

From: [Zisser, David](#)
To: [Housing Elements](#)
Cc: [Compliance Review](#); [West, Shannan](#); [Communications](#); [Coy, Melinda](#); [McDougall, Pau](#)
Subject: FW: Solicitations for ADU interest by Belvedere City Councilmember
Date: Thursday, October 20, 2022 8:56:16 AM
Attachments: [Peter Mark Email Re Housing Element.pdf](#)

Forwarding to Housing Elements to flag when reviewing Belvedere's HE.

Please let me know if anyone has a response we can share, or to say simply, "Thanks, we'll take a look at this."

Thanks,

David

From: Compliance Review@
Sent: Thursday, October 20, 2022 8:12 AM
To: Zisser, David@ <David.Zisser> West, Shannan <Shannan.West>
Cc: Communications@
Subject: FW: Solicitations for ADU interest by Belvedere City Councilmember

Good morning,

The request below is from an editor of The Ark newspaper.

Thanks

From: Kevin Hessel <editor>
Sent: Wednesday, October 19, 2022 4:03 PM
To: Compliance Review@
Subject: Re: Solicitations for ADU interest by Belvedere City Councilmember

Hi there, I'm the editor at The Ark newspaper, which covers the communities of Belvedere and Tiburon in Marin County.

The city of Belvedere is currently working on its draft housing element, with councilmembers stating they'd like to reach their RHNA obligation entirely with ADUs and lot splits and no rezoning. Earlier this month a City Councilmember wrote the attached "sample letter" for the mayor, addressed "Dear Neighbors," which made it into the hands of several residents and on to us. It notes "this housing allocation is inherently unfair for a community like Belvedere" and then asks neighbors to "Please fill out a Property Owner Interest Form. This will help Belvedere complete its Housing Element update with as little impact on our existing zoning as possible."

The email appears to be asking everyone in receipt to fill out the interest form, without the letter

stipulating parties should have a sincere interest, while going on to assure people they don't have to actually build, and if they do build they don't actually have to rent.

Of the 35 people who've filled out the form so far, five are the entire membership of the current City Council, as well as three former councilmembers, two current council candidates in the Nov. 8 election and a current planning commissioner. Their addresses, but not their names, are listed in the draft element under consideration.

When looking at this letter and the composition of those expressing interest, would you, or do you, have any concerns about the process being used by Belvedere?

Thanks a ton,

Kevin Hessel | Executive Editor, The Ark

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2014, 2018-2021 California News Publishers Association &

2014-2019, 2022 National Newspaper Association general excellence finalists



From: thebelvederewhistleblower
To: [Housing Elements](#) [REDACTED]
Subject: Re: Attn: LEE -- City of Belvedere 6th Cycle Housing Element
Date: Tuesday, February 14, 2023 9:32:18 AM

Hushed talk is that despite Council statements that Belvedere might need to revise its Housing Element based on the State's feedback, the Council will in fact be defiant in response to **any findings** that the City is not in substantial compliance. The Council met in closed session last night.

It goes like this: The Council adopted its unreviewed Housing Element before Jan. 31 to create a legal foundation to assert it adopted a substantially compliant Element by the deadline and therefore the City is currently not subject to the Builders' Remedy as of Feb. 1. This legal view relies on the State's 90-day review letter finding the City to be in substantial compliance, so the City can then retroactively apply the State's finding to its adoption of the Element in January and assert it has been in compliance the whole time. The City is being sued for not following the proper steps, but a judge may agree that a finding of substantial compliance after 90-day review by the State means the City was indeed in substantial compliance at the time of its premature adoption, regardless of procedural steps taken.

But! If the State issues a 90-day review letter notifying Belvedere that its submitted Housing Element requires substantial revisions to come into compliance, that will undercut the City's legal argument against developers. It will mean the Housing Element was not in substantial compliance at the time it was passed in January, so any development application filed since Feb. 1 would, in fact, be eligible for approval under Builders' Remedy rules. **That will be unacceptable to the Belvedere City Council.**

To preserve its legal argument, the City Council therefore must, and plans to, make only minor, non-substantial revisions but otherwise declare the state's conclusions are incorrect. The Council shall self certify by reaffirming adoption of the Housing Element as substantially compliant as originally submitted, in defiance of any substantial revisions required by the State. **Any other action** would require acknowledgment the City was not in compliance in January and would therefore retroactively subject the City to the Builders' Remedy as of Feb. 1. Such an acknowledgment would certainly be used against the City in court for any Builders' Remedy project applications. **That cannot happen.**

Belvedere does not plan to make revisions in accordance with findings that they are not in compliance. The City's legal position depends on it. **The Council plans to defy the State and break the law.**

Sent with [Proton Mail \[proton.me\]](mailto:proton.me) secure email.

