

Tarzana Property Owners Association

January 13, 2012

South Valley Area Planning Commission

Reference: Case ZA 2010-1694(ZAD) (SPR) Zoning Administrator's Determination: Site Plan Review

The Board of Directors of the Tarzana Property Owners Association has voted unanimously to appeal the decision by Zoning Administrator R. Nicolas Brown regarding the proposed Eldercare Facility at 18719 Calvert Street, Tarzana, CA 91335. We believe that the ZA erred in his determination and was not, in fact, able to make the findings required by the Eldercare Ordinance (Ordinance Number 178,063, effective 12/30/06). In addition, the determination contains a number of factual errors.

Let's look at the specific language of the Eldercare Facilities Ordinance, approved in 2006, but never utilized. The unbolded material is directly from the ordinance, contained in Article 14.3.1 of the Zoning Code. **The bolded material indicates non-compliance with the ordinance for this project.**

REQUIRED FINDINGS

E. Findings for Approval. In order to grant the approval, the Zoning Administrator must find that the strict application of the land use regulations on the subject property would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations. **Not the case: there are other uses consistent with the General Plan, Community Plan, and zoning regulations.** Although the ZA goes to great length to ascertain that the properties meet the eldercare definition, he does not examine other potential uses of the property within the current zoning regulations. Among them;

- Retain the five homes currently on the property as rental property or sell them
- Subdivide the property into seven RA lots for sale or subsequent development

The Zoning Administrator must also find that the Eldercare Facility:

1. Will not be materially detrimental or injurious to properties or improvements in the immediate area. **Not the case: the viability of single family residential uses would be degraded by the project.** The neighborhood is a viable community, undergoing significant upgrades. There are seven new single family houses in the immediate neighborhood and numerous recent remodels, including a very major remodel in progress just to the east of the subject property at 6182

- Yolanda. Two highly respected local real estate professionals have testified (one at the ZA hearing) that the proposed project would seriously degrade the value of adjoining properties and significantly degrade the value of nearby properties.
2. Will provide services to the elderly such as housing, medical services, social services, or long term care to meet the citywide demand. **Speculative: it is impossible to forecast future demand. The National Association of Real Estate Investment Trusts, a national trade association of real estate investment companies, has indicated that there may be overbuilding in the elder care industry due to the inability of prospective residents to afford the cost for residence at the facilities.** While there is no doubt that the population is aging, we are aware of no study that shows that the increasing numbers of the aging population can afford the high cost of such facilities. A survey of the four current large facilities in Tarzana indicated that the cost ranges from approximately \$3000 per month to more than twice that. **All the facilities visited have current vacancies.**
 3. Will not create an adverse impact on street access or circulation in the surrounding neighborhood. **Not the case. The afternoon staff shift change proposed for the facility would involve 36 employees either going on duty or off duty between 3:30 and 4 pm. That time coincides with the already chaotic traffic that occurs when the SOCES school lets out.** While a change in shift times may alleviate the situation, this is the only finding where the case that could be made that the findings are possible.
 4. Consists of an arrangement of buildings and structures (including height, bulk, and setbacks), off-street parking facilities, loading areas, lighting, landscaping, trash collection, and other pertinent improvements, which is or will be compatible with existing and planned future development on neighboring properties. **Not the case. The neighborhood is a viable single family residential area.** As noted in the response to finding number 1, there are seven new single family houses in the immediate neighborhood and numerous recent remodels, including a very major remodel in process just to the east of the subject property at 6182 Yolanda. The ZA findings that the proposed facility has extensive landscaping, setback, off-street parking, etc. does not change the fact that the project would be a massive, 74,436 square foot commercial institutional structure in an area of single family homes that are predominantly in the 2000 square foot range. The extensive new construction and remodeling of homes in the area is consistent with those numbers. **A multiplicative factor of 35 difference in bulk is not compatible with existing or planned future development.**
 5. Is in conformance with any applicable provision of the General Plan. **Not the case: The General Plan designates the property, and surrounding area, as Very Low Residential.** The majority of the properties in the immediate neighborhood are so zoned and developed.

F. Conditions of Approval. In approving any Eldercare Facility pursuant to this section, the Zoning Administrator may impose those conditions, based upon written findings, which it deems necessary to protect the best interests of the surrounding

property or neighborhood, or to ensure that the development is compatible with the surrounding properties or neighborhood, or to lessen or prevent any detrimental effect on the surrounding property or neighborhood, or to secure appropriate development in harmony with the objectives of the General Plan. **Not the case. The proposed project is certainly not “in the best interests of the surrounding properties or neighborhood”, is not “necessary to prevent any detrimental effect on the surrounding property or neighborhood” and is not “in harmony with the objectives of the General Plan.”**

ADDITIONAL PERTINENT COMMENTS

1. Baseline Mansionization Ordinance. There are numerous citations as to the applicability of the Baseline Mansionization Ordinance, including the ZA comments on pages 66-69. The ZA dismisses the applicability based on **pre-adoption material** before the City Planning Commission and the Planning and Land Use Management Committee of the City Council. After adoption of the ordinance by the City Council and the signature of the Mayor, the provisions of the ordinance were incorporated into the City Planning and Zoning Code as amendments to Sections 12.03, 12.04, 12.07, 12.07.1, 12.08, 12.21.1, 12.23, 12.28, 12.32, and 13.13. These code sections clearly refer to limitations on the **buildings and structures** in the RA zone, and do not limit the restrictions to single family residences. In fact, the only references to single family residences concerns granting a bonus for buildings that are in compliance with the requirements for the U.S. Green Building Council's program at the "Certified" level, where the requirement is for “new single family dwelling construction only”. That reference clearly differentiates between the applicability of the bonus for non-single family buildings or structures, older structures, and new single family dwellings. In addition, ZIMAS clearly indicates that the Baseline Mansionization Ordinance applies to the subject property.

