

RESOLUTION NO. 1-2021
RESOLUTION OF THE BOARD OF DIRECTORS OF THE RANCHO SAN CLEMENTE
COMMUNITY ASSOCIATION IN OPPOSITION TO THE AMAZON DISTRIBUTION
CENTER IN RANCHO SAN CLEMENTE

WHEREAS, a 105,000 SF Amazon Distribution Center (ADC) on 20-acres of grasslands in the Rancho San Clemente Business Park (RSCBP) has been proposed; and

WHEREAS, the ADC is contiguous with Rancho San Clemente Community Association (RSCCA) near Cal Fire's Very Severe High Fire Zone zoned as Open Space; and

WHEREAS, RSCCA stakeholders have a vested interest in protecting safety, welfare, property values, Open Space, and quality of life for residents of the Association; and

WHEREAS RSCCA owns property in Very Severe High Fire Zones near the ADC site, and carries the burden of costs and liabilities associated with maintenance in accordance with State, County, and City Code mandates; and

WHEREAS, due to billions of dollars in claims associated with property damages from fires, major insurance companies such as AAA, Allstate, State Farm, Farmers, and others have canceled insurance coverage for RSCCA homeowners with notices as follows:

Dear Policyholder,

Thank-you for your membership with the Auto Club. We recently completed a review of your property insurance file and have determined that we are unable to offer renewal of your policy because of the following reason(s):

Your dwelling is located in an area that we consider a high brush fire exposure which is unacceptable according to the Exchange's underwriting guidelines.

All coverage provided by your policy will terminate on the expiration Date shown above. Our acceptance of a premium payment of a policy change request from you after the date of this letter does not waive or void this notice of nonrenewal; and

WHEREAS, the ADC increases the risk of fire as the project's Architectural & Landscape Plans are not in compliance with the Orange County Fire Authority (OCFA) *Vegetation Management & Fuel Modification Plans for New Construction, Defensible Space Planting Guide, and Undesirable Plant Species*; and

WHEREAS, the ADC further increases the risk of fire as 75% (seventy-five percent) of the types of trees in the ACD Landscape Plan (*Eucalyptus sideroxylon, Pinus halepensis and Podocarpus gracilior*), are not in compliance with OCFA's *Fuel Modification Zone Plant List*; and

WHEREAS, the ADC adds to the risk of fire by providing outside smoking areas and shades the structures with *Podocarpus gracilior* tree(s), which are not in compliance with OCFA's *Fuel Modification Zone Plant List*; and

WHEREAS, ADC's increased ambient temperatures and raised urban heat index will threaten preservation of adjacent Open Space areas, including the natural habitat of protected flora and fauna, and historical visual elements along the Ridgeline Trail including Knob Hill; and

WHEREAS, ADC fire risks will introduce a permanent, hazardous threat to the health and safety of RSCCA residents as well as employees and properties in the Business Park; and

WHEREAS, ADC fire risks will impose unfair cost burdens including liabilities, additional maintenance obligations, enforcement, and other expenses upon RSCCA residents and Business Park members; and

WHEREAS, the ADC does not comply with the goals of the Centennial General Plan's (CGP), Climate Action Plan (CAP), and Sustainability Action Plan (SAP) which are: to reduce greenhouse gases (GHG) to 1990 levels; and to follow GHG reduction plans in accordance with CEQA §15183(<https://www.san-clemente.org/Home/ShowDocument?id=9384>); and

WHEREAS, the ADC's massive 105,000 SF concrete building and asphalt roadway would replace 20 acres of natural grasslands that sequester up to 13.228 pounds, or 6.6 metric tons of Carbon from the atmosphere each year; and

WHEREAS, the Carbon sequestering effects of the land are cumulative, such that the land stores up to **66 metric tons of carbon every ten years**, significantly reducing global warming; and

WHEREAS, the natural and cost-free benefit of this property, which lowers the Urban Heat index and cools the climate, will be lost if the land is replaced with the proposed ADC (Reviewing U.S. Carbon Sequestration, <https://www.fb.org>); and

WHEREAS, the ADC's 105,000 SF flat metal roof, 339 metal delivery vans, and hundreds of semi-tractor trailers operating 24/7, will reflect solar heat into the atmosphere, increase the greenhouse effect, raise the ambient temperature and increase global warming (https://www.fhwa.dot.gov/pavement/sustainability/articles/pavement_thermal.cfm); and

