Dionne Bearden

From: Mark C [redacted] >
Sent: Wednesday, August 04, 2021 8:04 PM
To: PlanningCommissioners
Subject: APL21-004 Agenda Item # 3 Planning Commission Meeting Aug. 5, 2021

-EXTERNAL-

Dear Commissioners,

I am writing in support of APL21-004, Agenda Item # 3 on the Planning Commission Meeting Aug. 5, 2021.

Quoting from the public correspondence submitted by the developer's attorney Martin H. Blank, Esq., in Attachment J: "California Government Code § 65589.5, the Housing Accountability Act, prohibits localities from denying housing development projects that are compliant with the locality's zoning ordinance or general plan at the time the application was deemed complete, *unless the locality can make findings that the proposed housing development would be a threat to public health and safety.*" (emphasis mine)

It is my contention that this development would indeed constitute a threat to public health and safety and therefore is eligible to be denied and should be denied due to the following:

- The setbacks between the proposed development and the neighboring property at [redacted] Ave. are not sufficient to allow adequate emergency services access and/or would be a severe detriment to emergency services access to both properties, and therefore constitute a threat to the health and safety of the residents of both properties as well as to the health and safety of residents and patrons of other neighboring properties
- The severe restriction and/or loss of access to natural light and air that will occur to residents of the South and West facing units of [redacted] Ave due to the height of the proposed project building as well as the insufficient setbacks between the proposed building and [redacted] Ave. constitutes a threat to their, and therefore the public's health and safety.

For these reasons, I respectfully request that this appeal be upheld and the Site Plan Review Committee's previous approval of this project be denied.

Respectfully,

Mark Chenevey

[redacted]

Long Beach CA 90802

[redacted]

DOWNTOWN
LONG BEACH
ALLIANCE

August 5, 2021

Long Beach Planning Commission
Civic Center Plaza
411 West Ocean Blvd.
Long Beach, CA 90802

RE: Uphold Site Plan Review Approval of 525 E. Broadway Project Agenda Item #3

Dear Members of the Long Beach Planning Commission,

Please accept this correspondence on behalf of the Downtown Long Beach Alliance (DLBA) Board of Directors and enter into the public record for the Planning Commission meeting scheduled for Thursday, August 5, 2021, our support for the proposed mixed-used development located at 525 E. Broadway and to uphold the Site Plan Review Committee's decision to approve the Site Plan Review.

The DLBA is a non-profit organization that represents more than 1,600 businesses and 4,000 commercial and residential property owners within the two Business Improvement Districts (BIDs) in Downtown Long Beach. As one of the leading voices for the Downtown community, we want to express our support for this project and urge the Planning Commission to uphold the previously approved Site Plan Review. The project aligns with the DLBA's goal of supporting increased density near High-Quality Transit Areas as outlined in DLBA's Vision 2020: Strategic Plan, and the design standards outlined in the City's Downtown Plan (PD-30).

The Downtown Plan, the guiding planning document for Downtown, was created to encourage impactful, community-oriented mixed-use developments in the area. The proposed development at 525 E. Broadway has both high-density housing and ground floor commercial space, offering the highest and best use for said property. The 48-unit development will feature a seven-story podium development, and 5,090 square feet of ground-floor retail space. The project is consistent with surrounding area heights and uses which consist of a five-story mixed use apartment, an eight-story mixed-use residential building, and several two-story apartment buildings. Moreover, the project complies with all PD-30 requirements, including building height, setbacks, and parking. The project is located in the Downtown Plan Height Incentive Area, which allows for a max permitted height of 240 feet, as the project is planned for a total of 88 feet, it is well within the limits of the Downtown Plan height limits.

We appreciate the opportunity to share our support for the continued implementation of the Downtown Plan, and we encourage the Planning Commission to support this proposed investment in our developing and diverse Downtown.

Thank you for your consideration.

100 West Broadway, Ste 120
Long Beach, CA 90802
T: 562.436.4259
F: 562.437.7850

Sincerely,

Kraig Kojian
President & CEO

cc: Dr. Mayor Robert Garcia, City of Long Beach
DLBA Board of Directors
Oscar Orsi, Deputy Director of Development Services, City of Long Beach
Derek Burnham, Burnham Planning & Development

Dionne Bearden

From: Natasha Messer <[redacted]>
Sent: Tuesday, August 03, 2021 3:03 PM
To: PlanningCommissioners
Cc: Maryanne Cronin
Subject: 525 Broadway Appeal - Natasha Messer - Owner of Apt [redacted]

-EXTERNAL-

Hello,

I hope you are doing well.

