



DELANO & DELANO

August 12, 2016

VIA E-MAIL

Honorable Mayor and City Council
City of Chula Vista
276 Fourth Ave.
Chula Vista, CA 91910

Re: Appeal of Vista del Mar Project and Addendum, DR 15-0015 and PCS 15-0006, approved by the Planning Commission on June 22, 2016

Dear Honorable Mayor and City Council:

This letter is submitted on behalf of Corridor Coalition, Glenda de Vaney, Martha Coulson and Earl Jentz in connection with their appeal of the approval of the Vista del Mar project (“Project”) and Addendum. The Resolutions adopted by the Planning Commission are unsupported by the evidence.

The Project is inconsistent with the surrounding area. And the staff report fails to adequately address the substantial issues in the appeal.

Furthermore, staff has claimed the Project should double its Floor Area Ratio (“FAR”) based on two distinct factors: (1) incentives and (2) exceptions. But the evidence does not support the findings required for either.

I. The Project is Inconsistent with the Area

The Project violates Urban Core Specific Plan (“UCSP”) Key Principle #7, which requires the City to “[t]ransition new development to minimize impacts on existing residential neighborhoods.” The Project is not “consistent with the policies outlined in the [General Plan] which identify low and mid rise building forms for this area.” UCSP EIR at 5-41. In fact, as the attached representations demonstrate, the Project towers over and is inconsistent with the adjacent low-scale residential area.

II. The Staff Report Fails to Adequately Address the Issues in the Appeal

The staff report adopts the approach that the appeal should be denied because staff says so. Little relevant information is provided, other than blanket assertions that “staff reviewed the Appeal and determined” it was insufficient. And in those instances

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where the staff report actually does provide substantive discussion, its “findings” are contrary to the evidence.

For example, the staff report asserts the Project is “well-rounded” and incorporates “the principals (sic) of Smart Growth (mix of uses, compact building design, range of housing opportunities, walkable neighborhoods, etc.)” Staff Report at 6. The Project Site is 45,738 square feet. The Project would develop a total of 91,345 square feet. Only 616 square feet of that development would be commercial space – well less than one percent of the total Project square footage – while the remainder would be devoted to residential uses. It is disingenuous to assert that this constitutes a “mix of uses” or is somehow “well-rounded.” Even Planning Commissioners who voted in favor of the Project lamented its lack of adequate balance between commercial and residential uses.

Nor does the Project in any way represent a “compact building design.” To the contrary, reaching the maximum height allowed, the Project will tower over and completely dominate its surroundings. The staff report refers to single-family homes “across Church Avenue.” Staff Report at 4. This is misleading, since there are homes directly adjacent to the Project Site on the same side of the street. The staff report entirely ignores the Project’s incompatibility with the residential uses in the area.

Likewise the staff report asserts that the analysis of environmental impacts associated with the Project was sufficient because staff says so. For example, it claims that light and glare will be sufficiently addressed because the approval “requires the submittal of a lighting plan.” Staff Report at 8. But as my June 22nd letter noted, “reliance on tentative plans for future mitigation after completion of the CEQA process significantly undermines CEQA’s goals of full disclosure and informed decisionmaking.” *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 92. UCSP Mitigation Measure 5.2.5-2 requires the City to “identify the specific provisions of the UCSP which shall be included in the conditions of approval in order to reduce potential light and glare impacts to below significance.” The Resolutions fail to do so.

Mitigation Measure 5.3.5-4 requires a determination of historical significance “[f]or those structures 45 years or older.” And if a structure is found to be historically significant, additional mitigation measures must be implemented. The staff report claims an analysis was conducted. Staff Report at 8. However, no such analysis can be found anywhere in the Project file.

UCSP Mitigation Measure 5.8.5-4 requires “the traffic assessment prepared to quantify the projects’ potential traffic impacts will also identify how alternative modes of transportation will be accomplished.” The staff report asserts “a traffic study was not required.” Staff Report at 8. This is obviously incorrect, as the UCSP mitigation measure clearly requires one. The staff report also claims the Project is in proximity to a bus stop and “incorporates smart growth features” *Id.* But Mitigation Measure 5.8.5-

4 requires the traffic assessment address “alternative modes of transportation,” and the traffic report failed to do so.

UCSP Mitigation Measure 5.9-4 requires projects with commercial uses to “demonstrate compliance with the existing performance standards in the City’s Noise Ordinance” and requires “compliance with the mixed-use provisions of Chapter VI of the UCSP.” The staff report insists a noise analysis was conducted, but fails to acknowledge the analysis admitted that “adjacent residential population to the east and commercial properties to the north and south may be exposed to excessive construction noise.” The staff report merely refers to these impacts as “not [] unusual in terms for construction noise generation.” Staff Report at 9. This is despite the fact that the Project will exceed the applicable noise standards, as noted in my June 22nd letter.

USCP EIR Mitigation Measure 5.4.5-1 requires: “Prior to the approval of each subsequent development project, the project applicant shall submit a comprehensive soil and geologic evaluation of the project site ... [which] shall include ... a delineation of specific locations where liquefiable, compressive, and expansive soils would affect structural stability” The staff report claims that the appeal “is inaccurate in concluding that the [“Preliminary Geotechnical Assessment Update”] fails to meet the requirements of” this mitigation measure. Staff Report at 11. However, the July 29, 2016 letter from Group Delta (Attachment 4 to the Staff Report) acknowledges that no such analysis has been prepared to date. Accordingly, the appeal was correct in noting a lack of compliance with this requirement.

III. There is Inadequate Evidence to Support Findings for Incentives

The Planning Commission approved a 30 percent increase in FAR because the Project has indicated an intention to seek LEED Gold Certification. But some of the factors associated with LEED certification, such as location and the availability of transportation, were already considered for the site in the adoption of the UCSP. And as the discussion before the Planning Commission noted, ensuring the Project actually achieves LEED Gold Certification is far from guaranteed.

The Planning Commission approved a 10 percent increase in FAR because it claimed the Project added a public benefit of an outdoor plaza. But the plaza is only approximately 1,700 square feet and adjacent to the commercial suite. It is most likely going to be utilized by those patrons of the small commercial space. It certainly does not justify more than twice in space in additional FAR.

The Planning Commission approved a 10 percent increase in FAR because it claimed the Project provided 14 parking spaces beyond what is required. For residential parking, the UCSP requires compliance with Municipal Code Section 19.62.050, which requires two parking spaces per each dwelling unit, since the Project includes condominiums (subsection 12 requires two parking spaces per unit for townhouses, and other subsections make it clear that all owner-occupied dwellings require at least two

parking spaces per unit). Section 19.62.50 also requires one space for every 200 square feet of floor space for retail stores or shops. This would total at least 145 parking spaces, and that does not account for the parking needs associated with other uses, such as the fitness center, lounge areas and open space. The Project only provides 142 spaces, short of the required minimum and certainly not enough to justify an incentive of 10 percent FAR.