The code clearly limits the total buildable area or Floor Area Ratio (FAR) to 20 % of the lot size. The plot is 125,460 square feet, or approximately 2.88 acres. **The code would therefore allow a maximum of 25,092 square feet of building on the property.** Note that the code does not allow a bonus for this non-single family use.

2. Council Office Testimony. As noted on page 64, Jonathan Brand, then Chief Planning Deputy for the 3rd Council District, shared our concerns that the proposed project does not meet the required findings. Conversations with Daniel Skolnick, current Chief Planning Deputy for the 3rd Council District confirm that those concerns are still valid.

3. Precedence. On page 74, the ZA dismisses the concern of precedence by residents of nearby RA neighborhoods by citing the differences between the subject area and neighborhoods such as Melody Acres (Tarzana), Walnut Acres and College Acres (Woodland Hills), and Reseda Ranch (Reseda). Well, **PRECEDENCE IS HERE, NOW. At this moment there are two properties in RA zoned Walnut acres that have applied to develop Eldercare facilities.**

The ZA does not define the boundaries of the “subject area”. Assuming the area is bound by Wilbur on the West, Reseda on the East, Topham on the South, and Victory on the North, the ZIMAS map of the area clearly shows approximately 50% of the area is designated as “very low density”, not the 20% the ZA quotes. This is the case despite the fact that the “area” includes two major highways (Victory and Reseda), a large school, and a substantial manufacturing area (Topham). If the boundaries of the area are assumed to be interior, the very low density figure would be quite close to the approximately 90% very low density figures for the other RA neighborhoods.

ERRORS IN THE ZA REPORT

In addition to the inability of the proposed project to meet any of the required findings, despite the often convoluted reasoning of the ZA, the report contains a number of significant errors in fact, including:

- **The designation of the property as being in Reseda** (page 74); the property is clearly in Tarzana
- **The indication that there is no evidence of equine activity**; there are stables at several houses in the neighborhood and horses currently in residence at 18702 and 18746 Erwin St. More important, the K district designation runs with the property and must be preserved for future residents.
- **The statement that there is an extensive waiting list at the Jewish Home for the Aging**. On page 45, Justin Levi, family member of the applicant, states that there is a “waiting list of more than 800, with several hundred of those being wait listed for assisted living.” In fact, a visit on January 13 indicated that there is a waiting list only for skilled nursing care and there are plenty of vacancies for the assisted living type facility proposed for the subject property.
- **The easy availability of public transportation**. The report can’t seem to agree on the distance between the facility and the nearest Orange Line stop, citing both 1800 and 1900 feet distance. In fact, the distance from the nearest projected occupied unit or administrative office to the stop is over 2100 feet, over 1/3 mile. That is an impossible distance for the residents and a very large distance to expect staff to routinely walk, especially in inclement weather. Numerous studies have shown that residents of Southern California do not routinely use public transit. As an example, the 2007-2009 US census data for the Los Angeles metropolitan area indicates that just over 6% of residents use public transportation for commuting to work. In fact, as reported in Los Angeles Times and LA Weekly articles in 2007, even residents of current transit oriented projects *own cars, need to park them on-site, and rarely if ever use the public transportation*. The Orange Line does not solve the transportation problems of the project.
- **Similarity to other Eldercare Facilities**. On page 44, Justin Levi, family member of the applicant, states that the project would be quite similar in character to The Village at Sherman Oaks. In fact, The Village at Sherman Oaks is zoned for multiple family dwelling and is surrounded by a school, commercial uses, and other multiple family dwellings. At no point is it adjacent to single family residences, in sharp contrast to the proposed development.

Summary

It does not belong there. It would place a massive institutional, commercial use right in the center of a viable RA-1 neighborhood. The property, and surrounding properties on all sides, are zoned RA-1-K; the General Plan Land Use designation is Very Low Residential; and the Community Plan designation is Single Family Residential. The Eldercare ordinance requires that two general and five specific findings must be met before a proposed Eldercare facility can be approved and override the underlying zone restrictions. As noted in detail above, only the traffic finding can arguably be met. None of the other required findings are met by this project. In addition, the City Planning and Zoning Code limits the total buildable Floor Area Ratio to 25, 092 square feet, just over 1/3 of the size of the proposed development. The applicant has obviously given much thought to providing an additional Eldercare facility in the Tarzana area; **there are many suitable locations where the findings can be easily met.**

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