Further to the concerns expressed by my neighbors at Atlantic Plaza, while I was not included in the original appeal I am the owner of apartment [redacted] and I have a number of concerns with respect the proposed development of 525 Broadway.

Firstly, I would like to note that I fully understand and support the desire to develop the downtown area and think that there have been great efforts made by the city to further revitalize and improve the area, which supports the wider community. I also fully respect the rights of landowners and developers to improve the value of their land in support of broader community goals, with due consideration to the impact on adjacent properties.

As I mentioned to Maryanne in our telephone conversation last week, I share the concerns my neighbors have around:
i) lack of minimum set back required between buildings (the developer plans show the south side of Atlantic Plaza property line ending at 4 feet plus the required setback of 5 feet, but our property line ends at 4.67 feet from our building (pursuant to our title documents) so the distance between the buildings should be 9.67 feet on the southside and there should also be a 5 foot setback from the ending of our property line to the west (property line is 10.67 feet from our building) for a total distance between the buildings of 15.67 feet) and we do not consent to any waiver of this in any form,

ii) the near complete loss of light,
iii) access by fire/emergency services and resident safety (there is currently an implied easement through Padre's parking lot for fire/emergency vehicles to access the west side of our building and the Planning Checklist supplied by Maryanne seems to examine the fire safety considerations for the proposed construction itself but not the surrounding buildings - we do not have sprinklers and my unit which is southwest facing would be particularly difficult to access if it tragically were to catch fire, especially being on the 4th floor),
iv) the impairment of critical airflow required for building systems,
v) net loss of parking per capita and the resulting pressure on existing resources due to both parking loss and increased resident density,
vi) increased noise pollution from close proximity (with units in the proposed building 9 feet from existing residences),
vii) unprecedented shape and encroachment on multiple sides of an existing residential structure

We have engaged in several discussions with the developers to try to find a solution which takes into consideration the needs of all parties. However, I was recently surprised when attending a meeting with the

developer Thursday night, in that they present the residents of my building with what is effectively a false dilemma – that the economics of their building are not viable if they amend their proposal to respect our access to daylight and emergency service. Representatives of the developer contend that the only strategy under which their proposal is feasible it by proceeding exactly as proposed (citing the costs of building materials for different building massing strategies), and wholly dismissing the efforts made by my neighbors to consider and propose alternative solutions that would mitigate some of the detriment to our residents and the local area. I think this is entirely unreasonable and represent bad faith engagement. While I fully understand their constraints, the returns to their shareholders cannot come at the expense of public health and safety. As an example of the myopic focus of the developer, on a call with residents Thursday, the main purpose of the call was to run through the art the developers want to put on the building façade, which is an empty concession that they are fixating on in an effort to deflect from the core issues. This was all against the background of the residents requesting that they consider constructive amendments to their proposal, which take our health and safety concerns into consideration. It is very clear the developer does not seem interested in having any kind of discussion regarding meaningful changes for the betterment of the local community.

In particular, ideas related to shifting building formation and massing to maintain density by increasing height and changing the “L” shape configuration that is currently proposed to wrap-around and encroach upon our building were dismissed due to material costs. While I understand that building regulatory costs may dictate that increasing building height and limiting massing one side of the "L" to current levels may create new structural requirements and higher costs for the developer, this should all have been considered in their original proposal, and failure to engage with the community at a more preliminary stage has put us all in an unfortunate situation through no fault of the existing residents.

The unit I have owned for 10 years is currently a corner unit whose with two sides and natural sunlight are proposed to be fully encroached by the “L” shape of the current building design, drastically reducing all natural light and ventilation. I could understand the West-facing side being built as planned, but the site as proposed being developed to such an extent on both sides seems unreasonable and driven solely by economics with little regard to impact on the long-standing resident community. Further emphasizing the approach of the developer, the current green courtyard for the proposed development is planned facing the Broadway street, even though if put on the Atlantic Plaza side, this shift in massing would preserve some light for Atlantic Plaza residents. The response from the develop to this specific resident proposal was that it would shade their own courtyard, and that the views of some of their new residents would be impaired! This is clearly a mockery to people whose own views and light are being stripped away and as such I think it is indefensible not to consider such simple and reasonable proposals. I would think our suggestion to move the courtyard to our side would seem like a fair compromise to limit the detrimental effects to the Atlantic Plaza residents, while also maintaining their proposed overall structure and leasable space which should largely preserve their economics.

