

**CITY OF BELVEDERE**

**RESOLUTION NO. 2024-16**

**A RESOLUTION OF THE CITY OF BELVEDERE CITY COUNCIL  
APPROVING A TENTATIVE SUBDIVISION MAP AT  
1-22 MALLARD ROAD**

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**WHEREAS**, a complete application has been submitted for tentative subdivision map approval pursuant to Title 20 of the Belvedere Municipal Code to create 12 lots for construction of 40 residential units at 1-22 Mallard Road, including waivers and one concession under state Density Bonus Law (Government Code Section 65915 et seq.); and

**WHEREAS**, at its January 22, 2024 regular meeting, the City Council determined that the project is categorically exempt from the California Environmental Quality Act, Public Resources Code Section 21000 *et seq.* ("CEQA"), pursuant to the Class 32 Exemption for In-Fill Development Projects (14 CCR Section 15332); and

**WHEREAS**, the Planning Commission held a properly noticed hearing on March 19, 2024, and duly considered all evidence submitted into the record, including, without limitation, all staff reports, oral and written, along with all attachments and exhibits; oral testimony from all parties; all written and graphical information posted in the City's website; and all written information submitted to the Planning Commission; and

**WHEREAS**, the Planning Commission recommended conditional approval of the Tentative Subdivision Map for construction of 40 residential units on March 19, 2024; and

**WHEREAS**, the City Council held a properly noticed hearing on May 13, 2024, and duly considered all evidence submitted into the record, including, without limitation, all staff reports, oral and written, along with all attachments and exhibits; oral testimony from all parties; all written and graphical information posted in the City's website; and all written information submitted to the Planning Commission; and

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Belvedere does hereby approve the proposed tentative subdivision map, with the conditions listed below, finding that the tentative map meets the conditions and standards specified in Section 18.20.140 of the Belvedere Municipal Code (BMC) and in Government Code Sections 66473.5 and 66474, as set forth in Exhibit A, attached hereto and incorporated herein by this reference.

**Conditions of Approval**

1. The property owner shall 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 tentative map approval, shall cooperate with the City in the defense of any such action, and shall indemnify the City for any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever (collectively "Claims") that are caused by any third party challenges to the City's approval of the project. This indemnification shall include, but not be limited to,

damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition. Counsel for the City in any such legal action shall be selected by the City in its sole discretion.

2. Plans submitted to the Public Works Department for final map approval shall be in conformance with the tentative subdivision map plan set dated March 11, 2024, and shall conform with all conditions of approval. These plans include the following waivers under State Density Bonus law:
  - a. Lot Area Per Unit for Lot 1 (Apartment): The BMC Section 19.28.040 requires 50,000 square feet and the project proposes 21,568 square feet. Lot 2 (duplexes and triplexes): The BMC Section 19.28.040 requires 17,000 square feet, and the project proposes 14,352 square feet. Lot 12 (triplex and fourplex): The BMC Section 19.28.040 requires 21,000 square feet and the project proposes 9,686 square feet.
  - b. Lot Frontage for Lot 5: 27 feet is proposed where 60 feet is required by BMC Section 19.28.040.
3. Construction shall be limited to the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday and shall not be allowed on holidays. A noise control plan shall be submitted for approval by the Public Works Director if either jack hammering or pile driving will take place during construction.
4. All requirements of the Fire Marshal shall be met, including but not limited to the following:
  - a. Improvement plans submitted for the final map shall show a hydrant installed on Mallard Road at the circle in the middle of the project for use by Tiburon Fire Protection District (TFPD). Based on available psi (pounds per square inch) of water pressure, the hydrant shall be a Clow 865 if over 90 psi static or a Jones 3770 if under 90 psi static. The hydrant shall be installed prior to the issuance of any building permit.
  - b. 'No parking fire lane' curbs and signs shall be installed in accordance with TFPD and CA Vehicle Code standards, as required by the Fire Marshal, prior to the issuance of any certificate of occupancy or final inspection, as applicable.
  - c. For all plans required to be submitted to TFPD, TFPD application fees associated with the submittals shall be paid before any Building Permit is issued.
5. Prior to approval of the Final Map, approval of the Belvedere Lagoon Property Owners Association (BLPOA) is required if the map incorporates any portion of the BLPOA property. BLPOA approval is required for the encroachment of the docks onto BLPOA land. All dock and bulkhead plans shall be submitted to the BLPOA for its review and recommendation in writing to the City, and the plans shall comply with BLPOA recommendations related to Lagoon water quality and maintenance.

