

BELVEDERE PLANNING COMMISSION

MINUTES

REGULAR MEETING

September 20, 2022 6:30 P.M.

A. CALL TO ORDER OF THE REGULAR MEETING

Chair Pat Carapiet called the regular meeting to order at 6:30 p.m. in the Belvedere Council Chambers. Commissioners present: Pat Carapiet, Ashley Johnson, Marsha Lasky, Larry Stoehr, Kevin Burke, Nena Hart and Claire Slaymaker. Commissioners Absent: None. Staff present: Director of Planning and Building Irene Borba, City Attorney Ann Danforth, Associate Planner Samie Malakiman and 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.

No one wished to speak.

C. REPORTS

There were no reports.

D. CONSENT CALENDAR

MOTION: To approve the Consent Calendar as agendized below.

MOVED BY: Marsha Lasky seconded by Nena Hart

VOTE: AYES: Pat Carapiet, Marsha Lasky, Nena Hart, Ashley Johnson,
Kevin Burke, Claire Slaymaker, Larry Stoehr

ABSTAIN: Larry Stoehr (Item 2 due to absence from Aug. 19, 2022 meeting)

RECUSED: Kevin Burke, Nena Hart, Claire Slaymaker (Item 3 only)

1. Motion to Approve **Meeting by Remote Teleconference** and adopt the following findings:

- a. On March 4, 2020, Governor Newsom proclaimed a State of Emergency declared by Governor Newsom under the California Emergency Services Act due to COVID-19, which is still in existence;
- b. State or local officials continue to impose or recommend measures to promote social distancing; and
- c. The State of Emergency declared by Governor Newsom on March 4, 2020, continues to directly impact the ability of Commission members, staff, and the public to meet safely indoors in person; and
- d. The Belvedere City Council has directed all legislative bodies within the City to meet by Teleconference until further notice.

1. Draft **Minutes of the August 19, 2022**, regular meeting of the Planning Commission.
2. Demolition and Design Review to demolish the existing garage at **28 Eucalyptus Road** to allow for construction of a new garage with storage below in the same location as the existing structure. Applicant: David Holscher (Holscher Architecture). Property Owner: Denise Ellison. ***Recusals: Commissioners Burke, Hart and Slaymaker***

E. PUBLIC HEARINGS

Commissioner Stoehr recused himself from Item 4 (**25 Peninsula Road**) because he owns property within 500 feet of the subject property. He departed from the meeting.

4. Design Review (portions of which are retroactive) for the property at **25 Peninsula Road**. A Revocable License is required for improvements (existing and proposed) along the Peninsula Road frontage at the city right-of-way. The project includes landscaping and other site improvements. Applicant: Toni Kramer (landscape architect). Property Owner: Trygve Liljestrand. **Recusal: Commissioner Stoehr.**

Planning and Building Director Irene Borba presented the staff report. A slide show accompanied her remarks.¹ Per the request of the neighbor she suggested that a condition of approval be added to the draft Resolution relative to protection of an existing Stone Pine tree during construction.

Commissioners asked for clarification of the replacement bulkhead and rip rap locations.

Ms. Borba replied that she currently understands those would be in the same locations as existing.

Toni Kramer, landscape architect, stated that the exact location of the bulkhead and dock repair will be determined when the contractor for that part of the work evaluates the best location and submits for the permit. If necessary any changes can be reviewed again by the BLPOA. In regards to the Pine Tree, the project arborist will supervise the tree protection plan. The sideyard fences will need to be replaced in a separate, future project.

Commissioners asked questions and received clarifications regarding the fire features and the step lighting.

Open public hearing.

Jeffrey Binstock, 23 Peninsula Road is concerned that relocation of the bulkhead may also affect a large 10-inch root of the Pine tree. He has concerns that roots of the tree elsewhere are currently exposed and the care of the tree has been insufficient.

Close public hearing.

Ms. Kramer replied that they will be sure to protect the roots of tree and to ensure that the bulkhead work would not negatively affect the tree. They will work with the arborist and structural engineer to develop a decking plan that would not create issues with those tree roots.

Open public hearing.

Mr. Binstock requested participation in the planning of the bulkhead. He also requested containment of the fire feature so there is no fire hazard.

Close public hearing.