Lastly, I am open to correction but to my knowledge the “L” shape of this building, wrapping tightly around an existing residential building (in place since 1968), seems unprecedented for modern developments in Long Beach, with respect to the full enclosing of so much of an adjacent building. Can you please provide me of examples of any other developments which have a similar shape and impact to adjacent residents?
This proposal seems uniquely problematic and was generated without regard for the existing residents, and as a result should not be approved in current form.

In summary for the many reasons above, we do not believe that the development should be approved in its current form.

Please note that this list is not an exhaustive list of objections and does not waive or forfeit advancing any further objections and remains subject to comments from advisors in all respects.

Kind regards,
Natasha Messer

Dionne Bearden

From: Anne Proffit <[redacted]
Sent: Tuesday, August 03, 2021 2:04 PM
To: PlanningCommissioners
Subject: 525 Broadway

-EXTERNAL-

To The Commissioners:

While I realize your minds are made up and the developer funds have already been spent by Dr Garcia, I MUST voice my severe dissent on the allowance of yet another aberration in the East Village Arts District.

Next time you get your noses out of the sand and stop saying “la la la” when the public is speaking, go look at the neighborhood and ask yourselves, “Do we really need another treeless, prefabricated blob on that corner?” The answer is a big fat NO.

Killing a neighborhood appears to be a specialty of this commission. You’ve managed to destroy most of the character of the East Village Arts District by placing ugly, poorly designed and paper-thin-walled apartments throughout the area. These featureless blobs on Alamitos and First, on Linden at 4th, the decimation of the Acres of Books site (I’m sure you’ll find a way to be rid of the last vestiges of a Long Beach icon before those two blobs are completed) and the area next to Promenade at Broadway that will ruin sightlines of a beautiful PowWow mural - all I can say is yuck. You.Have.No.Taste.

While I realize you’re not going to listen to me or anyone else that actually LIVES close by - I am across the street from this site - and keep your ears close to the developer-du-jour that has screamed I WILL GIVE YOU LOTS OF MONEY AND YOU CAN COLLECT PLENTY OF PROPERTY TAXES - killing any semblance of design artistry and character for money, even lots of money, is an abysmal way to leave your mark on this city.

In the future time, when nobody can afford these “market rate” apartments, when there is not sufficient water or electricity to keep them going, you will be remembered the same way the planners who place cracker-box apartments in Alamitos Beach are recalled - as stupid, monetized assholes.

There isn’t sufficient water and electricity for those of us with equity in our homes already living here. Sure, bring in another 10,000 people to downtown and watch it get even more filthy, filled with screaming, mentally-ill unhoused, even more decadent and disease-infested.

The new buildings may look modern, but they’re all built to code and nothing more. They’re all pieces of junk. I’m watching the build at 3rd and American Avenue (the original name for LB Blvd, you Johnny-come-lately haters of LB history) and seeing each floor trucked in and placed atop the next. If you think this is good building practice, you’re totally and sorely mistaken.

Sorry this is so long and repetitive. Likely too lengthy for your little brains to understand. So let me put it to you succinctly: STOP KILLING MY NEIGHBORHOOD WITH JUNK BUILDINGS. DECLINE TO BUILD AT 525 BROADWAY. For once, think about the people who surround this aberration, not just the money.

Anne Proffit
[redacted]

CALIFORNIANS FOR HOMEOWNERSHIP

CHRISTIAN GARCIA
CHRISTIAN@CAFORHOMES.ORG
TEL: (213) 739-8206

August 5, 2021

VIA EMAIL

Planning Commission
Long Beach
411 W. Ocean Blvd., 3rd Floor
Long Beach, CA 90802
Email: planningcommissioners@longbeach.gov

RE: 525 East Broadway
Site Plan Review SPR20-009

To the Planning Commission:

Californians for Homeownership is a 501(c)(3) organization devoted to using legal tools to address California's housing crisis. We are writing regarding the 525 East Broadway project. The City's approval of this project is governed by the Housing Accountability Act, Government Code Section 65589.5. For the purposes of Government Code Section 65589.5(k)(2), this letter constitutes our written comments submitted in connection with the project.

The Housing Accountability Act generally requires the City to approve a housing development project unless the project fails to comply with "applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the application was deemed complete." Gov. Code § 65589.5(j)(1). To count as "objective," a standard must "involve[e] no personal or subjective judgment by a public official and be[] uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official." Gov. Code § 65589.5(h)(8). In making this determination, the City must approve the project if the evidence "would allow a reasonable person to conclude" that the project met the relevant standard. Gov. Code § 65589.5(f)(4). Projects subject to modified standards pursuant to a density bonus are judged against the City's standards as modified. Gov. Code § 65589.5(j)(3).