IV. There is Inadequate Evidence to Support Findings for Exceptions

The findings in the Resolutions adopted by the Planning Commission are not supported.

A. The Evidence Shows the Project Will Adversely Affect the General Plan and Specific Plan

Land Use and Transportation (“LUT”) Objective LUT-60 calls for the City to “[r]einforce the existing land use pattern of ... office uses on the east side of Third Avenue between J Street and L Street,” yet the Project provides no office uses and virtually no commercial uses, while removing substantial existing commercial usage. Additionally, the Project is inconsistent with LUT-2, which limits “locations for the highest development intensities and densities and the tallest building forms, to key urban activity centers that are well served by transit.” UCSP at II-11. Likewise, it is inconsistent with LUT-5, which calls for “mixed use areas with higher density housing that is near shopping, jobs, and transit” *Id.* at II-12. Contrary to LUT-11, the Project does not “[e]nsure that buildings and related site improvements ... are well designed and compatible with surrounding properties.” And contrary to LUT-7, the Project does not provide appropriate transitions between land uses.

B. The Evidence Shows the Project Will Not Comply with the Regulations of the Specific Plan

The Project will not comply with the regulations of the Specific Plan, as noted by the appeal. Among other things, the Project violates the requirement to “be cognizant of adjacent low density uses (i.e., avoid balconies overlooking rear yards).” UCSP at VI-38. The Resolutions approved by the Planning Commission do nothing to address this. Condition 4 of Resolution No. DR15-0015 illegally defers discretion to City staff. *See DeVita v. County of Napa* (1995) 9 Cal.4th 763, 776. Furthermore, Condition 4 constitutes an illegal deferral of mitigation of impacts to neighboring residents and properties. *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 671.

The Project does not “[m]inimize the effects of any exterior noise, odors, glare, vehicular and pedestrian traffic, and other potentially significant impacts.” UCSP at VI-41. It is not “consistent with the policies outlined in the [General Plan] which identify low and mid rise building forms for this area.” UCSP EIR at 5-41. It does not provide

“paseos to provide walkable access to neighborhoods ... [or link] bikeways, sidewalks and urban plazas” *Id.* at 5-42. It does not “enhance public views, minimize obstruction of views from adjoining structures, and provide adjacent sites with maximum sun and ventilation” *Id.* at 5-69. And it does not “avoid or minimize solar access impacts.” *Id.* at 5-44.

Additionally, the Project failed to “conduct studies to assess the effects of light, solar access, and shadowing, on adjacent buildings and areas” UCSP at VI-38.

UCSP Mitigation Measure 5.10.5-2 requires each project to “demonstrate ... conformance with the relevant land use and development regulations ... which support smart growth principles such as providing a mix of compatible land uses; locating highest density near transit; utilizing compact building design and creating walkable communities; providing a range of infill housing opportunities; and increasing transportation choices.” Similarly, UCSP Mitigation Measure 5.10.5-3 requires each project “to demonstrate compliance ... to minimize air pollutant emissions,” including promoting pedestrian activity, bicycle activity, public transit facilities, “and reintroduction of the traditional street grid.” The Project has failed to demonstrate such compliance.

C. The Evidence Shows the Project Will Not Incorporate Amenities and Incentives as Required

As noted above, the Project will not incorporate amenities in a manner that justifies incentives.

D. The Evidence Shows the Exceptions are Not Appropriate

The adopted Resolutions claim the area needs more residential uses. But the UCSP determined what uses were needed in particular subareas of the Urban Core Sub-districts area, and this location – the east side of Third Avenue in the C-1 District – was specifically slated for office development. The Project therefore increases residential usage substantially while reducing office and commercial usage, yet there is no consequent shift in some other part of the UCSP area to offset the changes the Project presents. And this occurs despite the requirement in the UCSP to “take into account the amount of build-out that would occur if all of the bonus provisions allowable under the program were actually awarded.” UCSP at VI-45. Additionally, the environmental impacts associated with such changes have not been analyzed and appropriately avoided.

V. Conclusion

For all of the reasons discussed herein and in the documents submitted in the appeal, Corridor Coalition, Glenda de Vaney, Martha Coulson and Earl Jentz request that

Honorable Mayor and City Council
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you approve the appeal, rejecting the Project and the Addendum. Thank you for your consideration of these concerns.

Sincerely,

A solid black rectangular redaction box covering the signature of Everett DeLano.

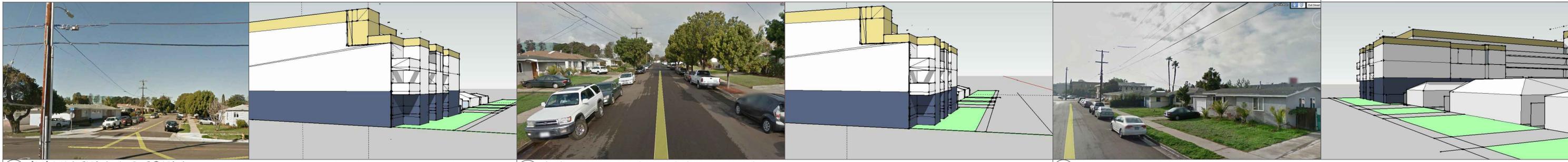
Everett DeLano

- Encs.: 1. Bulk and Scale Analysis
2. Chula Vista Analysis – Cross Section
3. Chula Vista Analysis – Not Cog
4. Vista Del Mar Visual Analysis

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Chula Vista- Vista Del Mar- Visual Analysis

Name	Size	Modified
BULK AND SCALE Analysis 8-11-16.pdf	1.64 MB	22 hrs ago
Chula Vista Visual Analysis-CROSS SECTION 8-11-16.pdf	235.89 KB	22 hrs ago
Chula Vista Visual Analysis-NOT COG 8-11-16.pdf	197.01 KB	22 hrs ago
Vista Del Mar Visual Analysis 8-11-16.ppt	4.25 MB	22 hrs ago