WHEREAS, the ADC roof has no solar panels to absorb solar heat energy which will reduce global warming, provide power to operate the facility, reduce dependence on SDGE's power grid, and reduce costs; and

WHEREAS, the ADC constitutes an urban "heat island" that will raise the heat index and threaten preservation of appurtenant Open Space areas, including the habitat of protected flora and fauna, natural topography and historical elements of the Ridgeline Trail such as Knob Hill; and

WHEREAS, hundreds of tractor-trailers and box trucks driven by independent contractors will introduce volatile organic compounds (VOC), Reactive Organic Compounds (ROC) carbon monoxide (CO), diesel particulate matter (DPM), Nitrous Oxides (NOx), methane gas (CH₃), and other toxic vehicular emissions 24/7, that will threaten the health of adjacent Business Park employees and Residential Property owners; and

WHEREAS, ADC's increased temperature will exacerbate reactions of atmospheric (VOC) and (ROC) which will worsen air quality, create smog, and cause health issues; and

WHEREAS, the ADC's increased ambient temperatures will permanently increase the "urban heat index" in Cal Fire's Very Severe High Fire Hazard Zone, and significantly increase the risk of fire; and

WHEREAS, the landowner, SC Holding LLC (Phenomenex), will not sell the land, and will only offer a lease agreement to developers; and

WHEREAS, non-renewal of the lease by either party will burden the city with a gargantuan concrete building with a flat metal roof along the Ridgeline Trail that will damage the view corridor and scar RSC with blight; and

WHEREAS, Phenomenex, has neglected to maintain the property or to pay Association Dues for 25 (twenty-five) years, and is likely to neglect irrigation and maintenance of hundreds of new trees and shrubs in the Fire Zone (*CA PRC 429I*) upon non-renewal of the lease; and

WHEREAS, failure to irrigate and maintain hundreds of new trees and shrubs and associated Fire Zone areas will create a fire hazardous condition that will threaten the safety, lives, and properties of hundreds of surrounding businesses and residences; and

WHEREAS, Amazon's CEO Jeff Bezos has publicly stated that the company is headed for bankruptcy in several years, and if so, Amazon's applicant will stop payments on the lease, and quit irrigation and maintenance of the hundreds of new trees and shrubs planted in the Fire Zone (Motley Fool, <https://www.usatoday.com/story/sponsor-story/motley-fool/2019/03/11/amazon-ceo-says-his-company-will-go-bankrupt/3136669002/#:~:text=Amazon%20CEO%20says%20his%20company%20will%20go%20bankrupt%20...%241%20billion%20worth%20of%20Amazon%20stock%20every%20year,%20businessinsider.com>; and

WHEREAS, CNBC reports that "Bezos has been dumping roughly \$1 billion worth of Amazon stock every year" to unload his shares in the company; <https://kiss951.com/2020/01/13/jeff-bezos-to-employees-amazon-will-fail-amazon-will-go-bankrupt/#:~:text=Amazon%20will%20go%20bankrupt.%20If%20you%20look%20at%20that%20day%20for%20as%20long%20as%20possible.%20>19; and

WHEREAS, Amazon's bankruptcy will burden the city with an enormous, abandoned concrete metal - roofed structure along the Ridgeline Trail that will permanently damage the view corridor and scar RSC with blight; and

WHEREAS, the abandoned, ADC facility will attract vandals and homeless who will bring fire hazardous materials such as propane, petrol, cigarettes, drugs, trash, and other items to the area that will increase the risk of fire; and

WHEREAS, the Amazon Traffic Study, significantly undercounts the number of vehicles (semis, vans, other), numbers of trips, vehicle miles traveled (VMT), and other data that is used to calculate environmental impacts in the Amazon Environmental Impact Report; and

WHEREAS, analysis of undercounted vehicles in the Amazon Environmental Impact Report will generate false and unreliable findings of environmental impacts; and

WHEREAS, the city's Land Use of the ADC site is "Light Industrial," the County has zoned the Land Use as "Agricultural" which is Open Space; and

WHEREAS, City Code Chapter 17.88, Section 17.88.030 mandates the following:

