THERE HAS TO BE SOME TYPE OF PROJECT THAT CREATES AN ADVERSE SPECIFIC IMPACT THAT WAS IDENTIFIED AT THE TIME THEY SUBMITTED THEIR APPLICATION, STEP ONE, WHICH CANNOT BE MITIGATED.  
>> Councilmember Howorth: WHICH CANNOT BE MITIGATED.  
RIGHT.  
>> AND AS WE MENTIONED BEFORE, PEOPLE BUILD ON SUPER FUND SITES. IT COSTS A LOT OF MONEY.  
I'M NOT SAYING THIS IS A SUPER FUND SITE.  
I KNOW IT'S NOT.

LOOK AT CERTAIN CITIES -- I DON'T WANT TO MENTION OTHER CITIES.  
THERE ARE A LOT OF THINGS BUILT ON SUPER FUND SITES.  
THEY WERE ACTUALLY MITIGATED SO YOU COULD BUILD THERE.

>> Councilmember Howorth: THANK YOU.

>> Mayor Napolitano: ANY MORE QUESTIONS, COUNCILMEMBER HOWORTH?

>> Councilmember Howorth: I'M SORRY.

>> Mayor Napolitano: COUNCILMEMBER LESSER.

>> Councilmember Lesser: I WANTED TO FOLLOW UP ON THAT EXCHANGE.  
I HEARD FROM MEMBERS OF THE PUBLIC REQUESTING A STUDY.  
SEPARATE AND APART FROM THE DISCRETION ISSUE AND THE MINISTERIAL  
NATURE OF THIS REVIEW, WHAT WOULD A MORE COMPREHENSIVE STUDY  
ENVIRONMENTAL REVIEW COLLUDE TO THE EXTENT THERE WERE CONCERNS OF  
HOW THE CHEVRON REFINERY WERE IMPACTING THE PROPERTY AND IN WHAT  
CONTEXT MIGHT THAT HAVE BEEN REQUIRED.

>> IT IS A LOT OF SPECULATION BUT THERE IS A CHECKLIST UNDER EIR AND  
THERE ARE CERTAIN DIFFERENT LIKE DISTURBING NATIVE AMERICAN -- I'M  
GOING TO TURN TO STAFF BECAUSE THEY KNOW MORE ABOUT THE CHECKLIST.  
BUT YOU KIND OF GO THROUGH AND PERHAPS IN THIS PARTICULAR CASE IT  
WOULD BE CONTAMINATED SAIL.  
ONCE AGAIN, IF YOU DO A PHASE ONE AND TWO AND THEY SAY IT'S CLEAN,  
YOU CAN RELY ON THAT.  
AND THEN THE NEXT STEP, THEY MISSED SOME CONTAMINATION, IT GETS CURED  
AT THAT TIME.

>> CORRECT.

CEQA WOULD HAVE LOOKED AT THE IMPACT OF THE PROJECT ON BIOLOGICAL  
RESOURCES.

IN THIS CASE THIS IS A PREVIOUSLY-DEVELOPED SITE.  
IT WOULD HAVE LOOKED AT IMPACT ON HYDROLOGY AND THERE'S A LONG LIST.  
BUT IN TERMS OF THE IMPACT -- I BELIEVE YOUR QUESTION WAS THE IMPACT  
OF CHEVRON ON THE PROJECT.  
DID I HEAR THAT CORRECTLY?

>> CORRECT.

I THINK THAT'S WHAT WE'RE HEARING OF MANY OF THE CONCERNS.

>> THAT'S CORRECT.

GENERAL WE CEQA WOULD.

>> Councilmember Lesser: IS THERE ANY CONTEXT IN WHICH IT WOULD BE  
RELEVANT TO EVALUATE THE CONCERNS OF THE REFINERY'S IMPACT ON THE  
UNITS PROPOSED FOR THAT SITE?

>> THIS HAPPENS IN AREAS, FOR EXAMPLE, YOU HAVE A FREEWAY THAT RUNS  
THROUGH A CITY AND WITHIN CERTAIN HUNDRED FEET YOU PROPOSE A CERTAIN  
TYPE OF DEVELOPMENT.  
AND TYPICALLY YOU WOULD DO A HEALTH RISK ASSESSMENT AND CONSIDER IF  
THERE ARE ADDITIONAL MEASURES THAT SHOULD BE TAKEN TO PROTECT THE  
USERS OF THAT SITE, WHETHER IT'S FILTRATION SYSTEMS OR INOPERABLE  
WINDOWS IN CERTAIN LOCATIONS ET CETERA.

>> Councilmember Lesser: THANK YOU.

ANOTHER QUESTION FOR THE CITY ATTORNEY.

IT WAS MENTIONED IN A PASSING COMMENT AND THERE WITH A NUMBER OF E-MAIL COMMUNICATIONS RELATED TO THE ISSUE OF THIS PROJECT SERVING AS A PRECEDENT OF OTHER PROJECTS OF A SIMILAR SCALE.

TO WHAT EXTENT IS THAT A TRUE STATEMENT?

>> THAT'S ACTUALLY BEEN BROUGHT UP EARLIER.

THERE'S NO PRECEDENT -- IF THIS GETS APPROVED TONIGHT, THAT DOESN'T HAVE ANY PRECEDENT ON ANY OTHER PARCEL IN THE CITY FOR LOTS OF REASONS. I DON'T KNOW IF IT'S REASSURING, BUT THIS HAS BEEN ON THE BOOKS SINCE 2013.

THIS IS IF FIRST PROJECT.

IT'S SIMILAR TO THE SB9 ISSUES THAT WERE CONSIDERABLE OF CONCERN LAST YEAR THAT PEOPLE WERE GOING TO BE ABLE TO SUB DIVIDE THEIR SINGLE-FAMILY HOUSES INTO FOUR UNITS.

AND AT THAT TIME THE COMMUNITY DEVELOPMENT DIRECTOR DID AN ANALYSIS OF THE CITY AND SAID THAT CAN ONLY HAPPEN IN ABOUT 3% OF THE CITY BUT ALSO WE HAVEN'T RECEIVED ANY SB9 APPLICATIONS.

SO BACK TO PRECEDENT, THERE'S IN PRECEDENT.