Commissioner Hart has visited the site and both adjacent neighbors. She has observed the exposure of the Pine Tree roots and requested that watering and/or covering of these roots be continued. She does not support the fire feature as it is an attention getter, a potential safety hazard, and as a source of light pollution. She can make the findings, without the fire feature.

¹ The slide show presentation is archived with the record of the meeting.

Vice-Chair Johnson has visited the site and agrees with Commissioner Hart. More and taller greenery might be an improvement. She might be able to support a smaller round fire pit or feature to reduce the reflectivity. She can make the findings for the project without these fire features.

Commissioner Lasky suggested that adding another tree for privacy should be a consideration as well as ensuring the protection of the large Pine tree. She agrees that an alternative fire pit should be considered. She supports the proposed landscaping plan as conditioned for the tree protection and the elimination of the fire features.

Commissioner Burke is concerned about the sequencing of the project. He would prefer to see the bulkhead proposal before he can make the findings for this project.

Commissioner Slaymaker has similar concerns about the fire features; she would prefer a less prominent alternative. She can support the project given the reliability of the advice of this contractor for the bulkhead. New side fences should be encouraged. She can support the project as conditioned.

Chair Carapiet agrees with her fellow Commissioners that the 16-foot fire feature should be deleted. The contractor for the bulkhead work is very familiar with the Lagoon so he will be able to put a proper location together. She can support the project with those conditions. She asked the applicant if they wish to continue the project for revisions or to come back later with a Design Review Exception for changes.

Ms. Kramer requested a decision tonight so the bulkhead work can be done as soon as possible. They can remove the fire features from the current plans pending a subsequent proposal for future administrative review.

MOTION: To adopt the Resolution for Design Review (portions of which are retroactive) as conditioned per the meeting discussion tonight for landscaping and site improvements at **25 Peninsula Road**.

MOVED BY: Nena Hart, seconded by Claire Slaymaker

VOTE: AYES: Pat Carapiet, Marsha Lasky, Ashley Johnson, Claire Slaymaker, Nena Hart.
NOES: Kevin Burke
RECUSED: Larry Stoehr
ABSENT: None

MOTION: To make a recommendation to City Council for approval of a Revocable License for the private improvements at the **25 Peninsula Road** right of way.

MOVED BY: Nena Hart, seconded by Claire Slaymaker

VOTE: AYES: Pat Carapiet, Marsha Lasky, Ashley Johnson, Kevin Burke, Claire Slaymaker, Nena Hart
NOES: None
RECUSED: Larry Stoehr
ABSENT: None

Commissioner Stoehr rejoined the Planning Commission.

5. Design Review (portions of which are retroactive) for the property located at **312 Beach Road**. Revocable Licenses are also required for improvements (existing and proposed) in the City right-of-way along Beach Road and on City property, commonly known as “The Strip”. The project includes landscaping and other site improvements. Applicant/Property Owner: Scott Robertson. Staff recommends approval of the proposed project. ***Recusals: None.***

Planning and Building Director Irene Borba presented the staff report. A slide show accompanied her remarks.² She clarified that the property owner would like to have the approval tonight be only of the MMWD approved plan set. This is different from the other set of plans also submitted which include additional landscaping on the entire property and the adjacent area on City land below. Staff would recommend the entire landscaping plan be approved and conditioned for resubmittal to MMWD as a revision to their currently approved plan.

Commissioners asked questions including: whether the complete plan can be approved if there is no MMWD approval for the larger plan (reply: yes it may be considered and a mechanism to ensure that this resubmittal be completed); are the street parking spaces being reconfigured by the City in this location (reply: staff is not aware of any such proposal to modify them); can it be required that the stairs down to the shared dock are a single shared stairway (reply: at prior discussion for the Revocable License for 310 Beach Road it was discussed that a shared stairway would present several problems for both owners, and owner of 310 Beach Road was not supportive of sharing stairs).

Dave Hamlin, project architect, stated that approval of the on-site landscaping is needed for completion of the current Building project. This is the project that was submitted to, and was very recently approved by MMWD. From the beginning they were aware of the existing Revocable License on the area below the property and once the stairs for 310 Beach Road were approved, Mr. Robertson decided to remove the dilapidated stairs below his property. In the process of cleaning that area up they removed other debris and plants and are pursuing a second new landscape plan for the lower lot.

