

BELVEDERE PLANNING COMMISSION

MINUTES

SPECIAL MEETING

November 15, 2022 5:30 P.M.

A. CALL TO ORDER OF THE SPECIAL MEETING

Chair Pat Carapiet called the special remote meeting to order at 5:30 p.m. Commissioners present: Pat Carapiet, Ashley Johnson, Marsha Lasky, Larry Stoehr, Kevin Burke, and Nena Hart. Commissioner Absent: Claire Slaymaker. Staff present: Director of Planning and Building Irene Borba, City Manager Robert Zadnik, City Attorney Ann Danforth, Associate Planner Samie Malakiman and Technician Nancy Miller.

Consultants Present from EMC Planning: Ande Flower, Lea Robinson, David Masenson, Kylie Pope.

SCHEDULED ITEMS

1. 6th Cycle Draft Housing Element – This is an opportunity for the public to provide comments and/or ask questions pertaining to the draft 6th Cycle Housing Element.

Link to 6th Cycle Draft Housing Element <https://blueprintforbelvedere.com/>

Consultant Ande Flower introduced the item and summarized the status of public comment to this point. Tonight's comments and questions will be added to others previously submitted; currently over 200 comments have been received from 16 individuals through processes available from the website, as well as via the Subcommittee meetings, and other direct communications. The next draft Housing Element that will be brought to the Planning Commissions will cover feedback overview and next steps in the process. David Masenson discussed some of the integration and adjustments between the Belvedere ODDs standards and proposals for an added program in the future. Information on any updates will be prepared for the website with opportunity for public comment. Comments on substantive content are important now because of impending deadlines. Lea Robinson described her interaction with area individuals and organizations to discuss Affirmatively Furthering Fair Housing.

Open public hearing.

Phillip DeMaria, 23 Cove Rd represents a Cove Road association or the owners of 17-30 Cove Road and Cove Road place. These properties back up to the property known as the Boardwalk shopping center property. He described a legal easement behind their homes granted by the Belvedere Land Company. This land is not available for any development purpose in the event of rezoning. He will submit a letter with his comments by the November 17 deadline for comments.

Doug Scott, 37 Cove Road, agrees with Mr. DeMaria. He would like the maps in the document corrected. He asked is the reference to changes and height exceptions in the ODDs document would be mainly at the Boardwalk site, which would of course affect their homes.

Mr. DeMaria, observed that the proposed density and setbacks for the Belvedere Land Company's adjacent property would need to be modified accordingly to correct for the easement. Adequate roadway for emergency and other vehicles to circulate around the rear without use of the alley.

Jane Dudley, 208 San Rafael Avenue, is concerned about displacement of existing and long-term tenants from their rental homes in areas that may be slated for demolition and replacement with many more new units as well as also wanting to know what assistance they will be given in transition. She stated that Belvedere is a geographically compact community, and everyone is her

neighbor here. She is mystified by the statement in the document that Belvedere's white residents might not come into contact with other racial groups. She believes that promised responsiveness to residents from the consultants has not been as was promised.

Julie and John Tantum, 27 Cove Road, also support Phillip DeMaria's statements and comments. They intend to also assert their rights to the alley behind their home.

Jane Cooper stated that limited water, sewer lines and other lack of utilities may be a constraint for the development of low cost of affordable units. Available sites will most likely be developed with market rate homes since only a small number of units are required to be designated as Low or Very Low units by the State in order to receive a density bonus. Belvedere has very limited ability to provide what ABAG requires. Current options are developer use of ODDS, consideration of a 15-20% inclusionary policy, and increased numbers of ADUs and JADUs. Due to high land and construction costs and that Belvedere is almost 100% built out and given the short amount of time the only way to meet the requirement would be to be allowed to build more ADUs and JADUs.

Jerry Butler, 25 Cove Road, is a 30-year resident. The homes were built first, and later, when the shopping center was built they negotiated with the homeowners for legal rights to the alley and the landscape easement behind. He is sure that the plans of the Belvedere Land Company can be developed with this in mind.

Kathy Niggeman, 70 Lagoon Road, has a major concern relative to the environmental impacts. Considering her neighborhood already has a stressed infrastructure and roadway.