① (E) ENTRY, 1 STORY PROPOSED, 4 STORY ② (E) NEIGHBORHOOD, 1 STORY PROPOSED, 3 STORY ③ EXIST SKYLINE PROPOSED SKYLINE



④ (E) HOUSE @ PL PROPOSED TRANSITION ⑤ (E) HOUSE ACROSS CHURCH PROPOSED VIEW ⑥ (E) VIEW INTO BACK YARDS PROPOSED VIEW



⑦ GOOD TRANSITION R-1 TO C-1 (E) PARKING GARAGE ⑧ LANDSCAPING SCREEN HELPS NOT ALWAYS



⑨ GOOD TRANSITION R-1 TO C-1 ⑩ POOR TRANSITION R-1 TO C-1



⑪ (E) SIERRA WAY NOT COGNIZANT OF BULK OR SCALE ⑫ (E) SAN MIGUEL NOT COGNIZANT OF BULK OR SCALE



KEY MAP

CHURCH AVE NEIGHBORHOOD

BULK & SCALE STUDY

CHURCH AVE & 3RD STREET
CHULA VISTA, CA 92082

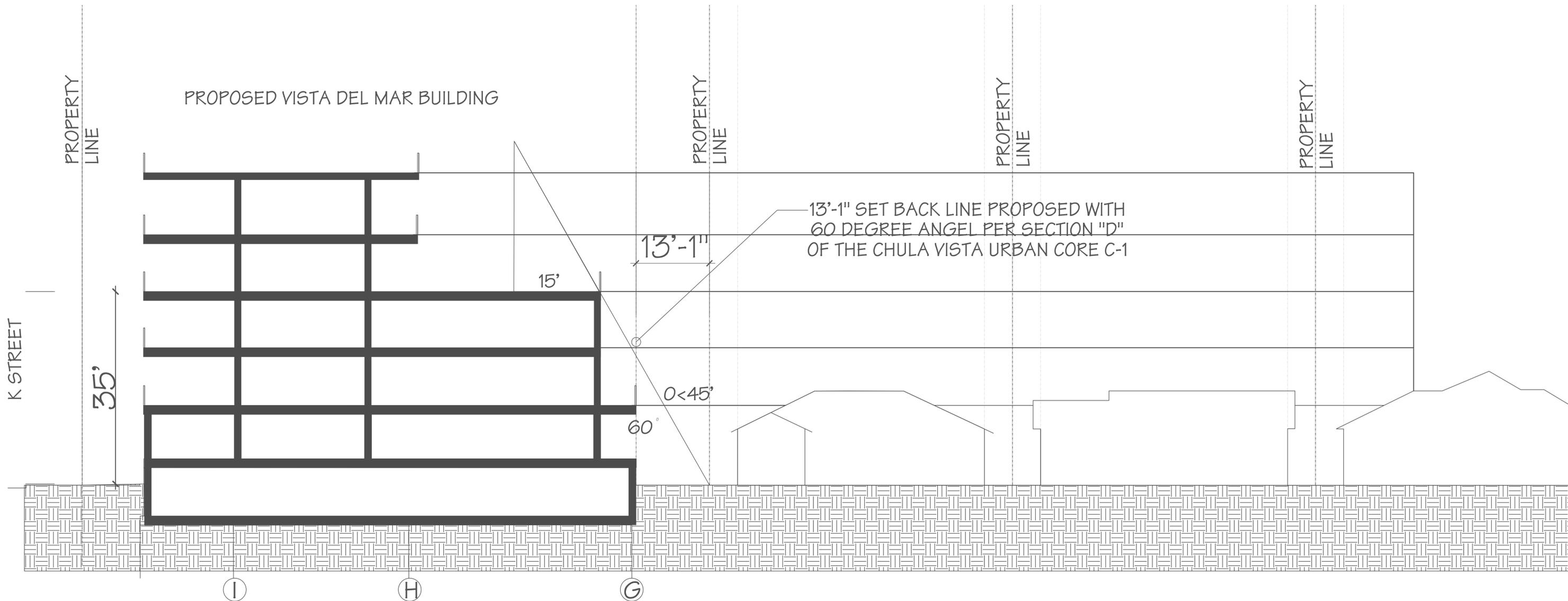


WILL ROGERS & ASSOCIATES
LANDSCAPE ARCHITECTURE
PLANNING & DESIGN

date: 8/11/16
drawn: WR

27315 VALLEY CENTER ROAD
SUITE "A"
VALLEY CENTER, CA 92082

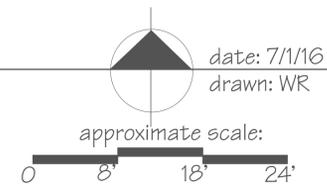
760-703-9946
"CELEBRATING 33YRS OF EXCELLENCE"



