

BELVEDERE PLANNING COMMISSION

MINUTES

SPECIAL MEETING

December 14, 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, Claire Slaymaker, Marsha Lasky, Larry Stoehr, Kevin Burke, and Nena Hart. Commissioner Absent: Ashley Johnson, Staff present: Director of Planning and Building Irene Borba, City Attorney Ann Danforth, Associate Planner Samie Malakiman and Technician Nancy Miller. Consultant from EMC also present: Ande Flower.

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: Larry Stoehr, seconded by Kevin Burke

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

ABSENT: Ashley Johnson

ABSTAIN: Claire Slaymaker (Items 3 & 4) and Nena Hart (Item 2)

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 20, 2022**, joint meeting of the Planning Commission & City Council.
3. Draft **Minutes of the November 15, 2022**, special meeting of the Planning Commission.
4. Draft **Minutes of the November 15, 2022**, regular meeting of the Planning Commission.

E. PUBLIC HEARINGS

5. Planning Commission consideration and public hearing to consider adoption of an update to the **Belvedere Housing & Safety Element**. The Housing & Safety Elements are policy documents. The Housing Element provides extensive information on housing conditions and trends, future housing needs and opportunities, and sets forth goals, policies and programs for implementation. The Planning Commission will make a recommendation to City Council regarding the 2023-2031, 6th Cycle Housing Element Update and the Safety Element. *Staff recommends that the Planning Commission make a favorable recommendation to City Council and that the Housing & Safety Element Update are Exempt from CEQA. Recusals: None*

Ande Flower, principal consultant for EMC presented the staff report. He summarized the new updates of various sections of the Belvedere Housing & Safety Elements with additional discussion of process and procedures going forward.

He noted that the AFFH outreach has been extended to additional groups.

141 Public Comments were received. These comments are being included with the documents that will be forwarded to HCD after the City Council review in their January 9th. 2023 meeting,

A future consideration of qualification to achieve a Prohousing Community Designation in the next (7th Housing Cycle) is being studied. Currently Belvedere seems to meet 19 out of 30 required points for the designation

63% of the City's current RHNA allocation is for affordable units. It is important to recognize an inclusionary housing policy of a normal level of 15% would not satisfy this requirement. The route to an increased level of affordable units may be through getting grants for affordable housing. Other programs and policies need to be implemented to increase this number. Certain interactive documents are provided to the public on the Blueprint for Belvedere website for public comment.

Regarding AFFH requirements, an analysis of the factors and data is in process to determine what policies can be implemented.

Sites on the inventory include 42 property owner's commitment to provide ADUs and JADUs over the term of the 6th Housing Cycle. The Sites Inventory list does not anticipate any Zoning changes. This may include small revisions to ODDs policies. SB9 sites are not included unless commitment is clearly identified. Under SB10 there are a few sites that might qualify if an Ordinance is adopted for a Zoning and a General Plan Amendment. A relocation prioritization site would be Site 2A (the building that was burned out – corner of Cove and Beach Road). Also, AB2011 comes into effect in July 2023 which is something to plan for and anticipate.

Mr. Flowers summarized key points and policies in the updated draft Safety Element. He requested that the discussion tonight at this meeting address the content of the draft documents. Smaller edits and corrections to the documents may be emailed in to consultants for consideration.

Chair Carapiet requested that the focus of this meeting be related to the new items presented tonight.

Commissioners asked questions and commented on the documents.

Chair Carapiet asked about AB2011. The criteria are properties over an acre with at least a 100-foot frontage to provide 60 dwelling units/acre with over a 45-foot height. How does AB2011 relate to the City's ODDS. What is the affordability requirement.

Attorney Danforth replied that State law would supersede relative to the required density under AB2011. This is a brand-new law and may interface or override with some of the ODDS. Whatever affordability level is required would be a recorded covenant for at least 55 years.

Commissioner Burke stated that for rental units the requirement is 8% very low income and 5% extremely low income or 15% low or very low income.

Commissioner Stoehr asked if single family housing use is removed from the AB2011 site could a developer instead use SB6.