6. The demolition building permit application shall be accompanied by a permit application to replace the Belvedere Lagoon bulkheads along the entire length of each property adjacent to the Lagoon. The bulkheads shall be replaced as soon as reasonably possible in conjunction with demolition (full or partial permit) of the existing buildings, based on recommendations from the City building official, City Engineer and all other regulatory agencies.
7. Prior to approval of the Final Map:
  - a. The applicant shall enter into an affordable housing agreement with the City, as approved by the City Attorney, that shall be recorded in the Official Records of the County of Marin ("Affordable Housing Agreement"). The Affordable Housing Agreement shall require construction of four replacement housing units in the first phase of development, to be made available to and rented by low and very low income households for a term of 55 years from the issuance of a certificate of occupancy or final inspection, as applicable. Three of the units shall be made available and rented to low income households, as defined in Section 50079.5 of the Health & Safety Code, and one of the units shall be made available and rented to very low income households, at affordable rent, as defined in Section 50105 of the Health & Safety Code. All four units shall contain a minimum of two-bedrooms, three of which shall have minimum sizes of 869, 869, and 985 square feet (the fourth unit does not have a minimum size). If the affordable units are included in a mixed-income building with market-rate units, they shall be accessed by the common entrance, have equal access to all site amenities, and shall not be located on one floor of the building or a portion of one floor. Lower income households that occupied the housing units that will be demolished shall be provided a right of first refusal to occupy two low income units and the very low income unit, as applicable.
  - b. The City shall retain a relocation consultant at the applicant's expense to determine relocation benefits for the lower income tenants that occupied the existing residential units on the property either at the time of project application or at project approval, and the applicant shall provide those benefits.
  - c. The City shall verify that all lower income tenants have received those relocation benefits required by the Housing Crisis Act of 2019 (Government Code Section 66300.5 et seq. or successor provision). The applicants shall provide contact information to the City for all existing tenants so that they may be informed of their rights should the project not proceed.
8. All tenants must be allowed to remain until at least six months prior to the start of construction activities. If the project proponents decide not to proceed with the project and return the buildings to the rental market, the existing tenants are entitled to return to the units at their current rent.
9. Tentative subdivision map approvals expire twenty-four (24) months from the date of approval unless a Final Map is approved, or the approval is extended by the Planning Commission. This tentative map expires on May 13, 2026.
10. A Final Map, as defined in the state Subdivision Map Act and BMC Chapter 18.36, and prepared by a licensed surveyor or civil engineer, showing all parcels, rights-of-way, and

easement(s) shall be submitted to the City Engineers Office for review and approval. Upon recording of the map, the subdivision is valid.

11. The CC&Rs will be reviewed as part of the Improvement Plan and Final Map submittal. The CC&Rs shall include the provisions required by BMC Section 19.38.070.B.

12. Submittal of the Final Map to the City Engineer for review and approval, shall include:

- a current (within the last 3 months) Preliminary Title Report (including the grant deed and title items) showing all existing easements and other relevant title items on the Improvement Plans and other plans as appropriate.
- Closure of survey calculations.
- Documentation of existing easements and property encumbrances within the project.
- Improvement Plans and associated engineering reports.
- Completion of current submittal check list provided by the City.
- Articles of Incorporation for the proposed homeowner's association with draft covenants, conditions and restrictions.
- Current plan and map check fee/deposit.
- Current Inspection fee/deposit.

13. The applicant shall present to the City of Belvedere, free of encumbrances, an irrevocable offer of dedication for public utility easements and public storm drainage easements as necessary, as shown on the approved tentative map.

14. The applicant shall secure all necessary rights-of-way and easements for both onsite and offsite utility and drainage facilities. Rights-of-way and easements shall be dedicated on the final map or provided by grant deed, when off-site. The applicant shall prepare all necessary legal descriptions and deeds.

15. Abandonment of any existing easements shall be referenced on the Final Map.

16. Final Map – Local Agency Sheet

NOTE ON FINAL MAP: "Prior to the issuance of Building Permits, all applicable development impact fees shall be paid to the satisfaction of the Building Official and in accordance with City and local district ordinances." Limits of the 100-year flood elevation, as shown on the latest FEMA FIRM maps & Flood Insurance Study and determined by the City, shall be shown on the Final Map and labeled as "Subject to Inundation" (if applicable) or a note stating, "No 100-Year FEMA areas of Inundation including in the boundary of this map", whichever is applicable to the subdivision.

