



Legislation Details (With Text)

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On agenda:	11/1/2022	Final action:	11/1/2022
Title:	Consider Appeal by Adam Frankel of Lozeau Drury, LLP of the Planning Commission's approval of Site Plan Review No. 21-002 (Bella Terra Residential Project)		
Attachments:	1. Att #1 Suggested Findings and Conditions (Bella Terra Residential), 2. Att #2 Site Plan Floor Plans and Elevations, 3. Att #3 Planning Commission Staff Report September 27, 2022, 4. Att #4 Request for Council Action - GPA No. 21-001, ZTA No. 21-003, Addendum EIR No. 21-002, 5. Att #5 Appeal Letter Received and Dated October 7, 2022, 6. Att #6 Presentation, 7. 11/1 Sup Com - DJM PPT, 8. 11/1 Sup Com - Drury LLP Letter, 9. 11/1 Sup Com		

Date	Ver.	Action By	Action	Result
11/1/2022	1	City Council/Public Financing Authority	approved	Pass

REQUEST FOR CITY COUNCIL ACTION

SUBMITTED TO: Honorable Mayor and City Council Members

SUBMITTED BY: Al Zelinka, City Manager

VIA: Ursula Luna-Reynosa, Director of Community Development

PREPARED BY: Hayden Beckman, Senior Planner

Subject:

Consider Appeal by Adam Frankel of Lozeau Drury, LLP of the Planning Commission's approval of Site Plan Review No. 21-002 (Bella Terra Residential Project)

Statement of Issue:

Transmitted for your consideration is an appeal of the Planning Commission's approval of Site Plan Review No. 21-002, as submitted by Adam Frankel of Lozeau Drury, LLP. This application is a request to demolish an existing 149,000 sq. ft. Burlington department store and 30,000 sq. ft. of adjacent retail space and construct a new seven-story mixed-use infill project consisting of 300 apartment units, 25,000 sq. ft. of retail and restaurant space, an above-ground three-level podium parking garage with 404 spaces, and associated hardscape and landscape improvements.

The Site Plan Review (SPR) request was processed concurrently with General Plan Amendment No. 21-001, Zoning Text Amendment No. 21-003, and Addendum Environmental Impact Report No. 21-002 as the suite of entitlements for the proposed project (Attachment No. 4). On September 27, 2022, the Planning Commission approved the SPR request and recommended approval of the associated legislative amendments and environmental document described above to the City Council. The legislative amendments and environmental document are presented to the City Council

as a separate public hearing item on the agenda.

Financial Impact:

Not Applicable.

Recommended Action:

A) Find that Addendum Environmental Impact Report (EIR) No. 21-002 (Addendum No. 2 to the Village at Bella Terra EIR No. 07-03) adequately analyzes the project proposed under Site Plan Review No. 21-002 pursuant to the provisions of the California Environmental Quality Act (CEQA); and

B) Approve Site Plan Review No. 21-002 with findings and conditions of approval (Attachment No. 1).

Alternative Action(s):

A) Do not make the suggested findings for Site Plan Review No. 21-002, which will result in a mandatory denial pursuant to Section 241.10(C) of the Huntington Beach Zoning and Subdivision Ordinance.

B) Continue Site Plan Review No. 21-002, and direct staff accordingly.

Analysis:

A. PROJECT PROPOSAL:

Applicant/

Property Owner: Kristofer Golder, Bella Terra Associates, LLC, 7777 Edinger Avenue, Suite 133, Huntington Beach CA 92647

Location: 7777 Edinger Avenue, 92647 (Northside of Edinger Avenue, south of Center Avenue, and west of Beach Boulevard)

The applicant proposes to redevelop an existing 3.35-acre portion of the Bella Terra shopping center with a new seven-story mixed-use infill project consisting of 300 apartment units, ground floor retail and restaurant uses, and an above-ground three-level podium parking garage with 404 spaces. Construction of the project requires a SPR pursuant to the development requirements of the Bella Terra Specific Plan and was referred to the Planning Commission along with the other project requests. For a more comprehensive and detailed analysis of the overall project, which includes the SPR No. 21-002 request, the Planning Commission staff report is attached for reference (Attachment No. 2).

B. PLANNING COMMISSION MEETING AND RECOMMENDATION

The Planning Commission held a public hearing to consider the proposed project on September 27, 2022. After the staff and applicant presentations, there was one public speaker during the hearing. The speaker identified his disappointment with the loss of Burlington Coat Factory, opined that the proposed project's architectural design was insufficient, and recommended several alternatives. After discussing the height of the project's occupied spaces and architectural features, existing and proposed vehicular and pedestrian circulation, and the project's shared parking program, the

Planning Commission voted to recommend approval of the GPA, ZTA, and the Addendum and voted to approve the SPR. The Planning Commission modified the SPR conditions of approval to incorporate an elevated pedestrian bridge connection for residential guest access between the project and the adjacent retail parking structure, and to update the existing Planned Sign Program to reflect updated and enhanced vehicular and pedestrian way-finding signage throughout the project site and greater Specific Plan area.

