



Building A Better Community

Bel Air-Beverly Crest Neighborhood Council

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Planning & Land Use Committee

Date: October 7, 2020

Re: DIR-2020-4145-BSA 10701 West Bellagio Road.

To: Esther Serrato,
City Planning Associate
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The protection and preservation of our hillsides is a responsibility the Bel Air Beverly Crest Neighborhood Council takes seriously. Unfortunately, recent determinations from the Los Angeles Department of Building & Safety (DBS-200035-DCP & DBS-200037-DCP) has shown us this Department does not share our commitment. A speculative developer has constructed two homes at 10701 Bellagio Road and 627 Carcassonne Road based on permits that inaccurately reflect the amount of grading and hauling that took place at the building site. along with understating the heights of the homes by 10 to 16 feet.

Conservative estimates suggest that many thousands cubic yards of unpermitted fill was imported without a grading permit or Haul Route for the purpose of raising the building pad to inflate the height, illegally. The developer then applied for building and grading permits after such unpermitted work was done, without acknowledging the unpermitted work to LADBS. However, when LADBS was presented with these obvious deficiencies, the Department turned a bad situation into a potential nightmare for all Los Angeles hillside areas.

Instead of pursuing compliance with established hillside provisions, the Los Angeles Department of Building & Safety decided to simply obliterate State Planning Law in an effort to shoehorn the speculative developer's project into compliance. The recent LADBS determination declared that a ministerial Lot Line Adjustment the developer received five years ago, was not actually a Lot Line Adjustment as defined by the California Map Act, but instead a Parcel Map.

DETERMINATION:

The following is an appeal of the entire Determination made by the Los Angeles Department of Building & Safety (LADBS) in cases DBS-200035-DCP & DBS-200037, effective June 26th, 2020, for the properties located at 10701 Bellagio Road & 627 Carcassonne Road. Per L.A.M.C 12.26 K, the following are the specifics in which

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LADBS abused their discretion by not enforcing the City's Planning & Zoning provisions, and misinterpreting the California Map Act and the Los Angeles Municipal Code.

ISSUE:

LADBS claims the homes are not over-height due to an approved Lot Line Adjustment, Case no. AA-2014-2980-PMEX.

ERROR & ABUSE:

The Department of Building & Safety has made an error of determination as it relates to the topography, grading and pad height. Please see an excerpt below:

This decision suggests that Lot Line Adjustments, which do not require any grading documentation with the application or approval, can now redefine and establish new grades, elevations and topography on any property through a simple ministerial process.

LADBS denied the Building Permit Appeals based on an incorrect interpretation. That a Lot Line Adjustment is a Parcel Map, and since the property in question received a Lot Line Adjustment after all permits were issued, LADBS is permitting this project to set new precedent, by ignoring city and two state codes to significantly raise its pad height, as alleged by the following definition found in section 12.03 of the Municipal Code:

It explicitly states that the Subdivision Map Act Does Not apply to Lot Line Adjustments. In addition, Local Agencies Can Not require a Parcel Map as a condition in approving a Lot Line Adjustment.

All jurisdictions within the State of California MUST follow the provisions found in the Subdivision Map Act. This explains the near identical language that can be found in the City's own Article 7: Division of Land Regulations.

Los Angeles Municipal Code, Article 7 – Division of Land Regulations

SEC. 17.50. PARCEL MAPS GENERAL PROVISIONS.

Purpose. The following parcel map regulations are intended to assure compliance with the Subdivision Map Act.

No building permit shall be issued, and no building or structure shall be constructed, altered or condominiums, and no such divided parcel or condominium shall be separately maintained unless the division conforms to that shown on a parcel map which has been approved by the Advisory Agency and recorded in the office of the county recorder. All conditions of approval shall be completed prior to filing the parcel Map. (Amended by Ord. No. 147,224, Eff. 6/27/75.)*

The Appeal Board determines that all the following conditions exist:

- (1) A lot line adjustment is made between four or fewer existing adjoining lots or parcels and the land taken from one lot or parcel is added to an adjoining lot or parcel;
- (2) The resulting number of lots or parcels remains the same or is decreased;
- (3) The parcels or lots resulting from the lot line adjustment will conform to the local general plan, any applicable coastal plan, and zoning and building ordinances.