Attorney Danforth the City will have no discretion to deny an AB2011 project as of July 1, 2023. It applies to commercial corridors to which the Boardwalk site qualifies.

Mr. Flowers stated that SB6 has a CEQA process unlike AB2011. Nothing that the City can do will change those State mandates.

Chair Carapiet stated that only SB10 is a choice. Under SB10 the City can pass an Ordinance to specify certain affordability levels. It is customized to address certain specific properties, but not all properties.

Commissioner Burke says one of the SB10 sites is in a residential zone, but it is not surrounded by 75% Urban. Does this need correction.

Mr. Flowers stated the term "Urban" means developed (as opposed to "Rural") so that site would remain.

Chair Carapiet is reminded that the Housing Element is a document about policies and programs. For example, one might want an Inclusionary Policy. An Ordinance amendment and creation of an in-lieu fee would need to be passed as a City Ordinance by January 2024. This could be modified later if a higher percentage of affordability were desired.

Commissioner Lasky asked how does the City justify housing sites in the Flood Zone or a Hazard Zone.

Director Borba replied that the Building Codes allow for certain FEMA requirements to be met.

Attorney Danforth stated that this issue was raised during the ABAG appeal of the RHNA allotment.

Commissioner Lasky asked whether looking at the Pro Housing Designation is needed now.

Mr. Flowers replied that creating the current policies with that in mind will be a way to demonstrate the intentions of the City towards creating more affordable housing.

Commissioner Slaymaker asked how the income categories are assigned to ADUs and JADUs.

Mr. Flower replied that for ADUS a state formula is 30-30-30-10 in the 4 affordability categories.

Commissioner Burke asked whether lessons learned in the 5th Housing Cycle are being addressed in the current Housing Element update; the City was not very successful in the prior cycle.

Director Borba replied that during the prior cycle there were fewer requirements and those were not viewed as important as they are now. Now the State has more mandates. The State will scrutinize our progress during this cycle. We will review the earlier policies and programs and update as needed. She foresees a Work Program coming up next year to implement the programs in the Housing Element.

Commissioner Burke agreed. Some of the new policies are more specific than the more generic older policies.

Mr. Flower advised that the City should also look at metrics, as those may be requested by HCD.

Commissioner Stoehr is concerned that achieving 63% affordable housing is extremely difficult.

Mr. Flowers stated that there are strategies that HCD may make available. The Pro Housing program is a good step to gain access to resources. Larkspur has already applied for it as the first in Marin County. HCD will need to come up with responses and many of those will materialize in the future. They have a program called Pro Active Accountability.

Commissioner Stoehr asked why there is no proposal to rezone some areas for multifamily housing. Some of the designated sites are in premium zones such as along Beach Road. The Boardwalk makes sense but. Tom Price Park would be an example of an available affordable housing site.

Chair Carapiet stated that a decision was already made to not include parks and open space and any surplus lands in the Element. That is why those sites were removed from the list.

Commissioner Burke asked are their other policies and programs that other Cities are doing that we might incorporate into our plan.

Mr. Flowers stated that the Regional perspective should be kept alive. In Santa Clara County there seems to be some leverage from this approach.

Commissioner Burke asked when the Housing Element is submitted are the sites in Appendix D just opportunities or are they going to be considered 'approved sites'.

Mr. Flower replied that the City is showing there are opportunities with these sites. No zoning is being changed. This points to the existing capacity that already exists for housing.

Director Borba stated that *not* rezoning was a guiding policy in preparing this document.

Attorney Danforth noted that in light of State law there do not need to be any changes to the current allowed densities. If, under the No Net Loss Doctrine, additional sites may need to be identified, for example if not all the sites are developed sufficiently for the 160- unit threshold.

Chair Carapiet stated that the proposed number is 140% where 115-130% is required.

Mr. Flowers states that there is no harm done to leave the sites in to avoid a need for rapid rezoning.

Attorney Danforth added that many of these sites may not produce their full capacity. It is better to leave them in.

Commissioner Burke stated that site 1A is a possible annexation.

