

Heather Flores

From: Joe Weinstein [REDACTED]
Sent: Thursday, November 17, 2022 12:53 PM
To: PlanningCommissioners
Cc: Amy Harbin
Subject: Commissioners please approve VTTM for Bixby Walk (37th-Elm)

-EXTERNAL-

To: Planning Commission – City of Long Beach
Re: 3655 Elm Avenue Case No. 2110-19 (VTTM 21-008)

Dear Commissioners,

I write as a long-time Bixby Knolls resident who resides just 4 blocks from the project site and frequently walks by it. I write to urge your approval of this project - and in particular the VTTM.

Because I am concerned for our quality of life and for protecting our local environment, I have opposed many developments in this city and likely will oppose more in future. But this development is not one of those.

Unless one is opposed in principle to building any new condos anywhere in Long Beach, this project makes good sense. It is ideally situated near (but not smack on) a genuine transit corridor, and within walking distance of many urban amenities.

Ever since 2008, the project site has been approved and partially prepared for eventual multi-household multi-story residential use.

The originally planned development would have enhanced neighborhood life quality and property values, but the developer was driven to bankruptcy by a combination of poor business practices and poor timing.

The present developer has a good track record, and the current planned development is even better conceived than the prior one. It is more attractive, more modest in height, and incorporates more natural space and plantings. It will definitely contribute to the neighborhood quality of life and property values.

Please approve this project!

Thank you for your read and heed!

Joe (Joseph M) Weinstein

[REDACTED] Long Beach CA 90807

[REDACTED]

POST-SCRIPT 1. FYI. Back around 2008, the originally conceived development aroused the ire of a few residents on the 3700 block of Elm, who hyped the following two utterly misconceived complaints about it.

Commissioners, as you consider this project, please be on guard should such complaints be resurrected.

Complaint #1: the development - as seen from single-family homes and yards on the 3700 block of Elm – would be a big, high and ugly tower of blight.

Facts: On the contrary. Viewed from those properties, even the original development would have been – and even more the current planned development will be – either invisible or else largely blocked by street trees and by the LDS church and Scouts buildings on the north corners of the 37-Elm intersection.

Moreover, because Elm street climbs significantly as one goes north from 37th street, the current planned development's effective building height, seen from those properties when visible at all, will be just one or two stories.

Meanwhile, *from those very properties*, the views east and west are dominated by two long-existing 10+-storey towers!! - the 3711 Long Beach Boulevard office tower, and the Bixby Knolls Towers on Atlantic Ave.

Complaint #2. The development will be out-of-character for the so-called Chateau-Thierry tract (the region bounded – to north, south, east and west - by San Antonio Drive, Wardlow Road, Atlantic Avenue and Long Beach Boulevard).

Facts: Contrary to the complaint's insinuation, this tract is not homogeneous. It comprises two very different parts – and has done so for many decades. The parts differ greatly both in terrain and in predominant uses (and zoning) along Elm and Linden Avenues (the tract's main interior streets).

At and south of 37-th street, terrain is flat, plantings are scarce, and predominant uses are institutional (churches, clubs) and multi-story multi-household residences. The planned development totally fits in and will enhance this part.

At 37-th and Elm, the LDS church and Scout buildings on the north corners provide good transition between the two parts. Northward, the terrain on both Elm and Linden rises, street trees and gardens abound, and single-family homes predominate.

POST-SCRIPT 2. FYI. Commissioners, this is a worthy project, despite the puzzles and errors in the staff documents. You may wish to ask staff to explain and correct some of the puzzles or errors, such as these:

Staff Report discussion ends by referring to a 'Shoreline Gateway Tower'. What's that? And what does that have to do with THIS project? Project plans do not appear to show any 'tower', let alone one 4 or more miles away near Shoreline Drive or other Long Beach shore.

Staff Report discussion claims that the project site area is 0.84 acres but Findings (Attachment E), under its Heading 1, claims more realistically that the area is 0.56 acres.

Findings, under its Heading 1, speaks of 'downtown area' – but (as the Staff Report discussion in fact makes clear!) this project is NOT downtown (in fact is about 4 miles north).

