BELVEDERE PLANNING COMMISSION REGULAR MEETING AGENDA OCTOBER 19, 2021, 6:30 PM REMOTE MEETING

COVID-19 ADVISORY NOTICE

Due to COVID concerns and consistent with State Executive Orders No. 25-20 and No. 29-20, the meeting will not be physically open to the public. Members of the Planning Commission and staff will participate in this meeting remotely. Members of the public are encouraged to participate remotely via Zoom or telephone pursuant to the information and link below. Public comment will be accepted during the meeting. The public may also submit comments in advance of the meeting by emailing the Director of Planning and Building at: iborba@cityofbelvedere.org Please write "Public Comment" in the subject line. Comments submitted one hour prior to the commencement of the meeting will be presented to the Planning Commission and included in the public record for the meeting. Those received after this time will be added to the record and shared with Planning Commission member after the meeting.

City of Belvedere is inviting you to a scheduled Zoom meeting.

Topic: Belvedere Planning Commission Meeting

Time: October 19, 2021, 06:30 PM

Join Zoom Meeting

https://us02web.zoom.us/j/83167837766?pwd=TE1ta3hDWWl1ZmxYU0xuNy9Qa2Uzdz09

Webinar ID: 831 6783 7766 Passcode: 461467

888 -788- 0099 (Toll Free) 877- 853- 5247 (Toll Free)

The City encourages that comments be submitted in advance of the meeting. However, for members of the public using the Zoom video conference function, those who wish to comment on an agenda item should write "I wish to make a public comment" in the chat section of the remote meeting platform. At the appropriate time, the Meeting Host will allow oral public comment through the remote meeting platform. Any member of the public who needs special accommodations to access the public meeting should email the **Director of Planning and Building**, iborba@cityofbelvedere.org who will use her best efforts to provide assistance.

HEARING PROCEDURE:

The Planning Commission will follow the following procedure for all listed public hearing items:

- 1) The Chair will ask for presentation of the staff report;
- 2) The Commissioner will have the opportunity to question staff in order to clarify any specific points;
- 3) The applicant and project representative will be allowed to make a presentation, not to exceed 10 minutes for large, or 5 minutes for small, projects, as total for the applicant's design team;
- 4) The public hearing will be opened;
- 5) Members of the audience in favor or against the proposal will be allowed to speak, for a maximum of 3 minutes per speaker;
- 6) The applicant will be given an opportunity to respond to comments made by the audience, for a maximum of 5 minutes total for the applicant's design team;
- 7) The public hearing will be closed; and
- 8) Discussion of the proposal will return to the Commission with formal action taken to approve, conditionally approve, deny or continue review of the application.

City of Belvedere Planning Commission Agenda October 19, 2021

Page 2

A. CALL TO ORDER OF REGULAR MEETING

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.

C. REPORTS

The Reports agenda item consists of any oral reports from standing Planning Commission committees (if any), an individual member of the Planning Commission, and staff.

D. 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 wished 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 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.

1. Draft **Minutes of the September 21, 2021,** regular meeting of the Planning Commission.

E. PUBLIC HEARINGS

2. Design Review for a dock extension located at 44 San Rafael Avenue. Property owner and applicant Richard Laiderman and Jung-Wha Song. Staff recommends that the Commission approved the proposed project. Recused, Commissioner Carapiet.

APPEALS: The Belvedere Municipal Code provides that the applicant or any interested person may appeal the action of the Planning Commission on any application. The appeal must be in writing and submitted with a fee of \$1026.00 (applicant) or \$776.00 (non-applicant) not later than ten (10) calendar days following the date of the Planning Commission action. Appeals received by City staff via mail after the tenth day will not be accepted. Please note that if you challenge in court any of the matters described above, you may be limited to raising only those issues you or someone else raised at the public hearing described above, or in written correspondence delivered to the Planning Commission at, or prior to, the above-referenced public hearing. [Government Code Section 65009)b)(2)].

NOTICE: WHERE TO VIEW AGENDA MATERIALS

Staff reports and other writings distributed to the Planning Commission are available for public inspection at the following locations: Online at www.cityofbelvedere.org

Belvedere City Hall, 450 San Rafael Ave, Belvedere (Writings distributed to the Planning Commission after the posting date of this agenda are available for public inspection at this location only);

Belvedere-Tiburon Library, 1501 Tiburon Boulevard, Tiburon.

To request automatic mailing of agenda materials, please contact the City Clerk at (415) 435-3838.

NOTICE: AMERICANS WITH DISABILITIES ACT

The following accommodations will be provided, upon request, to persons with a disability; agendas and/or agenda packet materials in alternate formats and special assistance needed to attend or participate in this meeting. Please make your request at the Office of the Planning Department or by calling (415) 435-3838. Whenever possible, please make your request four working days in advance of the meeting.

Items will not necessarily be heard in the above order, not, because of possible changes or extenuating conditions, be hear. For additional information, please contact City Hall, 450 San Rafael Ave, Belvedere CA 94920. (415) 435-3838.

City of Belvedere Regular Planning Commission Meeting

October 19, 2021

Conflict of Interest Statement

Planning Commission Member:

If you live within 500-feet of any property involved in any matter coming before the Commission at this meeting, immediately let staff know and be prepared to disqualify yourself from participating in any Planning Commission consideration regarding the matter(s). After publicly announcing your disqualification, you should step down from the dais and retire to the City offices where you cannot be seen or heard from the Council Chambers. If you wish to say something as a private citizen, you may do so during the time public comments are solicited from the audience. Before leaving the Chambers, let staff know if this is your intention so they can summon you at the appropriate time to make your statement. When the matter is concluded, a staff member will let vou know it's time to come back in and proceed on to the next agenda item. Disqualification is automatic if you reside within 500 feet of the property that is the subject of the matter being considered by the Planning Commission.

44 San Rafael Avenue Carapiet

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 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 <u>420 Golden Gate Avenue</u>. 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 (<u>31 Alcatraz Avenue</u>) 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.

Belvedere Planning Commission Minutes September 21, 2021 Page 3

Open public hearing.

Carol Gallivan stated she works with Stephen Roulac who submitted a letter to the Commission today. 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.

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

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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 <u>Amendments to the</u>

<u>Zoning Code</u>, 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:			
NOES:			
ABSTAIN:			
ABSENT:			
		APPROVED:	
			Peter Mark, Planning Commission Chair
ATTEST:			
	Beth Haener, City Clerk		



CITY OF BELVEDERE PLANNING COMMISSION STAFF REPORT

REPORT DATE: October 12, 2021 **AGENDA ITEM: 2**

MEETING DATE: October 19, 2021

TO: City of Belvedere Planning Commission

FROM: Rebecca Markwick, Senior Planner

REVIEWED BY: Irene Borba, Director of Planning and Building

Emily Longfellow, City Attorney

SUBJECT: Design Review for a dock extension at 44 San Rafael Avenue

RECOMMENDATION

The proposed project includes Design review for a dock extension at 44 San Rafael Avenue. The application and plans are included as **Attachment 2**.

Staff recommends that the Planning Commission conduct the required public hearing and take the following action:

MOTION 1 Adopt the Resolution granting Design Review for the property located at 44

San Rafael Avenue, (Attachment 1).