Commissioners asked questions concerning: the reasoning for submitting separate landscaping applications, the reason for the new gate; explanation of the removals of trees behind the garage, whether there are plans for stairs on the Strip down to the dock; the reason for the notched fence at the front of the property and protection of the existing tree; whether any trees are proposed for the Strip and are there any plans for plantings next to the garage; does the neighbor agree to the proposed Fern Pine hedge on the lower section; and what is intended in regards to the sewer easement between properties.

Mr. Robertson replied that the separation of the requests is to allow for the completion of the current Building Permit, currently in the penalty phase of its Construction Time Limit. The MMWD approval is what is sought tonight. The 2 additional landscaping areas will be submitted as part of the new permit for the ADU after the first permit is closed. The City recommended that the ADU permit and associated plantings should wait until after closing the current permit so they would not be subject to the same CTL as the original permit. The area for the Strip can be approved

² The slide show presentation is archived with the record of the meeting.

independently if so desired. The new gate is associated with the future access for the ADU. The 4 stumps behind the garage were eugenias that were removed during the current construction project in August 2020 in conjunction with the neighbor. On-grade stairs will be proposed for the Strip area for dock access. The existing Magnolia tree in the notched fence is hoped to be preserved. 7 Oak trees and 1 Eucalyptus tree are on the planting plan for the Strip. There is no plan for plantings next to the blank wall of the garage. The Fern Pines will be maintained a less than 6 feet or not planted as a hedge. The sewer easement under the common fence is to remain as is. No fencing is proposed in the Strip. No landscape lighting is proposed in the rear of the property.

Chair Carapiet clarified with the owner that the request of the applicant is that if the MMWD plan is approved tonight then there will be a separate application for the area by the Macdonell wall and for the Strip; and the old, now removed, stairs shown would not be shown on the future submittal.

Open public hearing.

Steve Wisenbaker, 322 Beach Road, stated he has information from Sanitary District 5 that may mean that future sewer line modifications will be needed, and in light of this, a better process for the Commission is to consider the entire project as a whole.

Close public hearing.

Commissioner Stoehr agrees with the concerns of the neighbors about the sewer issue and the fencing, and he probably would not support a proposal for access stairs in the future next to the garage. He would prefer asphalt paving on the street up to the wall instead of pavers. He would prefer more trees in the Strip landscape plan, and replacement of any plantings that do not thrive. Any temporary access to support the planting process would be required for future removal on a date certain as a condition of the Revocable License in the Strip.

Commissioner Lasky suggested that some of the previously approved trees including Beech trees which are deciduous and Podocarpus which have a thin profiles might be better replaced with Arbutus or Carolina Laurel. It appears the MMWD saw the plans before the City approved them. She requests that failure to submit to MMWD immediately for the other two landscape areas near the lower wall and on the Strip should result in a Stop Work. She stated that the Magnolia tree is not being well cared for and may not survive. A new 36-inch box Magnolia needs to be added nearby.

Commissioner Hart that the denuded Strip area which is the most important area to plant immediately receive expedited review by MMWD. The plant choices near the McDonnell wall may need to be revisited.

Vice-Chair Johnson agrees that the piecemeal approach to this project is muddling the ability of the Commission to make good decisions. Her biggest issue is there are many low-lying plants but not enough trees. More verticality is needed. The hillside was previously a wild and lush green slope. A more green and natural plan should be proposed for the Strip. The concerns of the neighbors at 322 Beach Road are valid. Restoration of privacy screening to be as tall as is allowed, should be encouraged. If the existing Magnolia does not survive then it should be replaced in kind. More plantings at the front of the property should be encouraged to break up the stone and asphalt. Covered pathlights should be installed instead of the proposed fixtures. The best way to approve this plan is holistically, especially if there are new paths or stairs in the Strip. She cannot make the findings at this time.

Associate Planner Samie Malikaman presented the staff report. A slide show presentation accompanied his remarks.³

Commissioner Stoehr asked for clarification as to how the definition of ‘story’ from the Belvedere Municipal Code relates to required setbacks on FEMA homes.

Director Borba read the definition as stated in BMC Section 19.08.490; there are no specific modifications relative to FEMA homes in that definition.

Steven Sutro, Sutro Architects, project applicant and his team presented the project. A slide show presentation accompanied their remarks.

Commissioners received clarifications of some of the details of the design in relation to plantings, window locations, sizes, and types, fencing, lighting, the floorplan arrangement, and related impacts on neighbor privacy.