The developer took advantage of the ministerial process offered by the Lot Line Adjustment, thereby avoiding the cumbersome requirements of filing for a Parcel Map. If he wanted to avail himself to the process, scrutiny, and expense of changing his grade through a Parcel Map, he could have filed a Parcel Map, acknowledged and noticed to the community he was dramatically changing grade, and gone through the hearings and possible appeals. But he didn't. The Lot Line Adjustment Application and Determination make ZERO mention of any grading, existing topography, requested changes to topography, or even mentions the words "grade" or "topography".

If this interpretation stands, there will no longer be any regulations as to grading of height of structures within any hillside community. This interpretation would allow anyone to simply record a minor Lot Line Adjustment without ever disclosing existing grade or proposed grade, never notify the public or the City of the changed topography, and allow the builder to create mountains or valleys above and below their neighbors. This would also allow a builder to retroactively cure nearly every grading issue they have been cited for by the City, without any public knowledge or participation. If fact, other developers who have employed the same consultants that have made the above arguments to LADBS, are now filing Lot Line Adjustments within the hillsides. And since there is no need to require any documentation or disclosure of the intended grading, we will wait and see what is in store for neighboring residents grade height.

In September of 2014, the developer filed for Building and Grading permits to build a home. Those permits make no mention of the previous grading contours that were altered, or the thousands of cubic yards of dirt that were likely imported to raise the large pad. In April of 2015 the permits were issued, and work began. No department had been made aware of the previous contour lines of the property or the act of altering them. Nor was any grading plan approved that acknowledged the raised grade, let alone the compaction or type of fill that was being used. In late 2015, a simple Lot Line Adjustment was approved which allowed the owner to reclassify an Accessory Living Quarters as a second Single Family home. The approved Lot Line Adjustment was a standard approval that made no mention of previous or proposed grading or contour lines. Nor did it reference or include a proposed Grading Plan, or any language in the Project Description that would alert anyone to the possibility of substantial grading and pad elevation.

In May of 2019, after alerting Building & Safety to many inconsistencies and possible violations at the two homes under construction, the Bel-Air Association was forced to file Building Permit Appeals against 10701 Bellagio Road and 627 Carcassonne Road. Upon review of the overwhelming evidence the building pad had been significantly raised without proper permits and discretionary entitlements, the Department agreed with the allegations more than 12 months after the appeal was originally filed.

Since it appears the developer imported an unknown amount of soil and raised the pad prior to getting building and grading permits. Started work to build the homes on-top of that elevated pad prior to getting an approved Lot Line Adjustment. How can LADBS determine a Lot Line Adjustment approved after all of this somehow retroactively permits all of these deficiencies? Especially since no aspect of the Grading Permit, Building Permit, or Lot Line Adjustment Application acknowledged the previous grade, or the desire to raise the grade? The answer seems to be, it doesn't. To be clear, the developer and his consultants didn't immediately walk into LADBS with this explanation for raising the pad elevation. The developer had to conduct months of code research to attempt to explain what is obvious to everyone else. Which is the developer simply got caught, and is attempting to craft an excuse.

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The immediate result of LADBS claiming that a Lot Line Adjustment is a Parcel Map will be the obvious appeal to Planning and the Board of Building & Safety Commissioners, and finally the courts. No hillside community can allow the City to make such an onerous decision that will immediately be used to heighten building pads all across Los Angeles. If all that is required is a minor moving of a property line that is ministerial and requires zero notification that you are substantially altering grade, then there are no meaningful protections from the City, and the next frontier of the speculative builder will be who can build the highest pad. Blocking all views, destroying any privacy, and killing property value all in the pursuit of more value.

LADBS did error and abuse its discretion in issuing Building Permit Numbers 14010-30000-03038, 09030-10000-04612, 14030-30000-06886, 16030-20000-05687, 15020-30001-00336, 15020-30000-00336 and 16047-20000-01381.

Thank you for your consideration,



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