PROPERTY SUMMARY

Project Address: 44 San Rafael Avenue

APN: 060-011-15

Project Applicant/Property Owner: Richard Laiderman and Jung-wha Song

GP Designation: Medium Density Residential SFR – 3.1 to 6.0 units/net acre

Zoning: R-1L Single Family Residential, Belvedere Lagoon

Existing Use: Single Family Residential

Site Characteristics: The subject site is a 6,795-square-foot parcel located in the R-1L Zoning District in Belvedere Lagoon. A portion of the site extends into Belvedere Lagoon. The lot is generally flat with a minor slope towards the lagoon. The property is located adjacent to the home on the corner of San Rafael Avenue and Hilarita Circle.



PROPERTY HISTORY

- 1981 Planning Commission approval of an addition.
- 1999 Staff design review approval to paint the house white.
- 2000 Staff design review approval to replace the existing dock, add side yard fence and rear yard landscaping.
- 2002 Staff design review approval for a new skylight.
- 2004 Planning Commission approval to demolish the existing shed, remove and relocate the existing covered entry porch, add a music room and master suite.
- 2004 City Council approval of a Revocable License for improvements in the right of way on San Rafael Avenue.
- 2012 Planning Commission approval of a 813-square floor second floor addition.

BACKGROUND OF CURRENT APPLICATION

The project was submitted on May 17, 2021 as a Design Review Exemption. Subsequently staff contacted the applicant and indicated that it would require a Design Review Exception (DRE), the DRE application was received on July 2, 2021. The pre-notice for the dock expansion was mailed on July 29, 2021. Staff received a phone call from the neighboring property owner, Ms. Felicienne Miller at 48 San Rafael Avenue as well as a letter from her attorney, Riley Hurd III on August 6, 2021(Attachment 3).

Staff, along with Planning Commission Chair Mark, conducted a site visit at 44 San Rafael Avenue discussed the project with the homeowner and asked that the story poles be put in place in the lagoon to show where the exact dock extension was proposed as that was one of the concerns of Ms. Miller. Staff also conducted a site visit at 48 San Rafael Avenue to determine the impacts to the property. 48 San Rafael Avenue is uniquely sited on the lagoon; it is a corner lagoon lot, which does not provide much water access. Once the story poles were up, and the site visits conducted, staff and Chair Mark determined that the project should be reviewed by the Planning Commission. Given the unique siting of the lot, staff suggests that the proposed dock be reduced in size so that the visual impact is not so great to 48 San Rafael Avenue. Staff suggests reducing the width towards the house.

PROJECT ANALYSIS

Design Review Findings

The Design Review findings, specified in the Belvedere Municipal Code Title 20, state that all new structures and additions should be designed to avoid excessively large dwellings that are out of character with their setting or with other dwellings in the neighborhood. All buildings should be designed to relate to and fit in with others in the neighborhood and should not attract attention to themselves. To avoid monotony or an impression of bulk, large expanses of any one material on a single plane should be avoided. Vertical and horizontal elements should be used to add architectural variety, to break up building planes, and to avoid monotony. Landscaping should soften and screen structures and maintain privacy. The Design Review findings, specified in the Belvedere Municipal Code, state that soft and muted colors in the earthtone and woodtone range are preferred and should predominate generally.

Staff believes that the proposed project is in substantial conformance with Design Review Ordinance, as conditioned so that the dock is reduced in size. Staff finds that a majority of the existing site conditions will be preserved and or maintained by the proposed project and can make all of the required findings for Design Review, as detailed in the attached draft Resolution (Attachment 1).

ENVIRONMENTAL DETERMINATION

Staff has determined that this project is categorically exempt from the California Environmental Quality Act (CEQA), as explained below. CEQA provides certain exceptions where categorical exemptions may not be used. Under one such exception, a CEQA categorical exemption may not be used if the project has the potential to cause a substantial adverse effect on a CEQA Tribal Cultural Resource. Here a categorical exemption is appropriate because there is no potential that the project would cause a substantial adverse effect on any potential Tribal Cultural Resources that may, or may not, exist on the site.

The project is exempted from CEQA by the Common Sense Exemption. If it can be seen with certainty that a project will not have a significant effect on the environment, it is exempt from CEQA review. (CEQA Guidelines, § 15061(b)(3).) Here, there will be minimal soil disturbance.

The project has been reviewed under the provisions of the California Environmental Quality Act (CEQA) and the CEQA Guidelines, California Code of Regulations. On *October 12, 2021* the proposed project was determined to be categorically exempt from CEQA pursuant to *Section 15301 Class 1(a)* because the proposed project consists of minor alterations to an existing landscaping and because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, as defined by CEQA. City action is required by *December 12, 2021* or the project may be deemed approved.

CORRESPONDENCE

A copy of the public hearing notice for this item was published in *The ARK* newspaper and mailed to all property owners within 300 feet of the subject property. At the time of writing this staff report, staff has not received any additional written correspondence from the neighbors.

CONCLUSION

Staff believes that all of the findings can be made for Design Review and for the requested project proposal. Staff finds that the projects conforms to the BMC.

RECOMMENDATION

MOTION 1 Adopt the Resolution granting Design Review for the property located at <u>44</u>

San Rafael, (Attachment 1).

ATTACHMENTS

Attachment 1: Draft Design Review Resolution Attachment 2: Project Application and Plans

Attachment 3: Letter from Ragghianti Freitas LLP, dated August 6, 2021

Attachment 4: Correspondence

CITY OF BELVEDERE

RESOLUTION NO. 2021-

A RESOLUTION OF THE CITY OF BELVEDERE GRANTING DESIGN REVIEW APPROVAL FOR A DOCK EXPANSION LOCATED AT 44 SAN RAFAEL AVENUE

WHEREAS, a proper application has been submitted for Design Review pursuant to Title 20 of the Belvedere Municipal Code for a dock expansion at 44 San Rafael Avenue; and

WHEREAS, the project been determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 and Section 15061(b)(3) of the CEQA Guidelines; and

WHEREAS, the Planning Commission held duly a noticed public hearing on October 19, 2021; and

WHEREAS, the Planning Commission finds based upon the findings set forth in Exhibit A attached hereto and incorporated herein, that with the conditions listed below, the proposed project is in substantial conformance with the Design Review criteria specified in Section 20.04.005 and 20.04.110 to 20.04.120 of the Belvedere Municipal Code.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Belvedere does hereby grant approval of the Design Review application pursuant to Title 20 of the Belvedere Municipal Code with the following conditions:

- a) The property owner shall defend and 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 awards of damages and/or attorneys' fees and all associated costs that may result; counsel in any such legal action shall be selected by the City in its sole reasonable discretion.
- **b)** Plans submitted to the Building Department for permit issuance shall be consistent with the approved Planning Commission plans and shall conform to the applications and materials prepared by Richard Laiderman and Jung-wha Song stamped received by the City of Belvedere on July 2, 2021. The dock shall be reduced in size to address the view impacts for the property at 48 San Rafael Avenue.
- c) Construction shall be limited to the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, except in special circumstances after obtaining written permission from the City Manager.
- **d)** All requirements of the City Engineer shall be met.
- e) 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 Manager.
- f) Design Review approvals expire twelve (12) months from the date of approval.
- g) All requirements of the Fire Marshal shall be met.
- h) Any new exterior lighting requires Design Review approval.

