

LAW OFFICE OF FELIX TINKOV

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Felix Tinkov, Esq.
Principal

Via Electronic Mail

October 13, 2026

Kelly Modén, Chair
City of San Diego Planning Commission
MS DSD 1A
7650 Mission Valley Road
San Diego, CA 92108
Planningcommission@sandiego.gov

Subject: Opposition to Coastal Development Permit No. PMT-3290032 (991 Scott Street, San Diego, CA 92106; PRJ-1111697) – October 15, 2026 Appeal Hearing

Dear Chair Modén and Members of the Planning Commission:

This letter is submitted in opposition to the May 6, 2026 City of San Diego Hearing Officer approval of the proposed development at 991 Scott Street (“Subject Property”). Proposed is the addition of a 798-square-foot third-floor accessory dwelling unit (“ADU”) to the existing 4,005 square-foot two-story residential structure (“Project”). The Planning Commission should deny the Project in light of three ongoing violations of law:

- 1) the Subject Property is not in conformance with its existing Coastal Development Permit (“CDP”), requiring the City of San Diego enforce corrective action before the proposed Project may be considered;
- 2) the proposed ADU exceeds the two-story limit set forth at San Diego Municipal Code section 141.0302(b)(8)(B).
- 3) the current property owners, Douglas H. Austin and Wendy A. Austin, without benefit of permits, redeveloped the public right-of-way along Bessemer Path, resulting in code violations acknowledged by the California Coastal Commission, the San Diego Port District, and the City of San Diego, and which currently remains subject to an enforcement action;

Finding support for any one of the above violations requires denial of the Project. Repeated efforts, over the course of months, have been made to discuss these issues with City staff and the Office of the City Attorney; each such attempt has been summarily dismissed without explanation. The Planning Commission’s staff report for the October 15, 2026 meeting is surprising in that it fails to address most of these issues, and those it does do not comport with the law. The Planning Commission is now asked to review these issues, anew, and direct corrective action.

Unpermitted Development

The Project rests on an unsupported conclusion that the Subject Property is a previously conforming premises, authorizing development of a new ADU. San Diego Municipal Code (“SDMC”) section 127.0102, sub. (a), unambiguously provides that “[p]reviously conforming premises or uses must have been established in compliance with all permit requirements....” [*Underlining added for emphasis.*] Thus, if the Property is not in compliance with “all permit requirements,” it cannot be considered a previously conforming use.

The Property’s August 5, 1977 CDP is limited to the “[c]onstruction of a 1- and 2-story, 1,753 sq. ft., single-family residence with a detached carport,” listing the total “Building Coverage” allowed as 1,753 sq. ft. or 33% of the 5,386 sq. ft. lot size. (See, Exh. A - August 5, 1977 CDP). The CDP requires the applicant “adhere strictly” to this limitation under “penalties established by the California Coastal Act of 1976.”

The staff report provides that, on August 24, 1977, the City permitted construction on the Property of a 2,320 sq. ft. total – roughly 550 sq. ft. more than that authorized under the CDP (i.e., 1,753 sq. ft.). The Property owner then constructed to the limit authorized under the City’s building permit, not that of the CDP. What is the City’s position as to this obvious exceedance of the CDP’s strict development limit? The staff report provides only that “it was not in the City’s authority to review the development for substantial conformance with permits issued by the CCC [California Coastal Commission]; a responsibility that fell on the applicant/property owner(s) and the CCC.” [*Emphasis added.*] Though the City acknowledges that the Property was developed beyond the express limitations of the CDP, it had no responsibility for what was actually built. This is plainly incorrect. (1987 Cal. AG LEXIS 18, *1-2, [a city’s land use authority does not countervail CDP limits]; Cal. Pub. Res. Code, § 30600 [CDP development limits control over local land use permitting provisions].)

It does not matter whether it was within the City’s authority to review the Property for substantial conformance with its CDP, or if that duty belongs to the property owner or the CCC – the City did not have the authority to grant a permit to build exceeding the limits plainly set out in the CDP. (*Pacific Palisades Bowl Mobile Estates, LLC v. City of Los Angeles* (2012) 55 Cal. 4th 783, 794 [“fundamental purpose of the Coastal Act is to ensure that state policies prevail over the concerns of local government.”].) The City’s admission that it provided the 1977 building permit in violation of the CDP, even if done in error, does not absolve the Property’s development exceedance. (*Attard v. Board of Supervisors of Contra Costa County* (2017) 14 Cal.App.5th 1066, 1077 [“neither the existence of a particular zoning nor work undertaken pursuant to governmental approvals preparatory to construction of buildings can form the basis of a vested right to build a structure which does not comply with the laws applicable at the time a building permit is issued.”] [*Emphasis in original.*] [quoting *Avco Community Developers, Inc. v. South*

Coast Regional Com. (1976) 17 Cal.3d 785, 793.].) In short, the City's provision of a 1977 building permit did not (and to this day, does not) afford additional development rights on the Property beyond the strict limits set forth by the CDP. Because the City acknowledges the Property was not developed in conformity with its CDP's limitations, there is no legitimacy to the claimed previously conforming designation afforded to the Property. (SDMC, §127.0102(a) [again, compliance must be with all permit requirements.].)

This was not the only instance of the Property being developed beyond authorized limits. On May 12, 1978, the Property's CDP was amended to allow for an addition, permitting "a total building area of 2,293 sq. ft." The City appears to have ignored this amended CDP as well. (See, Exh. B – May 12, 1978 CDP.) On June 13, 1978, the City authorized a 544 sq. ft. addition over the 2,320 sq. ft. it had improperly authorized the year prior (for a total of 2,864 sq. ft.) And though the City permitted considerably more development on the Property than the CCC allowed, the Property owner built more. The staff report acknowledges that the Property was actually built out to a total of 3,035 sq. ft.; over 700 sq. ft. more than the amended CDP permits. Things only went further awry from there.

On May 8, 1979, without any further amendment to the CDP, the City erroneously granted another building permit, this time for 408 sq. ft. second-story gym. And on February 2, 1983, again without any amendment to the CDP, the City erroneously authorized the conversion of the gym as a "guest house." Again, the City's claim to a previously conforming designation is a legal impossibility as the Property was not developed in compliance with its amended CDP requirements. (SDMC, § 127.0102(a).)