Open public hearing.

Kathy Niggeman, 70 Lagoon Road, discussed her concerns. She requested a taller 8-foot fence between properties, window adjustments, adding an evergreen tree and additional screening and elimination of the adjacent patio.

Close public hearing.

Commissioners discussed the project and were supportive of the design of the single-story home. Colors and materials were applauded. Removal of a clerestory window on the side towards 70 Lagoon Road is supported. Lighting reductions and landscaping adjustments should be made for final approval by the Chair and Planning Director per tonight’s discussion.

All Commissioners can make the findings for all requested applications. They agreed that the Resolution of approval will be conditioned as follows:

- a) Plans submitted to the Building Department for permit issuance shall be consistent with the approved Planning Commission plans and shall conform to the drawings prepared by Sutro Architects, stamped received by the City of Belvedere on August 15, 2022, and as amended by the Planning Commission on September 20, 2022, to include the following plan modifications:
 - Window “J” along the southern facing wall shall be removed from the plans.
 - Window “G” at the northern facing wall shall be removed from the plans.
 - The proposed “lounge seating” area within the southern side yard will be relocated north and outside the side yard setback
- b) Prior to the issuance of a Building Permit, a final landscape plan shall be submitted for the review and approval by the Planning Commission Chair and Planning staff. The final landscape plan shall include the following modifications as described at the September 20, 2022 Planning Commission meeting:
 - The southern side yard fence shall be 8-feet-tall from grade.

³ The slide show presentation is archived with the record of the meeting.

- The landscape plans shall include a description for preserving the Ficus plants along the northern side yard.
- The applicant shall meet with the Planning Commission Chair to determine the type and location of new trees and hedges to be planted at the side yards to preserve privacy for the adjacent neighbors

MOTION: To adopt the Resolution finding No Historical Resource for **68 Lagoon Road.**

MOVED BY: Marsha Lasky, seconded by Nena Hart.

VOTE: AYES: Pat Carapiet, Ashley Johnson, Marsha Lasky, Claire Slaymaker,
Larry Stoehr, Nena Hart, Kevin Burke.
NOES: None
ABSENT: None

MOTION: To adopt the Resolution granting Demolition of the exiting home for **68 Lagoon Road.**

MOVED BY: Marsha Lasky, seconded by Nena Hart.

VOTE: AYES: Pat Carapiet, Ashley Johnson, Marsha Lasky, Claire Slaymaker,
Larry Stoehr, Nena Hart, Kevin Burke.
NOES: None
ABSENT: None

MOTION: To adopt the Resolution granting Design Review, as conditioned, for **68 Lagoon Road.**

MOVED BY: Marsha Lasky, seconded by Nena Hart.

VOTE: AYES: Pat Carapiet, Ashley Johnson, Marsha Lasky, Claire Slaymaker,
Larry Stoehr, Nena Hart, Kevin Burke.
NOES: None
ABSENT: None

MOTION: To recommend approval by the City Council of a Revocable License for **68 Lagoon Road.**

MOVED BY: Marsha Lasky, seconded by Nena Hart.

VOTE: AYES: Pat Carapiet, Ashley Johnson, Marsha Lasky, Claire Slaymaker,
Larry Stoehr, Nena Hart, Kevin Burke.
NOES: None
ABSENT: None

Commissioners Burke, Hart and Slaymaker recused themselves from Item 7 (**135 Belvedere Avenue**) because they own property within 500 feet of the subject property. They departed from the meeting.

7. Demolition, Design Review, Use Permits, Accessory Dwelling Unit, Revocable License and Extension of Construction Time applications for the property located at **135 Belvedere Avenue.** The project proposes demolition of an existing home and detached garage to construct a new 12,449 square-foot four-story residence with attached 1,260 square-foot garage and 485 square-foot accessory dwelling unit. Other improvements include a motor court, hillavator, 128-square foot boat storage structure, and 714-square-foot deck. New

retaining walls, landscaping, bioretention basins, terraces, a swimming pool, and stairway to the shoreline are proposed. The project proposed a new 875-square foot pier, 12 square-foot boat lift, and 96-square-foot platform lift on the adjacent County of Marin tide lot. Total lot size is 52,965 square-feet (1.24 acres) based on an approved 2019 lot merger. An Exception to Total Floor Area is requested for exceeding the allowable floor area per Belvedere Municipal Code Section 19.52.115. Use Permits are requested for exceeding the allowable ADU height per the Belvedere Municipal Code Section 19.75.050 and to allow private recreation use of the R-Recreation zoned tide lot. The project would require a Revocable License for parking, sidewalk, landscaping, and trash enclosure improvements in the public right-of-way as well. The applicant is requesting a 24-month Construction Time Limit. Project applicant: Kurt Melander; Property owner: LFB 135 LLC. ***Recusals: Commissioners Burke, Hart, and Slaymaker.***