17. Subdivision Improvement Agreement:

Prior to approval of the Final Map, the applicant shall either complete required construction as shown on the signed Improvement Plans or enter into a Subdivision Improvement Agreement and post security with the City of Belvedere, agreeing to complete the required construction within 24 months of Grading Permit issuance and prior to a request for occupancy of any structures, or as otherwise established by the City Engineer.

**Conditions 18 through 60 shall be satisfied prior to Public Improvement Plan approval:**

18. The applicant shall prepare and submit a separate set of Public Improvement Plans for the construction of all public improvements with separate sheets for each of the following:
  - a. Demolition: show all items to be removed such as buildings, wells and septic system, if any, utilities, current road improvements, and other right-of-way features.
  - b. Utilities including water, sanitary sewer, storm drain facilities, joint trench, etc.
  - c. Roadway improvements including grading, curbs, gutters, sidewalks, parkway strips,
  - d. Stormwater and Erosion Control plan shall be included.
  - e. A photometric plan shall be included showing proposed streetlights.
  - f. Striping and signage on all streets, including signing, striping, streetlights, painted curbs, etc.
  - g. Details including site-specific details and all referenced city, state, or other details.
  - h. Where modifications or improvements are minimal, some items and sheets may be combined, but surface improvements and underground improvements should remain separate for clarity.
19. All design and construction shall conform to the latest edition of the City of Belvedere Design and Construction Standards at time of submittal of final map. The submittal shall include a detailed engineer's estimate for the public improvements including items, unit costs and quantities.
20. The Improvement Plan set shall have a sheet(s) printed with all conditions of approval thereon.
21. The Improvement Plans shall include an approval line for the geotechnical engineer to sign off on the plans based on their Geotechnical Investigation Report.
22. A letter shall be provided by the engineers providing all studies or reports indicating compliance with their respective report and recommendations. This would include the following reports:
  - a. Geotechnical
  - b. Traffic
  - c. Water and Sewer
  - d. Environmental
  - e. Hydraulics and Hydrology
  - f. Stormwater Low Impact Development (LIID)

23. Improvement Plans must be approved and signed by the Director of Public Works, Director of Planning and Building, Police Chief and Tiburon Fire Protection District prior to the issuance of an Encroachment Permit, Grading Permit or Building Permit.
24. The City shall estimate the costs of plan review and inspection costs, and the applicant shall deposit the estimated costs with the City and enter into a reimbursement agreement with the City to ensure that all City plan review and inspection costs are reimbursed by the project applicant.
25. Any improvement work on property owned by the Belvedere Lagoon Property Owners Association requires the prior approval of the BLPOA.
26. Mailbox plans and locations shall be approved by the Postmaster prior to Improvement Plan approval. The applicant shall provide a letter and exhibit showing mailbox locations from the Postmaster approving mailbox locations.
27. As determined by the City Engineer, existing curb, gutter and sidewalk along the project frontage on Community Road that are to remain and are in disrepair shall be removed and replaced as part of the improvements for this project, and all nonconforming pedestrian ramps and driveway approaches shall also be brought up to current accessibility standards.
28. Deviations from City Standards shall require approval by the City Engineer. The applicant's engineer shall request all design exceptions in writing.
29. Project benchmark shall be based on a City-approved benchmark.
30. A "dry" Utility Plan shall be submitted for review and approval by the Director of Public Works, prior to Improvement Plans approval.
31. Prior to issuance of a Building Permit and where required by BMC Section 8.36.090(D), permanent stormwater controls for new and redevelopment projects, the applicant shall develop, submit, and implement an approved Stormwater Control Plan (SCP) that follows the appropriate template in the most recent version of the Bay Area Stormwater Management Agencies Association (BASMAA) Post Construction Manual. All water treatment or stormwater control features shall be clearly identified on the plan.
32. Required Improvement Plan notes:
  - a. "Any excess materials shall be considered the property of the contractor and shall be disposed of away from the job side in accordance with applicable local, state and federal regulations."
  - b. "All existing overhead utilities (of 26,000 volts or less) and proposed utilities, both on-site and along project frontages, shall be placed underground. This does not include surface mounted transformers, pedestal mounted terminal boxes and meter cabinets, which are required to be screened by means acceptable to the City."
  - c. "If any hazardous materials are encountered during the construction of this project, all work shall be immediately stopped and the Marin County Environmental Health Department, the Fire District the Police Department, and the City Inspector shall be

notified immediately. Work shall not proceed until clearance has been issued by all of these agencies."