And though the staff report does not identify any other City permits authorizing further development of the Property, it acknowledges that the development now totals to 4,005 sq. ft, whereas the currently effective CDP only authorizes 2,293 sq. ft. – a difference of 1,712 sq. ft., roughly equivalent to what was originally authorized for the Property. In that neither the CCC, nor the City, permitted such extensive overdevelopment, and **no permits exist authorizing this**, there can be no previously conforming designation for the Property. (Id.) The City staff report is silent as to how the Property has been developed to this extent – avoiding adherence to the CDP, and seemingly without any City building permits, to boot.

Nor does the staff report take into account that the Property is being reviewed for conformance with its permits, including the original CDP, *now*. The City's attempt to lay at the feet of the CCC the fault of this Property's illegal development exceeding the CDP is unavailing. Upon the CCC's certification of the local coastal program ("LCP"), the City assumed primary permitting authority and is obliged to enforce all existing CDPs. (*Linovitz Capo Shores LLC v. California Coastal Com.* (2021) 65 Cal.App.5th 1106, 1116; Pub. Res. Code, §§ 30519; 30603; SDMC, §§ 143.0115(c)(8) ["Any coastal development requiring a Coastal Development Permit must conform to the regulations in the certified

Local Coastal Program”; 126.0708(a)(3).) The City’s review of the Property’s permits, as part of this Project, necessarily includes a compliance check with the 1978 amended CDP. (SDMC, § 121.0302(a) [“It is unlawful for any person to maintain or use any premises in violation of any provisions of the Land Development Code, without a required permit, contrary to permit conditions, or without a required variance.”].) A legitimate conformance check, in light of the exceedances over the strict CDP limits *and* extensive development without benefit of City building permits, plainly excludes a previously conforming designation. Without such a designation, the City is obliged to deny the Project. Moreover, the City’s duties under the LCP require it to institute corrective action. (*Lent v. California Coastal Com.* (2021) 62 Cal. App. 5th 812, 831-832.) Nor may the current applicants avoid the consequences of CDP violations committed by their predecessors in interest. (*Feduniak v. California Coastal Com.* (2007) 148 Cal.App.4th 1346, 1379 [“once the period to challenge the restrictions had expired... they became immune from collateral attack by the original property owner and successor owners”].)

The Planning Commission is asked to find that the Property’s development is in violation of its CDP limitations, and direct staff to enforce the LCP accordingly. No further development may be processed until such time as these violations are resolved in conformance with the law.

ADU Development Not Permitted By Code

The staff report provides that the Project proposes to “remodel an existing 4,005-sf two-story single-dwelling unit by adding a third floor to accommodate a 798-sf ADU....”¹ Yet no mention is made that this is facially in violation of the City’s Land Development Code. SDMC section 141.0302(b)(8)(C) requires that the proposed ADU comply with the height restrictions of the underlying base zone.

Here, the Property is zoned RS-1-7 (Residential – Single Unit) and has a “Max *structure height*” of 24 feet on a lot less than 75 feet wide; the Property is, mostly 25 feet wide, with no portion exceeding 75 feet. San Diego Municipal Code section 131.0444, subd. (b), authorizes limited encroachment in RS-1-7 zoning up to 30 feet, but only if the **entire building envelope** tapers above 24 feet at a 45° angle. (See also, Government Code section 66321(b)(4)(D) [attached ADU height limit is the *lesser* of 25 feet or the base zone height limit].)

The third story ADU, as proposed, does not include such a 45° angle building envelope on all sides – rather, the third story structure runs to 30 feet in height without any such tapering

¹ Notably, the staff report incorrectly claims that on July 18, 2024, the Peninsula Community Planning Board (“PCPB”) unanimously recommended approval of the Project. At that time, the matter before PCPB was a wholly different development proposal, and the Project, as it is proposed now, was never brought before the PCPB. (See, Exh. C - excerpt of the PCPB July 18, 2024 meeting minutes.)

on at least one side. (See, Exh. D – Excerpted Project plans.) No exception is made to this building envelope requirement and height restriction in the objective development standards defined under the San Diego Municipal Code. Given this, the ADU may not be lawfully approved, as designed, to 30 feet in height.

The Planning Commission is respectfully requested to uphold the appeal and deny the Project on this basis.

Active Violations

The staff report further fails to mention that the City is aware of serious code violations associated with the Property. (SDMC, § 143.0115(c)(8) [“Any *coastal development* requiring a Coastal Development Permit must conform to the regulations in the certified *Local Coastal Program*.”]; *Redondo Beach Waterfront, LLC v. City of Redondo Beach* (2020) 51 Cal.App.5th 982, 996 [“Any development in the coastal zone must comply with the local agency’s local coastal program and the Coastal Act.”].) The City has now known, for years, after being informed by the CCC, and the San Diego Port District, that the public right-of-way (“ROW”) fronting the Property, along Bessemer Path, has been illegally redeveloped into a garden by the current property owners. (14 CCR 13250.) The Austins, without authorization, tore out native coastal habitat in the ROW, replacing it with flowers, shrubbery, benches, and other “improvements,” several years ago. (See, Exh. E – CCC comments on project issues report.) The CCC staff identified this as a direct violation of the Property’s CDP requiring corrective action; noting that it was not unusual for applicants, like the Austins, to gloss over such matter, as it would tend to derail the Project’s review. In the normal course, the City is required to withhold further development rights until the violations are resolved. (SDMC, § 143.0112 [“If unlawful development occurs... a development permit application shall not be processed for the premises until the enforcement action has been concluded...”]) The City, instead, thwarts its duties under the LCP, altogether brushing this matter under the rug while it works with the CCC and the San Diego Port District, on an enforcement action against the Austins requiring new permits, new construction, and new conditions on the Property. Put a different way, the Austin’s unlawful redevelopment of this precious coastal land remains in place to this day; and the City continues to act obliviously, recommending further development notwithstanding.

Nor is this the only such instance. (SDMC, §§ 143.0110 [b)(4) [“Within the Coastal Overlay Zone, a Coastal Development Permit is required for all *coastal development* and the regulations of this division shall apply.”] The CCC further informed the City that the Property’s side yard **currently** includes public view obstructions, illegally constructed in direct violation of the CDP, and the LCP. (See, again, Exh. E; SDMC, § 143.0144(c); 126.0708 [“Public views shall be preserved.”].) Rather than enforcing corrective action in compliance with the LCP, the Project is now merely “conditioned” on the removal of these public view obstructions. Consider what this means. Instead of correction, the City affords the Austins an option: they can build the Project and remove these obstructions or avoid all corrective action simply by forgoing the Project. The City may not bargain away the public’s coastal rights in this manner. (Pub. Res.