WHAT THE PRECEDENT IS STATE LAW AND OUR STATE HOUSING ELEMENT.

WHATEVER HAPPENS ON THIS PROPERTY IS NOT GOING TO HAVE ANY INFLUENCE ON OTHER PROPERTIES.

>> Councilmember Lesser: THANK YOU.

>> Mayor Napolitano: COUNCILMEMBER FRANKLIN.

>> Councilmember Franklin: OKAY.

I'VE GOT TO THINK ABOUT HOW TO FRAME THIS QUESTION.

IF YOU CAN GIVE ME THE BACKGROUND AGAIN.

IN 1992 THERE WAS A MULTIUSE OR I'M SORRY, A MIXED-USE PROJECT BEING CONSIDERED.

>> LET ME BRING THIS -- LET'S CLARIFY THAT.

AT THE TIME THE CITY DUDS DOING THEIR -- OR MAYBE IT WAS AN AMENDMENT. IT WAS THE LCP.

1992 IS WHEN THE CITY FIRST ENACTED ON AMENDMENT TO THE LCP, WHICH IS THE LOCAL COASTAL PROGRAM, TO ALLOW MIXED USES ON A NUMBER OF PROPERTIES IN THE CITY, INCLUDING THAT SITE.

>> SO IT WAS THE ADOPTION OF THE LOCAL COASTAL PROM'S ZONING IMPLEMENTATION PROGRAM.

SO THE LOCAL COASTAL PROGRAM IS ESSENTIALLY THE EQUIVALENT OF THE GENERAL PLAN FOR THE COASTAL ZONE AND THE IMPLEMENTATION PROGRAM IS THE EQUIVALENT OF THE PROGRAM FOR THE ZONING COASTAL.

AS YOU ADOPT ANY SORT OF POLICY THAT ACCOMPANIED BY A CEQA EVALUATION.

SO IN 1992 THE CITY DID ADOPT THE IMPLEMENTATION PROGRAM FOR THE ZONING PROGRAM FOR THE COASTAL ZONE AND WE DID ACCOMPANY THAT WITH A CEQA EVALUATION AND PRESENTED A NEGATIVE DECLARATION.

AND THERE WAS A CEQA DONE AS A NEGATIVE DECLARATION ON THAT EFFORT AS WELL.

SO IN 17992 IN INTRODUCING THE ZONING, THAT'S WHEN THE CNE ZONE WAS DEVELOPED AND THE CNE HAS ALLOWED FOR MIXED USES ON THIS SITE.

NOT JUST THIS SITE BURR ALL CNE-ZONED PROPERTIES.

>> Councilmember Franklin: BASICALLY THERE WAS AN ENVIRONMENTAL REVIEW AND IT PASSED?  
IS THAT WHAT YOU'RE SAYING?  
>> PURSUANT TO CEQA, CORRECT.  
>> Councilmember Franklin: THAT WAS 1992.  
THAT'S 30 YEARS AGO, 31 YEARS AGO.  
AS WE MIGHT IMAGINE, THE REFINERY INDUSTRY IS UNDERGOING SIGNIFICANT CHANGES.  
THERE'S A DECREASE IN DEMAND AND SO I WAS JUST DOING SOME RESEARCH HERE BECAUSE I HAD READ ABOUT THIS BEFORE.  
BUT THEY'RE PRODUCING A WHOLE OTHER CLASS OF PETRO CHEMICALS.  
IT'S NOT JUST REFINING OIL OR GASOLINE.  
THERE'S OTHER PETRO CHEMICALS BEING PRODUCED TO THE TUNE OF 40 OR 50% OF THE OUTPUT AT THAT REFINERY.  
SO IN 1992 WE WOULD NOT HAVE ANALYZED THE IMPACT OF THOSE PETRO CHEMICALS BEING PRODUCED FROM THE REFINERY.  
SO I DON'T KNOW IF WE HAVE ANY REFINERY EXPERTS HERE BUT THAT'S JUST A LITTLE BIT OF A CAUSE FOR CONCERN THAT THERE ARE OTHER THINGS THAT -- THE INDUSTRY HAS EVOLVED.  
WE DON'T KNOW ABOUT THESE THINGS BEING PRODUCED HERE.  
I DON'T EVEN KNOW IF CHEVRON PRODUCES THEM.  
>> Mayor Napolitano: LET'S GO BACK TO QUESTIONS.  
>> Councilmember Franklin: THAT'S MY QUESTION.  
MY QUESTION IS THAT MAY NOT BE VALID BECAUSE THERE MIGHT BE THE PRODUCTION OF DIFFERENT PRODUCTS AT THE REFINERY NOW.  
>> I'LL ILLUSTRATE THE ENVIRONMENTAL ASSESSMENT, THE TWO-PHASED ENVIRONMENTAL ASSESSMENT PREPARED, THE LATEST ONE WAS IN 2020. THOSE ARE MORE.  
>> Councilmember Franklin: THAT WAS THE BORING, RIGHT, WHAT'S IN THE GROUND.  
THIS WOULD BE WHAT'S IN THE AIR AND WHAT THEY'RE PRODUCING.  
>> UNDER CEQA WE WOULD EVALUATE THE CONSTRUCTION AND ENVIRONMENTAL IMPACTS OF THE PROJECT ON THE EXISTING ENVIRONMENT.  
AND UNDER CEQA WE WOULDN'T EVALUATE THE IMPACT -- THE EMISSIONS FROM CHEVRON ON THE FUTURE OR EXISTING RESIDENTS OF THE CITY.  
>> Councilmember Franklin: IS THERE ANYTHING THAT DOES? THAT SEEMS TO BE PRETTY IMPORTANT.  
>> A HEALTH RISK ASSESSMENT.  
>> Mayor Napolitano: OKAY.  
>> Councilmember Franklin: IS THAT WAIVED WITH A MINISTERIAL --  
>> SO I GUESS TYPICALLY THAT REQUIRE HEALTH RISK ASSESSMENT AS A PART OF THEIR REVIEW PROCESS, WHETHER IT'S THROUGH THEIR ZONING CODE OR THEIR GENERAL FUND, THAT WOULD APPLY TO ALL PROJECTS NEAR THE CHEVRON REFINERY, WHETHER IT WAS A SINGLE-FAMILY PROJECT OR A MULTIFAMILY RESIDENTIAL PROJECT OR A COMMERCIAL DEVELOPMENT.  
IN THIS CASE WE DON'T REQUIRE THAT.  
>> Councilmember Franklin: THANK YOU.