Findings, under its Heading 6, speaks of 27-th Street where it should instead speak of 37-th Street.

END POSTSCRIPTS - Thanks for your read and heed! - J.W.

Heather Flores

From: [REDACTED]
Sent: Thursday, November 17, 2022 2:40 PM
To: PlanningCommissioners
Subject: Comments on Application 2110-10(VTTM21-008) Agenda Item 2
Attachments: PC Comments Nov 17.pdf; Appendix 1 City Council 11-11-08jh_126_127_128.pdf

-EXTERNAL-

Please consider the attached comments. Thank you.

Jim Hannigan [REDACTED]

To: Chair and Planning Commissioners
411 W Ocean Blvd 3rd Floor
Long Beach CA 90802

planningcommissioners@longbeach.gov

From: [REDACTED] nigan
[REDACTED]
Long Beach CA 90807

Re: Application 2110-10 (VTTM21-008)
November 17, 2022. Hearing Agenda Item 2

My name is James F Hannigan and I reside at [REDACTED] Long Beach CA 90807

I offer these comments regarding the application for a Vesting Tentative Tract Map.

Background

The 3655 Elm Avenue parcel was created in 2008 when the original larger 3635 Elm Avenue parcel was divided for a 65 unit five story assisted living project. Entitlements included a general plan amendment and zoning change.

Opposition to the assisted living project centered on the height and massing of the proposed structure, and among other issues, the zoning change from R-3-S to R-4-U, and the failure of the mitigated negative declaration (11-08) to analyze an abandoned oil well on the site.

The assisted living project was approved by the planning commission on August 21, 2008. Subsequent appeals to the city council were denied on November 11 2008, and a lawsuit challenging the approvals was settled on August 26, 2009.

The assisted living project was granted a one year extension of entitlements by the planning commission on February 2 2012 on appeal from the zoning administrator.

Excavation of the site for planned underground parking took place in the fall of 2012. Excavation proceeded to a stable profile beyond which shoring would have been required, at which time activity ceased. Shoring did not take place. The parcel has remained vacant in a partially excavated condition to this day.

Temple Beth Shalom recovered ownership of the parcel in 2018 after the development group declared bankruptcy.

The Project

The project is an application for a vesting tentative tract map for a condominium project and is presented as categorically exempt under CEQA 15332 as infill development. If approved the vesting tentative tract map would allow development to proceed by right in the existing R-4-U zone.

Unstable Parcel

At this time the applicant in this matter also has an application before the zoning administrator (2110-04(LLA21-006) requesting a lot line adjustment to the same 3655 Elm Avenue parcel at issue here.

The stated purpose of that application is "...a lot line adjustment between two properties (3635 and 3655 Elm Avenue) to reconfigure the properties so that an existing abandoned oil well located in the southwest corner of 3655 Elm Avenue, becomes a part of the Temple Beth Shalom property located at 3635 Elm Avenue."

A hearing on the lot line application was scheduled on September 12, continued to November 14, three days ago, and continued again to November 28.

If the lot line application had been approved or denied by the zoning administrator at one of the earlier proceedings there would be a final parcel before you, without or with an oil well on it. At this time however the actual parcel outline presented here for decision on a Vesting Tract Map remains to be determined, as does the presence or absence of an oil well, and by action of another body.

Although this is a tentative map the very outline of the parcel at issue before you and the presence or absence of features of potential environmental significance should not be undetermined.

Segmented Projects

The city has determined that the matter before you for a condo development is categorically exempt from CEQA under section 15332 as infill development. The city has also determined that the pending lot line application for the same parcel is an entirely separate matter, a different project apparently unrelated to the condo development, but also categorically exempt from CEQA under a different section; 15305 Minor Alterations in Land Use Limitations.

This is actually a single project, a proposed condo development, segmented into two parts. The first part is to adjust the lot line of the 3655 Elm parcel to be developed in order to cleanse it before seeking further approvals, by eliminating the potential environmental, financial and other liabilities that otherwise would result from the presence of an oil well on the property.