- d. "The contractor(s) shall be required to maintain traffic flow on affected roadways during non-working hours, and to minimize traffic restriction during construction. The contractor shall be required to follow traffic safety measures in accordance with the Cal Trans "Manual of Traffic Safety Controls for Construction and Maintenance Work Zones." The City of Belvedere emergency service providers shall be notified of proposed construction scheduled by the contractor(s). The project specifications shall require that the contractor(s) notify emergency service providers in writing at least 24 hours in advance of its proposed schedule of work. A Traffic Handling Plan shall be provided to the Director of Public Works for approval prior to any work occurring within the public right of way."
- e. The following notes shall be added to the cover of the plans in bold.

**IMPORTANT NOTICE TO APPLICANT AND ALL CONTRACTORS:** Utility joint trench location shall be field staked and approved by the City PRIOR TO INITIATION OF ANY TRENCHING. This required approval by the City is independent of any authorization granted by the Utility Company, the Applicant and/or Contractor. Trench locations within the tree protection zones of any protected trees may not be approved by the City. The City's inspector may require consultation by the City's arborist prior to approval of trench location. Failure to comply with these requirements may result in an immediate order to stop work, as well as incurrence of civil penalties as provided by City Ordinance.

**NOTE:** Soil shall not be treated with lime or other cementitious material without prior express permission by the Director of Public Works.

#### **Frontage & Roadway Improvements:**

- 33. The Improvement Plans shall include street profiles, typical street sections and calculations for the street design. Said Plan shall incorporate the findings and recommendations from the approved Soils Report for the pavement design and the approved Traffic Study. The proposed traffic improvements shall be submitted to the Director of Public Works for review and approval.
- 34. The structural section of all road improvements shall be designed using a soil investigation which provides the basement soils R-value and expansion pressure test results. If no R-value tests are supplied, roadway structural sections shall be designed using an R-value of 5.0. A copy of a Soils Report and structural section calculations shall also be submitted with the first Improvement Plan check.
- 35. Accessible Ramps shall be provided at all intersections, crosswalks, driveways, and where sidewalks are proposed. Ramps shall conform to Caltrans Standards A88A or A88B, or as specifically detailed for the individual site to meet site ADA guidelines.
- 36. Sidewalk widths shall be provided to allow a clear minimum five-foot walkway at all locations, including but not limited to areas where mailboxes, streetlights, street signs and fire hydrants are to be installed.

37. One-inch chases shall be installed to all parkway strips from adjacent parcels to allow for the installation of irrigation lines.
38. The improvement plans submitted for Mallard Road shall include textured pavement, traffic calming devices, shared-street signage, and signs showing reduced speed limit. Although the Housing Accountability Act and State Density Bonus law prevent the City from requiring sidewalks on Mallard Road, the City Council strongly recommends that the applicant add a sidewalk along Mallard Road as the design is further developed.

**Lighting, Signing and Striping Plan:**

39. Streetlights shall be City Standard decorative type or approved equal. Applicant shall provide additional streetlights for replacement purposes (5% of total or as otherwise approved).
40. Plans shall be subject to the review and approval of the City Engineer and the Police Chief. A photometric plan for the project site shall be submitted to the Director of Public Works for review and approval.
41. Striping, pavement markings and traffic signage shall be provided on all streets as necessary and as required by the City Engineer. Signage restricting parking and red painted curbing shall be installed where appropriate. Speed limit signs shall be installed at locations determined by the Director of Public Works.