>> Mayor Napolitano: MAYOR PRO TEM MONTGOMERY.  
>> Mayor Pro Tem Montgomery: THANK YOU, YOUR HONOR.  
WITH ALMOST TWO HOURS OF COMMENTS I WANT TO MAKE SURE MY QUESTION  
FOR THE CITY ATTORNEY IS MORE OF A CONFIRMATION.  
CITY ATTORNEY BARROW, JUST TWO THINGS.  
CONFIRM THAT THE RESTRICTIONS WILL BE ADDRESSED IN THE COVENANT GOING  
FORWARD IF AND WHEN COUNCIL APPROVES.  
AND SECOND, THE FOCUS OF CIVIC ADVERSE IMPACT IS ON THE PROPOSED  
PROJECT, NOT ON CHEVRON.  
>> YES.  
IN FACT THE DAYS WHEN COUNCILMEMBER LESSER WAS HERE, I USED TO ANSWER  
THOSE QUESTIONS YES AND THEN GO BACK.  
SO YES AND YES.  
>> Mayor Pro Tem Montgomery: THANK YOU.  
NOTHING FURTHER AT THIS TIME, YOUR HONOR.  
>> Mayor Napolitano: OKAY.  
THANK YOU.  
>> COUNCIL I WOULD LIKE TO ADD TO THE RECORD THAT WE CONFIRMED THAT  
THE EPA WOULD CLEAN UP IF THERE WAS AN ORPHAN SITE.  
>> Mayor Napolitano: ANY OTHER QUESTIONS FROM COUNCIL?  
ALL RIGHT.  
SEEING NONE, WE WILL TAKE A DRAMATIC PAUSE THEN.  
WE'VE BEEN AT IT FOR TWO AND A HALF HOURS.  
WE'LL TAKE A TEN-MINUTE RECESS AND WE COME BACK TO COUNCIL DISCUSSION.  
ACTUALLY BEFORE WE TAKE THAT RECESS, WE'RE GOING TO CLOSE THE PUBLIC  
TESTIMONY PORTION AND NOW WE TAKE THE RECESS.  
[ BRIEF RECESS ]  
>> Mayor Napolitano: WELCOME BACK.  
EVERYONE PUSHING THEIR BUTTONS AT ONCE.  
GIVING IT SERIOUS THOUGHT.  
COUNCILMEMBER FRANKLIN.  
>> Councilmember Franklin: I WAS GOING TO SAY THE ROOKIE GOES FIRST,  
AT LEAST THIS LAST TERM.  
THAT'S MY OPENING STATEMENT.  
I SAID I WOULD LOOK AT EVERYTHING THAT WAS PROVIDED IN THE PROCEEDING.  
FUNDAMENTALLY, THERE IS NOTHING THAT I SEE THAT WOULD MAKE ME CHANGE  
MY OPINION AND VOTE, YOU KNOW, FROM BEFORE.  
>> Mayor Napolitano: ALL RIGHT.  
OTHER SPEAKERS.  
>> Councilmember Howorth: I'M SORRY.  
I'M NOT --  
>> Mayor Napolitano: MAYOR PRO TEM MONTGOMERY.  
>> Mayor Pro Tem Montgomery: THANK YOU, YOUR HONOR.  
I HAVE A FEW THINGS TO SAY, BESIDES KEEPING AN OPEN MIND OF NEW  
INFORMATION I MIGHT HAVE HEARD OR NEW IDEAS.  
I SEE NO NEED TO ADD TO TOO MUCH WHAT I SAID ON OCTOBER 18<sup>th</sup>, '22 EXCEPT  
CLARIFICATION.

NO MORE WISHFUL THINKING.  
THE ELECTION IS OVER.  
WE'VE NOW BEEN SUED BY THE DEVELOPER.  
IT'S IN COURT.  
IT'S NOT A MATTER OF IF ANYMORE.  
WE'RE THERE.  
LET'S MAKE THAT CLEAR.  
SECONDARILY, SOMEONE BROUGHT UP -- I CAN'T BELIEVE THEY SAID  
THIS -- THAT THEY THOUGHT OUR CITY ATTORNEY AND THIS TEAM WERE NOT  
EXPERIENCED, THAT THEY DON'T HAVE EXPERIENCE IN LAND USE LAW.  
THEY'RE ABSOLUTELY INCORRECT.  
WE HAVE A FANTASTIC, EXPERIENCED CITY LAW FIRM WITH WELL-QUALIFIED  
LAND USE ATTORNEYS THAT HAVE RESEARCHED EVERY SCENARIO.  
SO I WANT TO PUT THAT COMMENT TO BED RIGHT THERE.  
THAT'S OVER.  
STOP GOING DOWN THAT ROAD.  
ANOTHER THING, THIS IS NOT A CITY PROJECT.  
WE DIDN'T BRING THIS FORWARD, FOLKS.  
THIS IS A PRIVATE DEVELOPMENT.  
AND IF THE COUNCIL APPROVES THIS, THE DEVELOPER WOULD [INAUDIBLE]  
WHICH MEANS THE CITY WOULD HAVE NO RISK OF MONEY LOSS AND FUTURE  
LITIGATION.  
MAKE THAT CLEAR TOO.  
THIS IS NOT AN AND/OR.  
THIS IS EITHER/OR.  
AND TO THE PEOPLE WHO SAID THERE'S NO REASON OR WE SHOULD BE FIGHTING  
THIS ALL THE WAY TO THE END, YOU KNOW WHAT FOLKS?  
HERE'S THE FACTS.  
CALIFORNIA COURTS OF APPEAL HAVE STRENGTHENED THE DENSITY BONUS THAT  
WAS PUT LAW.  
THIS IS 43 YEARS.  
YOU SAID SENDING A MESSAGE TO SACRAMENTO.  
WHO ARE YOU GOING TO SEND A MESSAGE TO.  
THIS SON US.  
IT'S THE STATE.  
YOU DON'T LIKE IT.  
I DON'T LIKE IT.  
THIS IS NOT MY FIRST CHOICE OF A PROJECT ON THAT PROPERTY AT ALL.  
I WOULD RATHER SEE A LOW-IMPACT HIGH-END HOTEL THERE, RETAIL USE,  
ABSOLUTELY.  
THAT'S THE DIRECTION I WOULD WANT TO GO.  
BUT THIS IS A VERY SIMPLE DECISION.  
AND FOR THOSE OF YOU WHO THINK WE'LL FIGHT AS LONG AS WE CAN AND SAVE  
OUR COMMUNITY, THE ARGUMENT TO ME IS YOU WOULD RATHER RISK 52 MILLION  
OF EXPOSURE, MAYBE THE NUMBER IS GOING TO BE LESS.  
YOU'RE GOING TO SPEND MONEY OF OUR ATTORNEYS, THE ONES WHO DEFEND  
US.