Mr. Flowers replied that both Belvedere and Tiburon are claiming that site. It is most likely that it needs to be annexed.

Commissioner Lasky stated that it would be unlikely that it would be annexed.

Mr. Flowers stated the Town of Tiburon would need to apply to LAFCO for the annexation. It's up to LAFCO to make that decision.

Attorney Danforth said there may be a possibility that a joint project could be proposed. It may be easier with the ODDS in place.

Chair Carapiet asked if the Relocation plan needs to be more specific.

Mr. Flower replied that it is left intentionally broad. Since a lot of the units are owned by the same company the relocation plan could include having the burned-out building as the receiver of relocations while others are being rebuilt.

Chair Carapiet asked can the City *not* commit to choosing the SB10 sites. In that program, is there a way to leave it flexible.

Attorney Danforth replied that legally she is not sure. HCD may prefer specifics but at this stage it may not be required. SB10 does not actually require affordable housing. An inclusionary policy could be imposed. If all development contributes to an in-lieu fund this might be helpful.

Mr. Flower noted that specifics narrow the number of locations that would be considered.

Chair Carapiet stated that the relocation program may not work, for example if tenants are in place in the replacement building before the others are completed; there are new laws about not being able to evict tenants once in place.

Commissioner Hart asked is the in-lieu fee a fixed amount or a percentage, and who sets this up.

Attorney Danforth states that typically an Inclusionary Housing Unit Ordinance is based on estimated cost of development of a unit. Professional consultants would probably come up with the fee amounts.

Commissioner Lasky asked whether ADUs are going to be required or an in-lieu fee would be required.

Attorney Danforth replied that ADUs are an easy source of new units in Belvedere. If someone chooses not to have an ADU the fund could cover processing costs. That would be too detailed of a specific decision but having a policy in the Housing Element will be appropriate.

Commissioner Stoehr asked, in regard to timing, what is the Builders Remedy and associated penalty.

Attorney Danforth replied that there are a number of reasons to turn down a housing project. Most commonly used is Consistency with Zoning and the General Plan. The current Housing Element expires on January 1, 2023. Until this is adopted, a builder could come in and submit a project with required affordable units but without the General Plan in place. If the Housing Element is adopted in January and immediately submitted to HCD, even if not a perfect document, it would be in place if found to be in substantial compliance with requirements.

Commissioner Stoehr was concerned that in the public comment it is suggested that the document would be insufficient and might be challenged and is that a risk.

Attorney Danforth stated that the City's efforts are to provide a Housing Element with the goal of gaining affordable housing. All comments will be considered.

Commissioner Burke commented on the Safety Element. He acknowledged the submittal in writing by Commissioner Johnson (absent tonight). Concerns about evacuation from the Island via water might need consideration.

Commissioner Stoehr disagrees with the statement that an evacuation could occur in 30 minutes. With the neighboring towns also using the same routes it probably would not be possible.

Chair Carapiet stated that the streets on Corinthian Island are all one way. This needs correction. In regard to the Hazards discussion, in looking at redevelopment along the Lagoon corridor, including properties not along the water, she is concerned that the weight of new buildings may need to require taller, engineered bulkheads. She would like to see this added.

Director Borba stated that this process may occur more in a project specific review at the permit stage.

Mr. Flower suggested that additional comments and questions can be sent in and consolidated for inclusion in the reports at the City Council review.

Open public hearing.

Peter Mark has also submitted comments by email. He spoke of his concerns about conclusions relative to under-18 year olds. He disagrees with some of the conclusions relative to some of the data points. He asked whether policies relative to inclusionary housing and in the Safety Element are able to be waived or modified to a lower level of affordability. He suggested that the 4 units permitted in the last half of 2022 would reduce the RHNA number to 156 for the calculations.

Susan Cluff asked how protection of the current 70/30 mix of rental housing is going to be accomplished. She disagrees with the UC study. The City IS at risk of gentrification. Relative to data collection, a recent local survey for the City's aging planning indicates that 87% of citizens would like to age in place. Regarding the Safety Element, she agrees with Commissioner Stoehr that 30 minutes to evacuate the Island is not correct because it only goes as far as City limits. Integration of Safety Element and Housing Element is recommended.

