

**BELVEDERE PLANNING COMMISSION**

**MINUTES**

**REGULAR MEETING**

**MEETING HELD VIA ZOOM**

**SEPTEMBER 21, 2021 6:30 P.M.**

**A. CALL TO ORDER OF THE REGULAR MEETING**

Chair Peter Mark called the regular meeting to order at 6:30 p.m. The meeting was held via Zoom video conference. Commissioners present via Zoom: Peter Mark, Pat Carapiet, Claire Slaymaker, Ashley Johnson, and Larry Stoehr. Absent: Nena Hart, and Marsha Lasky. Staff present: Director of Planning and Building Irene Borba, Senior Planner Rebecca Markwick, City Attorney Emily Longfellow, and Permit Technician Nancy Miller.

**B. OPEN FORUM**

*This is an opportunity for any citizen to briefly address the Planning Commission on any matter that does not appear on this agenda. Upon being recognized by the Chair, please state your name, address, and limit your oral statement to no more than three minutes. Matters that appear to warrant a more-lengthy presentation or Commission consideration will be agendized for further discussion at a later meeting.*

Jane Cooper, Belvedere resident, stated that there is a lot of community support of the Planning Commission for staying strong and supporting our local housing standards.

**C. REPORTS**

There were no reports.

**CONSENT CALENDAR**

*The Consent Calendar consists of items that the Planning Commission considers to be non-controversial. Unless any item is specifically removed by any member of the Planning Commission, staff, or audience, the Consent Calendar will be adopted by one motion. Items removed will be considered in the sequence as they appear below. If any member of the audience wishes to have an item removed, follow the remote meeting procedures referenced above, state your name in the "chat" section of the remote meeting platform, and indicate the item. If you do not have access to the Zoom meeting platform, please email the Director of Planning and Building, Irene Borba at [iborba@cityofbelvedere.org](mailto:iborba@cityofbelvedere.org) and indicate that you would like to remove a consent calendar item and identify the item. After removing the item, the City will call for comment at the appropriate time.*

MOTION: To approve the Consent Calendar for Items 1, 2, 3, and 4 as agendized below:

MOVED BY: Pat Carapiet, seconded by Larry Stoehr.

VOTE: AYES: Claire Slaymaker, Pat Carapiet, Ashley Johnson, Larry Stoehr, Peter Mark.  
NOES: None  
ABSTAIN: Ashley Johnson, Claire Slaymaker (Item 2 only due to absence from the meeting)  
RECUSED: None  
ABSENT: Nena Hart, Marsha Lasky.

1. Draft **Minutes of the August 17, 2021**, regular meeting of the Planning Commission.
2. Draft **Minutes of the July 29, 2021**, Special Joint Meeting of the City Council & Planning Commission.
3. Planning Commission consideration for an Extension of Design Review & associated entitlements for the property located at **345 Golden Gate** for the modifications to approved plans for an addition/remodel including the demolition of the existing detached pool house, existing pool and pool terrace and alterations to approved site stairs & planting areas and the addition of a new greenhouse. A

new pool house, pool terrace and new pergola are included as part of the proposal as well as modifications to the main residence. Applicant: Carl Baker, Architect: Ike Kligerman Barkley. Property Owners: 345 Golden Gate LLC. *Staff recommends approval of the requested applications.*

4. Design Review, Variance and Exception to Total Floor Area for the property located at **420 Golden Gate Avenue**. The project includes an addition to accommodate an elevator, minor changes to the interior for ADA compliance and a small deck addition. Applicant and Property Owners: Dan and Susan Hunter. *Staff recommends approval of the requested applications.*

#### **D. PUBLIC HEARINGS**

Chair Mark stated that Item 5 (**31 Alcatraz Avenue**) is to be continued to a future meeting at the request of the applicant.

5. Design Review, Demolition, Exception to Total Floor Area and Variance applications for the property located at 31 Alcatraz Avenue. The project proposes to demolish the existing garage and to construct a new one in a similar footprint as the existing. The project requires an Exception to Total Floor Area to accommodate an elevator addition. An interior remodel and landscape and hardscape improvements are also proposed. Applicant: Albert DeLima at Weir Anderson Architects. Property Owners: Mark and Alison Weinzierl. Staff recommends that the Commission conduct the public hearing, review the project and provide feedback to the applicant.
6. Public hearing to consider recommending City Council approval of Ordinance **Amendments to the Zoning Code**, Chapters 19.08 “Definitions” and 19.79 “Accessory Dwelling Units and Junior Accessory Dwelling Units”. *Staff recommends the Commission recommend approval of the Ordinance Amendments.*

City Attorney Emily Longfellow presented the staff report. The current Urgency Ordinance amendment was adopted in 2020 for compliance with current State law. The Ordinance amendment before the Commission tonight is to be a permanent Ordinance amendment. There are a few clarifications included in the current draft Ordinance before the Commission tonight. Ms. Longfellow reviewed the three types of Accessory Dwelling Units or Junior Accessory Dwelling Units: 1) Exempt; 2) compliant with State and Municipal Code standards; or 3) subject to a Conditional Use Permit (CUP) with Design Review. The first and second categories are subject only to ministerial review and are not subject to Design Review. The third category is subject to Design Review and will receive a public hearing. HCD has informally reviewed and approved the draft Ordinance.

Commissioner Slaymaker suggested that replacement parking should be required if removed to create the ADU.

Ms. Longfellow replied that under the State law, this cannot be required if the ADU or JADU is exempt.

Chair Mark commented that if the ADU application is not exempt, and requesting a CUP then the City can require that parking be provided.

Commissioner Stoehr asked whether with the new laws SB9 and SB10, allowing lots to be allowed to be split, would the new lots also be allowed to split again and then again.