CHURCH AVE NEIGHBORHOOD

CROSS SECTION

CHURCH AVE & 3RD STREET
CHULA VISTA, CA 92082



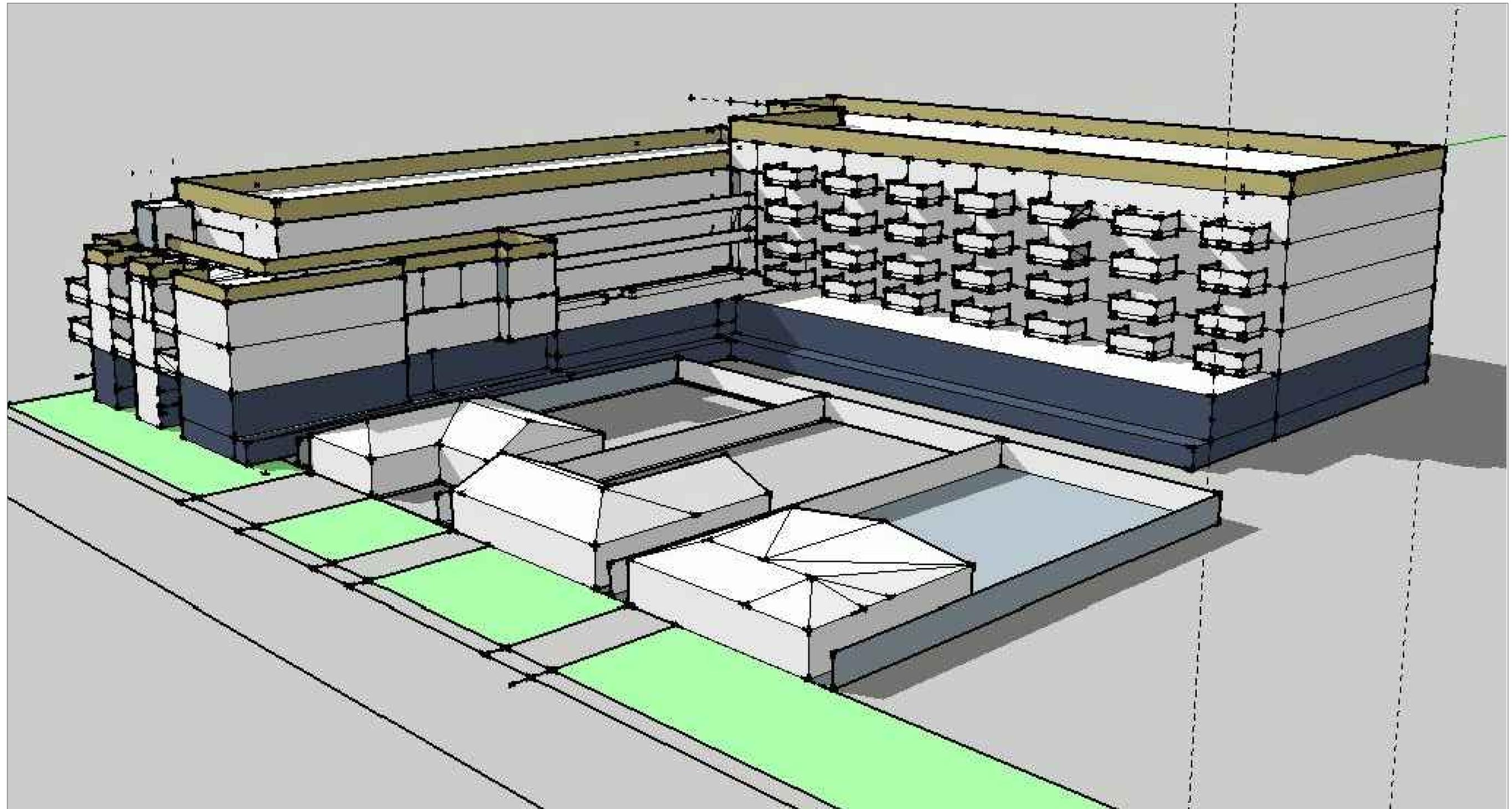
WILL ROGERS & ASSOCIATES

LANDSCAPE ARCHITECTURE
PLANNING & DESIGN

27315 VALLEY CENTER ROAD
SUITE "A"
VALLEY CENTER, CA 92082

760-703-9946
"CELEBRATING 33YRS OF EXCELLENCE"

date: 7/1/16
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CHURCH AVE NEIGHBORHOOD MASSING MODEL

CHURCH AVE & 3RD STREET
CHULA VISTA, CA 92082

PROPOSED BULK & SCALE NOT COGNIZANT OF SCALE



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LANDSCAPE ARCHITECTURE
PLANNING & DESIGN

27315 VALLEY CENTER ROAD
SUITE "A"
VALLEY CENTER, CA 92082

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"CELEBRATING 33YRS OF EXCELLENCE"

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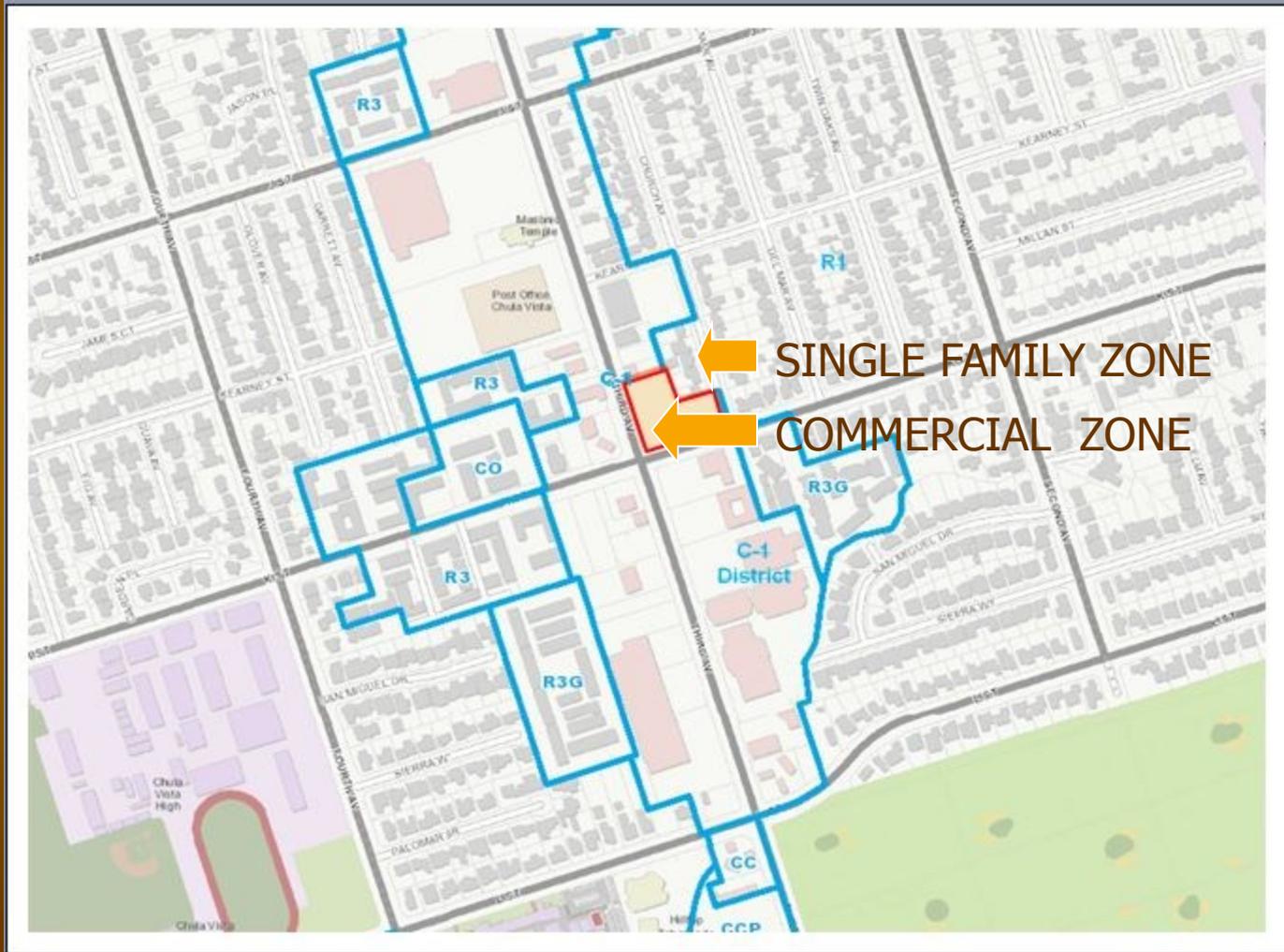