Kelly Modén, Planning Commission Chairperson
October 13, 2026
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LAW OFFICE OF FELIX TINKOV

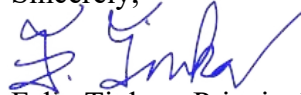
Code, § 30600; *Linovitz Capo Shores LLC v. California Coastal Com.*, *supra*, 65 Cal.App.5th at p. 1116.)

These violations of the CDP, and the LCP, confirm that the Property is not a previously conforming premises. (SDMC, § 127.0102(a) [it bears repeating, again, “[p]reviously conforming premises or uses must have been established in compliance with all permit requirements....”].) In that the entire justification for authorizing the Project rests upon this illegitimate designation, the Project cannot be approved, and the appeal must be upheld by the Planning Commission.

Conclusion

The Project cannot be approved in light of the Property’s exceedance of the development limitations of its CDP, its code violations obstructing public views and encroaching into the public ROW, and its proposal to exceed the City’s height limitations for ADU development. The Planning Commission should now uphold the appeal before it, and direct staff to work on corrective actions intended to bring the Property into conformance without further delay.

Sincerely,



Felix Tinkov, Principal
Law Office of Felix Tinkov

EXHIBIT A

991. Scott Street



STATE OF CALIFORNIA CALIFORNIA COASTAL COMMISSION
SAN DIEGO COAST REGIONAL COMMISSION
MISSION GORGE ROAD SUITE 220
SAN DIEGO, CALIFORNIA 92120-TEL (714) 280-6392

EDMUND G. BROWN, JR., Governor

ROBERT C. FRAZEE
Chairman
VIRGINIA BRIDGE
Vice Chairman
JEFFERY D. FRAUTS, CHY
Representative to the
California Coastal Commission
Bruce H. Warren
Executive Director

DEVELOPMENT PERMIT

DATE OF COMMISSION ACTION: August 5, 1977 CONTROL NO.: F5878

APPLICANT: Mr. & Mrs. Robt. Schoenberger AGENT: Sandra Pappalardo
16189 Twentynine Palms Hwy.
Yuma Valley, CA 92384 1470 Chamblough
San Diego, CA 92109

PROJECT ADDRESS: Scott St. between Bessemer & Talbot Sts., Point Loma
(APN 531-693-05)

You are hereby granted a coastal development permit. This permit is issued after a duly held public hearing before the San Diego Coast Regional Commission and after the Regional Commission found that the proposed development is in conformity with the policies of the California Coastal Act of 1976 including the following:

- (1) That the development is in conformity with Chapter 3 of the California Coastal Act of 1976 (commencing with Public Resources Code Section 30200).
- (2) That the permitted development will not prejudice the ability of any affected local government to prepare a local coastal program that is in conformity with Chapter 3 of the California Coastal Act of 1976.
- (3) That if the development is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, that the development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act of 1976 (Public Resources Code, Sections 30210-30224).
- (4) That there are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available which would substantially lessen any significant adverse impact that the development as finally proposed may have on the environment.

This permit is limited to development described below and set forth in material on file with the Regional Commission, and subject to the terms, conditions, and provisions, hereinafter stated:

A. DEVELOPMENT: Construction of a 1- and 2-story, 1,753 sq. ft., single family residence with a detached carport.

Lot Area	5,386 sq. ft.
Building Coverage	1,753 sq. ft. (33%)
Sealed Area Coverage	251 sq. ft. (16%)
Landscaping Coverage	2,772 sq. ft. (51%)

Parking Spaces	3
Zoning	R-1
General Plan	single family
Height above average finish grade:	25 ft.

TERMS AND CONDITIONS:

1. That the applicant agrees to adhere strictly to the current plans for the project as approved by the Regional Commission.
2. That the applicant agrees to notify the Regional Commission (or State Commission if there is no Regional Commission) of any changes in the project.
3. That the applicant will meet all the local code requirements and ordinances, and obtain all necessary permits from State and Federal Agencies.
4. That the applicant agrees to conform to the permit rules and regulations of the California Coastal Commission.
5. That the applicant agrees that the Commission staff may make site inspections of the project during construction and upon completion.

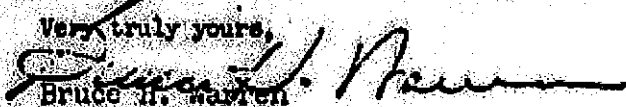
Terms and Conditions are to run with the land. These terms and conditions shall be perpetual and it is the intention of the parties to bind all future owners and possessors of the subject property to said terms and conditions.

STANDARD PROVISIONS:

- (1) PERMIT COMPLIANCE: Permittee is under obligation to conform strictly to permit under penalties established by California Coastal Act of 1976.
- (2) TIMELY DEVELOPMENT AND COMPLETION: Permittee shall commence development within one year following final approval of the project by the San Diego Coast Regional Commission. Construction shall be pursued in a diligent manner and completed within a reasonable period of time.
- (3) REQUEST FOR EXTENSIONS: Permittee may request an extension of time for the commencement of construction provided the request is applied for prior to expiration of the permit.
- (4) ASSIGNABILITY OF PERMIT: This permit is not assignable unless the Permittee's obligations under the permit are assumed by assignee in writing within one year, and a copy of the required assumption agreement delivered to the Regional Commission or State Commission if there is no Regional Commission.
- (5) APPEAL: Unless appealed to the State Commission within ten (10) working days following final action by the San Diego Coast Regional Commission, all terms and conditions shall be final.
- (6) DISCLAIMER: The permit is in no way intended to effect the rights and obligations heretofore existing under private agreements nor to effect the existing regulations of other public bodies.
- (7) PERMITTEE TO RETURN COPY: This permit shall not be valid unless within ten (10) working days Permittee returns a signed copy acknowledging contents to San Diego Coast Regional Commission.

If you have any questions on this permit, please contact the staff of the Regional Commission.

Very truly yours,


Bruce H. Martin

Directions to Permittee: Permittee is to execute below and return one copy of this permit to the San Diego Coast Regional Commission.

I have read and understand the terms, conditions, limitations, and provisions of this permit and agree to abide by them.

Control No. F5878

Signature of Permittee

Date _____

EXHIBIT B



STATE OF CALIFORNIA—CALIFORNIA COASTAL COMMISSION

EDMUND G. BROWN, JR., Governor

SAN DIEGO COAST REGIONAL COMMISSION

1000 MARSHON GORGE ROAD, SUITE 220

SAN DIEGO, CALIFORNIA 92120—TEL. (714) 200-0802

Tim Cochran
ChairmanRoger Hedgecock
Vice ChairmanJEFFERY D. FRAUTSCHY
Representative to the
California Coastal CommissionBRUCE H. WARREN
Executive Director

May 12, 1978

Mr. & Mrs. Robert Schoenleber
56189 Twenty Nine Palms Hwy.
Yucca Valley, CA 92284

Re: Amendment to Development Permit F5878

99/ SCOTT ST

Dear Mr. & Mrs. Schoenleber:

This letter will inform you that your request for an amendment to your Development Permit F5878 has been granted.

