

**CITY OF BELVEDERE**

**RESOLUTION NO. 2024-011**

**A RESOLUTION OF THE CITY OF BELVEDERE PLANNING COMMISSION APPROVING A  
DEMOLITION PERMIT FOR 1-22 MALLARD ROAD**

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**WHEREAS**, a complete application has been submitted for a Demolition Permit pursuant to Title 20 of the Belvedere Municipal Code to demolish 22 residential units at 1-22 Mallard Road; and

**WHEREAS**, at the January 22, 2024 City Council meeting, the City Council determined that the project is categorically exempt from the California Environmental Quality Act, Public Resources Code Section 21000 *et seq.* ("CEQA"), pursuant to the Class 32 Exemption for In-Fill Development Projects (14 CCR Section 15332); and

**WHEREAS**, the Planning Commission held a properly noticed hearing on March 19, 2024, and has duly considered all evidence submitted into the record, including, without limitation, all staff reports, oral and written, along with all attachments and exhibits; oral testimony from all parties; all written and graphical information posted in the City's website; and all written information submitted to the Planning Commission.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of Belvedere does hereby find the proposed project, with the conditions listed below, is in substantial conformance with the Demolition Permit criteria specified in Title 16 of the Belvedere Municipal Code based upon the findings set forth in Exhibit A, attached hereto and incorporated herein. The Planning Commission hereby grants approval of the Demolition Permit pursuant to Title 16 of the Belvedere Municipal Code to demolish existing site improvements at 1-22 Mallard Road, subject to the following conditions:

1. The property owner shall hold the City of Belvedere and its officers harmless in the event of any legal action related to or arising from the granting of this Design Review approval, shall cooperate with the City in the defense of any such action, and shall indemnify the City for any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever (collectively "Claims") that are caused by any third party challenges to the City's approval of the project. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition. Counsel for the City in any such legal action shall be selected by the City in its sole discretion.
2. Demolition and site work shall be limited to the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday and shall not be allowed on holidays. A noise control plan shall be

submitted for approval by the Public Works Director if jack hammering will take place during demolition.

3. No debris boxes shall be placed in City right-of-way without a valid encroachment permit.
4. All demolition and site work, including clearing of all debris and materials from the site, shall be completed within 45 days of issuance of a Demolition Permit.
5. Obstruction or blockage, partial or complete, of any street so as to leave less than ten feet of unobstructed horizontal clearance for vehicles, shall not be permitted without first obtaining, twenty-four hours in advance, a street closure permit. Twelve feet of clearance shall be required for debris boxes or building materials. Streets shall be left clean and free of any debris at the end of each workday.
6. The site shall be left clean and free of all debris and materials from the demolition at the completion of work. And fencing along the lagoon waterfront as described in the Design Review Resolution to the project.
7. All areas of land from which buildings, structures or vegetation is removed shall be revegetated pursuant to the approved Landscaping Plan.
8. The site shall be protected, as required by the City Engineer, from trespassing and entry by persons not authorized to be on said site. Site protection may include fencing, signs, locked gates or such other measures as deemed necessary by the City Engineer to protect the public health and safety.
9. The permittee shall provide to the City satisfactory evidence, prior to commencing work, that all utility services have been notified and that all services including, but not limited to, water, gas and electricity have been terminated or removed from the structure to a safe location on the site, and that sanitary sewer service has been properly terminated to insure that disconnected sewer lines do not leak or spill sewage on or off the site.
10. Existing drainage structures and facilities shall not be demolished without prior written approval from the City Engineer. If such demolition is authorized, a plan indicating how site drainage will be provided for, shall be submitted to and approved by the City Engineer.
11. Prior to issuance of any building permit, all required permits and approvals shall be received from the Regional Water Quality Control Board (RWQCB), California Department of Fish and Wildlife, and Army Corps of Engineers.
12. The demolition building permit application shall be accompanied by a permit application to replace the Belvedere Lagoon bulkheads along the entire length of each property adjacent to the Lagoon. The bulkheads shall be replaced as soon as reasonably possible in conjunction with demolition (full or partial permit) of the existing buildings, based on recommendations from the City building official, City Engineer, and any other regulatory agency.
13. Prior to issuance of any building permit, the applicants shall submit a Construction Management Plan (CMP). The CMP shall include, but is not limited to, a plan for parking construction vehicles and workers' automobiles and for staging and storage of equipment and materials. Staging and storage of equipment and materials and vehicle parking shall

occur on- site to the maximum extent feasible as determined by the Building Official. Construction equipment and materials that are not stored or staged on the project site shall be stored outside of City limits.