APPEAL PLANNING COMMISSION DECISION FOR PROJECT 15-006
VISTA DEL MAR HIGHRISE PROJECT

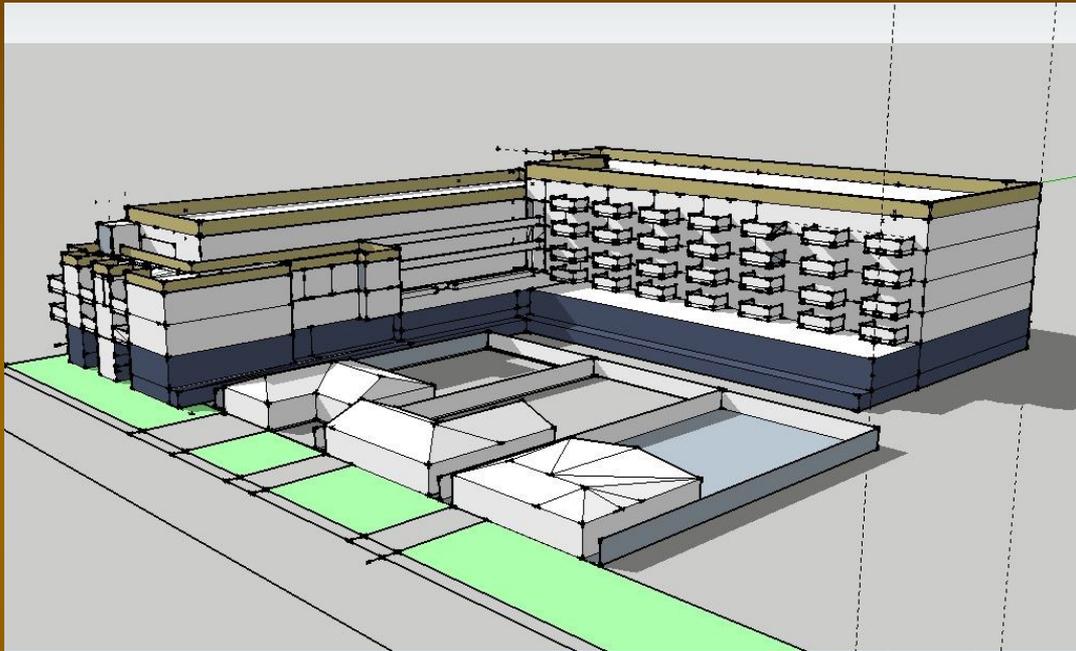
BY CORRIDOR COALITION



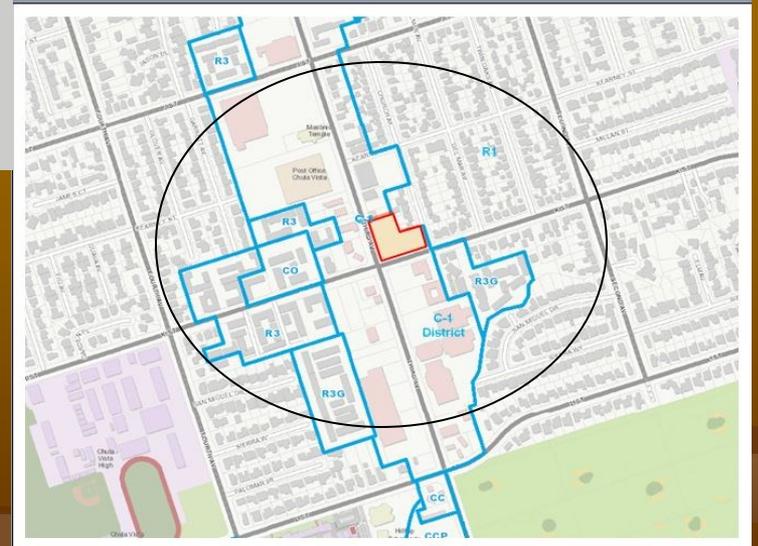
PROJECT LOCATION



BULK & SCALE STUDY



AREA OF STUDY

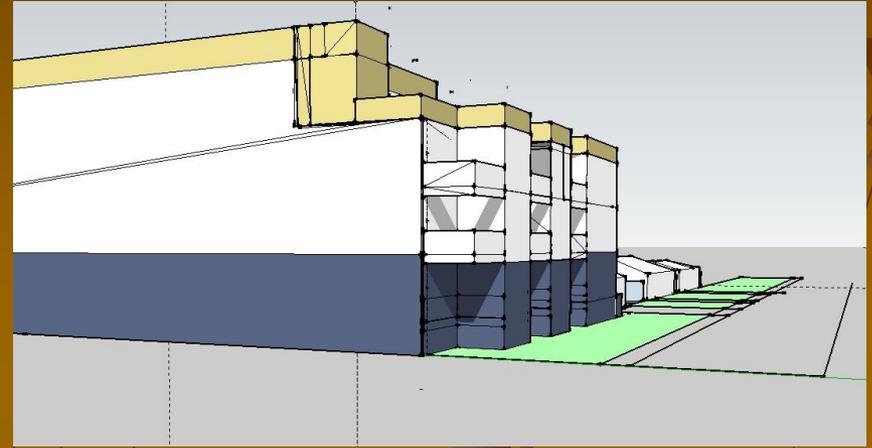


Entry into Church Street

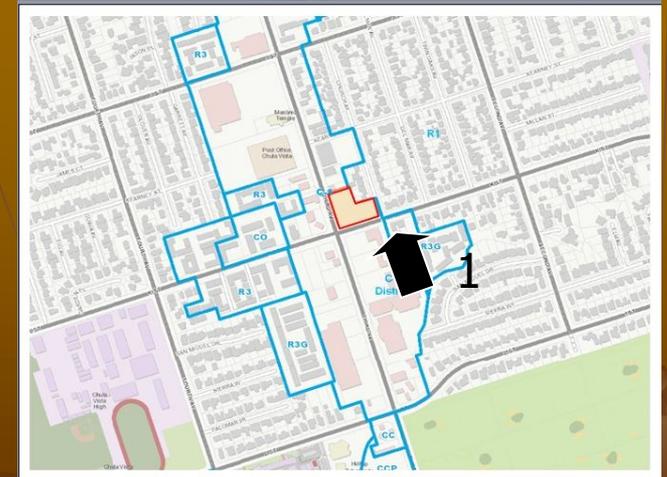
Existing Image



Proposed Image



- Church Street neighborhood is low scale well kept single family homes
- The addition of a 5 1/2 story building will create many issues.



Within Church Street

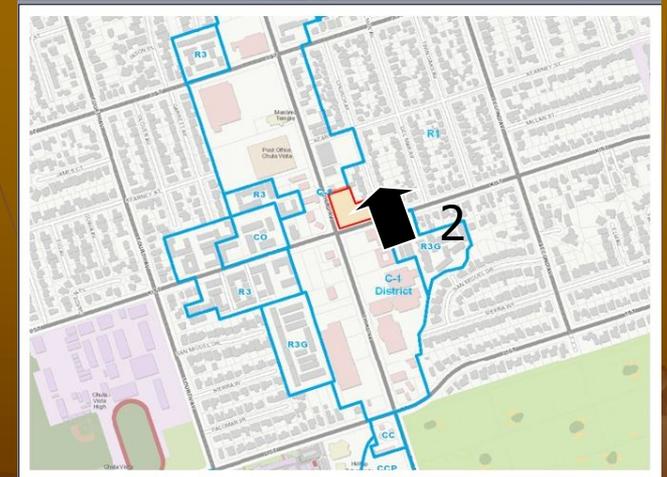
Existing Image



Proposed Image



- Church Street neighborhood is a quite and safe area.
- The scale of the neighborhood is single story homes