Associate Planner Samie Malikaman presented the staff report. A slide show presentation accompanied his remarks.⁴ He stated that today the applicant and the neighbor have agreed that the hillavator will be removed from the proposal.

Kurt Melander, project architect and his team presented the project.

Property owner Danielle stated she and her husband Brandon and their daughter hope for approval of this, their forever home. They searched and finally found this large property with prior approvals and an approved dock and pier. They are proposing a home with traditional design and Italian references that fits in with the Belvedere style. They have reached out to the neighbors and have received their support.

Michael Lamphere, attorney representing the neighbor at 125 Belvedere Avenue, stated that the applicants and his client have agreed that the hillavator is to be removed from the proposal. They would also like a condition preventing any reapplication for a hillavator in the future, on the side of the property adjacent to his client's property. In addition, they request that the proposed boat storage house be removed from the location near to his client's property and suggested that it could be relocated closer to the dock and pier near the steps coming down to the dock.

Commissioner Stoehr received confirmation that the lots have already been merged. He was advised that the request for Extension of Construction Time to 24 months is included in the language with the Design Review draft Resolution. He was concerned that the proposed trees along Belvedere Avenue would impede public views.

Close public hearing.

Commissioners discussed the applications and expressed appreciation for the attractive design of the proposed home and landscape. More mature trees are requested to replace those that will be lost, but requested a reduction in the number of trees to be planted along Belvedere Avenue. Reduction of some of the glazing and lighting on the water side of the home might benefit the project and reduce outside impacts from that vantage point. The size of the home is very large, and the retaining walls are also very big. It is requested that those can be covered with vegetation. The larger question for this project concerns minimizing a proposed large amount of cut and fill which needs to be studied further to reduce the net amount. A detailed Construction Management Plan

⁴ The slide show presentation is archived with the record of the meeting.

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will be needed to understand neighbor impacts, a topic currently of large public concern. A continuance of the applications to address these issues was recommended.

Mr. Melander replied that they are studying how to reduce the amount of off haul. He asked if there are any guidelines as to how much they would need to reduce their number.

Chair Carapiet reported that a recent project with a net of off haul of 270 cubic yards was discouraged in the planning process. This project is significantly higher than that amount.

Commissioner Stoehr asked whether the applicant might be able to investigate removals going out by barge instead of by trucks.

Open Public Hearing.

Larry Hadley, Hadley Construction, project contractor, stated that there is a current discussion studying downslope removals by barge. At minimum the truck routes for off haul would not go down Beach Road. Preplanned, scheduled off haul on the roads with neighbor noticing would be employed.

Close public hearing.

Chair Carapiet asked for clarification of the issue with the boat house raised by the neighbor's attorney tonight.

Mr. Melander confirmed the boat house location was approved in the earlier application by BCDC in 2017-18. An easement was granted for that structure as well. The new design will have a tile roof matching that of the neighbor's own roof and would be very attractive. The proposed boat house will be sited lower than his windows and would be very unobtrusive. Tonight's comments by his attorney were a surprise.

Close public hearing.

MOTION: To continue the applications for 135 Belvedere Avenue to a future Planning Commission meeting.

MOVED BY: Marsha Lasky, seconded by Ashley Johnson

VOTE: AYES: Pat Carapiet, Ashley Johnson, Marsha Lasky, Larry Stoehr.
NOES: None
RECUSED: Kevin Burke, Claire Slaymaker, Nena Hart.

F. Other Items as Scheduled

8. Appointment of Housing Element Subcommittee to review/comment on Administrative Draft Housing & Safety Elements.

Chair Carapiet stated that this Subcommittee will consist of Vice Chair Johnson, Marsha Lasky, and herself.

Meeting was adjourned at 11:32 PM.