- 14 Prior to issuance of a building permit, the applicant shall video record adjacent properties (if owners provide permission) to determine the existing condition of the properties and shall provide a copy of the video to the City. The contractor and owner shall provide evidence of liability insurance in the amount of 15 million dollars.
- 15 Upon the start of the demolition phase of this project, and prior to demolition of the structures, the TFPD shall have access to the site for at least one week prior to demolition to conduct trainings for TFPD upon and within all structures that will be removed.
- 16 Belvedere Lagoon Property Owners Association (BLPOA) approval is required for the encroachment of the docks into BLPOA land. All dock and bulkhead plans shall be submitted to the BLPOA for review and recommendation, and the plans shall comply with BLPOA written recommendations related to Lagoon water quality and maintenance.
- 17 The GeoTechnical engineer shall provide a letter stating that the proposed structural construction of the structures and the proposed site storm-water drainage is in compliance with the GeoTechnical report.
- 18 A Storm Water Pollution Prevention Plan (SWPPP) is required to be developed and maintained throughout the course of the project.
- 19 Prior to issuance of the City's Demolition Permit, a Demolition Permit is required to be issued by Bay Area Air Quality Management Dist. ("BAAQMD"), for the demolition of the existing structures. Demolition shall comply with all Best Management Practices (BMPs) adopted by BAAQMD (Regulation 6, Rule 1, Rule 6, Rule 6-1), including but not limited to the following, and including BMPs required by the Public Works Department:
  - a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) will be watered two times per day.
  - b. All haul trucks transporting soil, sand, or other loose material offsite will be covered.
  - c. All visible mud or dirt track-out onto adjacent public roads will be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
  - d. All vehicle speeds on unpaved roads, driveways, or driving surfaces shall be limited to 15 mph.
  - e. If construction does not begin immediately after demolition is completed, the site shall be revegetated to prevent erosion.
  - f. A publicly visible sign shall be posted with the telephone number and the name of the person to contact at the City regarding dust complaints. This person will respond and take corrective action within 48 hours. The phone number of the BAAQMD will also be visible to ensure compliance.

Public Works BMPs:

- g. Construction crews shall be instructed in preventing and minimizing pollution on the job.
  - h. Stabilize construction entrance/exit to prevent tracking onto roadway. Only one stabilized construction entrance/exit will be allowed per site. Vehicles entering and leaving construction sites spread pollutants such as sediment, gravel, and other loose particles onto adjacent roads. Pollutants are washed into roadside ditches and are a nuisance to drivers and may cause damage to vehicles.
  - i. Protect exposed slopes from erosion through preventative measures. Cover slopes to avoid contact with storm water by hydro-seeding, mulch, use of plastic sheeting or other approved means.
  - j. Use brooms and shovels, when possible, to maintain a clean site. Use of a hose is not recommended. Introducing water as a cleanup method adds to water pollution.
  - k. Designate a concrete washout area, if needed, to avoid wash water from concrete tools or trucks from entering storm drain systems. Maintain washout area and dispose of concrete waste on a regular basis.
  - l. Establish a vehicle storage, maintenance, and refueling area, if needed, to minimize the spread of oil, gas, and engine fluids. Use of oil pans under stationary vehicles is strongly recommended.
  - m. Protect drain inlets from receiving polluted storm water through the use of filters such as fabrics, gravel bags or straw wattles.
  - n. Be prepared for rain and have the necessary materials onsite before the rainy season.
  - o. Inspect all BMPs before and after each storm event. Maintain BMPs on a regular basis and replace them as necessary, through the entire course of construction.
- 20 Upon the start of the demolition phase of this project, and prior to demolition of the structures, the Tiburon Fire Protection District (TFPD) shall have access to the site for at least one week prior to demolition to conduct trainings for TFPD upon and within all structures that will be removed.
- 21 The developer shall prepare and submit a separate set of Public Improvement Plans for the construction of all public improvements with separate sheets for demolition: showing all items to be removed such as buildings, utilities, current road improvements and other ROW features.
- 22 Add the following notes to the Demolition Permit:
- If any hazardous materials are encountered during the construction of this project, all work shall be immediately stopped and the Marin County Environmental Health Department, the Fire District the Police Department, and the City Inspector shall be

notified immediately. Work shall not proceed until clearance has been issued by all of these agencies.