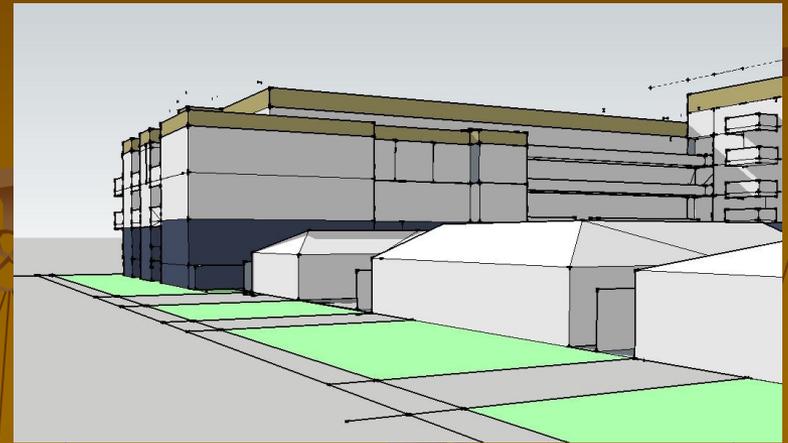


Skyline

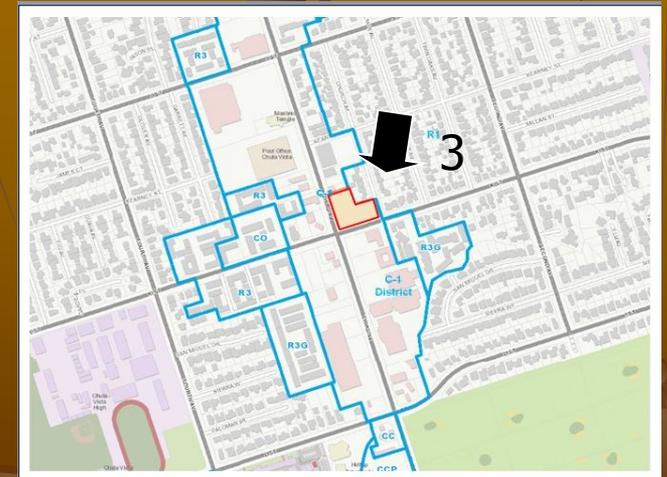
Existing Image



Proposed Image



- The skyline of the neighborhood will be effected.
- The transition is poor from single story to 5 1/2 story buildings



Property Line Transitions

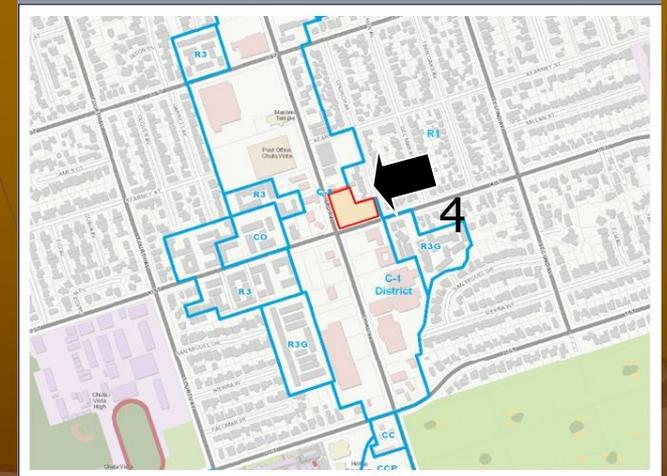
Existing Image



Proposed Image

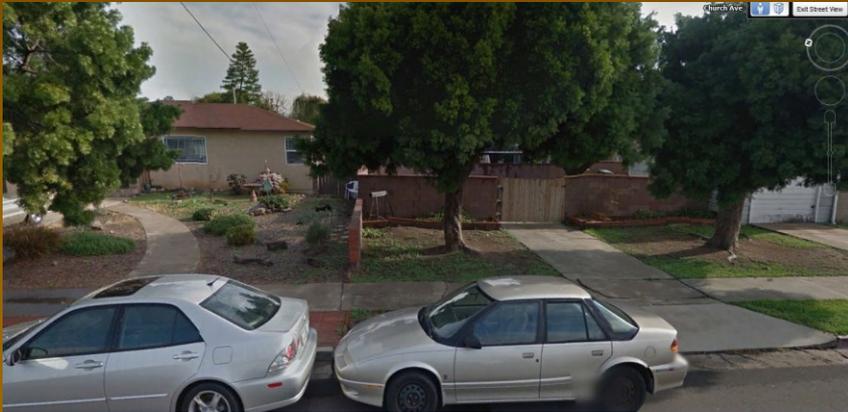


- The bulk & scale of the proposed building looms over the adjacent property.
- Shadows created by the new building will create solar power issues for some of the existing homes.

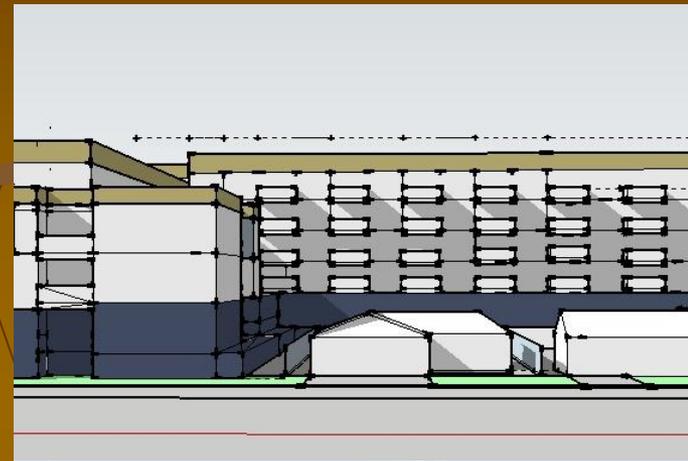


Views into rear yards

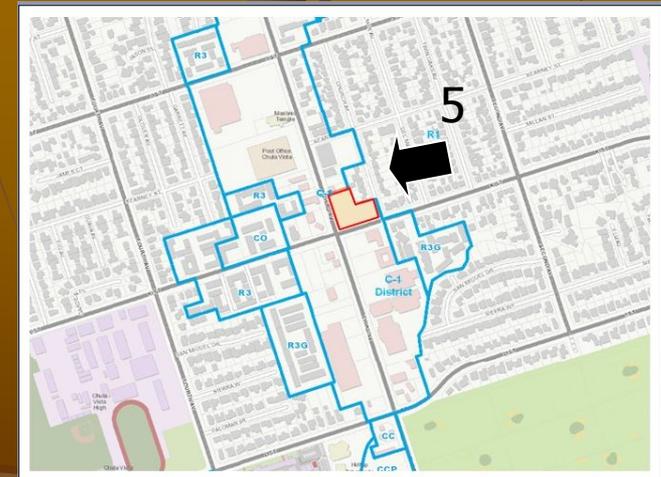
Existing Image



Proposed Image



- Across the Church street the views and bulk / scale will change.
- Property values may change