The proposed addition of two bedrooms and 2 bathrooms, 540 sq. ft. to your home under construction on Scott St. between Bessener St. and Talbot St. would meet the Coastal Commission guidelines.

It is the determination of the Executive Director, based upon plans submitted, that the proposed amendment is "non material" in nature and as such requires no further action by the San Diego Coast Regional Commission. The Development Permit would be amended to indicate: 1) a total building area of 2293 sq. ft.

Your request and modified plan have been made part of the permanent file. If you have any further questions regarding this matter, please contact our office.

Sincerely,

Bruce H. Warren
Executive Director

BH:JU:maz

EXHIBIT C

OB Planning Board: Tracy DeZenzo:

Midway Planning Board: Not present

Navy Liaison: Dina Ryan, Naval Base Point Loma Community Planning Liaison Officer (CPLO):
- Present.

Congressional District Scott Peters: William Rodriguez – Not present.

Airport Authority: Yvonne – not present

APPLICANT-INITIATED ACTION ITEMS

1. **PRJ-1111697 991 Scott Street** - Process Three (Hearing Officer Decision) Coastal Development Permit for the remodel to an existing 3,868 square foot (SF) two-story single dwelling unit including the conversion of existing 800 SF area to an accessory dwelling unit (ADU) on the first floor, the addition of 45 SF to the first floor, the addition of 103 SF to the second floor, and the addition of a 1,111 SF third floor at 991 Scott Street. The 0.12-acre project site is in the RS-1-7 (Residential Single-Unit) Base Zone, Coastal (Appealable) Overlay Zone, Coastal Overlay Zone First Public Roadway, Coastal Height Limit Overlay Zone (CHLOZ), Parking Impact Overlay Zone (Coastal Beach Impact), Parking Standards Transit Priority Area, Transit Priority Area, Affordable Housing Parking Demand, Complete Communities Mobility Choices – Mobility Zone 2, Airport Land Use Compatibility Overlay Zone for Naval Air Station North Island (NASNI) and San Diego International Airport (SDIA), Airport Influence Area (AIA) – Review Area 2 for NASNI and SDIA, Federal Aviation Administration (FAA) Part 77 Noticing Area for NASNI and SDIA, and Paleontological Sensitivity Area within the Peninsula Community Plan Area, Council District 2. (Tom Quaas) (Eric Law, approved 5-0)

Korla Eaquina made a motion to approve the project. Sam Laub seconded the motion. The motion passed, 9-0

INFORMATION ITEMS

1. Discuss upcoming CPC items and provide guidance to our CPC representative, including guidance on the proposed revisions to 600-24. (Korla Eaquina)

CPC couldn't maintain a quorum and adjourned without conducting business.

2. Update on Canon St. Pocket Park (Don Sevens)

Plants are in. Still a number of things on back order. Targeting November or December opening.

3. Update and status of H Barracks and Safe Parking proposal. (Don Sevens)

Coastal commission approved but the proposal still hasn't been vetted by the public.

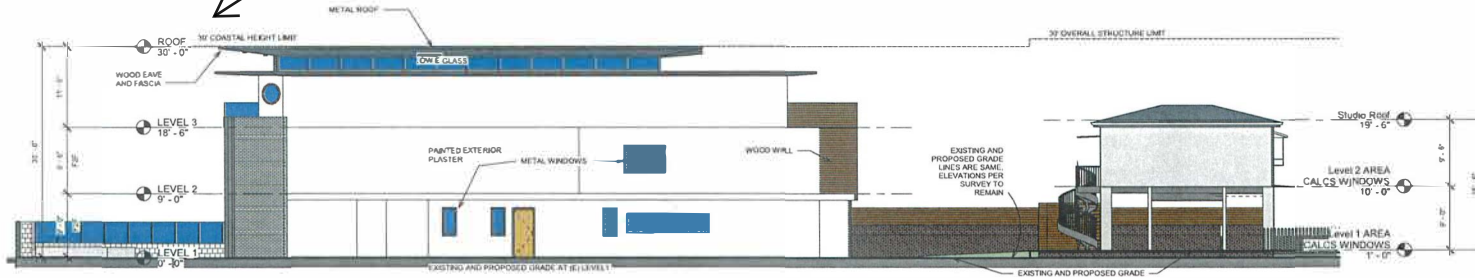
BOARD-INITIATED ACTION ITEMS

1. Appointment of Committee Chairs, Committee Board Members and Committee community members. (Fred Kosmo)

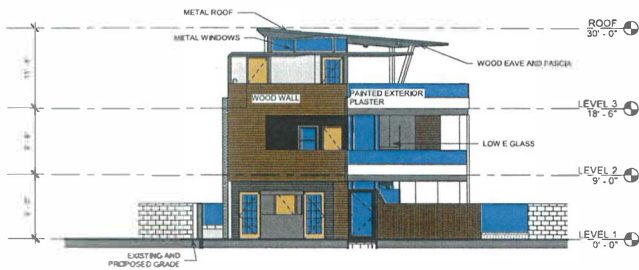
EXHIBIT D

ATTACHMENT 9

1st floor designed with a 30' coastal height limit & 30' plumb line height limit



1 NORTH PROPOSED
1/8" = 1'-0"



2 WEST PROPOSED
1/8" = 1'-0"



3 EAST PROPOSED
1/8" = 1'-0"



4 SOUTH PROPOSED
1/8" = 1'-0"

1st floor designed with a 30' coastal height limit & 30' plumb line height limit

avrp
STUDIOS

703 16TH STREET, SUITE 200
SAN DIEGO, CA 92101
P 619.204.2700
www.avrpstudios.com

NOT FOR CONSTRUCTION

Austin Residence
991 Scott St. San Diego, CA
92106

PROJECT NO: 21001 AHJ
DATE: 2/2/23 DRAWN BY: Author
(CHECKED BY: Designer)
SHEET NAME:
PROPOSED ELEVATIONS
SHEET NO:

A6.02

EXHIBIT E



THE CITY OF SAN DIEGO
Development Services Department
1222 1st Avenue, San Diego, CA 92101

