

Channel Law Group, LLP

8200 Wilshire Blvd.
Suite 300
Beverly Hills, CA 90211

Phone: (310) 347-0050
Fax: (323) 723-3960
www.channellawgroup.com

JULIAN K. QUATTLEBAUM, III *
JAMIE T. HALL **
CHARLES J. McLURKIN

Writer's Direct Line: (310) 982-1760
jamie.hall@channellawgroup.com

*ALSO Admitted in Colorado
**ALSO Admitted in Texas

August 25, 2017

VIA PERSONAL DELIVERY

Planning Commission
City of Long Beach
333 W. Ocean Blvd.
Long Beach, CA 90802

Re: 320 Alamitos Avenue Residential Use Project; Non-Compliance with California Environmental Quality Act ("CEQA")

Dear Mayor Garcia and City Council Members:

This firm represents Long Beach Citizens for Fair Development, Inc. ("LBCFD") with respect to the City of Long Beach's ("City") consideration of the 320 Alamitos Avenue project ("Project"). Generally speaking, the Project consists of a seven-story mixed use development where a commercial parking lot currently exists. This letter is intended to inform the City that approval of the Project would violate the California Environmental Quality Act ("CEQA").

I. The Project

The Project, as proposed, is for the construction of a residential-use building consisting of 77 units, 105 vehicle parking stalls, and landscape and hardscape improvements to Alamitos Avenue as well as East 3rd and East 4th Streets. Staff has concluded that the Project is compliant with the existing Downtown Plan and thus does not require an EIR under CEQA.

II. Background

In 2012, the City adopted the so-called "Downtown Plan," a specific plan that replaced the existing land use, zoning and planned development districts as the land use and design document for all future development in the Downtown area of Long Beach. The Downtown Plan was approved by the City Council and went into effect in February 2012. The Downtown Plan

revised parking standards for both residential and commercial land uses, requiring one space per unit plus .25 spaces per unit for guest parking.

III. The California Environmental Quality Act

a. Purpose of California's Environmental Protection Statute

The California Environmental Quality Act is California's broadest environmental law. CEQA helps to guide public agencies such as the City during issuance of permits and approval of projects. Courts have interpreted CEQA to afford the fullest protection of the environment within the reasonable scope of the statutes. CEQA applies to all discretionary projects proposed to be conducted or approved by a City, including private projects requiring discretionary government approval. *See* California Public Resources Code, sections 21000 - 21178, and Title 14 Cal. Code Regs., section 753, and Chapter 3, sections 15000 - 15387.

IV. The Downtown Plan Environmental Impact Report

Pursuant to Section 15168 of the CEQA guidelines, the City conducted an environmental review for the "Downtown Plan", the Program Environmental Impact Report ("PEIR") (SCH No. 2009071006); The City circulated a draft of the PEIR for public comment in December 2010 (hereinafter referred to as "Draft PEIR"). This report was finalized in November 2012 ("Final PEIR").

The Draft PEIR specifically contemplated that its mitigation measures were not intended to be comprehensive or final, and that future projects would be subject to future environmental review:

These mitigation measures are intended to be implemented as future development projects occur. Each proposed development project will be reviewed to determine whether potential project impacts have been adequately addressed in the PEIR; and to identify appropriate mitigation measures identified in the PEIR and the Mitigation Monitoring and Reporting Program (MMRP) that would be required to be implemented by the proposed development project." Draft PEIR at 1-2.

The PEIR also acknowledged that it "might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site" and referred to Section 15183 for guidance for preparation of Initial Studies for subsequent projects "to determine whether there were project- or site-specific impacts; environmental effects that were not analyzed as significant effects in the PEIR; as offsite or cumulative impacts; or as more severe impacts than were identified in the PEIR." Draft PEIR at 1-2.

In addition, the PEIR provided:

"During subsequent review of future development projects, the City may use an Initial Study or require additional project-specific environmental documentation to analyze the relationship of the proposed development to the significant environmental impacts identified in this PEIR. This analysis may determine that the potential environmental effects were anticipated in the PEIR and that no additional environmental documentation is required. If the City or the Redevelopment Agency determines that the environmental effects of a proposed

project have not been addressed in the PEIR, exceed the level of impact for any environmental issue identified in the PEIR, or do not propose to adequately implement mitigation measures identified in the PEIR, an additional project-specific environmental document in compliance with CEQA and the State CEQA Guidelines **would be required**.” Draft PEIR at 1-3 (emphasis added).

In response to public comments received regarding the Draft PEIR, the City reiterated that future projects would be subject to future environmental review, stating the following in the “Environmental Impact Report Response to Comments,” part of the Final PEIR:

“CEQA Analysis for Future Development Projects.

It should be noted that all future development projects proposed within the Downtown Plan project area will require some type of subsequent CEQA environmental review to determine whether all of the potential environmental impacts of that particular project were ‘adequately addressed’ in the Downtown Plan Draft PEIR.