A request to the planning department for documents supporting the lot line adjustment application in fact yielded the same studies and materials cited in support of this application for the supposedly distinct condo development project.

CEQA 15378 (a) defines a project as "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment...".

Quoting from a ceqaportal.org topic paper "What is a Project" : "Piecemealing or segmenting means dividing a project into two or more pieces and evaluating each piece in a separate environmental document, rather than evaluating the whole of the project in one environmental document. This is explicitly forbidden under CEQA, because dividing a project into a number of pieces would allow a Lead Agency to minimize the apparent environmental impacts of a project

by evaluating individual pieces separately, each of which may have a less than significant impact on the environment, but which together may result in a significant impact...”

Even when multiple approvals are required, from differing independent agencies, a project under CEQA must be a single, stable whole. From the above listed ceqaportal.org topic paper: “The project description should include all project components, including those that will have to be approved by responsible agencies.”

This application should not be approved nor considered further as it is segmented and not the project as a whole. Approval of this application as categorically exempt from CEQA constitutes an environmental determination. An environmental determination should not be made on less than a project as a whole.

The entire condominium development including any desired changes to the parcel must be presented for environmental analysis and determination and then to all relevant agencies or entities for required approvals as a single unified and stable project.

Oil Well and Potential Hazards

An abandoned Oil Well is, at least for now, located on the 3655 Elm Avenue parcel being considered here. Information on California oil wells is available to the public. Maps and detailed records of well activities dating back over 100 years are maintained by the California Geologic Energy Management Division (CalGEM) see conservation.ca.gov. Specifically the well at issue here is Verhaar 1, API 0403712103, originally drilled in 1926, re-drilled to a greater depth in 1952, and abandoned in 1953.

No information on the oil well is presented here by the developer or the city or included in the environmental analysis cited.

Oil wells, even oil wells abandoned to comply with all current standards and best practices are demonstrably presumed to present potentially significant environmental hazards:

www.conservation.ca.gov/calgem/Pages/Oil-and-Gas.aspx FAQs: Property Development in an Oil field: Questions: Can I Build a Structure over an old abandoned well ?

“...While CalGEM recognizes that wells plugged and abandoned to current requirements are less likely to experience leakage, there is no guarantee any plugged and abandoned well will not leak in the future.”

In fact, the applicant here has commissioned a detailed investigation of the well, and the city is in possession of two reports that conclude the well is not abandoned to current standards and also provide plans to assure access to the well, and to attempt to mitigate the potential for methane leakage. None of that information is presented here.

Interestingly, no information on the oil well is presented in support of the lot line adjustment application either, the very purpose of which deals only with the well.

Regardless of which parcel the well is on, it is a few feet from the foundation of the proposed condo development. Any potential hazards should be analyzed, and be a part of environmental disclosures. In this situation two supposed projects, each declared categorically exempt from CEQA have set up an environmental shell game masking essential disclosures.

The purpose of CEQA is not to impede development, nor to burden developers. It is to develop and distribute accurate information on potential environmental impacts to developers, the public and decision makers.

As part of a single whole project, the potential hazards of the oil well should be analyzed and the results plus any required or prudent mitigation disclosed before consideration of this application.

Exceptions

A Categorical exemption cannot be used when exceptions in the CEQA Guidelines apply.

CEQA Guidelines 15300.2 (c) "Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances."

In this instance, considering the project as a whole, the applicant seeks to use an administrative process to remove what is likely the single most significant environmental liability from a parcel the applicant seeks to develop and transfer it to an adjacent parcel. At this time however, that transfer has not been completed and the oil well remains on the parcel at issue here, but undisclosed. As such, unusual circumstances are present and those unusual circumstances lead to a reasonable possibility of a significant impact.

A Categorical Exemption should not apply to the Project due to the Exception, and the Project should not proceed without proper CEQA analysis.

Air Quality

The CEQA Exemption Findings, Attachment G to the staff report, asserts in paragraph 4 that approval of the project would not result in any significant effects including relating to air quality, and lists but does not link or append an air quality study. That actual study however does not seem to include any on-road diesel emissions in the modeling, and only minimal grading is included in the estimates of off-road diesel emissions.

