

MINUTES
SPECIAL Planning & Land Use Committee Meeting
Thursday May 20, 2021 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	X		Cathy Wayne	X	
André Stojka	X				

1. Call to Order – Committee Member Roll Call: 11 present initially; Don & Jason arrived within 5-10 minutes; Wendy arrived at 5:24pm, with **14 present & 1 absent**.
2. Approval of the May 20, 2021 Agenda: **Moved** by Robert; Andre **seconded; 11-0-0; passed**
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. **DIR-2021-2902-BSA 8201 Bellgave Place 90069**
Project Description: APPEAL OF A DETERMINATION FROM LA DEPARTMENT OF BUILDING AND SAFETY, PER APPEAL REPORT NUMBER DBS-210010-DCP. *
Applicant: [MOONRAKER CAPITAL, LLC]
Representative: TONY RUSSO [CREST REAL ESTATE] tony@crestrealestate.com
Appellant: Vic Armstrong (8211 Bellgave) vic@stuntsincorporated.co.uk
Appellant Representative: Carl Lisberger CLisberger@manatt.com
Victor De La Cruz Vdelacruz@manatt.com
*Appeal of building permits for 8201 Bellgave. Large residential project under construction. Appeal includes project violation of applicable floor area, height, and setback limits, among other violations.
<https://planning.lacity.org/pdiscaseinfo/search/encoded/MjQ2MTYy0>

Special Meeting to discuss the appeal points presented by appellants’ representative and a response from the representative for the applicant/new owner of 8201 Bellgave Place. The appeal includes both the initial permits and supplemental permits for building and grading permits for 8201 Bellgave Place, 90069. Basis of the discussion and vote will provided for a board vote and later to DCP for hearing.

Appellants’ representative presented appeal points via power point presentation including:

1. Maximum floor area violations. ZAD permitted 7,444 SF and Current project is 8,196 SF:
2. Not eligible for RFA bonus since current project exceeds 20% bonus (per area and slope). 20% bonus was based on less than 1000 CY, actual grading 1,495 CY versus permitted 574 CY
3. Height Violations - Project exceeds height per LABDS manual on height measurement
4. Setback Violations - Project encroaches in rear yard setback

Our special meeting will allow the applicant's representative a chance to respond to the points presented in the appeal. Additionally, the appellants' representative may provide additional response.

[Don arrived at 5:05pm.]

- Stephanie noted that there is a second appeal, which will be discussed today.
- Shawn Bayliss disclosed that he had spoken with Jason Somers and Victor DeLaCruz and had a site visit.
- Jamie Hall disclosed that he met onsite and spoke to Mr. Somers and Mr. Delacruz prior to this meeting.
- Attorney Lara Leitner gave some background on this and introduced Jason Somers who gave a Power Point Presentation addressing the appellants' four points listed above.

[Wendy arrived at 5:24pm.]

- Project Owner, Mr. Clive Robertson, introduced himself, noting he is 50% owner in the property. He appreciates what the neighborhood councils are there for as none of us want "McMansions." He describes himself as not a typical developer, who likes to build beautiful homes. He bought it because it already had the architectural approval by the neighbors in the community, who said it would be a wonderful addition to the community and he has hired the best professionals to be code compliant.
- Mr. Carl Lisberger and Attorney Victor De La Cruz, representing appellant Vic Armstrong, spoke in opposition to the project. Mr. De La Cruz noted that that we need the same set of facts and gave a presentation, beginning with screen sharing the determination letter, and raising points about conditions to be adhered to. He pointed out that when they were talking about height, the applicant was referencing 2017 Baseline Hillside Ordinance and opined that the applicant would pick the best from 2011 and from 2017 BHO, to allow for a monstrous project. Mr. De La Cruz believes that the 2011 BHO applies here and that we need to be careful that we are applying the same standard for all the rubrics that we are looking at. He noted that this is the same law firm that represents Hadid Strada Vecchia, which has similar issues. Following Mr. De La Cruz's presentation, Mr. Lisberger added comments to the analysis of Mr. De La Cruz.