- All existing wells, septic tanks and/or underground fuel storage tanks shall be clearly identified on the demolition plan and abandoned under permit and inspection of Marin County Environmental Health or other designated agency. If there are none, the project engineer shall provide a letter describing the scope of the search done to make this determination.
- 23 If improvements removed from the site will disturb an area greater than one acre, a Construction General Permit from the State Water Board is required. Demolition plans shall include an erosion control (winterization) plan. The plan must include an order of work and staging/scheduling component indicating when facilities must be installed and when they may be removed. A separate Rain Event Action Plan (REAP) shall be required and prepared as part of the Storm Water Pollution Prevention Plan (SWPPP). A copy of the REAP shall be kept on-site throughout the duration of construction activities.
- 24 A Traffic Control and Work Plan shall be submitted to the Public Works Director for review and approval. At a minimum, the Traffic Control Plan shall address ingress and egress, haul route, flagging, and maintenance of the road and identifies a staging area. The plan shall be reviewed and approved by the Chief of Police and the Planning Department prior to the start of any sitework.
- 25 An Encroachment Permit is required from the contractor for temporary and permanent improvements, work activities, and staging or storage of equipment and materials within the public right of way, subject to approval of the Public Works Director.
- 26 The project will require a Construction Management Plan to be approved by the Public Works Director identifying the following:
- estimated project duration.
  - schedule of construction milestones (excavation, grading, and off haul duration; foundation work; framing; flatwork/paving; punch list/final inspection)
  - excavation and disposal methods
  - equipment to be used.
  - site access location
  - storage and staging location of materials and equipment/portable toilet/debris box and waste bins
  - truck loading area and temporary traffic control required as necessary.
  - haul route
  - For construction requiring earthwork between October 15th and April 15th, a Stormwater Pollution Prevention Plan for stormwater pollution prevention and erosion and sediment control prior to an anticipated rain event, including BMPs to be

implemented to minimize pollutant exposure, protect exposed pollutants, and remove any pollutants that may accidentally enter stormwater runoff.

- 27 In the event that any cultural resources are uncovered during earthmoving activities, all construction excavation activities would be suspended for a period to be determined by a City-approved archaeologist to allow for adequate inspection, recommendation and retrieval, if appropriate.
- 28 In the event that human remains are uncovered during earthmoving activities, all construction excavation activities shall be suspended, and the following measures shall be undertaken:
  - a. The Marin County Coroner shall be contacted.
  - b. If the coroner determines the remains to be Native American, the coroner shall contact the Native American Heritage Commission within 24 hours.
  - c. The project sponsor shall retain a City-approved qualified archaeologist to provide adequate inspection, recommendations and retrieval, if appropriate.
  - d. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American and shall contact such descendant in accordance with state law.
  - e. The project sponsor shall be responsible for ensuring that human remains and associated grave goods are reburied with appropriate dignity at a place and process suitable to the most likely descendent.
- 29 This project will require a video recording of the condition of the haul route prior to start of construction. The applicant will be responsible for any damage, beyond normal wear and tear, to the roadway or other improvements along the haul route caused by the removal or delivery of materials by truck. To ensure any damage is repaired to the satisfaction of the City, a deposit may be required. The deposit amount (estimated range from \$10,000 to \$30,000) will be determined by the City Engineer at the time of the Building Permit review and is dependent upon the duration of the project and total project valuation. If it is determined that project construction caused damage, the amount to repair said damage shall be withheld from the deposit amount, with the remaining amount to be returned to the property owner.
- 30 Prior to issuance of the Demolition Permit:
  - a. The applicant shall enter into an affordable housing agreement with the City, as approved by the City Attorney, that shall be recorded in the Official Records of the County of Marin ("Affordable Housing Agreement"). The Affordable Housing Agreement shall require construction of four replacement housing units in the first phase of development, to be made available to and rented by low and very low income households for a term of 55 years from the issuance of a certificate of occupancy or final inspection, as applicable. Three of the units shall be made available and rented to low income households, as defined in Section 50079.5 of the Health & Safety Code, and one of the units shall be made available and rented to very low income households, at affordable rent, as defined in Section 50105 of

the Health & Safety Code. All four units shall contain a minimum of two-bedrooms, three of which shall have minimum sizes of 869, 869, and 985 square feet. If the affordable units are included in a mixed-income building with market-rate units, they shall be accessed by the common entrance, have equal access to all site amenities, and shall not be located on one floor of the building or a portion of one floor. Lower income households that occupied the housing units that will be demolished shall be provided a right of first refusal to occupy two low income units and the very low income unit, as applicable.