AND IF WE LOSE.

TO THAT POINT, NO CITY, TO COUNTY, TO GROUP OR PERSON HAS WON IN CALIFORNIA COURTS AGAINST A STATE DENSITY BONUS LAW, NOT ONE. SO YOU WANT TO TAKE A CHANCE?

NO.

IN MY MIND THAT'S NOT RISK.

IT'S \$52 MILLION THAT COULD BE SPENT ON POLICE OR FIRE OR ROADS, THE SCOUT HOUSE COMMUNITY CENTER.

YOU WOULD RATHER RISK ALL OF THAT MONEY?

AND ON TOP OF THAT, IF YOU SAID YES TO THE FIRST PART, WHAT ABOUT THE LOSS OF PERMIT CONTROL.

SOMEONE SAID THE COMMENT, IT'S NOT A REAL THREAT FROM THE STATE. REALLY, WOULD YOU TAKE THAT RISK FOR YOURSELF FOR THE REST OF THE CITY?

NO NOT ALL RESIDENTS AGREE THIS IS A BAD DECISION, A BAD PROJECT FOR OUR CITY.

YES, 730 E-MAILS.

THE PLANNING DEPARTMENT, TED SAID 730 E-MAILS.

THEY'RE ALL AGAINST IT?

I WANT TO MAKE IT CLEAR, MY DECISION HASN'T CHANGED.

I STILL THINK IT'S THE RIGHT THING TO DO.

IT IS NOT MY FIRST CHOICE OF PROJECT BUT BEING WHERE WE'RE AT, I'LL MAKE IT CLEAR, I'M NOT GOING TO RISK THE MONEY.

I'M NOT GOING TO RISK THE CITY LOSING CONTROL OF THE PERMITTING PROCESS AND I'LL MAKE THE MOTION, YOUR HONOR, TO SAY YES TO ITEM 22 OF 0038 AND APPROVE THE APPLICATION.

THAT IS MY MOTION.

>> Mayor Napolitano: THANK YOU.

COUNCILMEMBER HOWORTH.

>> Councilmember Howorth: THANK YOU, MR. MAYOR.

SO I WANT TO REITERATE.

SOMEBODY MADE AN ASSERTION -- I CAN'T REMEMBER IF IT'S NEW OR IN PERSON -- THAT WE'RE HEARING THIS BECAUSE THERE'S NEW COUNCILMEMBERS AND THAT'S JUST NOT TRUE.

THAT WOULD MEAN THAT I OR DAVID REQUESTED THAT THIS COME UP AGAIN AND THAT'S NOT THE CASE.

WE'RE HEARING IT BECAUSE OF THE ACTUAL LAWSUIT AND THE LETTER FROM THE STATE.

AND IT WAS A COUNCIL DECISION TO BRING THIS BACK.

AND I HAVE TO THANK EVERYONE HERE TONIGHT AS WELL AS THOSE WHO SPOKE AT PRIOR COUNCIL MEETINGS, THE PLANNING COMMISSION, THOSE WHO HAVE E-MAILED THIS COUNCIL AND PRIOR COUNCILS.

I HAVE ACTUALLY -- I HAVE HEAD -- I KNOW ALL OF US HAVE BY THE WAY. I HAVE READ ALL OF THE E-MAIL.

IN AN ABUNDANCE OF CAUTION I HAVE NOT REPLIED.

MANY OF YOU HAVE SENT ME E-MAIL.

I AM READING THEM BUT THERE'S A LOT OF LEGALITIES HERE.