**Drainage Improvements:**

42. All project related flooding impacts shall be mitigated by the project applicant. Drainage improvements shall be designed by a Civil Engineer registered in the State of California in accordance with the Marin County Flood Control Design Criteria. Public and private drainage improvements (including Stormwater Control Plans) shall be shown on the improvement plans and shall be submitted to and approved by the City of Belvedere.
43. Plans and engineer of record certifications shall be provided by the applicant to demonstrate compliance of all improvements, including building pads and finished floor elevations, with the City's Floodplain Ordinance, to the satisfaction of the Building Official and City Engineer.
44. Prior to approval of Improvement Plans and issuance of any other permits, the applicant shall submit a Declaration of Covenants Regarding Maintenance of Stormwater Best Management Practices (BMP) Facilities. The applicant shall obtain the City's review and approval of the said Declaration and record with the Marin County Recorder against the parcel prior to approval of the Grading/Building Permit or issuance of Certificate of Occupancy permit, timing subject to the discretion of the City Engineer. The planter and landscape strips adjacent to public streets shall be included in the Declaration and be maintained by the private property owner(s), subject to review and approval by the City Engineer.
45. On-site storm drain facilities installed as part of the project shall be labeled as "private" or "public" and clearly identified as "private" or "public" on the design drawings.



### **Grading Improvements:**

46. The applicant's engineer shall include a site-grading plan prepared by a Civil Engineer registered in the State of California as part of the required improvement drawings. Lots shall be generally designed to drain to the street, unless otherwise approved in the interest of tree preservation or other unusual circumstances.
47. The grading plan shall clearly show all survey monuments and property corners and shall state that they shall be protected and preserved. Should monuments be damaged or destroyed during construction, they shall be replaced by the applicant.
48. The applicant shall submit to the City for review and approval, a detailed Soils Report/Geotechnical Investigation prepared by a Civil Engineer registered in the State of California and qualified to perform soils work. The grading plan shall incorporate the recommendations of the approved Soils Report and be signed by the project geotechnical engineer.
49. Where soil or geologic conditions encountered during grading operations that are different from those anticipated in the Soils Report, or where such conditions warrant changes to the recommendations contained in the original soil investigation, a revised Soil or Geologic Report shall be submitted for approval by the City Engineer. It shall be accompanied by an engineering and geological opinion as to the safety of the site from hazards of land slippage, erosion, settlement, and seismic activity.
50. All existing wells, septic tanks and/or underground fuel storage tanks shall be clearly identified on the demolition plan and abandoned under permit and inspection of Marin County Environmental Health or other designated agency. If there are none, the project engineer shall provide a letter describing the scope of the search done to make this determination.
51. Improvement Plans shall include an erosion control (winterization) plan. The plan must include an order of work and staging/scheduling component indicating when facilities must be installed and when they may be removed. A separate Rain Event Action Plan (REAP) shall be required and prepared as part of the Stormwater Pollution Prevention Plan (SWPPP). A copy of the REAP shall be kept on-site throughout the duration of construction activities.

### **Utility Improvements:**

52. All existing overhead utilities (of 26,000 volts or less) and proposed utilities, both on-site and along project frontages, shall be placed underground. All proposed utilities are to be placed underground per BMC Chapter 13.08.

### **Sanitary Sewer and Water Improvements:**

53. All requirements of the Marin Municipal Water District (MMWD) shall be met as outlined in their June 20, 2022, letter. Prior to issuance of Improvement Plans, applicant shall obtain a letter from MMWD submitted to the City Engineer stating their requirements for a water use permit have been satisfied.

54. All applicable requirements of the Sanitary District No. 5 of Marin County shall be met as outlined in their June 16, 2022, Will Serve Letter. Prior to issuance of Improvement Plans, applicant shall obtain a letter from Sanitary District No. 5 submitted to the City Engineer stating their requirements for a sewer use permit have been satisfied.
55. All private storm drain, potable water, fire service and sanitary sewer mains, laterals, and appurtenances, must be located within the private property and clearly identified as private on the design drawings.

**Permit Requirements:**

56. Provide evidence that a Notice of Intent has been submitted and received by the Regional Water Quality Control Board for a General Construction Activity Stormwater Permit. Two copies of the project Stormwater Pollution Protection Plan shall be provided to the City prior to issuance of a Grading Permit, Encroachment Permit or Building Permit.
57. It is applicant's responsibility to obtain and provide proof of all permits necessary from other local, state and federal agencies. Applicant shall provide evidence of these permits at the time of Improvement Plan submittal.

**Other / Landscape Parcels:**

58. Landscape and irrigation plans for plantings shall be submitted at the time of the Improvement Plan submittal package. All landscaping and irrigation shall comply with the City Water Efficient Landscape Ordinance (WELO). Said plan is subject to review and approval by the MMWD.
59. The landscape plans shall show underground utilities and no trees shall be planted over any existing or proposed underground utilities.
60. The landscape plans shall include planting details for Best Management Practices (BMPs).

