

## **HIGHROSE PATH TO SAFETY FIRST**

### EXECUTIVE SUMMARY:

Chill The Build supports new housing in Manhattan Beach. However, environmental health & safety must be the priority to protect current residents as well as new residents we welcome to our community.

The City has not fully assessed the risk to health and safety for residents and therefore cannot fulfill its mission to reasonably protect residents as required by both state and federal laws. CEQA is only one part of the environmental law review process. The City's role is substantive when it comes to the health and safety of residents and environment based on laws such as the California Health & Safety Code, Cal-EPA and others. Property that is next to and was previously used by an oil refinery is a complex environmental location.

While proponents of this project tout there are no health and safety issues with the site, they offer no valid proof. One cannot prove there are or are not health and safety issues without a thorough and valid assessment of the property for this specific development's parameters. Historically, Manhattan Beach has encountered numerous environmental health and safety issues with other development on land previously used for oil related activities. Manhattan Village was built on top of oil storage tanks and methane gas was discovered after construction in 1985. That same year, potentially explosive levels of gasoline-type hydrocarbons were discovered in El Porto and along The Strand. While these have since been mitigated, there is no evidence that the Highrose property would not encounter such problems. Given this site was paved over in 1971 and developed for an above ground structure prior to environmental laws being enacted, the City must conduct a review of the environmental risks irrespective of CEQA in order to protect the health & safety of its residents.

The Phase I and II report submitted by the developer provides a distorted review of the property and may have exacerbated problems with the site. The report's flaws misstate the nature and severity of the risks. Buried within the 684 pages is the recommendation to test the property for methane as well as benzene, toluene, ethylbenzene, xylene and other hazardous petroleum constituents, some of which are present in groundwater in concentrations nearly an order of magnitude higher than permissible levels, prior to any future development, while many pages are devoted to trivial and potentially misleading information. While most studies are valid for up to 180 days, this report is based on data from 5 years ago. The report relies on information initially gathered for bank loan purposes for the former owner, not for development of a massive 4-story structure requiring excavating the land for a 2-story underground parking structure. No other properties in the vicinity have required such deep excavation. Also, given the property is in a seismically active area and there are no barriers to prevent vapors or known toxic liquid from moving underground, the report should be considered invalid for evaluating this project.

There are core issues demanding review by the City and are not simple "check the box" matters. It is unjust to create low income housing on land that has legitimate environmental concerns, especially since those units will most likely be in locations bearing the most risk from vapor migration dangers.

Regardless of Density Bonus Laws (DBL), the City has an obligation to protect residents' health and safety. The DBL do not address health and safety issues and is an area not discussed in cases where DBL has been upheld. The DBL clearly did not anticipate a set of circumstances encouraging development next to a large refinery in an area with a history of volatile substances causing health and safety issues. The City Planning Commission used a policy of encouraging affordable housing above environmental concerns that could lead to health and safety issues.

Reasons the City Council should reverse the decisions: 1) the project approval violates CEQA and therefore the decision should be discretionary, 2) CEQA should not be conflated with other environmental reviews, 3) CEQA is only one part of the environmental law review, 4) the developer could be misleading and confusing what CEQA does and ignoring other laws that are used to protect health and safety of a city's residents and environment.

In addition, the project has at least two serious coastal impacts, including risk of contaminated groundwater running into the storm drain and insufficient parking that puts coastal access in jeopardy. The property does not own the public parking areas next to it, so there is no guarantee those public spaces will continue to be available long term.

The Manhattan Beach City Council should reverse the Planning Commission decision and not approve the project at this time until health and safety concerns emanating from the challenging environmental conditions of the site are fully vetted in order to protect the health and safety of its residents. Given the potential material misrepresentations

or omissions provided by the developer, the City should at least be entitled to have the information validated, clarified and proven to not mislead.

In the alternative, if reversal is not possible, the City Council should create a commission that includes representatives of the residents and fully examine the health and safety, and environmental risks associated with the project. The commission's findings can help create a path forward that could result in an outcome that avoids costly litigation and potential investigations.