Ms. Longfellow replied that is a new set of laws and untested. This Ordinance tonight is to bring the BMC into compliance with the State ADU laws.

Commissioner Stoehr asked Ms. Longfellow to read a proposed clarification of the definition of “Multifamily dwelling.”

Ms. Longfellow read proposed new language under Definitions:

- E. “Multifamily dwelling” means a structure with two or more attached dwellings on a single lot. Multiple detached single-unit dwellings on the same lot are not considered multifamily dwellings.

Open public hearing.

Carol Gallivan stated she works with Stephen Roulac who submitted a letter to the Commission today.<sup>1</sup> She called out a main point of the letter was to propose that on larger lots that there could possibly be 3 ADUs allowed, and 2 on smaller lots.

Yulia Cartright asked if it is correct that there is no additional parking requirement for ADUs of 800 SF or less.

Ms. Longfellow stated that exempt units of that size are not required to provide additional parking.

Jill Barnett asked for the Lagoon zone what impacts might there be if there is only a 4 foot setback required.

Chair Mark replied that this has been looked at and it appears that the State mandate would allow an ADU with a 4 foot setback. However if there are life/safety issues, those can be considered as well.

Ms. Longfellow concurred. The City does not have much discretion over the prescribed 4 foot side and rear yard setbacks in the State law. The rear and side yards are defined in the City's Zoning code.

Chair Mark wanted to respond to Mr. Roulac's letter, that he believes the community would probably only want the Commission to allow what the State requires and nothing more. If more ADUs on a property were allowed the City might get more than is wanted. If a larger property wants more than 2 then a regular review process would exist to address and review that type of request.

Marla Newell was on the call but technical difficulties prevented her from being heard. In the CHAT bar she noted that in the State HCD handbook there are 33 references that under certain circumstances there are ADUs that are not Exempt.

Ms. Longfellow stated that under Government Code §65858.2a(1)(D)iii there are locational standards. However meeting those does not automatically allow the ADU to be Exempt. In any case the proposed Ordinance is compliant with the Government Code §65852.2(E), which is seen in the language of the proposed Ordinance as BMC §19.79.080.

Close public hearing.

Commissioner Stoehr stated that in response to Ms. Burnett's comments there would still be review by the Building Department to assess the impacts on site stability for proposed ADUs in the rear yards.

Chair Mark asked whether the recently updated Belvedere policy regarding Lagoon Zone rear yard setbacks would apply to define where how the 4 foot setback is measured / defined.

Ms. Borba, stated that the local zoning definitions would be in effect.

Vice-Chair Carapiet if a property has a bulkhead in front of the property line, and they wanted to add fill out to the property line there might be a CEQA review required. Any fill of that water area would necessitate environmental review by multiple agencies.

Chair Mark stated that the setback is now measured to the Mean high tide line and/or bulkhead so fill would not be really the question; more to Commissioner Stoehr's point, there is still an engineering concern to be regulated.

Commissioner Stoehr stated the applicant would have to make a case that they could fill out to the property line and if that is Exempt then no consideration of CEQA would apply.

Senior Planner Rebecca Markwick observed that the recent amendment of the Ordinance and the Administrative Policy is in effect and that would be used for this purpose to prevent arbitrary fill of the Lagoon. Even if exempt from CEQA there is no way to apply for an ADU and then potentially fill the Lagoon based on the City's policy amendment.

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<sup>1</sup> The letter is archived with the record of the meeting.

Vice-Chair Carapiet asked whether additional language stating that is the case needs to be added to this proposed Ordinance tonight

Ms. Longfellow agreed that the local Zoning Ordinance and administrative policy already covers this requirement and would be redundant. Setbacks are inherently defined by local Code. In very unusual cases there can be exceptions to CEQA exemptions such as stability hazards. An ADU proposed for a slide area might be an example.

Open public hearing

Jill Barnett asked why not redefine the setbacks in the Lagoon to be the opposite, with the Front Yard on the water side and the Rear Yard on the street side in the R1L Zone.

Vice-Chair Carapiet replied that was considered in detail in the Subcommittee last year. It was pointed out that if one looks at the rest of the BMC it would make it very difficult to redefine all the associated requirements for such yards, for example, access, roads, entrance etc. It was determined to be too impractical to do that although it was discussed quite thoroughly.

Close public hearing.

Commissioner Stoehr asked for an amendment to the Resolution, that in the first recital he would like to change it to say "Whereas the State of California has declared that there is a housing crisis..."

Ms. Longfellow recapped the modifications to the Resolution as discussed and in the text of the revised draft Exhibit A.

**MOTION:** Adopt the Resolution recommending City Council approval of Ordinance Amendments to the Zoning Code, Chapters 19.08 "Definitions" and 19.79 "Accessory Dwelling Units and Junior Accessory Dwelling Units" as amended per the discussion at the public hearing tonight.

**MOVED BY:** Peter Mark, seconded by Pat Carapiet.


**VOTE:**  
AYES: Claire Slaymaker, Pat Carapiet, Larry Stoehr, Ashley Johnson, Peter Mark.  
NOES: None  
ABSTAIN: None  
RECUSED: None  
ABSENT: Nena Hart, Marsha Lasky.

Meeting was adjourned at 7:25 PM.

**PASSED AND APPROVED** at a regular meeting of the Belvedere Planning Commission on October 19, 2021 by the following vote:

AYES: Peter Mark, Ashley Johnson, Larry Stoehr  
NOES: None  
ABSTAIN: Nena Hart (absent from this meeting)  
ABSENT: Marsha Lasky, Pat Carapiet, Claire Slaymaker

**APPROVED:**   
Peter Mark, Planning Commission Chair

**ATTEST:**   
Beth Haener, City Clerk