Planning Commission Action on September 27, 2022:

A motion was made by Commissioner Scandura and seconded by Commissioner Perkins to recommend to the City Council approval of General Plan Amendment (GPA) No. 21-001/Zoning Text Amendment (ZTA) No. 21-003/Addendum EIR No. 21-002 (Addendum No. 2 to the Bella Terra Specific Plan EIR No. 07-03) and to approve SPR No. 21-002 with the findings and modified conditions carried by the following vote:

AYES: 6

NOES: 1

ABSTAIN: 0

ABSENT: 0

MOTION PASSED

C. APPEAL

An appeal of the Planning Commission's approval of the subject SPR was filed on Friday, October 7, 2022, within the 10 day appeal period (Attachment No. 5). As such, the SPR request is presented to the City Council for consideration as a *de novo* public hearing. The letter identifies the legal standard for an Environmental Impact Report (EIR) pursuant to the California Environmental Quality Act (CEQA), and makes two claims, discussed below.

- The project's environmental document, Addendum No. 2 to the Village at Bella Terra EIR No. 07-03, is inadequate to analyze the potential environmental impacts of the proposed project.

Specifically, "the proposed construction of 300 units - in addition to the existing 468 units that were constructed as part of development of the Revised Village at Bella Terra/Costco (the '2010 Project') - **would exceed by 55 units the FPEIR's** (Final Program EIR) **approved maximum of 713 residential units**". Both the 2008 EIR (Village at Bella Terra EIR No. 07-03) and the 2010 Addendum projects were reviewed and certified as adequate by the City Council. While the Village at Bella Terra EIR No. 07-03 did identify 713 residential units as one of two development options for a maximum build-out scenario within the Specific Plan area, this argument fails to take into account that the certified Village at Bella Terra EIR No. 07-03 also envisioned two development options that include a maximum development buildout of commercial uses, including retail and restaurant space, or an optional hotel, which to date has not been and is unlikely to be developed.

This is an important distinction, because residential uses and retail and restaurant commercial uses have disparate impacts when considered under the modern standards of impact analysis. Generally

speaking, when compared with each other, residential units have a reduced vehicle trips generation rate, which in turn results in reduced greenhouse gas emissions and air quality impacts during the post-construction operation phase of a project. In addition, the project would result in the demolition of a total of approximately 182,000 sq. ft. of existing commercial space, and when analyzed cumulatively, the draft Addendum EIR for the proposed project identifies that the project, including 300 new residential units, would result in impacts that are less than the existing uses on-site. The conclusion of the project's environmental review via Addendum No. 2 is sufficient in that the proposed project would not result in impacts greater than what both the 2008 EIR and 2010 Addendum disclosed and analyzed.

- The Villages at Bella Terra Specific Plan EIR No. 07-03 and subsequent 2010 Addendum documents were not publically available.

The appellant states that the City “has not publically released or made available for public inspection the 2008 FPEIR or the 2010 Addendum”, and that the Planning Division’s website hyperlinks are broken. The documents in question have always been publically accessible via the City’s Online Records Library, which is accessible from the City’s main webpage. The Planning Division’s website hyperlinks cited in the appeal letter are from the 2010 project era, and have since become obsolete. These documents have always been publically available online despite the broken links on an old webpage. The referenced project documents, as with all other City environmental documents, have since been moved from the Planning site to the more centralized Online Records Library. Although there is no current CEQA or Huntington Beach Zoning and Subdivision Ordinance requirement or obligation to provide documents online, staff has begun the process to remove the outdated Planning Division website to eliminate any future confusion. Additionally, any interested party that experiences difficulty in accessing public information can and should contact City staff via our public zoning counter, emailing the Permit Center, or calling the main number for assistance. As project manager, Senior Planner Hayden Beckman was never contacted by the appellant or any other individual or organization requesting assistance in viewing or obtaining copies of the project-related environmental documents.

Environmental Status:

The City of Huntington Beach is the Lead Agency, responsible for deciding whether to approve the proposed project to redevelop a section of the Bella Terra Specific Plan area, in consideration of the potential environmental effects that could result from project implementation. The subject site, the Bella Terra Specific Plan, has been developed to date pursuant to the analysis and findings of EIR No. 07-003, adopted by the City Council in 2008, as well as the 2010 projects (Costco and The Residences at Bella Terra), analyzed by a 2010 Addendum to EIR No. 07-003.

The City’s review of the proposed project is limited to examining the environmental effects associated with differences between the proposed project and the approved project as reviewed in The Village at Bella Terra EIR No. 07-003, and the 2010 Addendum to EIR No. 07-003. Pursuant to the State CEQA Guidelines, the City has prepared an Addendum to EIR No. 07-003 to provide decision makers with a factual basis for evaluating the specific environmental impacts associated with the proposed project, and to determine whether there are changes in circumstances or new information of substantial importance that would require preparation of a subsequent or supplemental EIR. The Village at Bella Terra EIR No. 07-003 and Addendum to EIR No. 07-003 (2010 Addendum) remain valid and are the

certified/approved CEQA documents for future planning actions associated with implementation of the Bella Terra Specific Plan.

As such, a 2022 Addendum to EIR No. 07-003 has been prepared and will be used to determine whether the proposed project falls within the scope analyzed in EIR 07-003 and the 2010 EIR Addendum. Based on review of the facts presented in the 2022 Addendum to EIR 07-003, staff recommends that an Addendum is the appropriate documentation to comply with CEQA.

Strategic Plan Goal:

Economic Development & Housing

Attachment(s):

1. Suggested Findings and Conditions of Approval
2. Site Plan, Floor Plans, and Elevations
3. Planning Commission Staff Report, September 27, 2022
4. Request for Council Action - GPA No. 21-001, ZTA No. 21-003, Addendum EIR No. 21-002
5. Appeal Letter Received and Dated October 7, 2022
6. Appeal of the Planning Commission's Approval of Site Plan Review Presentation