**Grading Permit**

**Prior to Issuance of a Grading Permit, the following condition shall apply:**

61. Prior to Issuance of a final Grading Permit (if final site grading is separate from rough grading operations), the Improvement Plans shall be approved by the City Engineer.

**Encroachment Permit**

**Prior to Issuance of an Encroachment Permit, the following conditions shall apply:**

62. A Traffic Control and Work Plan shall be submitted to the Public Works Director for review and approval. At a minimum, the Traffic Control Plan shall address ingress and egress, haul route, flagging, and maintenance of the road and identifies a staging area. The plan shall be reviewed and approved by the Chief of Police and the Planning Department prior to the start of any sitework.

63. 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 Director.
64. The project will be subject to the City of Belvedere Regulations for Road Closure Applicants, available at the following link:  
<http://www.cityofbelvedere.org/documentcenter/view/68>
65. The applicant will be required to upgrade relevant frontage improvements to meet current standards for curb/gutter, curb ramp, driveway approach and ADA compliant sidewalks, in conformance with the Marin County Uniform Construction Standards – Latest Edition. Any non-compliant relevant frontage improvements must be removed and replaced subject to the approval of the Public Works Director.
66. A Revocable License will be required for private improvements within the public right-of-way and easements.
67. This project will require a video recording of the condition of the haul route prior to start of construction. The applicant will be responsible for any damage, beyond normal wear and tear, to the roadway or other improvements along the haul route caused by the removal or delivery of materials by truck. To ensure any damage is repaired to the satisfaction of the City, a deposit may be required. The deposit amount (estimated range from \$10,000 to \$30,000) will be determined by the City Engineer at the time of the Building Permit review and is dependent upon the duration of the project and total project valuation. If it is determined that project construction caused damage, the amount to repair said damage shall be withheld from the deposit amount, with the remaining amount to be returned to the property owner.

**During construction operations, the following conditions shall apply:**

68. The applicant shall keep adjoining public streets free and clean of project dirt, mud, materials, and debris during the construction period, as found necessary by the Director of Public Works. If a construction entrance is used, the area shall be swept and cleaned daily to remove any dirt, mud or debris. If necessary, street sweeping may be required.
69. The applicant shall be responsible for all damage to existing City streets during construction and shall repair all damaged facilities at no cost to the City.
70. If any hazardous materials are encountered during the construction of this project, all work shall be immediately stopped and the Marin County Environmental Health Department, the Fire District the Police Department, and the City Inspector shall be notified immediately. Work shall not proceed until clearance has been issued by all of these agencies.
71. During construction, the Contractor shall be responsible for controlling noise, odors, dust and debris to minimize impacts on surrounding properties and roadways. Contractor shall be responsible that all construction equipment is equipped with manufacturers approved muffler's baffles in compliance with all City codes relating to noise and idling equipment. Failure to do so may result in the issuance of an order to stop work.

72. Subject to the approval of the Public Works Director, if grading is to take place between October 15 and April 15, both temporary and permanent erosion control measures, conforming to the project erosion control plans shall be in place before October 1st. Erosion control measures shall be monitored and maintained continuously throughout the storm season.
73. The following minimum Best Management Practices (BMPs) shall be required during construction:
- a. Construction crews shall be instructed in preventing and minimizing pollution on the job.
  - b. Stabilize construction entrance/exit to prevent tracking onto roadway. Only one stabilized construction entrance/exit will be allowed per site. Vehicles entering and leaving construction sites spread pollutants such as sediment, gravel, and other loose particles onto adjacent roads. Pollutants are washed into roadside ditches and are a nuisance to drivers and may cause damage to vehicles.
  - c. Protect exposed slopes from erosion through preventative measures. Cover slopes to avoid contact with stormwater by hydro-seeding, mulch, use of plastic sheeting or other approved means.
  - d. Use brooms and shovels, when possible, to maintain a clean site. Use of a hose is not recommended. Introducing water as a cleanup method adds to water pollution.
  - e. Designate a concrete washout area, if needed, to avoid wash water from concrete tools or trucks from entering storm drain systems. Maintain washout area and dispose of concrete waste on a regular basis.
  - f. Establish a vehicle storage, maintenance, and refueling area, if needed, to minimize the spread of oil, gas, and engine fluids. Use of oil pans under stationary vehicles is strongly recommended.
  - g. Protect drain inlets from receiving polluted stormwater through the use of filters such as fabrics, gravel bags or straw wattles.
  - h. Be prepared for rain and have the necessary materials onsite before the rainy season.
  - i. Inspect all BMPs before and after each storm event. Maintain BMPs on a regular basis and replace them as necessary, through the entire course of construction.