Resolution 2021-44 San Rafael Avenue October 19, 2021 Page 2

- i) The general contractor shall submit a proposal to the City Manager, for review and approval, addressing the schedule for construction and parking locations for construction vehicles. Prior to the issuance of a building permit, the applicant shall update the Construction Management Plan to the satisfaction of the Building Official.
- j) Plans submitted to the Building Department for permit issuance shall be consistent with the approved Planning Commission plans.
- k) Design Review approvals expire twelve (12) months from the date of approval.
- 1) Construction shall be completed within the Construction Time Limit established for this project.
- m) In the event unanticipated archaeological or paleontological resources are uncovered during construction, all work must be halted and an evaluation must be undertaken by a qualified archaeologist or paleontologist to identify the appropriate actions t at shall be undertaken.
- n) These Conditions of Approval shall be printed on the Building Permit Construction Plan set of drawings.
- o) These restrictions shall be binding upon any successor in interest of the property.
- p) Prior to the issuance of a building permit the property owner shall demonstrate compliance with State/BAAQMD air quality requirements related to the dust generated by grading and construction.

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

AYES:	
NOES:	
ABSENT:	
ABSTAIN:	
RECUSED:	
	APPROVED:
	Peter Mark, Planning Commission Chair
ATTEST:	
Beth Haener, City Clerk	

Resolution 2021 -44 San Rafael Avenue October 19, 2021 Page 1

Exhibit A

<u>Preservation of existing site conditions.</u> To preserve the landscape in its natural state, the removal of trees, vegetation, rock, and soil should be kept to a minimum. Projects should be designed to minimize cut and fill areas, and grade changes should be minimized and kept in harmony with the general appearance of the neighboring landscape.

Landscaping, including the removal of trees, vegetation, rock, and soil, will not occur as the project scope proposes to expand the dock into the lagoon.

Relationship between structures and the site. There should be a balanced and harmonious relationship among the structures on the site, between the structures and the site itself, and between the structures and those on adjoining properties. All new buildings or additions constructed on sloping land should be designed to relate to the natural land-forms and step with the slope in order to minimize the building mass and bulk and to integrate the structure with the site.

The proposed project will create a harmonious relationship among the existing residence and residential structures on the adjoining properties. Specifically, the proposed dock is balanced and harmonious with the structures on the site and the structures on adjoining properties.

Minimizing bulk and mass.

To avoid monotony or an impression of bulk, large expanses of any one material on a single plane should be avoided, and large single plane retaining walls should be avoided. Vertical and horizontal elements should be used to add architectural variety, to break up building planes, and to avoid monotony.

Inapplicable as the project does not propose any exterior improvements which may result in the impression of bulk or large expanses of any one material or a single plane retaining wall. The project will have no impact.

<u>Materials and colors used.</u> Building designs should incorporate materials and colors that minimize the structures visual impacts, that blends with the existing landforms and vegetative cover, that relate to and fit in with structures in the neighborhood, and that do no attract attention to the structures themselves. Soft and muted colors in the earthtone and woodtone ranges are preferred and generally should predominate. Trim and window colors should be compatible with and complementary to the other building colors.

The proposed colors and materials are earthtoned and will blend in with the existing landforms as well as the lagoon waters.

Fences and screening.

A. Fences and physical screening should be located so as to be compatible with the design of the site and structures as a whole, should conceal and screen garbage areas, mechanical equipment, and structural elements from public view, should preserve privacy between adjoining dwellings, where practical, and should not significantly block views.

Not applicable as the project scope will not involve the alteration to the existing fencing of the property.

Resolution 2021-44 San Rafael Avenue October 19, 2021 Exhibit A Page 2

<u>Privacy.</u> Building placement, and window size and placement should be selected to give consideration to the privacy of adjacent buildings.

The project does not propose any improvements which could potentially impact the privacy of the neighboring residential properties.

<u>Drives, parking and circulation.</u> Walkways, driveways, curb cuts and off-street parking should be planned and designed so as to minimize interference with smooth traffic flow, to encourage separation of pedestrian from vehicular traffic, and to be as safe and convenient as is practical. They should not be out of relationship with the design of the proposed buildings and structures on the site, and should not intrude on the privacy of, or conflict with the appearance or use of neighboring properties.

Inapplicable as the proposed project will not result in the alterations of existing walkways, driveways, curb cuts or off-street parking which would necessitate further review from staff.

<u>Exterior lighting</u>, skylights, and reflectivity. Exterior lighting should not create glare, hazard, or annoyance to neighboring property owners or to passersby. Lighting should be shielded and directed downward, with location of lights coordinated with the approved landscape plan. Skylights should not have white or light opaque exterior lenses.

The project does not propose to add or alter any exterior lighting to the existing residential property. If lighting were to be proposed, the applicant would be required to design the lighting fixtures to face in a downward angle and/or be shielded so as not to create glare, hazard or annoyance to neighboring property owners or the surrounding community.

<u>Consideration of nonconformities.</u> The proposed work shall be viewed in relationship to any nonconformities, as defined in Title 19, and where it is determined to be feasible and reasonable, consideration should be given to conditioning the approval upon the mitigation or elimination of such nonconformities.

The proposed project was reviewed in compliance with Title 19 of the Belvedere Municipal Code and it was determined that the project would not result in any nonconformities.

Landscape plans -- Purpose.

A. Landscape plans should be compatible with the character of the site and surrounding developed properties. Native or natural appearing vegetation, with generally rounded, natural forms, should be placed to appear as loose, informal clusters. B. Landscape plans shall include appropriate planting to soften or screen the appearance of structures as seen from off-site locations and shall include appropriate screening for architectural elements, such as building foundations, deck supports, and retaining walls, that cannot be mitigated through architectural design. C. Landscape plans should provide privacy between properties. Choice of landscape materials should take into consideration the future impact which new planting may have in significantly obstructing views from nearby dwellings.

Resolution 2021-44 San Rafael Avenue October 19, 2021 Exhibit A Page 3

Landscape Plans – Materials. A. Plant materials native to northern California and Marin County, and those that are drought-tolerant are encouraged. Evergreen species are encouraged for use in screen planting situations. Because of high water usage, turf areas should be minimized and narrow turn areas, such as in parking strips, should be avoided. B. Landscape plans should include a mix of fast and slow growing plant materials. Fast growing trees that have a short life span should be used only when planted with others which reach maturity at a later age. C. Landscape plans should include water conserving irrigation systems. Plant materials should be selected so that once established, much of the major site landscaping would survive solely on rainfall. Plant materials native to northern California and Marin County, and those that are drought tolerant, are encouraged. Because of high water usage, turf areas should be minimized and narrow turf areas, such as in parking strips, should be avoided.

Inapplicable as the project scope would not result in any alterations to the existing landscaping.

Pro	ect Address:	



APPLICATION FOR DESIGN REVIEW

CITY OF BELVEDERE • PLANNING DEPARTMENT 450 SAN RAFAEL AVE • BELVEDERE, CA 94920-2336 PH. 415-435-3838 • FAX 415-435-0430 • WWW.CITYOFBELVEDERE.ORG

FOR STAFF USE ONLY			
Date:Rec'd. by:	Planning Comm. Approval		
·	Design Review Exception □ Staff Approval □		
·	••		
Parcel No.:	Zone:		
Located in Flood Zone ☐ AE ☐ VE ☐ N/A			
Section 1 • Pro	OJECT SUMMARY		
Does this project have an active building permit?	No ⊈ Yes □ Permit No.:		
	No ☑ Yes □		
Is there an Existing Revocable License for this prop			
Does this project have Planning Commission appro	•		
Address of Property: 44 San R			
Record Owner of Property: Richard Laiderr			
Mailing 765 Market St. apt.24G			
Address: San Francisco, CA 94103			
	2.1 1 1 . 2 1		
Owner's Representative:			
Mailing			
Address:			
Project Description:			
	omission for desig review exemption		
TOTILITION OF THE GOOD OF THE	Similation doorg to view exemption		
_			