Jane Cooper stated relative to the conclusions in Chapter 4 she would hope that the emphasis on redoing a lot of properties would not be more important than the impact on about 75 units of household displacement in order to achieve 140% of the RHNA. 120% should be adequate.

Jill Barnett asked what pipeline project is being referenced tonight. Nothing has yet been approved. Secondly, she would like clarification as to what is a Pro-Housing Program. The presentation tonight needs to be tailored to the public. There was a lot of technical language that did not help with understanding.

Ken Johnson thanked the staff and volunteers on the project. Regarding the Safety Element there is no way to evacuate Belvedere in 30 minutes. That kind of conclusion calls other conclusions into question.

Chair Carapiet stated that she understands a pipeline project (currently there is one under application without a completion date) is not being included in the Housing Element. It has not been considered in the Housing Element.

Jill Barnett asked why include this in the discussion if it is not being included in the document.

Close public hearing.

Chair Carapiet thanked the Subcommittee Commissioners Lasky and Johnson and Director Borba and Associate Planner Malakiman.

Commissioner Lasky can make the findings to move this forward to the City Council. The plan is well thought-out with the intention for the City to get the housing. She looks forward to the Council comments and the State response.

Commissioner Slaymaker agrees with Commissioner Lasky. She would support future consideration of the Pro-Housing program. More study by subcommittees and community involvement needs to be continued. She can make the findings to send the documents on to the City Council.

Commissioner Stoehr stated that the tone of some of the conclusions in the document needs to be revised. The prior Housing Element had an emphasis to preserve the character of Belvedere which is not an emphasis in this one. There are a lot of unknowns (grants?) that may be required to achieve the required units through the programs. He believes the tone of the document is inflammatory in some of its conclusions and cited some examples that may need revision. Communications from the public are critical and need to be addressed. Recent State housing laws have contributed to the current situation and the public may not be aware that these come from the State. He still agrees that the City must follow the law but the details of program implementation

need to be improved. An examination of the prior programs that were not implemented needs to be studied and possibly some could be removed. Impediments to the production of housing are mentioned in the new document but may need to be emphasized. He will support sending it on to the City Council and hopes that they can improve the document. He is concerned that the attendance at this meeting is only about 22 members of the public. Due to the time constraints, he would support sending this on to the City Council.

Commissioner Burke agrees with his fellow Commissioners and he looks forward to further revisions per tonight's discussion. As such he can make the findings to move the documents on to the City Council with those revisions.

Commissioner Hart asked whether the Planning Commission will get another review of the revised version for the City Council. She can agree with her fellow Commissioners to send this on to the City Council as revised.

Director Borba replied that the revised document would not return to the Planning Commission. The draft will be available for public review when it is agenda'd at the City Council. She agrees that tonight's discussions will be considered in making revisions. She thanked the Subcommittee for all their work.

Chair Carapiet agrees that while the document needs some more changes, she would encourage the Commission and the public to submit any additional emailed comments immediately given the short time before the Council meeting. Those comments will be incorporated in the record. She agrees that it is time to move this forward to the City Council and then on to HCD.

MOTION: To approve a Resolution recommending the Belvedere City Council adopt the Draft 6th Cycle Housing Element update 2023-2031 and Safety Element contingent on the document be revised per comments discussed at tonight's meeting.

MOVED BY: Marsha Lasky seconded by Claire Slaymaker.

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

Meeting was adjourned at 9:15 PM.

PASSED AND APPROVED at a regular meeting of the Belvedere Planning Commission on January 17, 2023 by the following vote:

VOTE
AYES: Pat Carapiet, Marsha Lasky, Nena Hart, Larry Stoehr
NOES: None
ABSTAIN: Ashley Johnson (due to absence from December 14 meeting)
ABSENT: Claire Slaymaker

APPROVED: 
Pat Carapiet, Planning Commission Chair

ATTEST: 
Leticia I. Miguel, City Clerk