Project Address 991 Scott St
San Diego, CA 92106

Project Type Discretionary Project

Primary Contact Tom Quaas
tquaas@avrpstudios.com

Instructions

<p>The following issues require corrections to the documents submitted.</p>

Other

Coastal Commission

Jose Bautista
jabautista@saniego.gov

[Comment 00033 | Page | Open]

Section 127.0106(c) of the San Diego Land Development Code (<https://docs.sandiego.gov/municode/MuniCodeChapter12/Ch12Art07Division01.pdf>) addresses non-conforming properties abutting a bluff or beach, placing strict limits on the type of improvements that are allowed on such properties so long as they contain non-conformities. The property at 991 Scott Street is non-conforming in that it does not provide the side yard public view corridor required by Section 132.0403 (<https://docs.sandiego.gov/municode/MuniCodeChapter13/Ch13Art02Division04.pdf>) due to several obstructions being present (fencing, storage sheds, etc.). Additionally, the property is non-conforming in that it has constructed private improvements beyond its bayward property line that encroach into the public right-of-way along the bay (see attached photos). Until such non-conformities are addressed, the proposed remodel and additions to the home are not in conformance with the Local Coastal Program.

[Comment 00034 | Page | Open]

Regarding the aforementioned private encroachments in the public right-of-way, Commission staff has previously been in contact with the Port of San Diego regarding them, who in turn informed the owners of 991 Scott Street to remove the encroachments (see attached e-mail correspondence). It appears that since that time, the encroachment was not removed but instead grew in size and scope. The Commission cannot find any permit history for the encroachments. What approvals, if any, has the City granted for the private encroachment? If there are past approvals, please send Commission staff a copy. If no approval has been given, the encroachments must be removed.

[Comment 00035 | Page | Open]

The above constitutes Commission staff's preliminary comments at this time based on the information provided thus far. If there are any further changes to the project, please let us know. Thank you.

Your reviewer is Alexander Llerandi, Alexander.Llerandi@coastal.ca.gov. It is the applicant's responsibility to address all outstanding comments from California Coastal Commission staff. Please be sure to include your assigned project manager, Jose Bautista - JBautista@saniego.gov, in all email correspondence with CA Coastal Commission staff.

October 12, 2026

City of San Diego Planning Commission
7650 Mission Center Rd
San Diego, CA 92108
Email: planningcommission@sandiego.gov

RE: Support for City View (KB Home) – Rezone, Community Plan Amendment and Vesting Tentative Map, Project No. PRJ-1123397

Honorable Planning Commissioners:

My name is Steve Zhou, and I am the owner and operator of **THE GYM Rancho Bernardo**, a fitness facility serving the Rancho Bernardo and greater North County San Diego community. I am writing to express my support for the proposed City View residential development.

Since opening our gym in July 2026, we have grown to serve more than 3,000 members. Through our daily interactions with local residents and businesses, we have seen firsthand the importance of a thriving, active community to the success of neighborhood businesses.

Rancho Bernardo has historically relied heavily on its daytime office population, and changes in office occupancy and commuting patterns have affected the surrounding commercial environment. Bringing more permanent residents into the area would help support local businesses like ours, as well as nearby restaurants, retailers, and service providers.

The proposed 122 homes at City View would introduce new households within walking or short driving distance of existing businesses. Unlike office occupancy, residential development creates a more consistent local customer base throughout the week, including evenings and weekends. We believe this would contribute positively to the long-term economic vitality of Rancho Bernardo.

We are also encouraged by the Bernardo Town Center Property Owners Association's decision to amend its covenant to permit residential use at this location. Additionally, the proposed crosswalk, traffic signal, and street lighting improvements would help create a more accessible and pedestrian-friendly neighborhood.

As a local business owner who has made a substantial investment in Rancho Bernardo, I believe the community benefits when residential development and local businesses can grow together. City View represents an opportunity to strengthen the neighborhood, support existing businesses, and bring more activity to an underutilized site.

I respectfully encourage the Planning Commission to recommend approval of the City View project.

Thank you for your time and consideration.

Sincerely,

Steve Zhou

Owner & Operator

THE GYM Rancho Bernardo

Rancho Bernardo, San Diego, CA

Phone: (858) 432-1027

October 12, 2026

City of San Diego Planning Commission

7650 Mission Center Rd

San Diego, CA 92108

Via email: planningcommission@sandiego.gov

RE: Support for City View (KB Home) – Rezone, Community Plan Amendment and Vesting Tentative Map, Project No. PRJ-1123397

Honorable Planning Commissioners:

As an owner of property within the Rancho Bernardo Business District, I absolutely support City View. The demand for office and specialized commercial space in the Town Center has declined, and several buildings, including those on this site, have experienced persistent vacancies. There is far too much supply of outdated and obsolete office space in our area. In addition, given the high vacancy factor, high interest rates and declining rental rates, it makes very little sense for landlords to spend the significant amount of money and resources necessary to bring back these types of properties to today's standards.

The Town Center Business Association has voted to amend its covenant to allow residential use on the City View property. That decision reflects a shared view among owners that housing is the right future for this site. City View will also continue to pay into the private Webb Lake Park area, which is open to and used by the public.

The change from Commercial-Specialized to Residential Medium, and from CC-2-3 to RM-2-5, delivers more public benefit than the current designation: needed homes, offsite traffic and pedestrian improvements, and new residents who support the businesses around them. It has been over 20 years since we had new housing and we desperately need change!!! I encourage the Commission to recommend approval without any reservations.

Sincerely,



Bernardo Plaza Court

hankdayani@dayanipartners.com

Telephone: (323) 459-8355

October 12, 2026

City of San Diego Planning Commission
7650 Mission Center Rd
San Diego, CA 92108
Via email: planningcommission@sandiego.gov

RE: Support for City View (KB Home) – Rezone, Community Plan Amendment and Vesting Tentative Map, Project No. PRJ-1123397

Honorable Planning Commissioners:

As an owner of property within the Rancho Bernardo business district, I absolutely support City View. The demand for office and specialized commercial space in the Town Center has declined, and several buildings, including those on this site, have experienced persistent vacancies. Although landlords of office properties have used their best efforts to lease up these office properties, there is far too much supply. Given the years of declining occupancy rates, there is very little hope that these outdated and older properties will ever achieve any occupancy of significance.

The Town Center Business Association has voted to amend its covenant to allow residential use on the City View property. That decision reflects a shared view among owners that housing is the right future for this site. City View will also continue to pay into the private Webb Lake Park area, which is open to and used by the public.

The change from Commercial-Specialized to Residential Medium, and from CC-2-3 to RM-2-5, delivers more public benefit than the current designation: needed homes, offsite traffic and pedestrian improvements, and new residents who support the businesses around them. There are far too many wonderful aspects of this project that should not be ignored!!!