BUT IN AN ABUNDANCE OF CAUTION I DID NOT REPLY.  
IF I DID, I SAID THANKS.  
I KNOW THAT CAN BE FRUSTRATING.  
IT'S MY M.O. ON COUNCIL BEFORE, I WOULD NOT LET YOU KNOW IF I AGREED WITH YOU OR NOT BEFORE THE MEETING BECAUSE I WANT TO, WANT TO HEAR FROM ANYONE WHO SPOKE FROM THE PUBLIC AND WANT TO HEAR FROM MY COLLEAGUES.  
I WOULD NOT SAY GREAT POINT, I AGREE WITH YOU OR I DISAGREE WITH YOU. I'LL NEVER DO THAT.  
THAT DENIES THE PUBLIC -- THAT DENIES ME THE BENEFIT OF HEARING FROM THE WHOLE PUBLIC.  
THAT'S JUST SOMETHING TO SAY.  
I'VE ALSO MET WITH RESIDENTS AND AS WAS MENTIONED THERE WAS A CAMPAIGN AND ALL WE DID WAS MEET WITH RESIDENTS AND WE ALL TALK ABOUT HIGHROSE. WE TALKED A LOT.  
I'VE MET WITH RESIDENTS POST-CAMPAIGN, RESIDENTS ON BOTH SIDES. AND EVERYBODY HAS RAISED REALLY IMPORTANT POINTS AND HELPFUL QUESTIONS AND I'VE SOUGHT ANSWERS TO YOUR QUESTION FROM LEGAL COUNSEL AND I'M REALLY SATISFIED WITH THAT ADVICE.  
I'M NOT HERE TO ARGUE WITH YOU ABOUT THE PROJECT ITSELF.  
I HEAR YOU, ESPECIALLY THE PEOPLE WHO LIVE IN THAT AREA.  
IT'S GOING TO INTENSIFY THE USE OF YOUR NEIGHBORHOOD, TRAFFIC ESPECIALLY, RIGHT.  
YOU KNOW, IT IS -- NIGHTMARE.  
THANK YOU.  
I HAD THAT WRITTEN DOWN.  
I AM NOT BELITTLES OR DISMISSING THOSE CONCERNS AND PERHAPS THERE ARE SOME WAYS WE CAN WORK WITH TRAFFIC ENGINEERS TO DO SOMETHING. WE SHOULD BE DOING IT NOW IF WHAT [INAUDIBLE] WAS SAYING IS TRUE.  
I'M NOT HERE TO ARGUE ABOUT THOSE THINGS.  
I APPRECIATE THE CONCERNS.  
BUT EVEN WITH THE ENVIRONMENTAL CONCERNS, THERE HAS BEEN A LOT OF ASSERTIONS RAISED THAT CHEVRON WILL IMPACT THE RESIDENTS AND WE'VE HEARD THAT CEQA IS ABOUT THE PROJECT ITSELF.  
WE'VE ALSO HEARD THAT THE DEVELOPER MUST COMPLY -- OR PROPERTY OWNER MUST COMPLY WITH FEDERAL, STATE, LOCAL, ENVIRONMENTAL AND HEALTH REGULATIONS.  
WE'VE GOT CONFIRMATION FROM OUR PLANNING DIRECTOR THAT IF THERE IS A PROBLEM AND THE DEVELOPER DEFAULTS AND LEAST, EPA HAS TO CLEAN IT UP, WE ARE CARING ABOUT THE HEALTH OF THE RESIDENTS.  
SO MANY PEOPLE IN THE COMMUNITY HAVE OFFERED TO HELP WITH THE LEGAL BATTLE.  
SO MANY SMART, SMART PEOPLE HAVE OFFERED LEGAL ADVICE AND STRATEGY TO CONSIDER.  
AND I PERSONALLY HAVE CONSIDERED THEM ALL.  
AND SOUGHT OTHER OPINIONS AND HOW DOES THIS PLAY OUT.  
I'VE EXPLORED EVERY GOOD-FAITH LEGAL OPTION ALTERNATIVE AND POSSIBLE

PATH BECAUSE OF THE IMPACT IT'S GOING TO HAVE ON THE RESIDENTS WHO LIVE THERE.

AND I'M FOCUSING ON TRAFFIC BECAUSE THAT'S ALWAYS A HUGE QUALITY OF LIFE ISSUE.

BUT I'M NOT HERE TO CHALLENGE THOSE.

I'M NOT HERE TO CHALLENGE THOSE LEGAL OPINIONS AND THE STRATEGY BECAUSE I HAVE RECEIVED LEGAL ADVICE, YOU KNOW, THROUGH OUR ATTORNEYS, ET CETERA, AND I AM COMPLETELY SATISFIED THAT THE CITY HAS FULLY COMPLIED WITH CEQA AND OUR OWN LOCAL REGULATIONS IN DETERMINING THAT THE PROJECT IS A MINISTERIAL PROJECT.

I AM COMPLETELY CONVINCED OF THAT.

SO AFTER SAYING ALL OF THAT, THERE IS NO LEGAL BASIS FOR ME TO DENY THIS PROJECT.

AND I LISTENED TONIGHT -- YOU KNOW OBVIOUSLY I'VE TYPED OUT SOME NOTES BUT I HAVE HERE FOR MY OWN NOTE, UNLESS SOMETHING NEW IS PRESENTED TONIGHT -- BECAUSE I WAS BEING OPEN AS WELL.

I WANTED TO FIND A WAY, IN A WAY, BECAUSE OF THE IMPACT.

I WAS REALLY EXCITED IN OCTOBER WHEN MAYOR NAPOLITANO'S REASON FOR VOTING TO DENY THE PROJECT, AIR QUALITY, I THOUGHT THAT WAS A REALLY CLEVER IDEA.

REALLY, I WAS HOPEFUL THAT THAT REASONING WAS SOUND.

I THOUGHT THAT WAS REALLY SMART, AND I SAID SO ON SOCIAL MEDIA.

BUT THE LETTERS FROM THE STATE INDICATE THAT THAT REASONING IS NOT DEFENSIBLE.

SO BECAUSE OF THAT DECISION TO DENY THE PROJECT, AS -- I'M SORRY, MAYOR PRO TEM, MPT MENTIONED, ITS NO AT THREAT, ACTION BY STATE. IT'S NO LONGER A THEORETICAL QUESTION.

WE NOW HAVE THREE LAWSUITS CHALLENGING THE CITY'S DENIAL THAT BEEN FILED.

I CAN'T IN GOOD CONSCIOUS MAKE A DECISION THAT HOLDS THE CITY TO A WILDLY EXPENSIVE LEGAL FIGHT.

WE WILL NOT WIN IT.

BUT I CAN'T GIVE THE STATE A REASON NOT TO APPROVE OUR HOUSING ELEMENT WHICH IS THERE AT THE STATE RIGHT NOW WAITING TO BE APPROVED BECAUSE THAT'S GOING TO TAKE AWAY, AS MPT MENTIONED, OUR ABILITY TO ENFORCE OUR OWN ZONING.

TALK ABOUT LOSING LOCAL CONTROL, ALL BETS ARE OFF THEN.

SO I'M HOLDING MY NOSE BECAUSE I HAVE -- I'M FOLLOWING THE LAW AND I FEEL THAT I AM PREVENTING AN EVEN WORSE FATE FOR THIS CITY.

AND THAT IS WHERE -- THAT IS MY POSITION.

THANK YOU.

>> Mayor Napolitano: ALL RIGHT.

COUNCILMEMBER LESSER.

>> Councilmember Lesser: YOU DON'T WANT TO GO FIRST, MAYOR? JUST CHECKING.

>> Councilmember Howorth: SORRY.

IT'S NOT FUNNY.

>> Mayor Napolitano: MAYOR'S PREROGATIVE TO GO LAST.

>> Councilmember Lesser: I SHARE THE CONCERNS OF THE PROPONENTS. WE USED TO LOOK AT THE FIRES. WE USED TO CLEAN UP THE SOOT THAT WOULD ACCUMULATE THROUGHOUT THE YEAR.