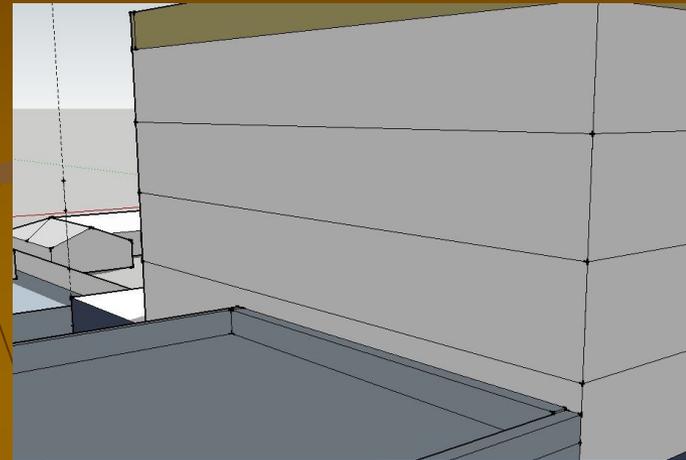


Views into rear yards

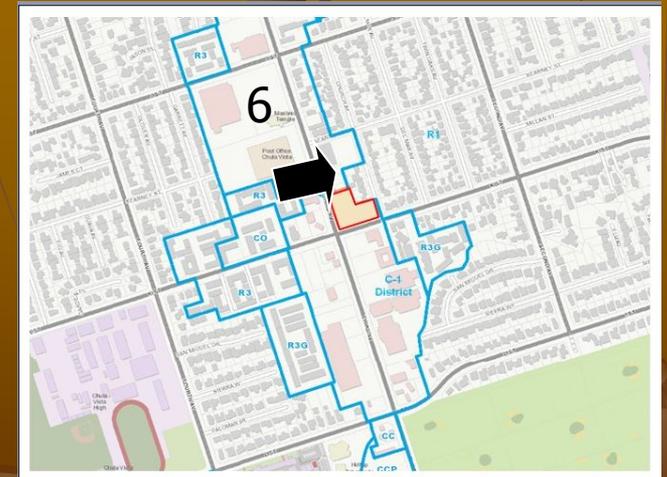
Existing Image



Proposed Image



- Views from the new building in to the existing rear yards will create privacy issues.
- Higher density creates more ambient noise.



Examples of Good Transitions

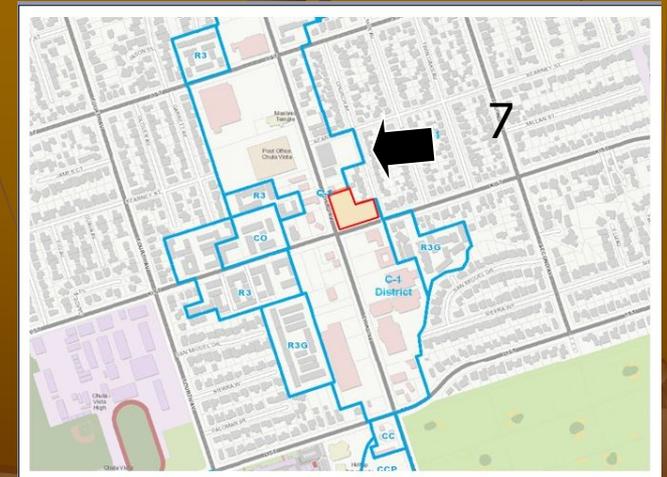
Existing Residential to Commercial



Existing Parking Garage



- The existing development on Church & Kearney Street provides a good example of bulk & scale transition from C-1 to R-1



Buffering Development

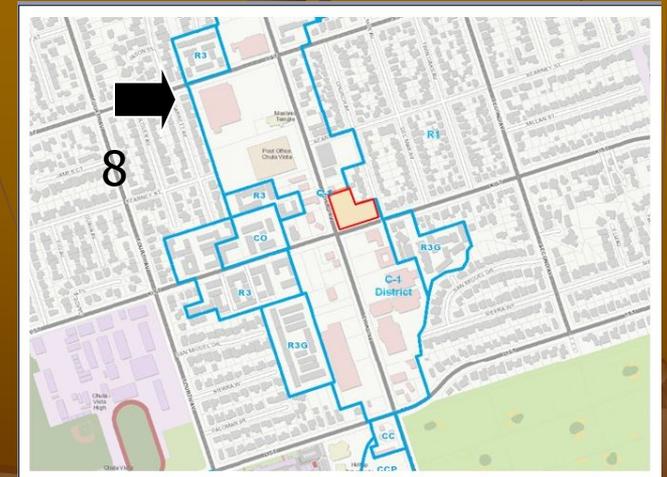
Existing Buffer Residential to Commercial



Existing Big Box Store



- Buffering the impact of the out of scale building with landscaping does not always help the bulk & scale. Distance provide a solution to lessen the bulk & scale.



Bulk & Scale

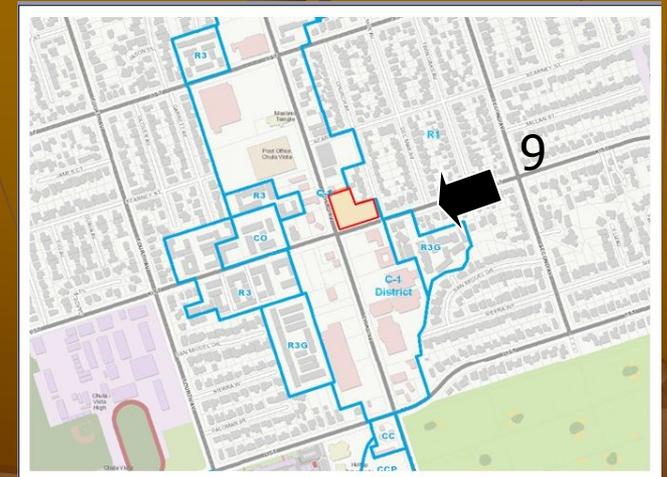
Existing Residential Neighborhood



Existing Impact on Neighborhood



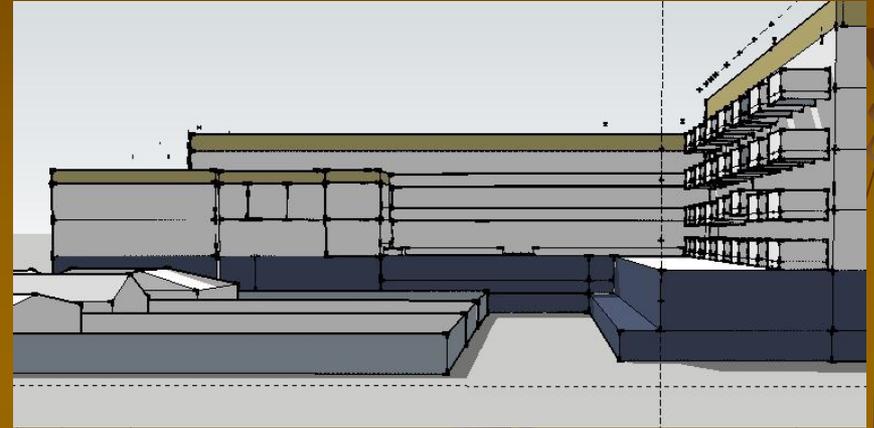
- Good transition from single story building to two story buildings.