I 100% support and encourage the Commission to recommend approval.

Sincerely,



Hooman Dayani
Bernardo Plaza Court

hdayani@dayanipartners.com

Telephone: (310) 435-1107

October 12, 2026

City of San Diego Planning Commission

7650 Mission Center Rd

San Diego, CA 92108

Via email: planningcommission@sandiego.gov

RE: Support for City View (KB Home) – Rezone, Community Plan Amendment and Vesting Tentative Map, Project No. PRJ-1123397

Honorable Planning Commissioners:

As an owner of property within the Rancho Bernardo Business District, I absolutely support City View. The demand for office and specialized commercial space in the Town Center has declined, and several buildings, including those on this site, have experienced persistent vacancies. For years now, I have watched office demand in the Town Center greatly diminish and witnessed the vacancy factor on this particular property dwindle. There is just too much supply of office space and given the poor market conditions, there is no incentive for property owners of office buildings to invest in their properties.

City View's 122 for-sale townhomes would give families a chance to put down roots here, and homeowners invest in their neighborhood over the long term. The Bernardo Town Center Property Owners Association has voted to permit residential use on the property, reflecting a shared view by many of us in the community that housing is the best future for it. In addition, the change in zoning will deliver more public benefit than the current zoning: new homes, offsite improvements and steady customers for nearby businesses. It is my understanding that City View will also continue to pay into the private Webb Lake Park area, which is open to and used by the public. There are just too many positive factors and elements to this great project to ignore!!!

I respectfully urge the Commission to recommend approval.

Sincerely,



H. Sean Dayani

Bernardo Plaza Court

sdayani@dayanipartners.com

Telephone: (323) 658-1184



October 12, 2026

City of San Diego Planning Commission
7650 Mission Center Rd
San Diego, CA 92108
Via email: planningcommission@sandiego.gov

Dear Planning Commissioners:

The San Diego Building Industry Association fully supports City View and urges the Planning Commission to recommend approval.

The region's housing affordability and lack of supply is most evident in the "missing middle": homes that working families and individuals can afford. This project delivers much-needed for-sale townhomes, 122 homes with 13 of those homes dedicated to households earning 100% of area median income. Moderate-income ownership units like these are among the hardest housing types to produce and the region is falling short of producing for-sale townhomes.

This site is well suited for the proposed housing density. It is immediately adjacent to I-15, within a Transit Priority Area, and near major regional employers in the innovation, defense, and aviation industries. The General Plan identifies the site as a high-propensity Village area, and existing utilities already serve it. The project will also use highly fire-resistant materials consistent with regional fire-safety priorities. In addition, City View qualified for streamlined environmental review under the 2025 CEQA reforms (AB 130 and SB 131), reflecting the State Legislature's intent to advance infill housing projects like this one.

The bottom line: City View absolutely advances the City's housing goals in a high-resource community, and will provide critical, workforce, and for-sale housing for middle-income households.

We respectfully urge your support of this project as the region is woefully under-supplied of for-sale townhomes.

Sincerely,

Aimee Faucett
President & CEO
Building Industry Association of San Diego County



402 West Broadway, Suite 1000
San Diego, CA 92101-3585
p: 619.544.1300

www.sdchamber.org

October 12, 2026

City of San Diego Planning Commission
7650 Mission Center Rd
San Diego, CA 92108
Via email: planningcommission@sandiego.gov

RE: Support for City View (KB Home) – Rezone, Community Plan Amendment, and Vesting Tentative Map, Project No. PRJ-1123397

Dear Planning Commissioners:

The San Diego Regional Chamber of Commerce (Chamber) supports City View and urges the Planning Commission to recommend approval.

San Diego has a desperate need for homes in the “missing middle”: homes that working households can afford. City View delivers 122 for-sale townhomes at 22.6 dwelling units per acre, with 13 homes – more than 10% of the project – restricted to households earning 100% of the area median income. Moderate-income homes like these are among the hardest housing types to produce in San Diego.

The site is the right place for this density. It is adjacent to I-15, within a Transit Priority Area, and in close proximity to numerous office campuses such as Sony, Northrup Grumman, and BAE Systems. It is also near Sharp medical facilities, is designated a high-propensity Village area in the General Plan, is served by existing utilities, and is close to a fire station. The project also qualified for streamlined environmental review under the 2025 CEQA reforms (AB 130 / SB 131), reflecting the Legislature's intent that infill housing like this project move forward.

Approving City View advances the City's housing goals in a high-resource community. We respectfully urge your support. If you have any questions, please reach out to Evan Strawn, Director of Public Affairs, at estrawn@sdchamber.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'Evan Strawn'.

Chris Cate
President and CEO
San Diego Regional Chamber of Commerce



CALPACIFIC

POWER & PIPELINE

October 12, 2026

Re: Support for City View

Honorable Planning Commissioners:

As a local business owner and employer, I understand how difficult it has become for people to afford to live in San Diego. Housing costs affect our ability to attract and retain employees, and workers increasingly struggle to find homes near the jobs and communities they serve.

City View offers an important opportunity to expand homeownership options in Rancho Bernardo with 122 for-sale townhomes. These homes provide a much-needed alternative for working professionals, growing families and others who want to put down roots in the community. More housing options help local businesses build a stable workforce and support the restaurants, shops and services that make our neighborhoods thrive.

San Diego needs more housing that meets the needs of its residents and workforce. I urge the Commission to recommend approval of City View.

Sincerely,

Michael Goulet

President

CalPac Power & Pipeline

October 12, 2026

City of San Diego Planning Commission

Re: Support for City View by KB Home — Project PRJ-1123397

October 15, 2026 Hearing

Honorable Planning Commissioners:

I write in strong personal support of KB Home's proposed City View development in Rancho Bernardo.

For more than 30 years, I have served as president of the Bernardo Town Center Property Owners Association, whose covenant encompasses approximately 95 acres of commercial property in downtown Rancho Bernardo. I also own two properties within the covenant and manage a third, significant property. Through these roles, I have developed a deep familiarity with our town center and a longstanding commitment to the success of its businesses and the community they serve.

Our Association has approved this development. I support that decision because I believe replacing outdated, underperforming office space with 122 for-sale townhomes will strengthen Bernardo Town Center and make better use of this property.

Rancho Bernardo shares in San Diego's pressing need for additional housing. City View would make a meaningful contribution toward meeting that need by adding homes in an established community near businesses, services, and employment. At a time when the City is working to increase housing production, this is a practical opportunity to put those goals into action.