The CEQA Guidelines, Section 15152(f)(3) provides that significant environmental effects have been ‘adequately addressed’ in a previous program EIR if the lead agency determines that such effects:

Have been mitigated or avoided as a result of the prior environmental impact report and findings adopted in connection with that prior environmental report; or have been examined at a sufficient level of detail in the prior environmental impact report to enable those effects to be mitigated or avoided by site specific revisions, the imposition of conditions, or by other means in connection with the approval of the later project.”

Therefore, after a program EIR is certified, any individual development project within that program area (i.e., the Downtown Plan 725-acre area) that could result in any of the following conditions *would require some type of new CEQA environmental documentation*: new environmental impacts not identified in the Program EIR; a substantial severity in the increase of impacts identified in the Program EIR; or if conditions have changed substantially from those expected in the Downtown Plan EIR. If any of these conditions are present, then subsequent environmental impact analysis and any required mitigation for the future development project must be prepared in compliance with CEQA.”

Final PEIR at RTC-13 to RTC-14.

Finally, the City stated the following in conjunction with the near-term traffic analysis conducted in the Draft PEIR: “... **any increase in land use intensity, such as an increase in vehicle trip generation or other new or increased environmental impacts that were not evaluated by the individual project EIR, will be reviewed for CEQA compliance** pursuant to the Downtown Plan PEIR.

V. Per the Final PEIR, New CEQA Environmental Analysis is Required

There are significant environmental effects associated with the Project that were not adequately addressed in the PEIR pursuant to CEQA Guidelines, Section 15152(f)(3). The Project proposes new environmental impacts that were not identified in the PEIR. These impacts include the following:

- Transportation/Traffic – The project has an auto ingress/egress on East 3rd Street and on Alamitos. Putting these high density residential units here will have significant traffic impacts by slowing traffic on both streets. The Project also calls for elimination of a traffic lane on both Alamitos and East 3rd Street. The compound effect of increased population density, reduction of lanes with street parking, elimination of 50 spaces of public parking, and the approval of many similar projects in the area such as the one located on 101 Alamitos Avenue, may be such that traffic patterns and congestion will have significant impacts unforeseen by the PEIR.
- Population/Housing – While the downtown plan goals include walkability and pedestrian friendliness this project will significantly and negatively impact pedestrian experience on this important intersection and block as part of the downtown core. All too often in recent project approvals the negative impact on walkability and pedestrian safety are ignored with overly optimistic findings when it comes to the impact of underparked projects and reduced traffic flows effect on the safe for pedestrians and overall walk ability. Without any study these impacts cannot be accurately measured.
- Air quality is negatively impacted by the overly dense and under adequate parking ingress and egress.

Moreover, it bears noting that the Draft PEIR specifically contemplates that its mitigation measures were not intended to be comprehensive or final, and that future projects would be subject to future environmental review:

These mitigation measures are intended to be implemented as future development projects occur. Each proposed development project will be reviewed to determine whether potential project impacts have been adequately addressed in the PEIR; and to identify appropriate mitigation measures identified in the PEIR and the Mitigation Monitoring and Reporting Program (MMRP) that would be required to be implemented by the proposed development project.” Draft PEIR at 1-2.

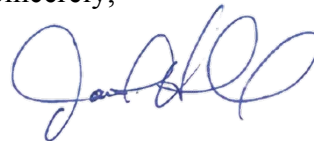
For the instant Project, the City conducted a Downtown Plan Program Environmental Impact Report Analysis (“Analysis”) dated August 17, 2017). However, the Analysis does not adequately address all of the potential significant issues outlined above. Further, the Analysis does not adequately address the cumulative impacts. Impacts are “cumulatively considerable” if the “incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.” There are a great number of mixed use development projects either proposed, approved or currently being constructed in downtown Long Beach. Neither the PEIR nor the Analysis fully addresses the cumulative impacts associated with the Project.

As noted by the Long Beach Business Journal (see attached Exhibit A), numerous development projects are currently approved or proposed in the City of Long Beach. Almost all of these projects are “underparked” as a result of the reduced parking requirement contained in the Downtown Plan. This problem is made worse by the fact that the City exempts many commercial developments contained within these mixed-use development projects from any parking whatsoever. This problem is further compounded by the fact that many of these projects – including the Project in question – are being constructed on existing parking lots – and there is no plan whatsoever to replace the lost parking inventory. Beyond parking, the construction related activities associated with all of these projects combined - noise, dust, traffic, lane closures, etc. – is significant. As a result, the “cumulative impacts” associated with all of these projects renders the categorical exemption unavailable.

VI. Conclusion

For the reasons outlined above, the City cannot approve the Project without conducting the required environmental review. I may be contacted at 310-982-1760 or at jamie.hall@channellawgroup.com if you have any questions, comments or concerns.