Jill Barnett requests that the City not change the zoning. She requested the City stay with the ODDs program that was so carefully developed to the way the City wanted it. Second, the City should not put all the new housing on Beach Road. If Beach Road is so fragile that it has sunk four feet over the years, how would it be possible to build multi-story new buildings on Beach Road. Third, find more lots on Belvedere Island. Study the lot sizes for potential new sites and encourage owners to do lot splits.

Jim Hornthal stated that the new hazard maps show that Belvedere is vulnerable to many natural disasters including flooding, sea level rise, and earthquakes. In fact, our major point of evacuation will be the ferry given the limitations and traffic impacts on receiving emergency services. More housing will increase traffic and impact safety. If anyone saw recent news stories on the collapse of the building in Florida there is a growing body of evidence that piling driving adjacent to that building might have been a factor. New buildings in Belvedere might require piles to be driven, largely in a fragile landfill area. The environmental and geotechnical aspects are worthy of considerable review. Additional ADUs are a better way to produce new units in a more spread out area.

Peter Mark stated that he has no reservations on revisiting the zoning and the ODDS overlay zone and document. It was intended to be a living document. He would hope that such a concern will not get in the way of the affordable housing protections that existing State laws provide. Specifically if a project wants to go beyond the 2.5 or 3 stories allocated or described in the ODDS document there would have to be significant number of affordable units for the necessary waivers at that time. If we were to change the zoning or ODDS to allow for more height etc. then there would be no incentive to provide for the affordable units. He would encourage the retention of those affordable housing protections.

Close public comment.

Commissioner Stoehr asked how the lots were identified for possible sites. He noticed that 455 Belvedere Avenue was not on the list.

Ande Flower responded they started with a broad list of possible sites, contacted owners as to their interest, and modified the list according to the responses.

Commissioner Stoehr asked what 'teeth' the City has to get the 100 affordable units built?

Open public comment.

Elizabeth Doyle stated if the City would let people have a second kitchen it would be an invisible way to create 2 units out of one.

Director Borba replied that the ADU or JADU process would serve the purpose of creating a unit. The City's Second Kitchen permit does not provide for another housing unit. Under a Second Kitchen permit she does not believe it would qualify as a unit but she can further review this.

Kathy Niggeman looked into the ADU question but she thinks this might increase her property taxes. Clarification would be helpful information.

Delly Woodring agrees with Jill Barnett. In looking at the proposal to add units to the Lagoon side of Barn Road and 6A and 6B Peninsula Road would require water access. At that point adding 6-8 water accessible units would be very difficult.

Doug Scott asked if there could be some clarification of the reference to SB9 and to hear the answer to Commissioner Stoehr's question.

Ande Flowers agrees that achieving 100 low-income units will be difficult. There is a brand new program called being a Pro-Housing Community that might be available in the 7th housing cycle. They can share information on that program on this cycle's website. A community can become certified as such a Pro-Housing Community by meeting certain criteria and grant money might become available to implement the provision of affordable housing.

SB9 is a State law that would allow an owner to have up to 4 units on a site. The property can be ministerially subdivided and it could have up to 2 units on each of the lots.

Jill Nash, Leeward Road, asked how integrated are we in working with the Marin Municipal Water District on the concept of increased housing in view of the drought and water needs.

Director Borba believes that MMWD is well aware of the numbers of new units being provided.

Ande Flowers replied that there is a study under way at this time by the water district. HCD still has upheld RHNA requirements even in areas that are currently having a water moratorium.

Wendy also asked about the water issue. Can more detail about their plan be shared.

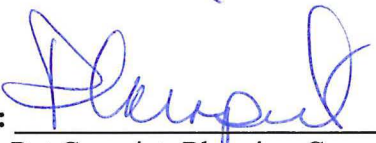
Close public comment.

Chair Carapiet encouraged the submittal of additional comments if any directly through the available methods previously discussed.

Meeting was adjourned at 5:55 PM.