Open Space means land that will remain essentially undeveloped ... and provide for the preservation of environmental and aesthetic resources including topographical features, the protection of life and property from environmental hazards...; and

WHEREAS, the ADC is in violation of City Code §17.24.110, Height Limitations as follows:

***A. Purpose and Intent.** One of San Clemente's defining characteristics is its varied topography. The City's building height regulations are intended to:*

***4. Discourage excessively massive structures;** and*

WHEREAS, the ADC is in violation of the RSCSP which has a maximum height of 35 feet for buildings in the Business Park; and

WHEREAS, the ADC is in conflict with RSCSP's Purpose and Objectives for development which is:

To reduce the intrusion of the natural topography and open space by preserving the primary ridgeline, gateway knoll, and perimeter open space; and

WHEREAS, the large mass, and scale of the ADC does not comply with City Code §17.24.110 or RSCSP, 101, VII, because the altitude of the ADC is up to 72 feet higher than the gateway knoll (Knob Hill); and

WHEREAS, if a variance for the 45'10" height, which is 31% higher than the RSCSP 35 -foot height limit, is granted with a mere "administrative approval," it will allow the massive building to teem over the natural topography of the Ridgeline; and

WHEREAS, city approval for an ADC height variance will set a precedent to allow all future structures such as warehouses, telecommunication towers, macros and other facilities to be higher than the Ridgeline; and

WHEREAS, the Amazon Architectural Plans do not include diagrams for roof structures to operation of hundreds of Amazon drones to provide one-day delivery of items such as pharmaceuticals; and

WHEREAS, Amazon's implementation of drone e-commerce will further increase the operational height of the ADC building, such that the height and operation of drones will exceed the natural Ridgeline and cause visual pollution along the Ridgeline Trail; and

Whereas, the city has no provisions in the Centennial General Plan, RSCSP, or Zoning Code to regulate the operational use of drones for e-commerce; and

WHEREAS, construction of the massive ADC is in violation of the Centennial General Plan, Land Use Element, which requires future development to

... protect Open Space and natural resource areas that offer solitude and respite; and

WHEREAS, the massive ADC contradicts the Centennial General Plan which

... focuses on quality of life. It reflects the needs and values of a mostly built-out community, with increased emphasis on quality of life, innovative transportation strategies and environmental stewardship; and

WHEREAS, ADC's use of electricity 24/7 will strain SDGE's power grid, causing interruption of utility service to established businesses, harming productivity and profit, and

WHEREAS, ADC's use of electricity 24/7 may also cause power outages to hundreds of homes (refrigeration, air conditioning, heating, computers (work from home), medical equipment) including homes that have had solar panels installed to conserve energy; and

WHEREAS, the ADC will increase noise caused by tractor trailers operating 24/7, including echoing canyon effects, that will disturb peace and tranquility along the Ridgeline Trail during the day and hundreds of nearby families trying to sleep at night; and

WHEREAS, Amazon - owned tractor trailers and vans may have "whooshing" back-up noise alerts, independent delivery service providers who deliver up to 50% of the packages, drive tractor trailers and vans that are equipped with annoying "beep-beep" back-up alerts; and

WHEREAS, ADC operating 24/7 will increase light pollution, and the facility is in conflict with the city's Dark Sky Ordinance,

WHEREAS, California Civil Code Section 65450-65457 mandates that new projects including the proposed ADC, must conform with the Centennial General Plan and Rancho San Clemente Specific Plan (RSCSP); and

WHEREAS, the City Code mandates authority of the RSCSP as follows:

The adopted specific plan shall operate as the zoning regulations for the subject property (§17.52.030, Ord.1172§3(part),1996; and the word “shall” in the provision means that the standards in RSCSP are mandatory (RSCSP. 1-22, Zoning Code §17.88.020 A.p.127-383); and

WHEREAS, the RSCSP runs with the land is therefore the blueprint of standards for original, present, and future developments, including the proposed ADC, in Rancho San Clemente (Zoning Code §17.04.070, ¶ I); and

WHEREAS, the massive, intrusive ADC is in conflict with the following RSCSP mandates:

101 Introduction— Purpose & Objectives

IV —To regulate land uses and development in conformance with the City’s Zoning Ordinance and Hillside Development Ordinance No. 841