ZOI	NING PARAMETERS:			
		Required	<u>Existing</u>	Proposed
Lot A	Area			
Lot	Coverage			
Tota	al Floor Area			
Fror	nt Yard Setback			
Left	Sideyard Setback			
Righ	nt Sideyard Setback			
Rea	r Yard Setback			
Build	ding Height Maximum			
Build	ding Height Average			
Park	king Spaces			
	G A T			D. CEC.
	SECTION 2 • ENV	IRONMENTAL INFO	RMATION REQUIRED) BY CEQA
		(To Be Completed I	by Applicant)	
Date	Filed:			
Gen	eral Information			
I.	Name and address of develo			
2.	Address of project:			
3.	Name, address, and telephor	ne number of person to be	e contacted concerning thi	s project:
4.	Indicate number of the perm	it application for the proje	ect to which this form pertain	ins:
5.	List and describe any other		•	
	those required by city, region			
6.	Existing zoning district:			
7.	Proposed use of site (Project	for which this form is file	d):	
8.	Year built:	Original architect:		
Pro	ject Description			
9.	Site size.			
10.	Square footage.			
11.	Number of floors of construct			
12.	Amount of off-street parking			
13.	Plans attached?			

Project Address:

Proposed scheduling.

14.

16.	Anticipated incremental development.		
17.	If residential, include the number of units, schedule of unit sizes, range of sale prices or rents, and t	ype of	
	household size expected.		
18.	If commercial, indicate the type, whether neighborhood, city or regionally oriented, square footage carea, and loading facilities.	of sales	3
19.	If the project involves a variance, conditional use or rezoning application, state this and indicate clear the application is required.	arly wh	ıy
	he following items applicable to the project or its effects? Discuss below all items checked yes sch additional sheets as necessary).	.,	
20.	Change in existing features of any bays, tidelands, beaches, or hills, or substantial alteration of ground contours.	Yes □	No
21.	Change in scenic views or vistas from existing residential areas or public lands or roads.		
22. 23.	Change in pattern, scale or character of general area of project. Significant amounts of solid waste or litter.		
24.	Change in dust, ash, smoke, fumes or odors in vicinity.		
25.	Change in ocean, bay, lake, stream or ground water quality or quantity, or alteration of existing drainage patterns.		
26.	Substantial change in existing noise or vibration levels in the vicinity.		
27.	Site on filled land or on slope of 10 percent or more.		
28.	Use of, or disposal of potentially hazardous materials, such as toxic substances, flammables or explosives.		
29.	Substantial change in demand for municipal services (police, fire, water, sewage, etc.).		
30.	Substantially increase fossil fuel consumption (electricity, oil, natural gas, etc.).		
31. 32.	Relationship to a larger project or series of projects. Changes to a structure or landscape with architectural or historical value.		
33.	Changes to a site with archeological or cultural value such as midden soil.		
Env	ironmental Setting		
34.	Describe the project site as it exists before the project, including information on topography, soil plants and animals, and any cultural, historical or scenic aspects. Describe any existing structure site, and the use of the structures. Attach photographs of the site. Snapshots or Polaroid photoaccepted.	s on t	he
35.	Describe the surrounding properties, including information on plants and animals and any cultural, or scenic aspects. Indicate the type of land use (residential, commercial, etc.), intensity of land use family, apartment houses, shops, department stores, etc.), and scale of development (height, front back, rear yard, etc.). Attach photographs of the vicinity. Snapshots or Polaroid photos will be accepted.	se (on age, s	ne- et-

Project Address:

Project Address:	
Froject Address.	

SECTION 3 • **ESTIMATE OF TIME FOR CONSTRUCTION**

For Design Review applications not requiring a building permit this section does not apply. Design Review approvals expire twelve (12) months from the date of approval unless granted a longer duration by the Planning Commission.

This Section advises you of the Time Limit Guidelines that are applied to all Design Review applications that require a building permit as prescribed by Section 20.04.035 of the Belvedere Municipal Code.

B. Construction Time Limit Required. This Chapter shall apply to any project for which a design review approval is required, any project requiring a building permit with an estimated construction value of \$50,000 or greater, and/or any landscaping project with an estimated construction value of \$50,000 or greater that is associated with a building permit. As part of any application for design review, the applicant shall file a reasonable estimate of the cost of the proposed project, and based thereon, a construction time limit shall be established for the project in accordance with the guidelines set forth in Subsection C of this Section. The maximum time for completion of project shall not exceed six months for additions and remodeling up to \$100,000 in value; 12 months for construction up to \$500,000 in value; and 18 months for construction valued at more than \$500,000. Failure to complete construction in the agreed upon time will result in fines ranging from \$600 per day to \$1200 per day with a \$300,000 maximum penalty. Application for an extension of the prescribed time limit can be made providing certain conditions are met. The maximum extension is 6 months. The time for completion of the construction shall also be indicated on the building permit.

In th	e spac	e provided below please indicate the estimated project valuation.
Base		cost of construction: \$
	1.	For new construction, the demonstrable value of which is estimated to be <u>less than \$500,000</u> . Construction shall be completed twelve (12) months from the commencement of work following the issuance of the building permit.
	2.	For new construction, the demonstrable value of which is estimated to be <u>more than \$500,000</u> . Construction shall be completed eighteen (18) months from the commencement of work following the issuance of the building permit.
	3.	For additions, alterations, modifications and repairs, the demonstrable value of which is estimated at less than \$100,000 . Construction shall be completed six (6) months from the commencement of work following the issuance of the building permit.
	4.	For additions, alterations, modifications and repairs, the demonstrable value of which is estimated at less than \$500,000 . Construction shall be completed twelve (12) months from the commencement of work following the issuance of the building permit.
	5.	For additions, alterations, modifications and repairs, the demonstrable value of which is estimated at more than \$500,000. Construction shall be completed eighteen (18) months from the commencement of work following the issuance of the building permit.

Project Address:	Project Address:	
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For those projects that do not fall under any of the above Time Limit Guidelines or that wish to exceed the time limit that was approved by the Planning Commission, the following is the "Extension of Construction Time Limit" process (BMC Section 20.04.035(D):

- D. Extension of Construction Time Limit.
- 1. An applicant may request a construction time limit extension at the time of the design review hearing or after the issuance of a building permit. An applicant is limited to one construction time limit extension per project.
- 2. The Planning Commission has the authority to grant, conditionally grant, or deny a time limit extension request made at the time of a design review hearing based on the reasonable anticipation of one or more of the factors in this Subsection. The Planning Commission's decision may be appealed in writing to the City Council.
- 3. The extension committee has the authority to administratively grant, conditionally grant, or deny a time limit extension request made after the issuance of a building permit based on one or more of the factors in this Subsection. The extension committee shall consist of the City Building Official, the Director of Planning and Building, and the Public Works Manager, who shall meet with the project contractor, architect and, at the applicant's option, a representative or the applicant. The extension committee shall review the extension request within 10 working days of receiving a complete application. Within 10 working days of receiving the decision, the applicant may appeal the extension committee's decision to the Planning Commission and the Planning Commission's decision to the City Council. All appeals shall be scheduled within a reasonable time of the receipt of the appeal.
- 4. An application for a construction time limit extension shall be accompanied by complete working drawings for the construction, a written explanation of the reasons for the requested extension, any other information requested by Planning staff, and a fee as established by City Council resolution.
- 5. Projects with an initial 18-month construction time limit may receive a maximum 6-month extension for a total time limit of 24 months. Projects with an initial 6 or 12-month construction time limit may receive an extension, provided that such extensions do not result in a total construction time limit exceeding 18 months.
- 6. Landscaping Extension. When landscaping work, which was approved as part of a larger construction project, is delayed because of inclement weather, the applicant may file with the City Manager for an extension to complete the landscaping work. The request must be filed prior to, and may not exceed 30 days beyond, the final building inspection approval, issuance of an occupancy permit, or expiration of the 90-day landscaping time limit granted per Subsection C2 above, whichever occurs later. The City Manager shall grant said extension only if, in his or her opinion, such extension is warranted because of delays caused by inclement weather.
- 7. Construction Time Limit Extension Factors. Requests for construction time limit extensions shall be determined based on one or more of the following factors:
 - a. Site topography
 - b. Site access
 - c. Geological issues
 - d. Neighborhood considerations
 - e. Other unusual factors
 - f. Extreme weather events
 - g. Unanticipated discovery of archeological resources
 - h. Other conditions that could not have been reasonably anticipated at the time of project application