IN MY 15 YEARS PREVIOUS TO THIS SERVICE ON COUNCIL I SERVED ON THE COMMITTEE THAT REVISED OUR CODES TO MAKE RESIDENTIAL PROPERTIES SMALLER.

I SERVED ON THE PARKING PUBLIC IMPROVEMENTS COMMISSION LOOKING AT HOW WE ADDRESSED TRAFFIC COMMISSION.

THIS IS OUR ROUTE I USED TO DRIVE TO CENTURY CENTER. IT WAS A CLUSTER YEARS AGO AND IT IS EVERY BIT A CLUSTER TODAY. THE IDEAS OF THIS LARGE-SCALE PROPERTY GOING THERE IS AGONIZING. I ALSO SHARE THE CYNICISM THAT MANY HAVE OF HOW THE BONUS DENSITY LAW IS BEING USED HERE FOR SIX SMALLER UNITS, GET TO BUILD 79 UNITS AND CIRCUMVENT OR CITY'S CODE.

WE AS A CITY WANT TO BE PART OF THE SOLUTION TO ADDRESS THE STATE-WIDE CRISIS OF HOUSING.

THIS IS A SMALL STEP BUT THIS SURE DOESN'T SEEM LIKE THE MOST EFFECTIVE WAY TO TRY TO ACHIEVE THAT.

THE CHALLENGE IS SEPARATING WHAT WE WOULD LIKE THE LAW TO BE FROM WHAT IT IS IN FACT.

THE STATE HAS DISLODGED LOCAL JURISDICTIONS LIKE US FROM THE ABILITY TO ENTITLE PROJECTS JUST LIKE THIS.

YOU'VE HEARD, WE DO NOT HAVE DISCRETION ON THIS PROJECT. THE STATE IS GONE A STEP FURTHER OWN THE LAST FIVE YEARS. THEY'VE WEAPONIZED THE STATE LAW SUCH THAT THERE IS HUGE LIABILITY, HUGE LIABILITY AND NEW EQUITABLE LIABILITIES NOT JUST TO DEVELOPERS BUT TO THIRD-PARTY ORGANIZATIONS THAT CAN BRING THEIR OWN SUITS AND GET LEGAL FEES FOR THEIR LAWYERS ALL TO BOOT.

THERE'S ALSO AN ATTORNEY GENERAL STRIKE FORCE LOOKING FOR CASES LIKE THIS AND IN SIMILAR ONES HAS INJECTED ITSELF INTO THE ACTION AND FORCED CITIES TO MOVE FORWARD.

SO MANY IN THE COMMUNITY ARE SAYING THIS IS THE TIME WE SHOULD STAND UP.

PRIOR COUNCILS STOOD UP FOR THE RIGHTS OF THE COMMUNITY. WHERE ARE YOU.

WELL I CAN SAY FOR MYSELF, ALONG WITH OUR MAYOR PRO TEM, ALONG WITH COUNCILMEMBER HOWORTH, WE WERE ON THE COUNCIL THAT APPEALED ALL THE WAY TO THE SUPREME COURT OUR PLASTIC BAG BAND FOR EXAMPLE.

I SERVED WITH THREE OTHER MEMBERS ON THIS COUNCIL, INCLUDING THE MAYOR, WHEN WE TOOK ON ANOTHER JURISDICTION, THE CITY OF LOS ANGELES, OUTSIDE OF OUR BORDERS.

WE'VE TAKEN ON MULTIPLE CASES AGAINST THE STATE.

I'VE BEEN PROUD TO BE ON THOSE FIGHTS.

THIS IS DIFFERENT.

THE HOUSING ISSUES THAT WE'RE DEALING WITH HERE ARE DIFFERENT THAN

THOSE TYPES OF CASE.

AS IS ARTICULATED, WE HAVE CHALLENGE TO PREVAIL WITH ENORMOUS LIABILITY WHILE WE'RE DEALING WITH ISSUES ON A DAY TO DAY WITH OUR ABILITY TO HAVE ENOUGH POLICE OFFICERS ON THE STREET, TO HAVE FUNDING FOR SO MANY PROJECTS THAT OUR COMMUNITY WANTS.

I AM NOT IN FAVOR OF THIS PROJECT, BUT LIKE COUNCILMEMBER HOWORTH, I'M LOOKING AT THE REALITIES OF HOW THE CASES HAVE INTERPRETED THESE TYPES OF ACTIONS THAT HAVE BEEN BROUGHT AGAINST CITIES LIKE OURS FOR SIMILAR REASONS.

AND I DO NOT SEE AN EASY WAY FORWARD.

I COULD SAY MORE.

I THINK I WOULD SAY THAT THIS IS AN EXAMPLE OF WHY THE REMOVAL OF LOCAL COMMUNITIES FROM THE ABILITY TO PARTICIPATE IN THE DISCRETION OVER PROJECTS IN THEIR OWN COMMUNITY IS SO TERRIBLE.

ONE SIZE DOES NOT FIT ALL.

I CAN IMAGINE IF OUR COMMUNITY WAS ENTITLED IN A PROCESS FOR THIS PROJECT, IT COULD BE LOWERED IN HEIGHT, IT COULD BE LOWERED IN MASSING AND THERE WOULD BE FAR MORE SUPPORT FOR IT THAN THERE CLEARLY IS. BUT UNDER THE CIRCUMSTANCES, UNDER THE STATE LAW I SEE MYSELF AS HAVING NO OTHER CHOICE THAN TO SUPPORT THIS PROJECT FOR THE BENEFIT OF OUR COMMUNITY AND ITS RESIDENTS BECAUSE OF THE SIGNIFICANT LIABILITY THAT WE FACE IF WE DON'T.

>> Mayor Napolitano: OKAY.

THANK YOU.

I'LL JUMP IN AND APOLOGIES AHEAD OF TIME IF THIS SOUNDS LIKE FREE ASSOCIATION MAINLY BECAUSE I WOULD HAVE WRITTEN DOWN SOME NOTES AS SOME OF MY COLLEAGUES HAVE, EXCEPT I READ IN THE COMPLAINT FILED BY THE APPLICANT THAT THAT SHOWED BIAS OR PREDECISION FOR HAVING NOTES WRITTEN AT THE LAST HEARING ON THIS WHEN IT WAS DENIED.