VII— To reduce the intrusion of the natural topography and open space by preserving the primary ridgeline, gateway knoll, and perimeter open space;

201 Master Plan — Planning Concepts

III— Ridgeline Preservation Policy

The plan calls for a natural appearing topographical profile and the preservation of the primary ridgeline and natural areas including the Knoll area at the “gateway” to Rancho San Clemente along Avenida Pico;

202 Master Land Use Plan

II—Business Park Uses

...The business park is designed to attract high-technology, light manufacturing, and office uses which are environmentally compatible with adjacent residential and open space uses;

205 Master Plan—Grading Concept

The general character and scenic quality of Rancho San Clemente is typified by steep, grassy slopes and narrow ridgelines with winding valleys below...

A natural appearing topographical profile will be maintained ...with necessary grading operations carried out so that the resulting forms will have a sculptured rather than an abrupt, angular appearance. The primary ridgeline and the natural preservation areas at the gateway along Avenida Pico, including the knoll area will be preserved.

206 Circulation Plan

V—...The circulation system includes three major internal roadways: Calle Del Cerro, Avenida Vista Montana and Calle Amanecer. These collector streets connect the interior neighborhoods of Rancho San Clemente with Avenida Pico and La Pata. Calle Amanecer serves the business park, while a loop system composed of Calle Del Cerro and Avenida Vista Montana serves the residential area;

301 Design Guidelines—Purpose

I—... is to ensure that development within Rancho San Clemente will be consistent with the City's General Plan goals, Urban Design Program, and Master Landscape Plan for Scenic Corridor;

II—Use of Guidelines

A. Define a consistent approach to site planning, architecture, streetscape lighting, landscaping, and other design elements;

302 Grading Design Guidelines

The following guidelines are provided in order to implement the City's Hillside Development Ordinance No.841

I—Natural Land Forms

Grading should maintain or enhance the major natural landforms, such as the Gateway Knoll [Knob Hill] and the Primary Ridgeline. Manufactured slopes should be contoured to blend with the natural terrain at the development edge. Large flat slopes ...should be avoided;

IV—Ridgeline Preservation, Section 302, IV

No grading should occur within 200 feet measured horizontally from the topographic center of the primary ridgeline identified on Figure 2-2.

VI— Ridgeline Views

Building pads should be designed and sited in a manner that compliments the natural topography and does not interrupt the view of the primary ridgeline from selected public vista points. The ridgeline should be visible as a backdrop for development, allowing for the appearance of ridgeline between the roofline and the skyline;

303 Site Design Guidelines

II— Commercial Development

D. Variations in Building Footprint- Building footprints should be designed with variations composed of insets, entries, corners and jogs integrated with adjacent outdoor areas in order to create visual interest and give a sense of small scale;

C ... Buildings and other structures should assume varied profiles in order to enhance scenic vistas that restrict development that will ruin enjoyment of the Ridgeline Hiking & Biking Trail, Open Space vistas, natural land features, and destroy existing massing and scale;

304 Landscape Guidelines

I—Landscape Elements

B. Slope Landscaping

...Trees used on slopes should be of rounded, less vertical species. They should be planted in informal groupings on the lower half of the slope to visually reduce the height of the slope when viewed from below without blocking views from the top;

Appendix B, List of Invasive and undesirable plant species

11. *Additional species determined undesirable Orange County Fire Authority*

III—Fuel Modification (See also Appendix D)

Approximately 50% to 30% of the native vegetation is removed and may be replaced with drought tolerant fire-resistant plant material. Plant selection should comply with the Fuel Modification Standards of the Orange County Fire Authority;

IV—Criteria for Plant Selection

A. Plant Selection Considerations

...low fire-fuel content in transition areas between development and open space, and enhancement of slope stability and erosion control;

B. Undesirable Species

Invasive or otherwise undesirable species, as listed in Appendix D, should not be used ...;

C. Native Species

Within natural open space areas preference should be given to species native to the Southern California coastal region...;

504 General Development Standards

VI—Specific Development Standards (Table) *Maximum Height = 35 feet*

7 Definitions

Warehousing shall mean the storage of trade goods, personal goods, or service products, and equipment by business and retail establishments in an enclosed building. Typical uses include cold storage plants, garages, and warehouses; and