Public Comment: Carter Bravmann introduced himself, noting that he lives on North Crescent Heights and has worked as a designer in the hills and throughout Los Angeles for 26 years. He has done close to 200 projects in the hills, including his own house. He has a clear view of the subject property and when he looks at this house, notices a difference between the house and the rendering shown by the applicant's representative. He noted that the rendering shows topography which implies it's kind of at the top of a rolling hill as opposed to a steeply pitched site with encroachment, not only in the rear-yard setback but the pool and the southwest and southeast side, which dramatically increases the overall height of the project. The other issue is envelope height, quoting a municipal code. He opined that the applicants are not subject to the (2017) Baseline Hillside Ordinance (BHO) but rather are subject to the 2011 BHO, which was more restrictive. He discussed rules for measuring height. He noted that the zoning code is part of the municipal code, which is the law of the land, at least here in Los Angeles. He has done many projects on very challenging sites. For the last three four years he has looked at this and just marveled at how this is even possible. He has gone through hoops to make his own house compliant such that when the inspector came and it was three quarters of an inch over height, he shaved down some of the roof ridge in order to comply. He noted that they were required to provide an independent survey. He opined that the offending portions of this building, if allowed to stand, sets a precedent; that the law is what the law is but that it is really bad. He is concerned that the presenter can show something on a rendering that we would approve based on how we're feeling and then they go ahead and build something else.

Vice Chair Stephanie Savage noted that at the PLU meeting on May 11th, Crest said they'd provide a building height certification from the licensed surveyor, and asked if we could see that, if available. She noted that the other question is under the 2011 BHO, based on filing date of the planning case, in the comprehensive guide to the BHO, they do mention envelope height and overall height. (She read from this.) Stephanie related that to her knowledge, sites are bound to an overall height based on their slope and if this overall height from the top of the parapet to the 5' offset at the lowest point at grade exceeded 45 feet, it would fall under the 2011 BHO, and would require a ZAA or some other added entitlement.

Public Comment: Vic Armstrong introduced himself and apologized for the two neighbors who couldn't attend tonight. He thanked Victor and Carl for their beautiful presentation and thanked the committee for listening.

Committee member Shawn Bayliss noted that he met with the project team and raised the issue, as to height, does this fall under 2017 BHO measure by envelope or 2011 BHO? He noted that the best thing of the project goes with the middle of the ZAD for street widening, predating the 2017 BHO. If it falls under 2017 height not an issue; if 2011, it is an issue, because you measure from the bottom of the caisson to the top. That's an open question. He asked, was it plan checked as of 2011 or 2017? Was it screwed up from the beginning or did something happen midstream? As to the ZAD it seems explicit to limit the square footage to 7444 square feet. He suggested that getting clarification on that and noted that with the appeal to the planning department that is going to ultimately be a de facto clarification on that item.

Shawn noted that it is tough for him to speak about grading because of technical analysis but they brought up the 30 caissons and the spoils from that but didn't tell us what the difference was between their accounts, versus the project proponent project calculations on that and so because there's about 1000 cubic yards disparity there, how's that kind of quantified with each kind of element they did or did not get right?

Other issues Shawn questions relate to the connection of the pool and foundation of the home. He noted that the foundation holds the home that turns into a deck with the exact same concrete holding the pool up, and if the pool deck is connected to the house, it is part of the house, as well as issues about the encroachment into the setback.

Committee Member Jamie Hall related that hearing both sides, he is glad we are holding this Special meeting, that everyone came fully prepared to talk about facts, all good but that the ZAD condition of approval is clear. He heard today that wasn't the intent of the ZA but the problem is that even if it not the developers belief, that's not what the words say on paper. He suggested perhaps a letter of clarification is needed. We'll hear from the ZA, Lourdes Green. Jamie doesn't think that going through this process is going to let you know their intent; the Planning Department doesn't speak on behalf of the ZA. He didn't hear a rebuttal to the slope band analysis, which matters, and he asked for that. He noted that when he was there today, as to the pool and accessory room and whether they are connected to the structure, it looked seamless to him. He took a picture, looked back and did not see the 10-foot disconnect. However, he could be persuaded either way.

Jason Somers related that the slope band analysis was done by the surveyor accurately and he just saw that data today; he had never received their findings.

Attorney Victor De La Cruz noted that they (*the applicants*) said that they did not receive any of the materials from their appeal. Mr. Lisberger noted that the grading calculations were there and the slope band analysis was only recently completed. They'll submit it as a supplement to their appeal. He noted that these are highly technical questions that require expert advice.

Jamie Hall noted that we are trying to be fact based and deliberative and want to be sure all the evidence has been shared with both sides and us. He heard that the slope band analysis was done wrong and asked them to provide copies of the slope band analysis.

[Nickie Miner had left at 6:00pm & Wendy Morris left at 6:19pm.]