Bay Area Air Quality Management District BMPs:

- j. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) will be watered two times per day.
- k. All haul trucks transporting soil, sand, or other loose material offsite will be covered.
- l. All visible mud or dirt track-out onto adjacent public roads will be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.

- m. All vehicle speeds on unpaved roads, driveways, or driving surfaces shall be limited to 15 mph.
  - n. All roadways, driveways, and sidewalks to be paved will be completed as soon as possible. Building pads will be laid as soon as possible after grading unless seeding or soil binders are used.
  - o. Post a publicly visible sign with the telephone number and the name of the person to contact at the lead agency regarding dust complaints. This person will respond and take corrective action within 48 hours. The phone number of the BAAQMD will also be visible to ensure compliance.
74. The project will require a Construction Management Plan (CMP) to be approved by the Public Works Director identifying the following:
- estimated project duration.
  - schedule of construction milestones (excavation, grading, and off haul duration; foundation work; framing; flatwork/paving; punch list/final inspection)
  - excavation and disposal methods
  - equipment to be used.
  - site access location
  - storage and staging location of materials and equipment/portable toilet/debris box and waste bins
  - truck loading area and temporary traffic control required as necessary.
  - haul route
  - construction fencing on the water side (not chain link; using materials such as lattice or wood) of the lots fronting the Lagoon
  - measures to keep the site clean, such as covered garbage, no open food containers, etc.
  - For construction requiring earthwork between October 15th and April 15th, a Stormwater Pollution Prevention Plan for stormwater pollution prevention and erosion and sediment control prior to an anticipated rain event, including BMPs to be implemented to minimize pollutant exposure, protect exposed pollutants, and remove any pollutants that may accidentally enter stormwater runoff.
  - The CMP shall include a plan for parking construction vehicles and workers' automobiles and for staging and storage of equipment and materials. Staging and storage of equipment and materials and vehicle parking shall occur on-site to the maximum extent feasible as determined by the Building Official. Construction equipment and materials that are not stored or staged on the project site shall be stored outside City limits.


75. In the event that any cultural resources are uncovered during earthmoving activities, all construction excavation activities would be suspended for a period to be determined by a City-approved archaeologist to allow for adequate inspection, recommendation and retrieval, if appropriate.
76. In the event that human remains are uncovered during earthmoving activities, all construction excavation activities shall be suspended, and the following measures shall be undertaken:
  - a. The Marin County Coroner shall be contacted.
  - b. If the coroner determines the remains to be Native American, the coroner shall contact the Native American Heritage Commission within 24 hours.
  - c. The project sponsor shall retain a City-approved qualified archaeologist to provide adequate inspection, recommendations and retrieval, if appropriate.
  - d. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American and shall contact such descendant in accordance with state law.
  - e. The project sponsor shall be responsible for ensuring that human remains and associated grave goods are reburied with appropriate dignity at a place and process suitable to the most likely descendent.

**Prior to acceptance of public improvements and bond exoneration, the following conditions of approval shall be satisfied:**

77. All improvements shown on the Improvement Plans shall be completed and accepted by the City.
78. Prior to acceptance of improvements or occupancy of buildings, existing curbs, gutter and sidewalk to remain shall be inspected by the City. Any curb, gutter and sidewalk which is not in accord with City standards or is damaged before or during construction, shall be replaced.
79. The applicant shall provide a written statement signed by his or her engineer verifying that the grading and/or drainage improvements are completed in accordance with the plans approved by the City Engineer, and the Building Official.
80. A complete set of As-Built or Record improvement Plans showing all constructive changes from the original plans, shall be provided to the Public Works Department prior to final acceptance of the public improvements.

**PASSED AND ADOPTED** at a regular meeting of the City Council on May 13, 2024 by the following vote:

**AYES:** Wilkinson, Lynch, Mayor Mark  
**NOES:** Cooper  
**ABSENT:** None  
**RECUSED:** Kemnitzer

**APPROVED:**   
Peter Mark, Mayor

**ATTEST:**   
Beth Haener, City Clerk

**Exhibit A**  
**Findings for Tentative Map Approval**

The City Council hereby makes the findings of fact required by Section 18.20.140 of the Belvedere Municipal Code and Government Code Sections 66473.5 and 66474.