The condo project is to be constructed at grade, while the site is currently a deep eroded, steeply sloped pit that has remained after excavation for the underground parking portion of the failed assisted living project.

Daily air quality impacts for the assisted living project were analyzed by the AQMD and presented in a mitigated negative declaration (11-08). On-road air quality impacts for excavation were based on the removal from the site of over 10,000 cubic yards at a rate of 354 cubic yards and 350 on-road truck trips per day. Emissions of NOx and PM 2.5 particulates during the excavation phase of construction were estimated at that time to exceed significance levels unless mitigated.

For this project, restoring the parcel to grade will require a similar number of on-road truck trips as was needed to excavate it, plus additional off-road grading and compacting.

The air quality study for the condo project as cited should be carefully scrutinized and not relied upon to justify an assertion of no significant impact during construction nor a categorical exemption unless the project as a whole is considered. The project as a whole must include

restoring the site to grade and not merely deal with construction impacts on a remediated parcel.

R-4-U Zoning Was Intended to be Restricted

As stated in the background information above, the change from R-3-S to R-4-U was a contentious subject in 2008 when the change was sought pursuant to the approval of the assisted living project. Community members expressed concern that if the R-4-U zoning was approved, but the Assisted Living project failed, the zoning would remain and allow some other very high density project to be built instead, by right.

At the city council appeal hearing on November 11, 2008 shortly before the vote to approve the project, 8th district council person Rae Gabelich in an effort that she described as intended to assure neighbors that usage of the parcel would remain in conformity with that being approved, dictated amendments to the project conditions of approval. The amended conditions explicitly required that a 50 year restriction to senior housing use be recorded with the parcel.

Attached as Appendix A is an excerpt from the verbatim transcript of that hearing. The transcript is part of the certified administrative record of case BS118288, the suit brought to challenge the approvals and entitlements granted at the November 11, 2008 hearing..

R-4-U Buffering Requirements

The staff report acknowledges the fact that the 134 foot lot width of the 3655 parcel is below the 180 foot minimum for the R-4-U zone, but pronounces this a legal non conforming condition.

Not addressed however is the requirement under section 21.31.215 E 3 a, b, c and d for buffer setbacks on R-4-U sites adjoining, abutting or adjacent to R-1, R-2 or R-3 districts. The 3655 parcel abuts R-3 to the south and is adjacent to R-2 to the north.

The required minimum buffer setbacks for a three story building height are 30 feet. The north setback of this project is half of that required, and the south setbacks are less.

The provisions of the R-4-U zone are crafted for large parcels. R-4-U is not appropriate for a lot the size of the 3655 parcel.

To achieve relief from the intended use restriction adhering to the R-4-U zoning on this parcel, and from the impracticality of complying with some R-4-U requirements on a smaller lot than intended for the zone, the zoning on this parcel should be changed to a lower density.

Conclusion

This application is broadly defective and should not be approved as presented.

The very map itself is not accurately presented. The project is not the whole of the intended action, but actually a segment, which is expressly forbidden under CEQA.

An oil well on the parcel is completely undisclosed and unanalyzed here, although the city is in possession of significant and relevant information. An exception to the claimed categorical exemption from CEQA due to unusual circumstances should apply, compelling additional environmental analysis and disclosures. The air quality report listed as supporting the CEQA

categorical exemption is deficient. The usage here does not conform with a 50 year restriction to senior housing the city council intended when the R-4-U zoning was approved, and the project does not comply with requirements of the R-4-U zone due to the parcel being below the minimum dimensions for the zone and being bound by lower density zones.

The project should be re-submitted as a single whole action, incorporating any changes to the parcel, and also including a zoning change from R-4-U to an appropriate density.

The environmental analysis should be approached anew, with particular attention to the presence of the oil well and to the air quality impacts of site remediation as well as construction activities.