Project Address:	

SECTION 4 • ACKNOWLEDGEMENT OF HOURLY BILLING COSTS

This Section advises you of the costs that may be involved in processing Planning-related applications and/or appeals. You are hereby requested to acknowledge this information and agree to be responsible for all expenses incurred in the processing of your application(s)/appeal(s).

As the property owner/appellant, you agree to be responsible for the payment of all costs, both direct and indirect, associated with the processing of the applications(s)/appeals(s) referenced below. Such costs may be incurred from the following source:

Hourly billing costs as of July 1, 2018, (subject to change without notice):

Director of Planning & Building \$ 85.00
Associate Planner \$ 59.00
City Attorney \$ 240.00

Specialized Planning Consultant Actual costs + 25% overhead

For all applications and appeals, an initial deposit is required at the time of submittal, with the amounts determined by City Council resolution. In addition to the initial deposit, the property owner/appellant may be required to make further deposits for anticipated work. Invoices are due and payable within 15 days. Application(s) /or appeal(s) will not be placed on an agenda until these deposits are received.

SECTION 5 • ACKNOWLEDGEMENT OF RESPONSIBILITY

This Section applies to all projects that receive design review. To avoid misunderstandings regarding changes to building plans that have received Design Review, please read and acknowledge the below information. To help your project proceed in an expeditious and harmonious manner, the City of Belvedere wishes to inform you of several basic understandings regarding your project and its approval. By you and your representative signing this document, you are acknowledging that you have read, understand, and will comply with each of the points listed.

- 1. Once Design Review approval has been granted, construction plans may be submitted to the City. The construction plans shall be <u>identical</u> to the plans approved for design review. (BMC §20.04.010). Deviations from the plans approved for Design Review cannot be approved except by an amendment to the Design Review approval. It is the applicants' responsibility to assure conformance, and the failure of staff to bring nonconformities to the applicants' attention shall not excuse the applicant from such compliance.
- 2. Comments from City staff regarding the project shall neither be deemed official nor relied upon unless they are in writing and signed by the City Manager or his designee.
- 3. Without the prior written approval of the City, construction on the project shall not deviate in any manner, including but not limited to form, size or color, from approved construction plans. If at any time during construction, and without such written approval, construction on the project is found by a member of City staff to deviate from the approved construction plans in any manner, an official STOP WORK ORDER will be issued by the City, and there shall be a total cessation of all work on the project.
- 4. If such a STOP WORK ORDER is issued, the City may initiate proceedings to impose administrative penalties or nuisance abatement proceedings and issue an order to show cause, which will compel the undersigned property owner to appear before the City Council and show cause why the work performed does not deviate from the approved plans and why such work should not be condemned as a public nuisance and abated. (Authority: Belvedere Municipal Code Chapters 1.14 and 8.12)

Project Address:	

SECTION 6 • ADDITIONAL INFORMATION FOR APPLICANTS

Story Pole Requirement

Preliminary Story Poles sufficient to indicate the height and shape of the proposed structure or additions shall be placed on the site **at least twenty (20) days** prior to the first meeting date at which this application will be heard. **Final Story Poles** must be placed at the site **at least ten (10) days** prior to the first meeting date and removed no later than ten (10) days following the final city action on the project application. Story poles shall be connected at their tops with colored tape or ribbon to clearly indicate ridges, eaves, and other major elements of the structure.

Limit on the Number of Administrative and Planning Commission Design Review Approvals

Pursuant to Belvedere Municipal Code Section 20.04.020(B)(1)(a), for a site or structure with no existing active Design Review approval, during any twelve-month period, an applicant may obtain up to four administrative approvals, which may be in the form of either Staff Approval, Design Review Exception, or a combination of the two. However, there is no limit to the number of times an applicant may apply for Planning Commission Design Review. Any such administrative or Planning Commission Design Review approval(s) shall be valid for a period of twelve (12) months from the date of approval, unless a building permit has been issued for the project within said twelve (12) month period, in which case the Design Review approval shall be valid as long as there is an active building permit for the project.

Once a project has been approved by Planning Staff or the Planning Commission, administrative approvals to amend the existing active Design Review approval for that project shall be limited to three such approvals at any time during the lifetime of the underlying Design Review approval, plus one such approval during the process of obtaining final inspection approval of the project. Any such administrative approval(s) granted shall NOT extend the twelve (12) month term, of the underlying Design Review approval, or the building permit construction time limit if a building permit has been issued for the project.

STATEMENT OF PROPERTY OWNERSHIP, CERTIFICATION OF APPLICATION, & DESIGNATION OF REPRESENTATIVE

All property owners must complete and sign the section below which is applicable to your property.		
Street address of subject property:	44 San Rafael Ave., Belvedere CA 94920	
Assessor's Parcel No(s). of subject property:		

> Properties Owned by a Trust, LLC, Corporation, Partnership, or Other Entity

Please provide <u>proof of ownership</u> and of the <u>signer's authority</u> to enter into contracts regarding this property. One or more of the following documents *may* contain the necessary information.

- For Trusts: the Trust Document or a Certificate of Trust, including any attachments thereto; Property Deed; Certificate of Title Insurance.
- <u>For other entities</u>: Articles of Incorporation; Partnership Agreement; Property Deed; Certificate of Title Insurance; written certification of facts by an attorney.

Photocopies are acceptable. To ensure privacy, documentation will be shredded in a timely manner, or, upon request, returned to the applicant.

I,_______, state under penalty of perjury under the laws of the State of California that the above-described subject property is owned by a Trust, LLC, Corporation,