From: thebelvederewhistleblower
To: [Housing Elements \[REDACTED\]](mailto:Housing Elements [REDACTED])
Subject: Re: Attn: LEE -- City of Belvedere 6th Cycle Housing Element
Date: Thursday, February 16, 2023 1:45:45 PM

I previously emailed this objection:

3. pg. D-15: Site 04C: 501 San Rafael Avenue. The constraints here include "demolition of existing church." Note that for site 05A, the city clearly notes it's the St. Stephen's Episcopal Church both in the site name and the description text, yet in Site 04C, it gives an address and no reference to what church this is. This is because this is the Christian Science Church by noted architect [Warren Callister \[aac.cdlib.org\]](http://Warren Callister [aac.cdlib.org]) and is an [architecturally significant building \[cityofbelvedere.org\]](http://architecturally significant building [cityofbelvedere.org]), also noted [here \[pcad.lib.washington.edu\]](http://here [pcad.lib.washington.edu]) and [here \[getty.edu\]](http://here [getty.edu]) and [here \[aac.cdlib.org\]](http://here [aac.cdlib.org]) and [here \[online.ucpress.edu\]](http://here [online.ucpress.edu]). There are no realistic plans to demolish this noted community church of historic significance. This site is proposed in bad faith to obscure historic architecture, and all seven units here should be rejected by the state. (*Unit reductions through this item: 15, for 177 units identified.*)

I've now come into possession of this email that was sent to a local reporter by "Leslie Freeman <[leslifreeman30 \[REDACTED\]](mailto:leslifreeman30 [REDACTED])

We are aware of the state law that has mandated a housing quota to the City of Belvedere. Because the church parcel is zoned for single and multi-residential use, we understand why the City has identified it as a possible site that could accommodate housing. This is an important and challenging issue for the City of Belvedere. We support their efforts and know they will find a resolution that will comply with the state requirement,
Sincerely,
Executive Committee
First Church of Christ, Scientist, Belvedere

Do you see any indication they actually intend to build here? Site 04C was listed in bad faith. It should be rejected by HCD.

Sent with [Proton Mail \[proton.me\]](https://proton.me) secure email.

----- Original Message -----

On Friday, February 3rd, 2023 at 9:57 AM, thebelvederewhistleblower <[thebelvederewhistleblower \[REDACTED\]](mailto:thebelvederewhistleblower [REDACTED])> wrote:

1. **Belvedere illegally adopted its housing element:** HCD should immediately notify the city in writing that its housing element is not currently in compliance and

will not be in compliance until your agency deems it as such. The state must demonstrate its seriousness to the process and its seriousness to the commitment of building housing. The Belvedere City Council on Jan. 24 [voted to adopt \[cityofbelvedere.org\]](#) its housing element before the required 90-day review by your agency, which is illegal. As attached, the city is now being sued. The city is attempting to not just *block* builder's remedy applications but to *discourage developers from filing* builder's remedy applications under threat of rejection and a court battle. The bad-faith act of discouraging prevents city leaders and the public from knowing whether developers have a desire to build more than the city restricts them to, as no application will be filed and rejected. This is an intentional chilling effect on developers and on housing production. The state must intervene immediately.

2. **pg. D-14, Site 04B: San Rafael Avenue Area, Mallard Road:** The city improperly allocates 48 units at this site when the owner-developer has applied to build 40 units. Compared with letters of intent, the owner's demonstrated interest for 40 units via an actual application for development could not be more clear. Eight units should be rejected by the state to reduce the realistic accommodation to 40. (*Unit reductions through this item: 8, for 184 total units identified.*)
3. **pg. D-15: Site 04C: 501 San Rafael Avenue.** The constraints here include "demolition of existing church." Note that for site 05A, the city clearly notes it's the St. Stephen's Episcopal Church both in the site name and the description text, yet in Site 04C, it gives an address and no reference to what church this is. This is because this is the Christian Science Church by noted architect [Warren Callister \[oac.cdlib.org\]](#) and is an [architecturally significant building \[cityofbelvedere.org\]](#), also noted [here \[pcad.lib.washington.edu\]](#) and [here \[getty.edu\]](#) and [here \[oac.cdlib.org\]](#) and [here \[online.ucpress.edu\]](#). There are no realistic plans to demolish this noted community church of historic significance. This site is proposed in bad faith to obscure historic architecture, and all seven units here should be rejected by the state. (*Unit reductions through this item: 15, for 177 units identified.*)
4. **pg. D-36: Secondary units:** The city lists 30 "secondary units"/ADUs in its count. This is purposefully misleading. There are an additional 14 ADUs included as part of other addresses in the site inventory. The total submitted is 44 ADUs. The formula for a realistic number of ADUs to be produced in the next eight years is 21. Belvedere has included 210% more ADUs than its formula accounts for. This is proposed in bad faith, see item #5 below. The state should reject 23 ADU letters at minimum to constrain Belvedere to its 21-unit formula. (*Unit reductions through this item: 38, for 154 units identified, below the 160 RHNA allocation.*)
5. **No rezoning at all.** Belvedere asserts that over 95% of parcels are less than 0.5 acres (pg. 1-2). 0.5 acres is 21,000 square feet, and at 30% lot coverage that's a 6,300-square-foot building, or 18,900 square feet over three stories, or 19 apartments (or more!). The city has no less than four single-family zones. Belvedere's R-15 zone contains lot sizes that can accommodate multifamily dwellings that the city prohibits there, yet single-family homes are allowed to be 4,850 square feet per parcel (pg. C-2).
 - a. **Site 07C: 12 Crest (pg. D-21)** is 0.72 acres (31,000+ square feet) and vacant. It could be developed for multifamily housing (14 units?) if rezoned to allow it, but the city has designated just 2 units there.
 - b. **Site 08A, 415 Belvedere (pg. D-22)** is 2.75 acres (112,000 square feet) across four adjacent lots (60 units?) that the city says should be restricted to just 8 total units. This is an unserious document in every way.
6. **Housing Constraints, Appendix C:** Belvedere Residents for Intelligent Growth (BRIG) and the City Council itself should be prominently considered by HCD.