A successful town center depends on people. Residents living near our restaurants, shops, medical practices, and other services would bring an enduring customer base to those businesses. Their presence would support activity beyond the traditional office workday, including evenings and weekends, and help create a more vibrant center for the surrounding community.

The project also responds to the changing needs of our commercial district. Retaining office space that no longer functions well does little to help nearby businesses or property owners. Converting this site to housing would reduce competing office inventory and help support occupancy in the remaining office properties, while adding a complementary use within our covenant.

My perspective comes from more than three decades of involvement in the operation and stewardship of Bernardo Town Center. I have a direct interest in its long-term health, and I believe City View would provide needed housing while benefiting the existing businesses and property owners around it.

I respectfully urge the Planning Commission to recommend approval of City View, Project PRJ-1123397.

Sincerely,

/s/ Ronald R. Bamberger

Ronald R. Bamberger

President, Boardwalk Development Inc.

President, Bernardo Town Center Property Owners Association



Rancho Bernardo Community Council

“Your Voice in the Community”

Established in 1971

12463 Rancho Bernardo Road, #523

San Diego, CA, 92128

October 1, 2026

Ms. Sara Osborn
Development Project Manager
7650 Mission Valley Road
MS DSD-1A
San Diego, CA 92108

Subject: Support of Rancho Bernardo Community Planning Board’s denial of PRJ-1123397 – 11818 Bernardo Plaza Court, KB Home project

Dear Ms. Osborn,

The Rancho Bernardo Community Council (RBCC) acts as an advisory board to the City of San Diego on issues such as Public Safety, Maintenance Assessment, Traffic and Transportation, Government Relations and Utility issues, Code and Compliance issues, Signage issues and much more. As such, we work closely with the Rancho Bernardo Community Planning Board in maintaining our community plan and the quality of life we have become accustomed to in Rancho Bernardo.

The RBCC is in full support of the Rancho Bernardo Community Planning Board’s unanimous decision to deny the proposed KB Home project at 11818 Bernardo Plaza Court, San Diego, CA 92128.

Key concerns include:

- 1) **Rancho Bernardo is a Master Planned suburban community:** Every household is required to belong to a specific geographically based HOA club. Rancho Bernardo currently has seven such clubs. Each club offers tennis courts, pickle ball courts, basketball courts, exercise equipment rooms, various sized meeting rooms, swimming pools, numerous classes, various holiday activities, and barbeque areas with picnic tables. Some offer an extremely large auditorium with a stage. Some offer large playground areas, indoor gymnasiums, sports fields, libraries, and more. The KB home project does not include any of these accommodations in their plan of 122 townhomes. The only included accommodations are a small “tot lot”, a tiny open space in the center of the complex, and a walking path around the perimeter that doubles as a sidewalk/entrance to the townhomes.
- 2) **Community Park space:** According to the City of San Diego, Rancho Bernardo has a 30 acres deficit of community park space. Our community park only offers sports fields, a small playground area, a dog park and a small recreation center. It does not offer any of the amenities that the HOA facilities offer.

- 3) **Parking issues:** The project will have 122 townhomes ranging from 2 to 4 bedrooms per unit. Each unit will have a garage to accommodate two compact vehicles. There will be 17 spaces available for any unit with more than two vehicles or guest parking. Due to the width of the street, parking is not allowed on Bernardo Plaza Court. There is also no parking allowed on both the southbound and northbound sides of Bernardo Center Drive between the Rancho Bernardo Road intersection, well past the Rancho Bernardo Town Center Drive intersection. All surrounding businesses have private parking, with notices that vehicles will be towed at all hours if they are not there for services being offered in the businesses.
- 4) **Strain on current thoroughfares and first responders:** There are no plans to expand or update Rancho Bernardo's main thoroughfares. They have become overtaxed due to the development of The Farms to the east in Poway and the growth of 4S Ranch to the west. All traffic from those communities come through Rancho Bernardo to access the freeway as well as any of our stores and other resources. We also have two new ministerial residential projects in our industrial park area that have added additional strain to our police and fire departments. Due to San Diego City's financial situation, first responders are already under-resourced to the level they should be to cover our area. Our community was not designed to accommodate the needs of more residents when it comes to fire and police assistance, libraries, shopping, traffic and transportation, and community park usage.
- 5) **Strained utility resources:** There is no plan in place for SDG&E to increase their resources. Due to the increased population in the City of San Diego and the County, even with solar energy in place, there have been multiple power outages. Rancho Bernardo recently experienced two power outages due to the strain on public utilities. This will only increase as the population increases.
- 6) **Transit zone fallacy:** KB Home states their project lies within a transit zone since it falls within half a mile from our local transit center. However, this is 'as the crow flies' as the distance is measured directly over the freeway. The walking distance is actually 1.4 miles away. Pedestrians need to walk down Bernardo Center Drive, then walk up an inclined area of Rancho Bernardo Road utilizing public sidewalks. They would then have to walk through a freeway on ramp and a freeway offramp, both of which are not mitigated, and under the freeway overpass. After navigating that area, they must walk a steep incline on West Bernardo Drive until they reach the transit center.

Due to these reasons, supporting the Rancho Bernardo Community Planning Board's denial of the KB Home project was approved by a vote of 10-0-0 during the Rancho Bernardo Community Council's October 1, 2026 meeting.

Thank you for your consideration and attention to this issue.

Sincerely,

Robin Kaufman

Robin Kaufman
President, Rancho Bernardo Community Council

Subject: Opposition to Proposed KB Home Development – Request to Consider Community-Focused Land Use

Dear Members of the City Planning Board & Ms. Osborn,

I am writing to express my opposition to the proposed KB Home development in Rancho Bernardo and to encourage the Planning Board to consider whether this property is being evaluated with the long-term interests of our community in mind.

As a Rancho Bernardo resident, local real estate professional, and member of The Church at Rancho Bernardo for the past **30 years**, I have a vested interest in preserving and strengthening the community we call home.

The Church at Rancho Bernardo is one of our community's most significant institutions, serving more than 2,000 people and providing a place for worship, connection, outreach, and service. Located immediately adjacent to the proposed development, the church has become an important part of the fabric of Rancho Bernardo.

What I find particularly concerning is that **the church has a vision for expansion and has expressed interest in acquiring additional real estate, including this very property**. Yet, despite this interest, church representatives have reportedly been told simply to call back periodically, rather than being given a meaningful opportunity to explore the property's availability.

I believe this deserves greater attention.

When considering the future of a property of this significance, shouldn't we first examine whether there is an opportunity to support an established institution that already serves thousands of people in our community?