Design Review Application • Page 7 of 9 • City of Belvedere

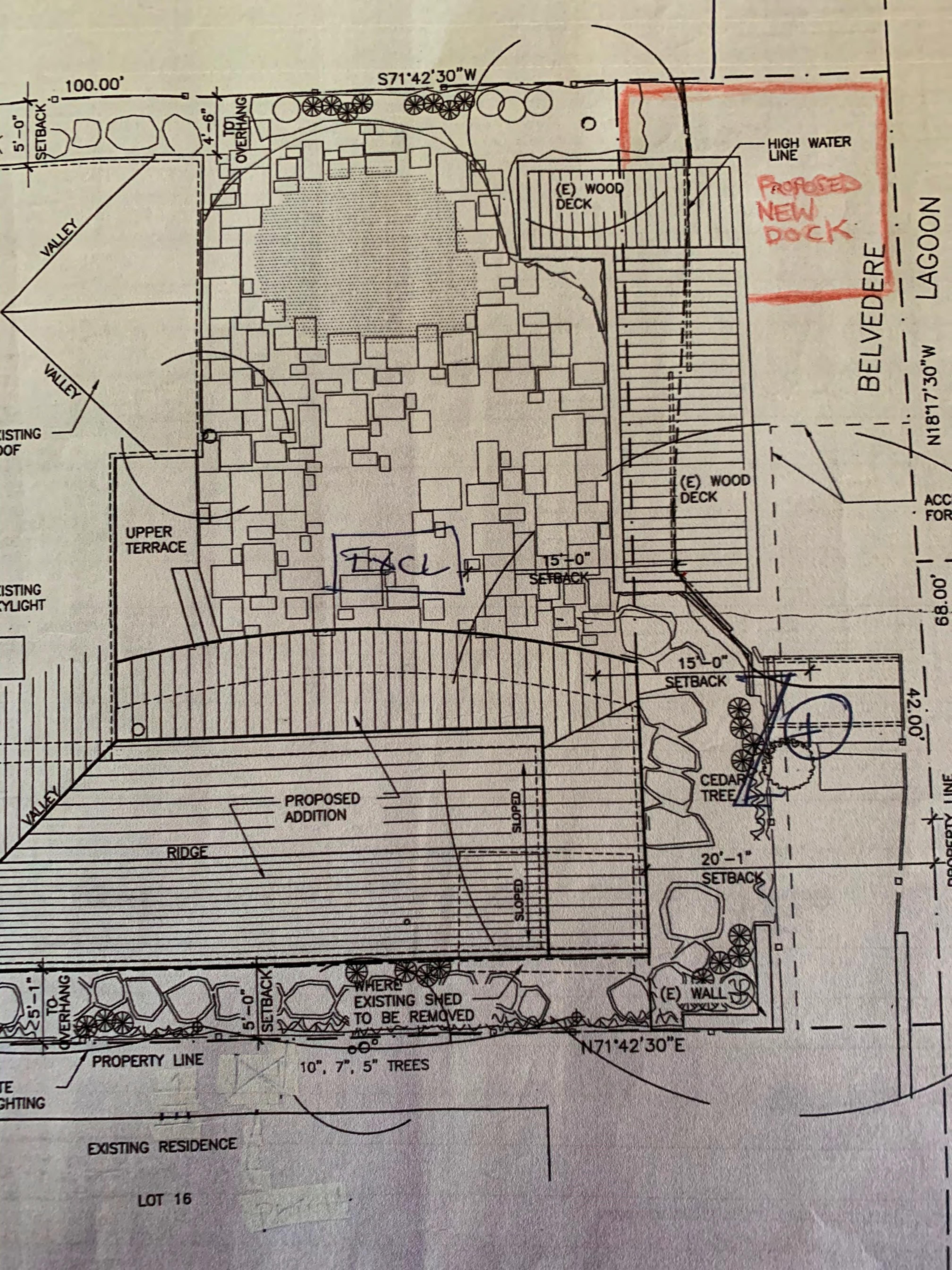
Project Address:		
Partnership, or other entity and that my signature on this application has been authorized by all necessary action required by the LLC, Corporation, Partnership, or other entity.		
I hereby make application for approval of the design review requested. I have read this application and hereby certify that the statements furnished above and in the attached exhibits present the data and information required for the design review and initial environmental evaluation to the best of my ability, and that the facts, statements and information presented are true and correct to the best of my knowledge and belief		
I agree to be responsible for all costs incurred in connection with the processing of my application and appeals, if any. And I agree to be bound by Section 5, "Acknowledgement of Responsibilities," above and representations one through four contained therein.		
In the case of an application for revocable license, I agree that, upon approval by the City Council of the revocable license requested, I will promptly execute a license drafted by the City, have it notarized, and return it to the City so that it may be recorded.		
I understand that the contents of this document are a Public Record. If more than one signature is required by the owner entity to make this application, please have all signers sign below.		
Signed this day of, 20, at Belvedere, California.		
Signature Signature		
Title(s)		
□ Trustee(s) □ Partners: □ Limited or □ General □ Corporation □ Other		
Name of trust, LLC, corporation, or other entity:		
Properties Owned by Individuals		
I, state under penalty of perjury under the laws of the State of California that I am the record owner of the above-described subject property.		
I hereby make application for approval of the design review requested. I have read this application and hereby certify that the statements furnished above and in the attached exhibits present the data and information required for the design review and initial environmental evaluation to the best of my ability, and that the facts, statements and information presented are true and correct to the best of my knowledge and belief.		
I agree to be responsible for all costs incurred in connection with the processing of my application and appeals, if any. And I agree to be bound by Section 5, "Acknowledgement of Responsibilities," above and representations one through four contained therein.		
In the case of an application for revocable license, I agree that, upon approval by the City Council of the revocable license requested, I will promptly execute a license drafted by the City, have it notarized, and return it to the City so that it may be recorded.		
understand that the contents of this document are a Public Record.		
Signed this day of, 20, at Belvedere, California.		

Design Review Application • Page 8 of 9 • City of Belvedere

Signature_____

➤ <u>Designation of Owner's Representative</u> (Optional)		
I hereby authorize	als required to complete my project and further the Planning Commission and/or City Council.	
Signature of Owner:	Date:	
Signature of Representative:	Date:	

Project Address:









Attorneys at Law

1101 5th Avenue, Suite 100 San Rafael, CA 94901 telephone 415.453.9433 facsimile 415.453.8269 www.rflawllp.com

Riley F. Hurd III rhurd@rflawllp.com

August 6, 2021

Via E-Mail Only

Rebecca Markwick Senior Planner City of Belvedere 450 San Rafael Ave Belvedere, CA 94920

Re: Opposition to dock expansion at 44 San Rafael Ave

Dear Ms. Markwick:

Our office represents Ms. Felicienne Miller, the owner of 48 San Rafael Avenue in Belvedere (the "Miller Property"). The Miller Property shares an east-west boundary with 44 San Rafael Avenue, and would be the most impacted by the above-referenced project. Specifically, the proposed outward extension of the dock at 44 San Rafael would:

- 1. Impair access to the dock at the Miller Property.
- 2. Negatively impact the views from, and enjoyment of, the dock at the Miller Property.
- 3. Create a boxed-in area of water that would collect debris and block wildlife.
- 4. Eliminate the current privacy between the two docks.

For these reasons, the Director of Planning and Building, the Planning Commission Chairperson and/or the City Manager should deny this proposal.

Furthermore, this application is *not* minor, and definitely *does* defeat the purposes and objectives of Chapter 20.04 of the Belvedere Municipal Code ("BMC"). Accordingly, this matter should be subject to Design Review as opposed to the exception process.

Ms. Miller was disheartened to only learn of this application via the written notice from the City as opposed to outreach from her neighbors. While the applicants may be absentee owners, Ms. Miller has lived in her home continuously for over 45 years. The unique nature of her dock and lagoon access makes any expansion of the dock at 44 San Rafael incredibly impactful.



Page 2 of 3

As demonstrated by the following photo, the small dock accessed by the Miller Property is at a 90-degree angle to 44 San Rafael, and has a narrow frontage on the Lagoon:



For decades, Ms. Miller has enjoyed sitting in these chairs and observing the Lagoon and its wildlife. If the dock at 44 San Rafael were to be expanded, she would stare at the extension, and all of the water toys and furniture associated therewith. It would also make accessing her dock quite difficult, while creating a corner of stagnant water that would exacerbate the windblown debris problem that already exists in this corner and also block birds and wildlife from the area.