I WROTE THOSE NOTES AN HOUR BEFORE HAND AND MADE ADJUSTMENTS ALONG THE WAY AFTER WE HAD HEARD SUBSTANTIAL TESTIMONY FROM THE APPLICANT AND THE APPELLANTS AT THE HEARING BEFORE THAT.

AND SO I STILL KEPT AN OPEN MIND THEN.

I'M KEEPING AN OPEN MIND NOW AND I TOOK NOTES ALONG THE WAY TO GET TO WHERE I AM NOW.

I APPRECIATE WHAT'S BEEN SAID TONIGHT.

IT'S BEEN AN INTERESTING JOURNEY TO BE SURE.

I UNDERSTAND THAT MY VOTE AT THE LAST MEETING WHERE THIS WAS DECIDED UPON TOOK SOME PEOPLE BY SURPRISE, IF YOU'VE BEEN AWARE OF MY VOTES AND MY OWN JOURNEY ON COUNCIL FOR THE FIVE TERMS I'VE SERVED, YOU SHOULDN'T HAVE BEEN SURPRISED.

I READ LATER THAT I WAS POLITICALLY MOTIVATED, ALL TO HAVE CONSPIRACY THEORIES AND ALL OF THE PEOPLE WHO HAVE TIME ON NEXTDOOR CERTAINLY WERE THEORIZING ABOUT WHY I DID WHAT I DID.

AND THE SIMPLE FACT IS I LOOKED AT THINGS.

I WASN'T TRYING TO BE CLEVER ABOUT ANYTHING.

I LOOKED AT THINGS, I TOOK GENERAL AND SPECIFIC CONCERNS ABOUT THIS

PROJECT.

I DID NOT VOTE AGAINST IT AT THE TIME BECAUSE OF ANYTHING THAT MY COLLEAGUES SAID OR DIDN'T SAY.

AND I DIDN'T FIND A LOT OF VALUE EITHER IN THE ARGUMENTS BY THE APPELLANTS AT THAT TIME BECAUSE THEY DID NOT ADDRESS THE NARROW LEGAL PATH THAT IS AVAILABLE IN THE INSTANCE.

AND IT'S LAID OUT, IT'S PUT TOGETHER AGAIN BUT SIMPLY IN THIS SUPPLEMENTAL MEMO.

YOU CAN ONLY DENY IF THE HOUSING DEVELOPMENT PROJECT AS PROPOSED WOULD HAVE A SPECIFIC ADVERSE IMPACT ON THE PUBLIC HEALTH OR SAFETY AND THERE'S IN FEASIBLE EFFORT TO MITIGATE OR AVOID THE SPECIFIC ADVERSE IMPACT.

AND, YOU KNOW, I HEARD FROM SOME FOLKS, TOO, REGARDING CHEVRON. THEY'VE BEEN, YOU KNOW, A FOCAL POINT IN THIS DISCUSSION.

I WANT TO MAKE CLEAR THAT NOTHING I SAID BEFORE OR TONIGHT IS A KNOCK ON CHEVRON.

CHEVRON IS A CORPORATE CITIZEN THAT HAS BEEN A GREAT CORPORATE PARTNER HERE IN MANHATTAN BEACH AND THEY DO A VERY NECESSARY SERVICE AND PROVIDE A VERY NECESSARY PRODUCT TO US AND TO FOLKS ALL OVER CALIFORNIA.

AND THEY DO IT IN A VERY HIGHLY-REGULATED INDUSTRY.

AND THEY KNOW VERY WELL THAT IF THERE IS ONE BLIP OF SMOKE OR ONE DROP OF OIL THAT GOES THE WRONG WAY THAT THEY'VE GOT SEVERAL LOCAL, STATE AND FEDERAL AGENCIES BREATHING DOWN THEIR NECKS.

SO THAT SAID, THERE ARE CERTAIN TRUTHS ABOUT SUCH FACILITIES AND PUTTING RESIDENTIAL HOUSING NEXT TO SUCH FACILITIES.

AND, YOU KNOW, WE'VE TALKED ABOUT WHAT THE IMPACTS ARE AND THE APPLICATION OF CEQA AND IT'S NOT CHEVRON'S IMPACTS ON THE PROJECT BUT THE PROJECT'S IMPACT ON ITS ENVIRONMENT.

BUT IT DOES HAVE A SPECIFIC IMPACT.

AND THERE'S AN ADVERSE IMPACT IN THE PLACEMENT OF RESIDENTIAL, A RESIDENTIAL PROJECT WITH LONG-TERM RESIDENTS NOT -- TRANSIENT RESIDENTS, NOT A HOTEL OR SHORT-TERM RENTALS, BUT THERE IS A PROBLEM WITH PUTTING THAT THERE.

THE CITY DID THAT AND WE AGREED TO ZONE IT THAT WAY, BUT WOULD WE DO, IF WE KNEW THEN WHAT WE KNOW NOW, WOULD WE STILL DO THAT AND I DON'T THINK SO.

I THINK IN LOOKING AT THAT THE RISKS ARE WELL KNOWN AS FAR AS -- AND I WU DINGED IN THE COMPLAINT THAT OH, I DIDN'T CITE CERTAIN HOUSING, CERTAIN THIS.

I TALKED ABOUT AB2011 NOT FOR THE FACT THAT THE LAW ITSELF APPLIED IN THE CASE BUT THAT THE REASON THAT THE 3200-FOOT BUFFER WAS INCLUDED IS SUPPORTED BY SCIENTIFIC STUDIES.

AND THERE ARE A NUMBER OF STUDIES, IN FACT IT DOESN'T -- IT'S NOT HARD -- I INCORPORATE THINGS BY REFERENCE BECAUSE FRANKLY FOR BREVITY I DIDN'T THINK THERE QUESTIONS ABOUT THE STUDIES.

I'VE READ THEM.



A STUDY BY THE NATIONAL STUDY OF MEDICINE SAYS AN INCREASE OF ALL TYPES OF CANCER FOR THOSE LIVING CLOSE TO AN OIL REFINERY. THERE'S A RISK OF STROKE FOR THOSE WHO LIVE IN CLOSE PROXIMITY TO A REFINERY.