The Church at Rancho Bernardo is not an unknown entity proposing an untested use. It is an established organization with a demonstrated commitment to the people of Rancho Bernardo. Its vision for growth reflects an increasing desire to expand its ability to serve local families, children, seniors, and the broader community.

In my opinion, the church represents a compelling alternative prospective occupant of this property, one whose mission and existing community presence deserve serious consideration.

I recognize that KB Home is a residential developer and that housing is an important part of our region's future. However, I do not believe every available parcel should automatically be viewed through the lens of residential development, particularly when there may be an opportunity to accommodate the expansion of an established community-serving institution immediately next door.

I respectfully ask the Planning Board to consider the following before moving forward with the proposed project:

- Whether the church has been given a fair and meaningful opportunity to explore acquiring the property.
- Whether expansion of an existing community institution would provide a valuable alternative land use.
- Whether the proposed development represents the best long-term use of this particular site, given its proximity to the church and the needs of the surrounding community.

My request is simple: Please do not overlook an established community institution with a genuine interest in this property and a vision to continue serving Rancho Bernardo for generations to come.

Growth and development are inevitable, but thoughtful planning means considering not only what can be built, but what will best serve the community over the long term.

Thank you for your time, consideration, and service to Rancho Bernardo.

Sincerely,

Kimberly Koll

Rancho Bernardo Resident, RB Business Owner
Member, The Church at Rancho Bernardo

Honorable Planning commission

Letter Of Opposition for City View by KB Homes

I am writing to respectfully urge you to recommend denial of Project PRJ-1123397, the proposed City View Development by KB Homes on Bernardo Plaza Court.

THIS MATERIAL RECEIVED DURING
PUBLIC HEARINGS COMMISSIONERS
MAY NOT HAVE BEEN ABLE TO REVIEW
AND CONSIDER IT THOROUGHLY.

I have managed 2 commercial buildings on Bernardo Center Drive (downtown Rancho Bernardo) for 29 years. I know the property, the surrounding streets, and the day-to-day operations of this location intimately. My primary concern, and the reason I am writing, is that the is located on a short dead-end street with limited access.

Bernardo Plaza Court is a short, constrained roadway that serves as the sole practical access to the site. Converting this property from commercial office use to 122 three-story condos will significantly increase traffic volume, vehicle trips, and parking demand on a street that was never designed to handle residential density of this scale. The street already experiences congestion and overflow parking during peak business hours and especially during services at the nearby Church of Rancho Bernardo. Adding 122 residential units, with associated residents, guests, delivery, and service vehicles, will only intensify these problems.

I am particularly concerned about:

Increased traffic and queuing on a short dead-end street with limited capacity to absorb additional vehicles.

Overflow parking that will spill onto Bernardo Plaza Court, adjacent business lots, Bernardo Center Drive and the Town Center and Plaza shopping centers.

Emergency vehicle access and evacuations in the event of fire or other emergency. A single constrained access point for 122 households raises serious public-safety questions.

Cumulative impacts on Bernardo Center Drive and the surrounding commercial corridor, which already experiences congestion and safety issues.

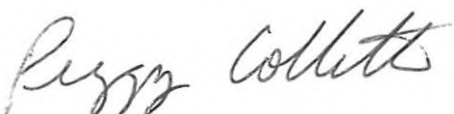
The Rancho Bernardo Community Planning Board unanimously opposed this project on September 17, 2026, citing traffic, parking, strain on services, and character of Downtown Rancho Bernardo. Their concerns are well-founded and consistent with what I have observed over nearly three decades managing these properties.

While I understand the city's interest in creating housing. This particular site on a short dead-end street with limited circulation options is not the right location for a dense residential project of this size. Approving it would create lasting traffic, parking, and safety problems for residents, businesses, and emergency responders.

I respectfully request the Planning Commission recommend denial of the City View project by KB Homes.

Sincerely,

Peg Collette – Property Manager for the RB Medical Building and the RB Professional Building. 858 442 2490.



I am the property manager for both the RB Medical Dental Bldg. and the RB Professional Bldg. on Bernardo Center Drive for the last 29 years. Over the years I have watched neighboring buildings and the town center shopping center across the street evolve. Buildings that have remodeled and kept their properties well maintained have done well. The properties that have not spent time and money have allowed their buildings to become eyesores. This is what has happened to the Citi bank building. Citi Bank has evicted tenants, not renewed leases and is allowing their property to deteriorate further. It must be less expensive for the owners to tear it down and sell to residential developers rather than to remodel. If this rezoning passes how many more buildings will be allowed to do the same. Would downtown rancho Bernardo cease to exist only to become another Poway Road filled with apartments and condos built out onto the sidewalks with no setbacks? Would Webb Lake turn into a skateboard park. Webb Lake is a private park that belongs to all members of the town center property association.

I remember the very long and costly remodel of the town center shopping center. The center was long overdue and in disrepair for remodel. The center is doing well now and has just expanded with a new 5200-sq-ft-additional retail building.

My main concern is parking. This project is on a short dead-end street, one way in and one way out. What if there is a fire or other emergency.

The Church of RB does not have enough parking and wants to expand. The Church has expressed interest in purchasing the Citi bank building for their expansion. The Sunroad building now the Rancho Bernardo Medical Center next door to the Church of RB also does not have enough parking.

This project, with 122 condos with 2-, 3-and four-bedroom units, has only one allocated parking spot, with 17 guest parking spots. This property will not have a pool, exercise or entertainment area or any other amenity except for a small playground. These condos will most likely be purchased and rented out.

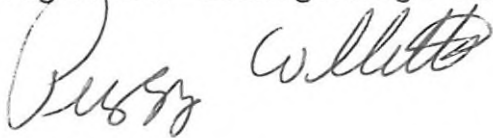
It is Ludacris to think the allotted parking will be sufficient. All the surrounding buildings and the town center shopping center will be unwillingly providing these condos for their additional vehicles. There simply isn't enough parking space for such a large project.

I can understand why the Bernardo town center, the retail side of the street, would approve this, however the rest of the property owners, the commercial side of Bernardo center dr. will be unduly burdened with excess vehicles parking in their lots.

To the Town Center Shopping centers – Be careful what you wish for. Will this development bring upscale shoppers? Will existing shoppers continue to shop if they can't find parking?

For these reasons I urge the planning commission does not approve this project.

Peg Collette – Building Manager 858 442 2490



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PUBLIC HEARINGS. COMMISSIONERS
MAY NOT HAVE BEEN ABLE TO REVIEW
AND CONSIDER IT THOROUGHLY.