WHEREAS, the ADC is not really a warehouse - it is a “last mile” distribution center where packages are transferred from big rigs to fleets of vans for immediate delivery; and

WHEREAS, the RSC Specific Plan Geologic Map, (Irvine Soils Engineering, Inc.) finds that over 50% of RSCSP properties are devoid of bedrock and classified as unstable “Landslide Areas,” including the ADC site plan area; and

WHEREAS, grading the entire 20 - acre site in order for the height of the ADC to be in compliance with the Hillside Development Ordinance, will threaten slope stability, erosion, and natural drainage patterns; and

WHEREAS, the Traffic Study fails to analyze traffic impacts based on e-commerce, that is, the consumers’ demand for goods. The demand for goods will determine the number of tractor trailers and vans on the roadway needed to transport the items to/from the warehouse. Instead, the Study relies on population growth as the means to project traffic impacts; and

WHEREAS, the Amazon Traffic Study excludes up to 50% of vehicles, including numbers of types of vehicles, vehicle miles travelled (per type), numbers and times of trips, traffic delays due to semis making turns at intersections, projections of future traffic impacts, and other critical traffic components; and

WHEREAS, up to 50% of vehicles are not included in the Amazon Traffic Study (big rigs, box trucks, vans, and vehicles of:

- Direct Service Partners (DSP)
 - Independent businesses including employees’ personal vehicles and up to 40 delivery vans per each business;
 - Large private delivery service companies such as FedEx and UPS;
 - Small Private Service Companies such as Courier Distribution Systems, Systemize Logistics, Delivery Global, Prime EFS, JST, IDQI, TL Transportation, Intelliquick, Delivery Global, Sheffield Express, Transportation Brokerage Specialists, Bear Down Logistics, Express Parcel Service, Delivery Force, Delivery Service Partners, others;

- Large Public Delivery Service providers such as United States Postal Service (USPS);
- “Flex” part-time drivers: Uber, Lyft, Yellow Cab, other;
- Part-time workers
 - onsite office workers, warehouse workers,
 - additional manpower for high peak seasonal traffic;
- Individuals taking classes on-site in the ADC upstairs “training room,” to learn how to own and operate Amazon DSP businesses;
- Amazon employee trainees who learn how to work in the warehouse, office, and to watch videos to learn how to drive vans
(<https://www.nytimes.com/2021/06/15/us/politics/amazon-warehouse-workers.html>);
- visitors (Ware Malcolm Architectural Plan); and

WHEREAS, the Traffic Study does not include projected traffic impacts during high peak seasons such as Christmas, Easter, Black Fridays to Black Mondays, Biannual Prime Day Events, Thanksgiving, Back to School, Summer and Fall High School and College Graduations, Mothers’ Day, Fathers’ Day, Holiday and other promotional sales events; and Covid (when confined individuals shop for essentials on-line); and

WHEREAS, ADC will not provide sufficient sales or property tax revenues to cover basic costs of road repairs and traffic-related property damages generated by hundreds of tractor trailers operating 24/7 and vans operating 10 am to 10 pm daily; and

WHEREAS, the city is currently conducting extensive repairs to restore Calle Del Cerro to La Pata, and the roadway is not engineered to support the heavy weight and use of hundreds of semi-tractor trailers operating 24/7; and

WHEREAS, Amazon implements GIS apps such as “rabbits” that direct drivers to take alternate routes that drivers are not supposed to use such as Calle Del Cerro; and

WHEREAS, local delivery service providers such as FedEx and UPS are familiar with approved routes and are more likely to keep their eyes on the road rather than on GIS apps; and

WHEREAS, the Orange County Sheriff’s Department does not have a record of any citations from 1985 to 2021 being issued to drivers of 4 Ton trucks on Calle Del Cerro which are prohibited; and

WHEREAS, Amazon delivery service tractor trailers and vans will be driving along the same routes students use to ride bikes and drive to school; and

WHEREAS, tractor trailers have wide “No Zones” which are blind spots where the drivers are unable to see vehicles and bikes; up to 20 feet in front of the semi, up to 30 feet in back of the semi, a wide area in the lane on the left side of the semi, and a wide area across 2 lanes to the right of the semi; and