PASSED AND APPROVED at a special meeting of the Belvedere Planning Commission on December 15, 2022, by the following vote:

VOTE AYES: Pat Carapiet, Larry Stoehr, Nena Hart, Kevin Burke
 ABSTAIN: Claire Slaymaker (due to absence from this meeting)
 ABSENT: Ashley Johnson

APPROVED: 
Pat Carapiet, Planning Commission Chair

ATTEST: 
Irene Borba, Director of Planning and Building

BELVEDERE PLANNING COMMISSION

MINUTES

REGULAR MEETING

November 15, 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. via Zoom Webinar.. Commissioners present: Pat Carapiet, Ashley Johnson, Marsha Lasky, Larry Stoehr, Kevin Burke, and Nena Hart. Commissioner Absent: Claire Slaymaker. Staff present: Director of Planning and Building Irene Borba, City Attorney Ann Danforth, Contract Planner Isabelle Loh, 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 Ashley Johnson

VOTE: AYES: Pat Carapiet, Marsha Lasky, Ashley Johnson, Kevin Burke,
Nena Hart

ABSENT: Claire Slaymaker

ABSTAIN: Larry Stoehr, Nena Hart

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.
2. Draft **Minutes of the October 18, 2022**, regular meeting of the Planning Commission.
3. Exception to Total Floor Area for modifications to approved plans for additional floor area (approx., 210 SF) on the lower level of the existing residence beneath the garage at **431 Golden Gate Avenue**. Property Owners: Marshall Miller & Linda Applewhite. Applicant: Chuck Bond (Architect). *Staff recommends approval of the proposed project. Staff recommends that the project is Exempt from CEQA. Recusals: None*

E. PUBLIC HEARINGS

4. Design Review and Exception to Total Floor Area application for an addition, interior remodeling, and exterior improvements. The project proposes an 86-sf and 82-sf addition on the main and upper floors respectively, internal remodeling, new doors and windows on the southwest/southeast elevations, removal of a second-story deck, and replacement of a glass roof with asphalt shingles to match existing. Other exterior improvements include installation of an aluminum and glass awning at the entrance with one new exterior light. The proposed project is for the property at **148 Bayview Avenue**. Property Owners: Maryam Rabbanifard & Fabien Vives. Applicant: Holscher Architects. *Staff recommends approval of the proposed project.* Staff recommends that the project is Exempt from CEQA. Recusals: None

Contract Planner Loh presented the staff report. A slide show accompanied her remarks.¹

David Holscher, Holscher Architects, presented the project to the Commission.

Commissioners asked and received clarifications of the details of the design.

Open public hearing.

No one wished to speak.

Close public hearing.

Commissioners agreed that they could make the findings for a well-designed project for Design Review and Exception to Total Floor Area.

MOTION: To adopt the Resolution for Design Review **148 Bayview Avenue**.

MOVED BY: Ashley Johnson, seconded by Marsha Lasky

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

MOTION: To adopt the Resolution for an Exception to Total Floor Area at **148 Bayview Avenue**.

MOVED BY: Ashley Johnson, seconded by Marsha Lasky

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

Vice-Chair Johnson recused herself from Item 5 because she owns property within 500 feet of the subject property. She departed from the meeting.

5. Design Review, Exception to Total Floor Area, and Revocable License applications for the property located at **7 Golden Gate Avenue** (APN 060-111-15). The project proposes to convert an existing 480 square-foot carport into a 464 square-foot two-car garage and add 139 square feet to the residence for bathroom, closet, and kitchen

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

additions. The project would include landscape and hardscape improvements, new fencing, and roof replacement. Four trees would be removed, including a 20-inch diameter at breast height (DBH) Eucalyptus. A Revocable License is requested for driveway and landscaping improvements on the Tamalpais Avenue public right-of-way. An Exception to Total Floor Area is requested to exceed allowable floor area per Belvedere Municipal Code Section 19.52.115, where 2,706 square feet are proposed, and 2,248 square feet are permitted. Retroactive Design Review is required for improvements made without prior Planning Approval (removal of three trees in the left side yard). Project Applicant: David Thompson; Property Owner: Shahla Davoudi & Shahrou Tavakoli. Staff recommends approval of the proposed project. Staff recommends that the project is Exempt from CEQA. **Commissioner Johnson recused.**

Associate Planner Malakiman presented the staff report. A slide show accompanied his remarks.² Additional information regarding proposed drainage and alternatives to the proposed Oleander hedge has been provided to the Commission today. The project architect will clarify during his presentation.

