

Draft Minutes

Special Virtual Planning & Land Use Committee Meeting

Monday October 26, 2020 5:00 pm – 6:00 pm

Name	P	A	Name	P	A
Robert Schlesinger, Chair	X		Stephanie Savage, Vice Chair	X	
Robin Greenberg	X		Nickie Miner	X	
Don Loze	X		Jamie Hall		X
Yves Mieszala	X		Jason Spradlin	X	
Maureen Levinson	X		Leslie Weisberg	X	
Stella Grey	X		Wendy Morris	X	
Shawn Bayliss left prior to #5		X	Cathy Wayne	X	
André Stojka	X				

1. Call to Order – Committee Member Roll Call: Robin called the meeting to order at 5:01 pm. Roll was taken with 11 members present initially; Don arrived at 5:05 pm and Leslie at 5:07 pm for a total of 13 committee members present and 2 absent. Shawn Bayliss recused himself immediately after roll call, prior to the start of Agenda Item #5; with a total of **13 members present** throughout the rest of the meeting and **2 absent**.
- Also in attendance were Andrew Benavidez, a land use consultant, Ben Reznik, Esq. & Daniel Freedman, Esq. from Jeffers, Mangel, Butler & Mitchell, and former BABCNC PLU Committee Chairman, Mike Kemp.
2. Approval of October 26, 2020 Agenda Moved by Cathy; Seconded by André; unanimously approved.
3. Public Comments: On any topic not on adopted agenda within Committee’s jurisdiction. None
4. Chair Reports: Robert Schlesinger, Chair, & Stephanie Savage, Vice Chair. None

Projects & Items Scheduled for Presentation, Discussion & Possible Action:

5. **Discussion & Possible Motion:** Consider taking a position on the appeal regarding 10701 Bellagio Road & 627 Carcassonne Road; DIR-2020-4145-BSA; DBS-200035-DCP & DBS-200037

[Shawn Bayliss recused himself and removed himself entirely from the meeting.]

Andrew Benavidez, Consultant for the Appellant, related a brief history on the appeal, including but not limited to grading issues, that a parcel map was approved, the owner received a simple ministerial lot line adjustment (LLA).

Attorney Daniel Freedman refuted the appeal, and concluded that that there are no records of complaints being filed of this grading occurring; neither BAA nor BABCNC raised concerns about grading. He related that we have an 8-year-old code enforcement complaint, used to justify unwinding the entire project. Code doesn’t say go back to any particular set of positions.

Leslie related that the contention was done after an illegal grading act which is why it is critical to see documents. Leslie is trying to understand the facts.

Maureen related some history of Bel Air Association (BAA) which in 2014 was run by a Board of Directors not responsive to the community. In March 2016 that board was voted out. She noted that there may have been complaints filed but nothing done about it. As to the topography, Maureen noted that we walk our dogs on Carcassonne. On July 29, 2014, the grading was equal to the street at Carcassonne and Bellagio. There are questions that we need to ask about what went on. Did the purchaser of the property notice that there was illegal grading, that the front of the lot had been elevated?

It was noted that lot line adjustment was done in 2015. Daniel believes that construction started around 2015 and noted that there are two homes that were built at the same time.

Daniel opined that it is the appellant that has the burden, that if they are going to revoke his client's permit, it is the appellant's responsibility to have a detailed position on what occurred. He doesn't have a clear understanding of when the unpermitted grading occurred and that the letter said unpermitted grading likely occurred. It was noted that it occurred between 2012 and 2015. He stated that the whole case is based on speculation.

He related that this site has a long history: permits issued, SFD demo'd 2004; subsequent permits issued for a new home, a home was started, stopped, grading permits issued for 70,000 CY, permit canceled midway; permits issued to use the site for storage of dirt. There was a whole lot of activity.

Bob brought up the lot line adjustments; that 85% was finished with no permits; that the neighbors showed up and asked why they have to do permits when these people do not; that the owners should have researched anything that should possibly have been a conflict before buying the property.

Daniel opined that it is not their client's fault that BAA wasn't prepared to make a complaint in 2014; that they should do their due diligence and that there is no due diligence to confirm what is being claimed by the appellants. Maureen responded that the lack of complaints doesn't make it okay to allow code violations, to which Daniel responded that there are no code violations.