- b. The City shall retain a relocation consultant at the applicant's expense to determine relocation benefits for the lower income tenants that occupied the existing residential units on the property either at the time of project application or at project approval, and the applicant shall provide those benefits.
- c. The City shall verify that all lower income tenants have received those relocation benefits required by the Housing Crisis Act of 2019 (Government Code Section 66300.5 et seq. or successor provision). The applicants shall provide contact information to the City for all existing tenants so that they may be informed of their rights should the project not proceed.

31 All tenants must be allowed to remain until at least six months prior to the start of construction activities. If the project proponents decide not to proceed with the project and return the buildings to the rental market, the existing tenants are entitled to return to the units at their current rent.

**PASSED AND ADOPTED** at a regular meeting of the Belvedere Planning Commission on March 19, 2024 by the following vote:

**AYES: Marsha Laskey, Ashley Johnson, Kevin Burke, Alex Seidel, Claire Slaymaker**

**NOES: Pat Carapiet**

**ABSENT: Nena Hart**

**RECUSED:**

**APPROVED:** \_\_\_\_\_

DocuSigned by:

*Patricia Carapiet*

Pat Carapiet, Planning Commission Chair

DocuSigned by:

*Robert Zadnik*

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**ATTEST:** \_\_\_\_\_

Robert Zadnik City Manager

**EXHIBIT A  
Demolition Permit Findings**

The Planning Commission hereby makes the findings of fact required by Section 16.28.110 of the Belvedere Municipal Code.

**A. That the demolition, as conditioned by the Planning Commission, will not have an adverse impact upon the public health, safety and/or welfare of the City;**

There is no evidence that the demolition would have an adverse impact on the public health, safety and/or welfare of the City. The conditions of approval ensure that the demolition will not have an adverse impact, by limiting hours of work; limiting the demolition period; requiring various erosion control and stormwater plans; requiring a traffic control and work plan; requiring that the site be protected from trespassing; and requiring a permit from the Air District as well as implementation of Best Management Practices for dust control.

**B. That the demolition will not remove from the City a building of recognized historical or architectural significance, until potential preservation options can be reviewed;**

The project would not cause a substantial adverse change in the significance of a historical resource. The existing buildings at 1-22 Mallard Road are not listed on the California Register of Historical Resources (CRHR), the City of Belvedere's historic register, or the National Register of Historic Places. A Historic Resource Evaluation was conducted, and the report concluded that the buildings, constructed in two phases from 1951-1953 and 1954-1956, do not meet any CRHR or City of Belvedere criteria. The buildings are not directly associated with events or persons that have made a significant contribution to broad patterns of local or regional history; do not individually or collectively embody distinctive characteristics of a type, period, region or method of construction or represent the work of a master architect; and do not appear to have any potential to yield information of any historical importance.

**C. That the demolition plan presented by the applicant, as approved, provides for adequate site protection during and following the demolition;**

Adequate site protection during and following demolition will be provided as required by the conditions of approval and will be ensured by approval of a Traffic Control and Work Plan to be approved by the City Engineer. Various plans are required to specify erosion control measures. Demolition debris will be hauled to the Marin Resource Recovery Facility in San Rafael. A total of 2,000 cubic yards of demolition material will be removed. The haul route will be Community Road to San Rafael Avenue, to Beach Road, to Tiburon Blvd to Highway 101.

**D. That the time frame for accomplishing the demolition is reasonable.**

Demolition will occur prior to construction of the proposed project and must be completed within 45 days, as proposed by the applicants, which is reasonable for this size of property and the scale of demolition.



**E. That the demolition will not remove a housing unit until options for maintaining housing on the property have been thoroughly considered;**

The project must comply with the Housing Crisis Act of 2019, which requires that the project not reduce the number of dwelling units existing on the site and that all units now occupied by lower income residents be replaced with units affordable to lower income residents for a 55-year period. The conditions of approval require that the applicants provide all required relocation benefits to lower income households prior to demolition and enter into a recorded agreement with the City to ensure that the project provide the required affordable units. The project proposes to demolish 22 housing units and replace them with a total of 40 units, an increase of 18 housing units.

**F. The proposed demolition is consistent with the goals of the City of Belvedere Housing Element.**

The proposed demolition is consistent with the Housing Element in that existing lower income units will be replaced with equivalent sized units, as required by the conditions of approval, and the existing 22 units will be replaced by 40 units, increasing housing opportunities in the City of Belvedere.