Open public hearing.

David Thompson, project architect, presented the project to the Commission. A slide show accompanied his remarks.³ He clarified that the overall height of the garage is the same as existing. Regarding the drainage discussion as raised by neighbors, they propose to install on site drainage to divert water towards the Golden Gate Avenue storm drains. The design should help direct water that runs across the property into the system. They do not propose to do any work in the roadway easement.

Commissioner Burke asked which new trees are proposed?

Mr. Thompson called out a new Japanese Maple and some lower plantings. The proposed Oleander hedge will be replaced with another species that will not grow over 6 feet tall. Two Olive trees are also proposed.

Commissioner Stoehr asked whether eaves could be added to the garage.

Mr. Thompson stated they had decided not to add the eaves except that this might require a Variance for the front yard setback, which was not a part of the application. An alternative might be to lift up the existing roof structure which might have good design and green building impacts.

Commissioner Stoehr discussed concerns about the fence between 5 and 7 Golden Gate Avenue.

Mr. Thompson said it can be studied to do some membrane waterproofing or alternatively to remove and replace the bottom area with concrete.

Commissioner Stoehr asked for clarification on the top retaining wall and whether it would be above grade. He proposed that more thought might be given to that wall and possible mitigations of some of the drainage issues.

Mr. Thompson stated this could be studied.

Open public hearing.

Ashley Johnson, neighbor to the project, had concerns about the drainage issue and she believes the proposed mitigations will be satisfactory. She requested that, during the construction phase,

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

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

there can be a construction management plan that would prevent large trucks from using the shared road with 5 Golden Gate Avenue and 1 North Point Circle. She also requested that a designated trash can area be designed on Tamalpais Avenue to help with the neighborhood's collection needs.

Close public hearing.

Mr. Thompson can discuss the proposal for creation of a trash can area with the neighbors and submit with the final landscape plan.

Close public hearing.

Commissioner Hart would agree with the provision of the necessary drainage. A trash area would be a good improvement. Some excavation might be needed to level the pad. She can make the findings for Design Review, landscaping as proposed, Exception to Total Floor Area and Revocable License.

Commissioner Lasky agrees with Commissioner Hart. She appreciates the protection of the Cedar tree. She requests that 24-inch box replacement trees should be planted. An enclosed trash can storage area would be a good addition when the cans are not on the street. She can make the findings for all requests. An addition of eaves to the garage would be acceptable if the applicant would like to propose that.

City Attorney Danforth stated she believes a Variance would be required and she is unsure the findings could be made.

After discussion as to whether an increase in the volume of the structure would require a Variance the Commission discontinued the consideration of the idea.

Commissioner Stoehr would like to have the final landscape plan address the problem at the intersection of the property with 5 Golden Gate at the upper fence line. He can support a trash area. He can make the findings for Design Review, Exception to Total Floor Area and Revocable License per staff's recommendations.

Commissioner Burke can support all 3 applications.

Chair Carapiet agrees with her fellow Commissioners. She appreciates the effort in discussing drainage mitigations. She would like to add a condition of approval for the final landscape design to include a trash area. Also being added would be that the size of new trees would be 24-inch boxes.

MOTION: To adopt the Resolution for Design Review and Retroactive Design Review at 7 Golden Gate Avenue as conditioned.

MOVED BY: Marsha Lasky, seconded by Nena Hart.

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

MOTION: To adopt the Resolution for an Exception to Total Floor Area at 7 Golden Gate Avenue.

MOVED BY: Marsha Lasky, seconded by Nena Hart.

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

MOTION: To recommend to the City Council a Revocable License for improvements in the Tamalpais Avenue right of way at **7 Golden Gate Avenue.**

MOVED BY: Marsha Lasky, seconded by Nena Hart.

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

Vice Chair Johnson rejoined the meeting.