WHEREAS, the lack of visibility from tractor trailers significantly raises the risk of traffic - related accidents and safety issues for other drivers and bike riders; and

WHEREAS, legal firms specializing in tractor trailer litigation inform that many accidents occur when tractor trailers cannot see vehicles or bikes in their blind spots; and

WHEREAS, the city has not updated the zoning code with provisions regarding traffic and other safety rules for ebikes; and

WHEREAS, tractor trailers and bike riders sharing use of traffic and bike lanes will significantly increase the risk of accidents; and

WHEREAS, the Ware Malcolm Architecture Plans only have 5 EV charging stations to accommodate all vehicles including but not limited to: 339 vans, Amazon and independent contractors’ tractor trailers and box trucks, 126 employee vehicles, visitors, DSP vehicles, e-bikes, e-motorcycles; and

WHEREAS, the Ware Malcolm Architectural Plans do not include EV charging stalls that are large enough to accommodate tractor trailers and box trucks; and

WHEREAS, hundreds of Amazon vehicles, vans, semis, box trucks (not included in the Traffic Study) will drive to San Clemente’s EV charging stations, tying up traffic and using EV stations meant for residents and local businesses; and

WHEREAS, Amazon’s Business Model includes implementation of thousands of autonomous driverless tractor-trailers that will be driving to/from the warehouse 24/7; and

WHEREAS, Sam Loesche, Teamster spokesman, says there isn’t enough federal, state, or local government oversight of artificial intelligence-driven supercomputers that control driverless trucks; and

WHEREAS, the city has no provisions in the Centennial General Plan, RSCSP, or City Zoning Code to regulate use of driverless big rigs for e-commerce; and

WHEREAS, Steve Viscelli, operational freight transportation expert, informs that implementation of driverless trucks will eliminate 80-90,000 big-rig jobs and 200,000 refrigerated and dry load trucks (60 Minutes, CBS News, August 15,2021, <https://www.viacomcbspressexpress.com/cbs-news/releases/view?id=54793>); and

WHEREAS, legal counsel for RSC Business Park has submitted a letter to the City opposing the proposed ADC; and

WHEREAS, the land owner of the ADC site, Phenomenex (SC Holdings, LLC), has demonstrated bad faith by intentionally failing to pay Business Park Association dues and failing to maintain the property and Fire Zone from the time of purchase in 1996, for a period of 25 (twenty-five) years, acting in violation of the Business Park's CC&Rs, Article III ¶ 3.02:

... No Owner shall be permitted to relieve himself of the responsibility for fulfillment of the obligations of an Owner under this Master Declaration; and

WHEREAS, the ADC must obtain written approval from the Business Park's Board of Directors to develop the project, as mandated in the Business Park Covenants, Conditions and Restrictions, Article IX, Sections 1 a) and 4:


*... without limitation the nature, kind, shape, **height**, materials, exterior color, and elevation of trees, bushes, shrubs plants, hedges, and fences; the harmony of exterior design and color in relation to other improvement within the Property; **effect of location and use of Improvements**, landscaping, **operations and uses**, **relation of topography, grade and finished ground elevation of the property being improved to that of neighboring property**; and*

WHEREAS, the applicant failed to submit an Architectural Application to the Business Park and does not have written approval for the ADC project; and


WHEREAS, over 5,486 petitioners have signed *Stop the Amazon Warehouse in San Clemente* posted on www.change.org; and

WHEREAS, the ADC will revive arguments for a toll road extension through San Clemente; and

NOW, THEREFORE BE IT RESOLVED THAT the Board of Directors of Rancho San Clemente Community Association are unequivocally opposed to an Amazon Warehouse and Distribution Center in San Clemente.

 9-9-21


Vonne Barnes
President

 9-9-21

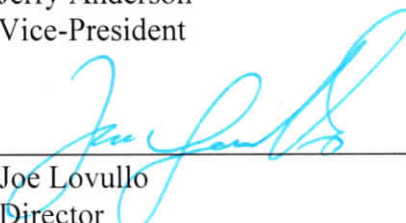
Marjie Butterworth
Treasurer

 9/9/2021

Jerry Anderson
Vice-President



Robert Anderson
Secretary



Joe Lovullo
Director

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