The City is subject to strict timing requirements under the Act. If the City desires to find that a project is inconsistent with any of its land use standards, it must issue written findings to that effect within 30 to 60 days after the application to develop the project is determined to be complete. Gov. Code § 65589.5(j)(2)(A). If the City fails to do so, the project is deemed consistent with those standards. Gov. Code § 65589.5(j)(2)(B).

525 S. Virgil Avenue
Los Angeles, CA 90020

If the City determines that a project is consistent with its objective standards, or a project is deemed consistent with such standards, but the City nevertheless proposes to reject it, it must make written findings, supported by a preponderance of the evidence, that the project would have a "specific, adverse impact upon the public health or safety," meaning that the project would have "a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete." Gov. Code § 65589.5(j)(1)(A); *see* Gov. Code § 65589.5(k)(1)(A)(i)(II). Once again, "objective" means "involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official." Gov. Code § 65589.5(h)(8).

Even if the City identifies legally sufficient health and safety concerns about a project, it may only reject the project if "[t]here is no feasible method to satisfactorily mitigate or avoid the adverse impact . . . other than the disapproval of the housing development project . . . ." Gov. Code § 65589.5(j)(1)(B). Thus, before rejecting a project, the City must consider all reasonable measures that could be used to mitigate the impact at issue.

For projects that provide housing for lower-income families, the Act is even more restrictive. In many cases, the City must approve such a project even if it fails to meet the City's objective land use standards. *See* Gov. Code § 65589.5(d).

These provisions apply to the full range of housing types, including single-family homes, market-rate multifamily projects, and mixed-use developments. Gov. Code § 65589.5(h)(2); *see Honchariw v. Cty. of Stanislaus*, 200 Cal. App. 4th 1066, 1074-76 (2011). And the Legislature has directed that the Act be "interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing." Gov. Code § 65589.5(a)(2)(L).

When a locality rejects or downsizes a housing development project without complying with the rules described above, the action may be challenged in court in a writ under Code of Civil Procedure Section 1094.5. Gov. Code § 65589.5(m). The legislature has significantly reformed this process over the last few years in an effort to increase compliance. Today, the law provides a private right of action to non-profit organizations like Californians for Homeownership. Gov. Code § 65589.5(k). A non-profit organization can sue without the involvement or approval of the project applicant, to protect the public's interest in the development of new housing. A locality that is sued to enforce Section 65589.5 must prepare the administrative record itself, at its own expense, within 30 days after service of the petition. Gov. Code § 65589.5(m). And if an enforcement lawsuit brought by a non-profit organization is successful, the locality must pay the organization's attorneys' fees. Gov. Code § 65589.5(k)(2). In certain cases, the court will also impose fines that start at $10,000 per proposed housing unit. Gov. Code § 65589.5(k)(1)(B)(i).

In recent years, there have been a number of successful lawsuits to enforce these rules:

- In *Honchariw*, 200 Cal. App. 4th 1066, the Court of Appeal vacated the County of Stanislaus's denial of an application to subdivide a parcel into eight lots for the development of market-rate housing. The court held that the county did not identify any objective standards that the proposed subdivision would not meet, and therefore violated the Housing Accountability Act in denying the application.

- In *Eden Housing, Inc. v. Town of Los Gatos*, Santa Clara County Superior Court Case No. 16CV300733, the court determined that Los Gatos had improperly denied a subdivision application based on subjective factors. The court found that the factors cited by the town, such as the quality of the site design, the unit mix, and the anticipated cost of the units, were not objective because they did not refer to specific, mandatory criteria to which the applicant could conform.

- *San Francisco Bay Area Renters Federation v. Berkeley City Council*, Alameda County Superior Court Case No. RG16834448, was the final in a series of cases relating to Berkeley's denial of an application to build three single family homes and its pretextual denial of a demolition permit to enable the project. The Court ordered the city to approve the project and to pay $44,000 in attorneys' fees.

- In *40 Main Street Offices v. City of Los Altos*, Santa Clara County Superior Court Consolidated Case Nos. 19CV349845 & 19CV350422, the court determined that the City violated the Housing Accountability Act, among other state housing laws, by failing to identify objective land use criteria to justify denying a mixed-use residential and commercial project. The Petitioners' application for over $1.7 million in attorneys' fees is pending before the court.

In other cases, localities have settled lawsuits by agreeing to approve the subject projects and pay tens or hundreds of thousands of dollars in legal expenses.

Sincerely,

Christian Garcia