Committee Member Don Loze related that this is one of the more interesting experiences that we've had and we've had a number of them with the applicant's expeditors, and people are trying to present things from their point of view, and we appreciate that very much, but based on what we've heard tonight, he is not comfortable with the initial presentation that this is in substantial compliance. He thinks that there is some discrepancy about how that condition was provided for in the letter and how it was used, and he is not convinced on that major point. He believes that along with the questions that Shawn and Jamie have raised that needs to be presented. He doesn't know what the next move should be: whether a re-hearing from us or just go to the ZAD who seems will have to wrestle with all of it also, and each side will have the opportunity to present their material. He noted that there is a gap between both parties that needs to be clarified before they go to the ZAD.

It was noted that for the initial round they had a building permit appeal that it was denied and that this will go to a ZA for a hearing. Jamie Hall would say that ZAs generally really appreciate the NC input more than other people in the city and we should be thoughtful about whatever motion will happen, because some people in the city ignore the neighborhood councils but the Zoning Administrators seem to care about what we say more than others.

Don thinks there is a serious question about this earlier document that says there has been substantial conformance, and as the clear language of the conditions were presented; he doesn't think there has been any clear substantial conformance and any letter of ours has to address that particular issue. There may be discrepancies in calculations about some of these technical things, but the language is so clear here, it doesn't apply – If the ZAD says there is substantial compliance it is beyond him. Stephanie asked if it is worthwhile to vote on each appeal point, to which Don related that he doesn't feel we have enough information and does not feel he can judge because the information is not clear.

Motion: We recommend that the appeal be granted because at least one of the appeal points appears to be justified, specifically the condition of approval in the Zoning Administrator's letter of approval which mandated the maximum size of the project. *Jamie noted that in that same letter suggest: We acknowledge that we offer no opinion on other appeal points for which we do not have the necessary information at this time and will be happy to reevaluate those additional appeal points if additional information is provided. [Jamie clarified that this is a motion to recommend approval of the appeal because we have determined that one of the appeal points is supported by substantial evidence, namely the condition of approval that stated the project can only be up to a certain size.]* **Moved** by Jamie; **seconded** by Maureen.

Ms. Lara Leitner related that this is not a BHO entitlement. It is not a 2011 or 2017 BHO entitlement. Jason Somers noted again that this has been reviewed under 2017 BHO from the beginning. He would have to do some analysis but thinks it would be higher under 2011.

Jamie related that we could put in the letter without necessarily voting on it that we are concerned that this project may have been reviewed under 2017 BHO when 2011 was applicable and point out Section 41 of the BHO and that the ZA look carefully at that and evaluate the consequences as to height limits.

Friendly Amendment: The ZA needs to be very clear as to why this project doesn't require applicability to the Baseline Hillside Ordinance of 2011, versus the BHO of 2017. The applicant insisted that they are under 2017; however the ZA case is vested under 2011. **Moved** by Shawn; **seconded** by Cathy. Jamie noted that we are recommending that the ZA be clear on this issue and understand the consequences to it; to have language in the letter telling us. *We are recommending that the ZA be clear on this issue and understand the consequences to it. To have language in the letter telling us.* **Motion to approve the amendment carried by 10-0-0.**

Motion as Amended: We recommend that the appeal be granted because at least one of the appeal points appears to be justified, specifically the condition of approval in the Zoning Administrator's letter of approval which mandated the maximum size of the project. The ZA needs to be very clear as to why this project doesn't require applicability to the Baseline Hillside Ordinance of 2011, versus the BHO of 2017. The applicant insisted that they are under 2017; however the ZA case is vested under 2011. **Passed by 10-0-0.** This will be brought to the full Board on May 26th.

6. Adjournment: **Moved** and **seconded** by Don and Maureen and the meeting adjourned at 6:49pm.

Next PLU Meeting: Tuesday 06/08/2021 @ 5:00pm

ACRONYMS:

A – APPEAL	PM – PARCEL MAP
APC – AREA PLANNING COMMISSION	PMEX – PARCEL MAP EXEMPTION
CE – CATEGORICAL EXEMPTION	TTM – TENTATIVE TRACT MAP
DPS – DEEMED TO BE APPROVED PRIVATE STREET	ZA – ZONING ADMINISTRATOR
DRB – DESIGN REVIEW BOARD	ZAA – ZONING ADMINISTRATOR'S ADJUSTMENT
EAF – ENVIRONMENTAL ASSESSEMENT FORM	ZAD – ZONING ADMINISTRATOR'S DETERMINATION
ENV – ENVIRONMENTAL CLEARANCE	ZV – ZONING VARIANCE
MND – MITIGATED NEGATIVE DECLARATION	

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