THERE HAVE BEEN STATEMENTS MADE BY THE NATIONAL HISPANIC MEDICAL ASSOCIATION, THE NAACP, UNIVERSITY OF TEXAS DID A RECENT STUDY AND FOUND A CLEAR CONNECTION BETWEEN THE DISTANCE THAT PEOPLE LIVE FROM A REFINERY AND THE INCREASE OF ALL CANCER TYPES.

AND IN 2005 THE CALIFORNIA AIR RESOURCES AIR QUALITY BOARD SAID IN THEIR LAND USE HANDBOOK THEY RECOMMENDED CITING NEW SENSITIVE LAND USES NEAR REFINERIES AND LONG-TERM RESIDENTIAL IS A SENSITIVE USE. I THINK THERE'S PLENTY THERE TO CONSIDER, AND THAT DOESN'T MEAN, THOUGH -- AND THAT'S WHY I WANT TO BE SPECIFIC TO THIS PROJECT. IT DOESN'T MEAN THAT MANHATTAN BEACH IS AGAINST AFFORDABLE HOUSING OR AGAINST ADDITIONAL HOUSING.

WE APPROVED, IT HASN'T BEEN CERTIFIED YET WAS THEY'RE HOLDING US HOSTAGE WE'VE APPROVED A PROJECT THAT HAS OVER 700 NEW HOUSING UNITS THAT WE'LL BE ZONING FOR THAT WE'RE REQUIRED TO DO UNDER THE RHNA NUMBERS ALLOTTED TO US.

AND IN FACT WE DID JUST APPROVE ANOTHER DENSITY BONUS PROJECT ON ARTESIA.

IT WASN'T APPEALED.

IT HAS AFFORDABLE HOUSING.

AND IT TOOK SOME WAIVERS AND IS EXCEEDING THE LOCAL ZONING REQUIREMENTS.

AND WE DIDN'T APPEAL THAT.

BECAUSE AGAIN, DIFFERENT CIRCUMSTANCES HERE.

YOU KNOW, I COULD CERTAINLY GO ON BUT I RESPECT -- I RESPECT EVERYTHING THAT'S BEEN SAID ABOUT THIS.

THERE'S NO PERFECT DECISION THAT'S GOING TO BE MADE HERE.

EVERYONE IS VOTING FOR WHAT THEY FEEL IS BEST FOR THE COMMUNITY.

I DON'T DISPUTE THE ISSUES WHERE THE LAWSUITS, THE POTENTIAL LOSS AND I EXPECT THAT THE APPLICANT WILL NOT WITHDRAW THE LAWSUIT EVEN IF THIS IS APPROVED.

AND I'M JUST GOING TO ASSUME THAT THEY'RE GOING TO GO FOR SOME SORTS OF DAMAGES OR ATTORNEYS' FEES FOR THE FACT THAT THIS WAS DELAYED IN THEIR MINDS.

YOU KNOW, THE LEGISLATURE AND THE STATE CERTAINLY WANT TO FORCE THE HANDS OF LOCAL GOVERNMENT AND THAT'S FINE, BUT THEY CAN'T HAVE IT BOTH WAYS, AS FAR AS I'M CONCERNED.

THEY CAN'T SAY THAT THERE'S AN APPEAL PROCESS BUT YOU HAVE NO DISCRETION.

THAT'S A CONTRADICTION.

AND IF THE LEGISLATURE AND THE HOUSING COMMUNITY DEVELOPMENT DEPARTMENT WANT TO HAVE THESE PROJECTS, THEN PASS A LAW THAT SAYS THERE ARE NO MORE APPEALS OF THESE THINGS SO WE CAN SKIP ALL OF THIS DRAMA AND THEY CAN JUST TAKE OVER OUR LOCAL ZONING OR LOCAL HOUSE

IN REGARDS TO THESE PROJECTS.  
THEY HAVEN'T DONE THAT.  
I ALLOWED FOR THE APPEAL TO HAPPEN.  
THE LAW ALLOWS FOR THIS APPEAL TO HAPPEN.  
AND THIS IN ITSELF IS DISCRETION.  
DECISIONS CAN BE MADE.  
AND I UNDERSTAND THAT FOLKS THINK THEIR HANDS ARE TIED.  
AND AGAIN, WHILE I DISAGREE WITH THAT CONCLUSION, I RESPECT THE FACT  
THAT YOU HAVE, AND FOR THE REASONS THAT YOU HAVE.  
AND WITH THAT THERE IS A MOTION.  
I DIDN'T SEE A SECOND.  
IS THERE A SECOND?  
SECOND BY COUNCILMEMBER HOWORTH.  
>> MAYOR, I'M GOING TO RESTATE THE MOTION.  
IT WAS TO ADOPT RESOLUTION NO. 23-0014, WHICH REPEALS RESOLUTION NO.  
22-0124 AND AFFIRMS THE DECISION OF THE PLANNING COMMISSION TO  
APPROVE THE PROJECT.  
>> Mayor Napolitano: OKAY.  
THERE'S A MOTION BY MAYOR PRO TEM MONTGOMERY, SECONDED BY  
COUNCILMEMBER HOWORTH.  
BECAUSE MAYOR PRO TEM MONTGOMERY IS OFF SITE WE'RE GOING TO DO A VOICE  
VOTE.  
ROLL CALL VOTE.  
>> COUNCILMEMBER FRANKLIN.  
>> Councilmember Franklin: NO.  
>> COUNCILMEMBER HOWORTH.  
>> Councilmember Howorth: YES.  
>> COUNCILMEMBER LESSER.  
>> COUNCILMEMBER LESSER: RELUCTANTLY, YES.  
>> MAYOR PRO TEM MONTGOMERY.  
>> Mayor Pro Tem Montgomery: YES.  
>> MAYOR NAPOLITANO.  
>> Mayor Napolitano: NO.  
>> MOTION PASSES 3-2.  
>> Mayor Napolitano: WITH THAT WE'LL ADJOURN TO -- WHEN ARE WE TO  
ADJOURN TO?  
NEXT REGULAR MEETING, FEBRUARY 7<sup>th</sup>, 6 P.M.  
THANK YOU ALL FOR COMING DOWN AND PARTICIPATING.  
APPRECIATE THAT.