One of the purposes of Chapter 20.04 of the BMC is, "to maintain and improve the quality of, and relationship between, individual buildings, and between structures and their sites, so that they contribute to the attractiveness of the neighborhood and the community." (BMC 20.04.005(E).) This application does not serve this purpose. As noted in BMC 20.04.020(B)(3), a Design Review Exception can only be granted if the project meets the purposes of Chapter 20.04.



Page 3 of 3

Design Review Finding 20.04.120 states that, "There should be a balanced and harmonious relationship among the structures on the site, between the structures and the site itself, and between the structures and those on adjoining properties." (Emphasis added.) This finding cannot be made for this project. The proposed dock design would also violate other findings regarding privacy and circulation.

It is unfortunate that no dialogue occurred in regards to the impacts of this project on a longstanding Belvedere resident. It should also be noted that the plan set is woefully deficient in regards to representing/understating the project. The use of a red pencil on an old set of design plans is not adequate. What are the materials, height, railings etc.?

The applicants should work with their neighbor to understand the impact of what is being proposed. However, at this point, we must strongly urge the City to deny the expansion component of this application.

Thank you for your consideration of these important points.

Very Truly Yours,

Riley F. Hurd III

Riley F. Hund R

CC: Client

KNOW ALL MEN BY THESE PRESENTS I, LEON DE LISLE. Auditor of the County of Marin. State of California, do hereby certify that the reare no liens for unpaid County taxes, or special assessments collected as taxes, against the within subdivision of land or any That BELVEDERE LAND COMPANY, a corporation, owner in fee simple of the land subdivided and shown upon this map, exclusive of streets now existing, does hereby consent to the preparation and recordation of this map entitled "Map of part thereof. Hilarita Lagoon Sites, Belvedere, Marin County, California," composed of one sheet, Dated this 215 day of March 1941. and does hereby offer for dedication for public use as streets or highways, the parcels of land delineated hereon as Lagoon Road and Hilarita Circle. Auditor of the County of Marin, BELVEDERE LAND COMPANY, Owner State of California I, O. J. OLDFIELD, Tax Collector of the City of Belvedere, Marin County, State of California, do hereby certify that there are no liens for impaid municipal taxes, or special assessments collected as taxes, against the within subdivision of land or any part thereof. County of Marin Ss Musch in the year One Thousand Nine Tax Gillector of the City of Belvedere, Hundred and Forty One before me a Notary Public in and State of California. for the said County of Marin, personally appeared Harry B. Allen and E.R. Benson, known to me to be the President and Secretary, respectively, of Belvedere Land Company, the corporation that executed the within and foregoing instrument I, H. A. ESTABROOK, Clerk of the City Council of the City of Belvedere, Marin and also known to me to be the persons who executed it on behalf of the County, State of California, do hereby certify that the said Council outy passed on the 1941. It's Resolution No. 94 hereby which it approves and adopts this map as the official Niap of Hilarita Lapoon corporation therein named, and they acknowledged to me that such corporation executed the same as owner. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in the said County of Marin the day and year in Sites, Belvedere, Marin County, California, and accepts on behalf of the public those parcels of land delineated and designated thereon as Lagoon Road and this certificate first above written. Hilarila Circle, and declares the same to be open streets or highways dedicated to public use. In Testimony Whereof, I have hereunto subscribed my name and caused the seal of this Office to be hereto affixed. Notary Public in and for the County of Marin, State of California Clerk of the City Council of the City of We do hereby certify that during the month of February, 1941, a survey was Belvedere, State of California. authorized by Belvedere Land Company and was made under our direction, and that the survey is true and complete as shown on the within map of Hilarita Lagoon Sites, Belvedere, Marin County, California.
We do hereby certify that the monuments are of the character and occupy the positions indicated on the within map, and that they are sufficient to enable this survey to be retraced.
Witness our hands and seals this 15th day of March 1941 PUNNETT, PAREZ & HUTCHISON Registered Civil Engineers The Marin Municipal Water District, owner of a right of a right of a right of way in "Lagoon Road" and "San Rafael Avenue" consents to the making of this map and the dedication of Lagoon Road for public use as a street or highway. MARIN MUNICIPAL WATER, DISTRICT Its President By Mis Secretary 204.48 MAP OF HILARITA LAGOON SITES BELVEDERE, MARIN COUNTY, CALIFORNIA COMPOSED OF ONE SHEET PUNNETT, PAREZ & HUTCHISON_ CIVIL ENGINEERS SCALE:-50 FEET TO 1 INCH FEBRUARY, 1941

Hello,

I am forwarding you a string of emails between myself and John Moe which discuss whether or not a dock could be constructed or expanded in front of Ms. Millers home based on the language of the access easement.

Please let me know if you have any questions or would like to discuss.

Thanks, Rebecca

Rebecca Markwick Senior Planner City of Belvedere (415) 435-8931 office (415) 404-2932 mobile rmarkwick@cityofbelvedere.org



PUBLIC DISCLOSURE NOTICE:

This email and any attached files were sent from an email account assigned to a public official for the City of Belvedere. This email, replies to this email, or emails sent directly to this email account may constitute a public record and, if retained during the normal course of business, may be subject to disclosure to any person upon request.

From: John Moe < <u>John@moeengineering.com</u>>
Sent: Tuesday, October 19, 2021 12:23 PM

To: Rebecca Markwick - Senior Planner < AssociatePlanner@cityofbelvedere.org

Subject: RE: Easement Language

Since the purpose of the easement is to provide access to the lagoon it seems logical that a dock would be desirable. The easement does not prevent a dock from being constructed but it does not specifically allow for one. It may be appropriate to see if there is any objection from either the BLPOA or the neighbor (Lot 15 on the map) before approving the construction/expansion (?) of the dock. Per Google Maps aerial view it appears that there is already a small dock there.

John

From: Rebecca Markwick - Senior Planner < AssociatePlanner@cityofbelvedere.org>

Sent: Tuesday, October 19, 2021 11:34 AM **To:** John Moe < <u>John@moeengineering.com</u>>

Subject: RE: Easement Language

Thank you so much John, this is so helpful.

One follow up question, if a dock does not prevent ingress or egress then could one be constructed?

Rebecca Markwick Senior Planner City of Belvedere (415) 435-8931 office (415) 404-2932 mobile rmarkwick@cityofbelvedere.org



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From: John Moe < <u>John@moeengineering.com</u>>
Sent: Tuesday, October 19, 2021 10:41 AM

To: Rebecca Markwick - Senior Planner < AssociatePlanner@cityofbelvedere.org

Subject: RE: Easement Language

Hi Rebecca.

I marked up the attached map with the location of the easement that is described as Parcel Two in the Grant Deed below. The easement is not part of the subdivision map but was granted per the Grant Deed. It is 10' wide and 42 feet long as shown. Regarding easement rights (whether or not they can build a dock), the easement is for ingress and egress and does not specifically allow for any additional use of the easement.

I hope this helps. Please let me know if you have any questions. Thanks, John

From: Rebecca Markwick - Senior Planner < AssociatePlanner@cityofbelvedere.org>

Sent: Monday, October 18, 2021 4:21 PM **To:** John Moe < <u>John@moeengineering.com</u>>

Subject: RE: Easement Language

Thank you John. If I am looking at the map correctly, I do not see an access easement between lots 15 and 16. I only see the sewer easement on the San Rafael side of the lots.

Rebecca Markwick
Senior Planner
City of Belvedere
(415) 435-8931 office
(415) 404-2932 mobile
rmarkwick@cityofbelvedere.org



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From: John Moe < <u>John@moeengineering.com</u>>
Sent: Monday, October 18, 2021 3:15 PM

To: Rebecca Markwick - Senior Planner < AssociatePlanner@cityofbelvedere.org >

Subject: RE: Easement Language

Hi Rebecca,

Attached is the map referenced in the Grant Deed below. Let me know if you need anything more.