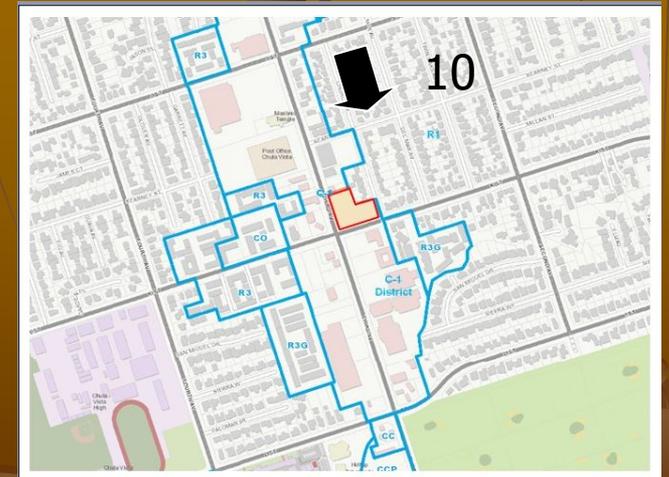
Bulk & Scale

Existing Office to Residential Transition

Proposed Impact on Neighborhood



- The transition from single story to multi story should be of concern.



Bulk & Scale

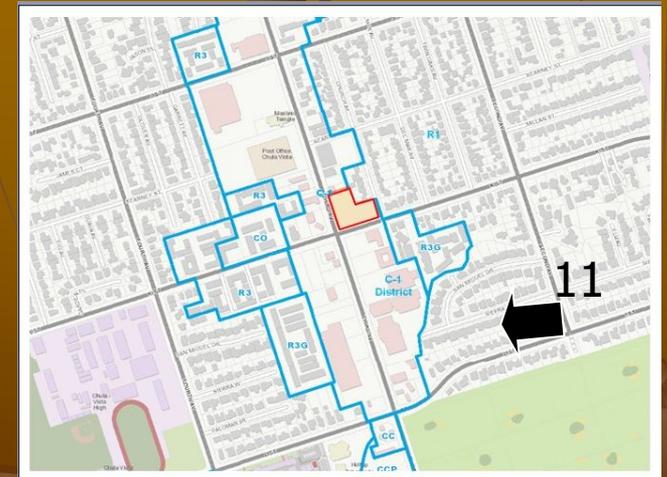
Existing Residential Neighborhood



Existing Impact on Neighborhood



- The transition from single story building should be two story buildings.



Bulk & Scale

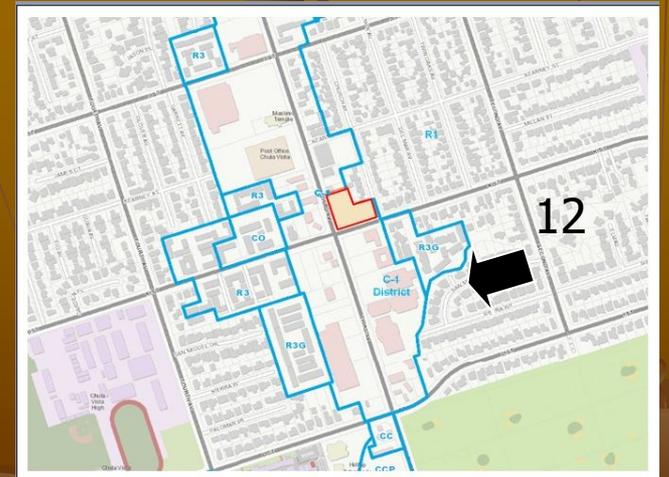
Existing Residential Neighborhood

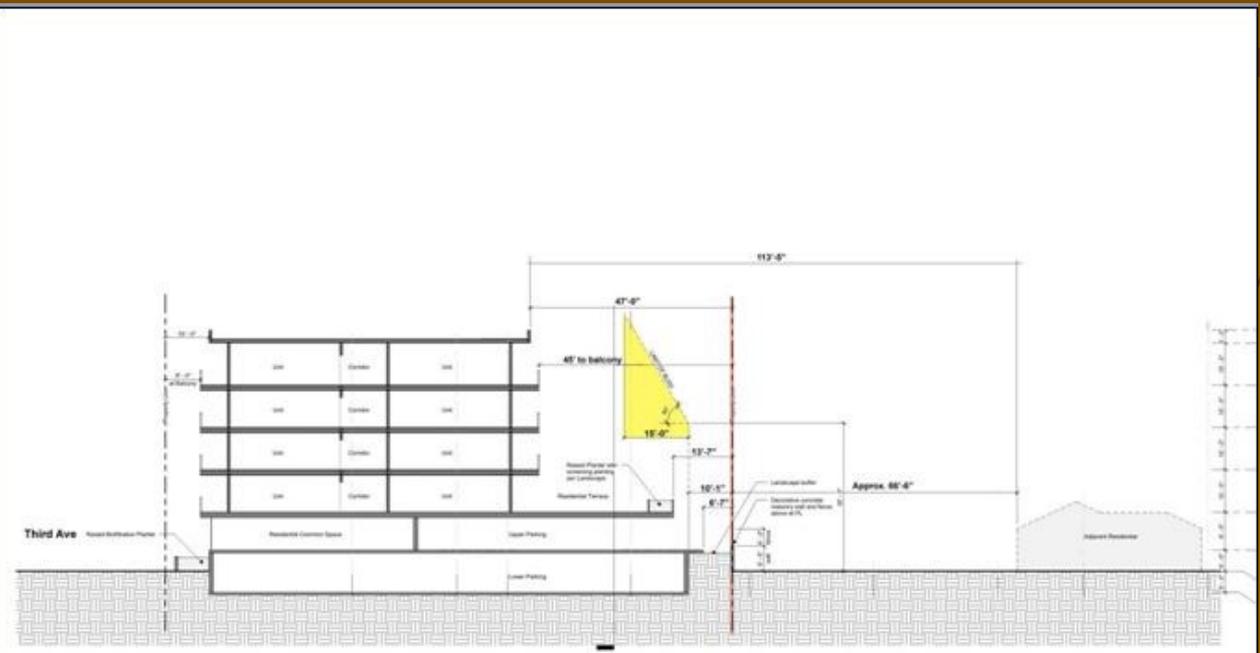


Existing Impact on Neighborhood



- The transition from residential to large commercial is concerning.





Building Cross Section – View from K Street