6. Public hearing to consider recommending City Council approval of an **Ordinance Amending the Belvedere Municipal Code, Chapters 18.27 Urban Lot Splits and Chapter 19.77 Two Lot Developments.** Staff recommends that the Commission recommend approval to the City Council. And that the project is Exempt from CEQA.

Director Borba presented the staff report. A slide show presentation accompanied her remarks.⁴

Commissioners asked for several clarifications from staff. A summary follows:

Does the recordation of a lot split have a deadline to be filed?

Answer: Yes, within 2 years subject to the Subdivision Map Act.

Are there conflicts in this Ordinance with the City ADU and JADU requirements.

Answer: If there are any conflicts those will need to be adjusted.

Is this Ordinance the minimum that is required?

Answer: Generally yes; this was drafted using the model Ordinance developed by ABAG.

Is the scenario in FAQ 17 in the attachment applicable and is there any way to address such a situation?

Answer: If the proposed house is 800 SF then it would need to comply with the City's objective standards, such as height and setbacks.

Are the ODDS applicable for such applications?

Answer: ODDS are not applicable to the single-family zoning districts. If needed, they may need to be revisited in light of SB9 and the Housing Element.

Does an SB9 lot split require SB9 development?

Answer: No.

Is there any room for discretionary consideration by the Planning Commission in specific cases?

Answer: That would not be recommended as this could cause challenges. Adjusting the City's objective standards could be studied.

Could a property that has had an Urban Lot Split with two single family homes (one on each lot) come back later to request an ADU or JADU?.

Answer: Probably that would not be allowed. Additional objective standards would need to be developed.

If the lot is split with 1 single family home for each lot, are they entitled to later add an ADU or JADU?

Answer: This would be allowed.

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

Followup question: In that case would a larger size ADU be allowed under the current ADU Ordinance? (Currently there is an allowance for up to 1000 SF for more than 1 bedroom.)

Answer: That would need to be studied. This also will be relative to some additional amendments coming up due to changes to State law.

Open public hearing.

No one wished to speak.

Close public hearing.

Discussion was held as to whether it would be best to approve this draft Ordinance tonight and move it forward to the City Council. A consideration is that this draft includes current Design standards that are subject to expiration if this Ordinance does not get adopted in time. Commissioners agreed that amendments could be made in the future, but that passage of the Resolution is the best decision at this time in order to get this to the City Council in December and in place in early January. The record will show that there are no amendments being made at this time and the motion to approve is with the understanding that this is the minimum Ordinance that can be recommended.

MOTION Adopt a Resolution recommending to City Council to Amend Sections 18.08.040 (L) (Former) 19.04.020, and Add Sections 18.04.040(L)(New), 19.04.035, 10.08.527, Chapter 18.27 and Chapter 19.77 to the City of Belvedere Municipal Code, all to comply with Senate Bill 9

MOVED BY: Ashley Johnson seconded by Nena Hart

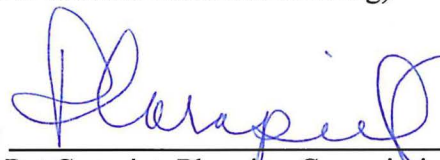
VOTE: AYES: Pat Carapiet, Marsha Lasky, Ashley Johnson, Larry Stoehr, Kevin Burke, Nena Hart
NOES: None
RECUSED: None
ABSENT: Claire Slaymaker

Meeting was adjourned at 8:45 PM.

PASSED AND APPROVED at a special meeting of the Belvedere Planning Commission on December 15, 2022, by the following vote:

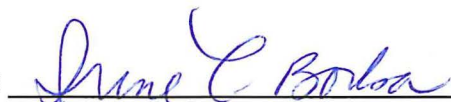
VOTE AYES: Pat Carapiet, Larry Stoehr, Nena Hart, Kevin Burke, Nena Hart
ABSTAIN: Claire Slaymaker (due to absence from this meeting)
ABSENT: Ashley Johnson

APPROVED: _____



Pat Carapiet, Planning Commission Chair

ATTEST: _____



Irene Borba, Director of Planning and Building