Sincerely,



Jamie T. Hall

Exhibit A



City Of Long Beach Downtown Residential/Mixed-Use Development Projects

Completed

- 1** Edison – 100 Long Beach Blvd.; Transit-oriented development across from Metro Blue Line; 114,267-square-foot, mixed-use development consisting of a 12-story apartment complex and more than 3,600 square feet of retail space. Reinvention of original mid-century design and façade and sustainable design approach with on-site bicycle storage areas to encourage alternative modes of transportation.
- 2** The Current – 707 E. Ocean Blvd.; City’s first high-rise apartment complex in over a decade. 17-story, mixed-use complex including 223 luxury rental units; a 25,000-square-foot plaza, and additional retail space on the ground floor. With close proximity to dining and entertainment districts like Pine Avenue and the East Village and easy access to the waterfront, the project is expected to enhance economic energy by attracting more restaurants and shops to the busy corridor.
- 3** Pacific Court Apartments – 245 Pine Ave./250 Pacific Ave.; Adaptive-reuse of the former AMC Pine Square movie theater to a multi-family residential development consisting of 69 loft-style apartment units.
- 4** Sixth Street Lofts – 431 E. 6th St.; Four-story, 30-unit residential apartment building.
- 5** Urban Village – 1081 Long Beach Blvd.; Mixed-use, transit-oriented development; five-story, 129 units.
- 6** Newberry Lofts – 433 N. Pine Ave.; An adaptive reuse project to convert a building that once housed the Newberry department store into a mixed-use complex, including 28 residential units and 6,500 square feet of ground floor retail.
- 7** Studio One Eleven – 245 East 3rd St.; Two-story, 34,321-square-foot office remodel project. New headquarters for architectural firm and its parent company, Retail Design Collaborative (formerly P + R Architects). Completion of the first project as part of the ongoing revitalization of City Place Long Beach was celebrated in October 2016.

Under Construction

- 8** The Park Broadway – 245 W. Broadway (site of former State Office Building); 222 residential units with 8,500 square feet of retail space on the ground floor, including an art gallery, café, and “bike kitchen.”
- 9** 137 W. 6th St. – Four-story, mixed-use development will include a 10-unit residential component, and an additional 1,200 square feet of commercial retail space.
- 10** 117 E. 8th St. – Adaptive reuse of designated landmark building, including two levels of medical offices, and a six-story, 49-unit assisted living component for seniors.
- 11** Long Beach Civic Center – 411-415 W. Ocean Blvd. – Re-envisioned Civic Center project to include a new 11-story, 254,000-square-foot City Hall; an 11-story, 237,000-square-foot Port Building; a 92,500-square-foot Main Library; and a 73,000-square-foot Civic Plaza with subterranean parking structure; and a renewed Lincoln Park.
- 12** Oceanaire – 150 W. Ocean Blvd. – Groundbreaking held on December 6 for seven-story, 216-unit residential project with 1,500 square feet of retail space located adjacent to the historic Ocean Center Building.
- 13** 442 W. Ocean Blvd. – Mixed-use development, consisting of a five-story building with 94 residential units and 1,455 square feet of retail.

Approved/In Plan Check

- 14** Residences at City Place – 495 Promenade North; four-story, mixed-use project with 20 residential units, and 5,220 square feet of ground floor commercial space.
- 15** Beacon Apartments – 1201-1235 Long Beach Blvd.; 121-unit affordable housing development that

will serve extremely low- to low-income seniors 62 years and over, and a 39-unit supportive housing building for extremely low-income veterans who are homeless or at risk of homelessness.

- 16** 227 Elm Ave. – Developer City Ventures proposes 40 townhomes consisting of three-story dwellings over one car garages.
- 17** 101 Alamos Ave – Mixed-use project consisting of a seven-story, 136 condominium development; including 10 studio units, and 2,560 square feet of pedestrian-oriented retail/restaurant; located in the East Village Arts District.
- 18** 434 E. 4th St. – Mixed-use project with 49 apartment units over ground floor resident amenities and retail space with 82 parking stalls.
- 19** 230 W. 3rd St. – Mixed-use residential complex including 163 dwelling units, 261 subterranean parking spaces, community spaces for tenants, pool deck and fitness area.
- 20** 107 Long Beach Blvd. – Proposed new hotel; 30,620 square feet with 34 guest rooms.
- 21** 437 E. 5th St. – Mixed-use project; 18 apartment units and 230 square feet of commercial space.
- 22** Security Pacific National Bank Building – 110 Pine Ave. – An adaptive reuse project to convert office space at the 13-story building into 118 residential units above the Federal Bar.
- 23** Ocean View Tower – 200 W. Ocean Blvd.; An adaptive reuse project of the Verizon Building, converting over 95,000 square feet into a mixed-use development consisting of a nine-story, 94-unit residential apartment complex with over 4,500 square feet of retail space.
- 24** 207 Seaside Way – The proposed mixed-use development project includes 113 residential units and 2,000 square feet of retail at a five-story building. Construction has begun on a public pedestrian bridge located adjacent to the site.
- 25** Ocean Center Building – An adaptive reuse project to convert office space at the historic Ocean Center Building at 110 W. Ocean Blvd. into approximately 74 residential units with ground-floor retail and restaurant space.
- 26** 777 E. Ocean Blvd. – Part of the Shoreline Gateway Master Plan; East Tower; proposed with 315 residential units and 6,711 square feet of retail/restaurant space.

(Source: Prepared by the City of Long Beach Development Services Department and the Long Beach Business Journal)