**Belvedere Municipal Code Section 18.20.140 and Government Code Section 66474.**

**A. The City shall not approve a tentative map or vesting tentative map unless it finds, in fact, that the following conditions and standards are met by the proposed map:**

**1. That the map is in conformance with the zoning ordinance of the City as adopted at the time the application was determined to be complete;**

The map is consistent with the zoning ordinance as outlined in the Planning Commission staff report dated March 19, 2024, with approval of the requested concession and waivers.

**2. That the design and improvement of the proposed subdivision is consistent with the City's general plan;**

Appendix A to the Ascent CEQA investigation memo (Attachment D, General Plan Consistency Matrix) describes the project's compliance with objective standards. As defined in the City's Subdivision Ordinance (Section 18.040.040), the design of the subdivision includes street design, drainage and sanitary facilities, location of easements and rights-of-way, lot size and configuration, traffic access, and grading, while the improvements include street work, utilities, and drainage. As discussed in the staff report, the proposed road improvements would improve fire access. The General Plan allows a density of 5-20 dwelling units per acre in the Medium Density Multi-Family Residential Designation, and the proposed density of 13.9 dwelling units per acre is consistent with the General Plan. Consistent with Housing Element H3.1, the project will add 18 additional units, including 4 affordable to lower income households, to address the City's housing needs. Consistent with Policy TC-1.3, the City will review and approve a construction management plan prior to issuance of construction or demolition permits. Proposed grading has minimal cut and fill, consistent with Policy CD-1.1.1., and disturbed areas must be planted or seeded to prevent erosion, consistent with Policy CD-1.1.4. Street lighting must be shielded and directed downward, consistent with Policy CD-8.1.1. The design and improvements and conditions of approval comply with the Safety Element's provisions regarding floods, ground shaking, liquefaction, Bay mud, and erosion control. The project otherwise complies with the City of Belvedere General Plan adopted on June 9, 2010.

**3. That the site is physically suitable for the type of development proposed;**

The site is physically suitable for the type of development proposed in that the site is flat and no significant constraints have been identified. Although the site is underlain by Bay mud and located in a flood hazard zone, single-family homes, duplexes, and



apartments have been developed on similar sites in Belvedere and Tiburon. Minimal grading will occur, and foundations will be installed in accordance with standard engineering practices, with finish floors at elevations required by the City's flood management ordinances.

**4. That the site is physically suitable for the density of development proposed;**

The proposed density is consistent with the General Plan allowed density of 5-20 dwelling units per acre in the Medium Density Multi-Family Residential Designation. The proposed density is 13.9 dwelling units per acre. As described above, no physical impediments prevent development at this density.

**5. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish and wildlife or their habitat;**

There is no evidence that the project would cause substantial environmental damage or injure fish and wildlife or their habitat based on the findings made by the City Council when it determined that the project qualifies for the Class 32 infill exemption.

**6. That the design of the subdivision and the proposed improvements are not likely to cause serious public health problems;**

There is no evidence that the project would cause serious public health problems. No public health standards would be violated by the development. No hazardous materials have been identified on the site, and the site is not listed as a hazardous waste site. There is no substantial evidence of serious public health problems associated with the development in the record.

**7. That the design of the subdivision or the type of improvements will not conflict with existing easements acquired by the public for access through or use of the property within the proposed subdivision. The Planning Commission may approve a map with such easements, if it finds that adequate alternative easements for access or for use are to be provided, and that these will be substantially equivalent to those previously acquired by the public.**

No evidence has been introduced into the record showing that any easements have been acquired by the public for access through or use of the property within the proposed subdivision.

**B. The City may approve a tentative map or vesting tentative map if an environmental impact report was prepared with respect to the project and a finding was made pursuant to subdivision (c) of Section 21081 of the Public Resources Code that specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.**

The project is categorically exempt from CEQA under 14 CCR 15332, and no environmental impact report was prepared.

**Government Code Sections 66473.5 and 66474(a)**

**The proposed map is consistent with applicable general and specific plans.**

No specific plan is applicable to the site. Attachment D, General Plan Consistency Matrix, and the findings above demonstrate that the proposed map, together with its design and improvements, is consistent with the general plan.