Maureen recommended comparing pictures before and after and Leslie noted need to look at permits and pictures to ascertain when a change was made to the grade. Maureen noted that the dirt is low on Carcassonne. The driveway even went up, which raised a lot of questions in the community.

Leslie would like to see grading permit and lot-line information and any pictures, and asked, did they reestablish height? Maureen would add to include a topography map.

Public Comment: Michael Kemp gave public comment, having been BABCNC PLU Chair in 2014. He noted that mostly the PLU Committee voted in November 2014 regarding the partial map exemption to allow the lot line adjustment; the full board voted in November 2014, and a paper was issued dated May 19, 2015, from the board to the ZA. He noted that we had assigned the projects to people in the area, and Dan Love was the one who presented this to the PLU Committee at the time. Bob added that the vote at the time was to deny the lot line adjustment.

Stephanie noted that she has looked at grading permits, some worth getting more info on, e.g., from 2004. She related that one permit shows a plan with elevations on it, and associated with another permit 19,400+ yards of cut and fill; final. She asked did that allow change to the elevation or overall height of the house on Bellagio, to which Daniel noted, as to height, there is no record of any complaint, and that no neighbor complained about the height.

Attorney Reznik noted that their client bought the property after things happened to the site. When they brought the property, due diligence was done. The clients are the owner and First Republic Bank. There is a notice of foreclosure. When no one appealed the lot line adjustment it was final, and not subject to further challenge.

Leslie would like to see some data, including permits for the lot line adjustment based on grading. She feels we have inadequate evidence on which to make a determination; that we don't have data on the other side. Maureen asked if there was a problem with the LLA. Ben noted that there were two, in 2012 with a portion of Bellagio & a portion of Perugia; and, in 2014, took Bellagio and wrapped it around Carcassonne and split the lot into two buildable lots.

Motion: Continue this and ask for more data, because we don't have enough information to make a determination. **Moved** by Leslie; **seconded** by André. Discussion followed:

The ZA hearing is Thursday, the day after the NC meeting. Don asked if we could extend this to the next month, to which Daniel replied, no; closing sale is going on; foreclosure was supposed to be next month; need resolution with the City. Don related that maybe this should be continued. Robert suggested writing a letter to the ZA explaining that we haven't had adequate time to render any determination. Attorney Reznik agreed to ask the ZA to keep the record open. Our next PLU meeting is November 10th. We can write to the ZA to keep the file open until November 18th.

Motion: Extend this conversation to next PLU meeting and both sides come forward with some documentation having to do with lot line adjustment and grading permits, and, propose Robert write ZA asking for file on this be kept open so we can make an assessment between the next PLU and Board meeting. Maureen added that we would like Mr. Freedman and Mr. Reznik to answer regarding blank orange notification on the notice.

Moved by Leslie; **seconded** by Cathy. **13 Yes; 0 no; 0 abstentions; Passed.** [Don noted that his vote is on the basis that Ben Reznik would agree to have ZA keep this open.]

Robin noted that the Executive Committee meeting voted to withdraw the letter.

Motion: To withdraw the letter **Moved** by Leslie, **seconded** by Jason. **13 Yes; 0 no; 0 abstentions; Passed.**

6. Adjournment: Meeting adjourned at approximately 6:30pm

Next PLU Meeting: November 10, 2020 @ 5:00pm

ACRONYMS:

A – APPEAL

APC – AREA PLANNING COMMISSION

CE – CATEGORICAL EXEMPTION

DPS – DEEMED TO BE APPROVED PRIVATE STREET

DRB – DESIGN REVIEW BOARD

EAF – ENVIRONMENTAL ASSESSEMENT FORM

ENV – ENVIRONMENTAL CLEARANCE

MND – MITIGATED NEGATIVE DECLARATION

PM – PARCEL MAP

PMEX – PARCEL MAP EXEMPTION

TTM – TENTATIVE TRACT MAP

ZA – ZONING ADMINSTRATOR

ZAA – ZONING ADMINISTRATOR’S ADJUSMENT

ZAD – ZONING ADMINISTRATOR’S DETERMINATION

ZV – ZONING VARIANCE

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