John

From: Rebecca Markwick - Senior Planner < AssociatePlanner@cityofbelvedere.org>

Sent: Monday, October 18, 2021 2:12 PM **To:** John Moe < <u>John@moeengineering.com</u>>

Subject: FW: Easement Language

Hi John,

Would you happen to know or have access to the recorded map for the easement below. I am trying to find out if the access easement would prohibit a dock.

Thanks, Rebecca

Rebecca Markwick Senior Planner City of Belvedere (415) 435-8931 office (415) 404-2932 mobile rmarkwick@cityofbelvedere.org



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From: Richard Laiderman < richard.laiderman@gmail.com>

Sent: Sunday, October 17, 2021 8:53 AM

To: Rebecca Markwick - Senior Planner < <u>AssociatePlanner@cityofbelvedere.org</u>>

Subject: Re: Easement Language

Here it is.

5:16 ₽

Done

15970R566.pd

70 4th Street San Francisco, Calif. BOOK 1597 FAGE 566

RECORDED AT REQUEST M. RIN TITLE GUARANTY AT 4 JMIN. PAST 3 / AUG -2 1962 Official Records of Marin County, Cal 7 Siacomini 60-011-16 SPACE ABOVE

AGNES MC COLLUM MC BLAIN, also known as AGNES her separate property

FREDERICK FOX, a single man

the second part y , all the real property situated in the City of

Marin,

State of Califo

Sent from my iPhone

On Oct 17, 2021, at 6:54 AM, Rebecca Markwick - Senior Planner AssociatePlanner@cityofbelvedere.org wrote:

Hi Richard,

One of the planning commissioners has asked me if we have access to the easement language. I do not have the language and wondering it you do and could email it to me? Thanks,
Rebecca

Rebecca a Markwick Senior Planner City of Belvedere (415) 435-8931 office (415) 404-2932 mobile markwick@cityofbelvedere.org <image001.png>

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From: Robert Huret

Sent: Sunday, October 17, 2021 9:13 PM **To:** Rebecca Markwick - Senior Planner
AssociatePlanner@cityofbelvedere.org

Cc: Judy Huret <

Subject: Support for dock extension at 44 San Rafael Ave

We are the owners of 34 San Rafael Ave.

We fully support the proposed dock which would improve lagoon access from the currently cramped dock area at 44 San Rafael Ave.

We have a similar situation between our dock at 34 San Rafael and the dock at 30 San Rafael which has an easement across our property. In the 25 years we have owned 34 San Rafael there has never been a problem or issue with access to the lagoon from 30 San Rafael and our neighbors at 30 San Rafael are easily able to access their dock from the lagoon.

Bob and Judy Huret 34 San Rafael Ave From: Richard Laiderman

Sent: Thursday, October 14, 2021 3:56 PM

To: Rebecca Markwick - Senior Planner

AssociatePlanner@cityofbelvedere.org

Subject: Re: Objection to Neighbors Dock

Hi Rebecca -

Thank you for forwarding this objection. For the benefit of the commissioners, I would like to briefly reply to the four concerns raised.

- 1. Lagoon maintenance This proposed expansion was approved by the BLPOA before it could be considered by Planning. My understanding is that the outlet valve will still be serviceable.
- 2. Access to the lagoon The proposed addition does not restrict access of 1 Hilarita in any way.
- 3. Access for neighbor at 48 San Rafael The Proposed dock expansion is in front of 48 San Rafael's easement. However it is well beyond the easement line which extends into the water to allow plenty of room for lagoon access. Note: Our property grants 48 San Rafael a 10 foot easement for ingress and egress to the lagoon.
- 4. Privacy If the bedroom of 1 Hilarita can see our proposed dock expansion, then it must also views all the other docks in our corner of the lagoon. There are many wonderful things about living on the lagoon but privacy is not one of them.

Respectfully - Richard

From: Deb

Sent: Sunday, October 17, 2021 3:31 PM **To:** Rebecca Markwick - Senior Planner
AssociatePlanner@cityofbelvedere.org

Cc: Frans Op den Kamp <

Subject: Support for dock at 44 San Rafael

We own 40 San Rafael Ave and would like to support the request to build a dock by the owners of 44 San Rafael Ave.

Our dock is immediately adjacent to the proposed dock and we have no concerns about privacy or lagoon access if the proposed dock is constructed.

Sincerely,
Deborah and Frans Op den Kamp

From: Sprague Von Stroh

Sent: Thursday, October 14, 2021 2:44 PM

To: Rebecca Markwick - Senior Planner < AssociatePlanner@cityofbelvedere.org >

Cc: David Von Stroh <; Sprague Von Stroh <

Subject: Objection to Neighbors Dock

Dear Belvedere Planning Commission,

We live at 1 Hilarita Circle, Belvedere, CA 94920.

Our property is within close proximity to the proposed dock expansion at 44 San Rafael Avenue. Both houses back up to the Belvedere Lagoon ("Lagoon") and the proposed dock would generally detract from the vicinity.

We understand from the Lagoon maintenance personnel that the area surrounding the dock would be unable to be serviced which includes dredging that corner and having ready access to operate the water outlet gate both which are vital to the Lagoon's operation.

The expansion is also directly in front of both our and our neighbor's backyards and access to the Lagoon. We also have a privacy concern as our bedroom window looks right onto the proposed dock (relevant photos attached).

We ask that the proposed dock expansion at 44 San Rafael not be allowed to be built for the reasons stated.

Thank you for your time and consideration of our objection to the proposed dock expansion.

We would appreciate the opportunity to voice our concerns at the Planning Commission meeting on October 19th.

Best,
David and Sprague Von Stroh

David Von Stroh









Done

15970R566.pdf



70 4th Street

San Francisco, Calif.

BOOK 1597 FAGE 566

RECORDED AT REQUEST OF M.R.N TITLE GUARANTY CO.

AT 4 J MIN. PAST 3 / M.

AUG -2 1962

Official Records of Marks County, Calif.

7 Hiacomini RECORDER

60-011-16

27618

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT DEED

Application No. 61752-RLT AGNES MC COLLUM MC BLAIN, also known as AGNES MC CALLUM MC BLAIN, as her separate property

FREDERICK FOX, a single man

the second part y , all the real property situated in the City of Belvedere,

County

Marin,

State of California, described as follows:

PARCEL ONE:

Lot No. 16, as shown upon that certain map entitled, "Map of Hilarita Lagoon Sites, Belvedere, Marin County, California", recorded April 10, 1941 in Book 5 of Maps at page 89, in the office of the County Recorder of the County of Marin, State of California.

PARCEL TWO:

An easement, for ingress and egress over the Easterly ten feet of the Southerly 42 feet of Lot 15, as shown on that certain map entitled, "Map of Hilarita Lagoon Sites, Belvedere, Marin County, California", filed for record on April 10, 1941 in Book 5 of Maps at page 89, Marin County Records.



WITNESS My hand this 1st day of	August 19 62
STATE OF CALIFORNIA County of Marin SS.	
before mel Eugene A. Hyde, Jr. a Notify Public, in and for said County and	507101010
State, perschally appeared Agnes McCollum McBlain	
person? whose name	
Notary Public Eugene A. Hyde, My commission expires July 10, 1965	Jr.

MARIN TITLE GUARANTY COMPANY 1300 Fourth Street