Respectfully submitted

James F Hannigan

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1 If we looked at that neighborhood, 37th street already
2 serves as a dividing line. On Elm, North of 37th street there is
3 the Mormon Church, The Boys Scout's local headquarters and North
4 of those of those buildings are very nice single family homes.
5 South of 37th street on one side of Elm you have the vacant lot
6 where this facility is proposed to go. The Temple Beth Shalom,
7 and then some multi-story apartment buildings and condos.

8 Across the street is the Korean Church, Grace Brethren
9 Church, and the school and one block East on Linden there are
10 multi-story condos and The Petroleum Club. So South of this
11 site and immediately across the street are other institutional
12 uses and multi-story buildings. We saw that, very many different
13 zones in that particular two block area.

14 Some of the neighbors have raised the concern that if we
15 change the zone and amend The General Plan that this project
16 might not get built and we would open the door to some other
17 high density project. Well the applicant has agreed to a 50
18 year covenant on the project that requires the use to be for
19 senior assisted housing and I would like to read to you the
20 covenant that was um, actually agreed to this afternoon.

21 "We do here by covenant and agree that this site shall be
22 used exclusively as a senior assisted living facility consisting
23 of a maximum of 65 units for the next 50 years expiring in 2058.
24 In no event should any unit be occupied by anyone under the age
25 of 55 unless required by the provisions of state law."

26 I think that that says a lot on behalf of the developer. I
27 think that should quiet the concern of this becoming anything
28 but what is being demonstrated to us tonight to be developed.

1 Temple Beth Shalom has been a part of our community for
2 decades, long before most of us were here and I believe in their
3 commitment to have a high quality project next to The Temple.
4 The discussions that we have had over this project have been
5 contentious and I certainly understand where the neighbors
6 opposed to this project are coming from.

7 I have been in your position before The City Council on
8 many, many issues not all just related to the airport and some
9 of the folks that spoke on your behalf tonight stood with me on
10 the issues that I was fighting for as well, so I, you know, I
11 understand I do understand, and you know, I can just assure that
12 you have been heard, that changes to the project have been made
13 because of recommendations or concerns that you've had, but in
14 the end we are not going to agree on the final outcome.

15 I believe that overall there, this is an important project
16 for not only our community but for our city and it will provide
17 a very much needed service that's defined in our housing element
18 that we'll discuss later tonight. It's a quality project and
19 it's going to benefit our community.

20 Um, There are some conditions of approval that I would like
21 to discuss, um, that have not been revised according to what I
22 have here in my agenda packet, so I'd like to, uh, um, have
23 these amended, um. The revised condition "5D" reads "the
24 applicant shall provide for the use of a valet service to both
25 the project tenants and Temple guests during religious holidays
26 and/or special events" strike the "during religious holidays
27 and/or special events," and, the valet service will be provided
28 to the residents and the guests.

1 Um, and then, the recording of a covenant with the property
2 requiring that the use be restricted to senior assisted living
3 housing as I read it just previously. And then the planting of
4 the trees at the, in the Fitzgerald visual site at 3716 Elm.

5 Um, I know that I was hired to represent you and I ran on
6 Neighborhood's First and I believe in Neighborhood's First, but
7 this is part of the neighborhood. This is part of the entire 8th
8 District and part of the entire city and I think that we have to
9 look, we are a built out city, we are not an Irvine, we can't,
10 we're not a planned community, and we are going to have to be
11 looking at how we're going to grow with the change and the
12 growth that we are experiencing in our city.

13 And so I, I will understand your frustration, and you're
14 not being happy with me, but you know there is always two sides
15 to everything and you know, for that I hope that the compromises
16 I hope that building is a quality that you will be proud of. I
17 hope that you will be able to embrace it as part of your
18 neighborhood and it certainly isn't going to be and shouldn't be
19 considered blight, I would never support that.

20 So I would like to make the motion to receive the
21 supporting documentation into the record, conclude the hearing,
22 deny the appeal and uphold The Planning Commission decision to
23 certify the Mitigated Negative Dec., approve the Site Plan
24 Review, approve the Vesting Tentative Map, approve the
25 Conditional Use Permit as amended and uphold the Planning
26 Commission recommendation to approve an amendment to The General
27 Plan and a rezoning of the property at 3635 Elm Ave for the
28