They are one in the same. [BRIG is an anti-development group \[brig94920.com\]](http://brig94920.com) that was created for the specific purpose of fighting Mallard Pointe (item #1 above), the only project with affordable housing proposed in Belvedere in decades. HCD should be aware that BRIG's leaders are John Hansen and Jane Cooper. Mr. Hansen lives at 45 Beach Road, a site identified for redevelopment on pg. D-39 by Belvedere Land, but that the city did not include in its site inventory out of deference to Mr. Hansen. Further, Councilor Sally Wilkinson (home value: \$7.2M) and Councilor Peter Mark (home value: \$7.2M) conspired with Mr. Hansen and Mrs. Cooper (home value: \$4.6M) via a letter-writing campaign targeted only to BRIG's members to feign interest in ADUs for the purpose of ensuring the city would not have to rezone. These same residents later called into public meetings with deep concern that signing the letter committed them to build. There is no intent to build, and no intent to rent if they do build. The City Council and Planning Commission have long stated the few ADUs being built abuse the ministerial process to gain pool houses, yoga studios and home offices that increase home sizes and home values without providing new housing units. The attached letter, written by Councilor Mark, was provided to Mr. Hansen and Mrs. Cooper by Councilor Wilkinson for them to provide it to BRIG members ahead of the first public draft's release on Oct. 17. Councilors Wilkinson and Mark were already campaigning together to elect Mrs. Cooper to the Council. Mrs. Cooper was elected to the Council in November and was immediately appointed by her Council colleagues to its Housing Subcommittee. She and Councilor Mark, who made his fortune as a spec real-estate developer [flipping single-family homes \[amp.sacbee.com\]](http://amp.sacbee.com) in high-priced markets like Belvedere, are the sole two members of this Subcommittee. Councilor Mark does not want to see multifamily and/or low-income housing bring down values of his personal home and in his investment market as a developer. As selected by their colleagues to represent the Council on housing matters, their anti-housing views must be considered representative of the Council as a whole. All current councilors have signed letters of interest in ADUs, despite never showing previous interest, and alone account for a figure that represents more ADUs than the city has ever built. The entire Council is acting in bad faith, and HCD should restrict the City's ADU assumptions only to its formulaic maximums for the 6th Cycle. The City has 8 years to prove its intentions to support growth in the 7th Cycle.

J. Doe

(I regularly represent people who have occasion to do business with City government in this community and do not want my name publicly attached to these comments as it could be detrimental to myself and those I represent.)

Sent with [Proton Mail \[proton.me\]](http://proton.me) secure email.

From: [Coy, Melinda](#) [REDACTED]
To: [Housing Elements](#) [REDACTED]
Subject: FW: Mallard Pointe
Date: Wednesday, January 25, 2023 3:58:53 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[2023-1-25 - Verified Petition\[4\].pdf](#)
[YIMBY letter.pdf](#)

Can you put this in public comments for Belevedere

From: Dhaliwal, Deepeaka@ [REDACTED]
Sent: Wednesday, January 25, 2023 3:51 PM
To: Coy, Melinda@ [REDACTED]
Subject: FW: Mallard Pointe

Hi,

Passing this along so that you have the latest info. Thanks!

From: Joanna Julian [REDACTED]
Sent: Wednesday, January 25, 2023 3:27 PM
To: Dhaliwal, Deepeaka@ [REDACTED]
Cc: Riley Hurd [REDACTED]
Subject: Re: Mallard Pointe

In addition, Californians for Homeownership Inc. has already filed a lawsuit against the City (attached). I've also attached the letter they sent to the City prior to last night's hearing, working in coordination with YIMBY Law and CalHDF.

Thank you,

Joanna Julian
[REDACTED]
[REDACTED]

From: Joanna Julian <[JJulian](#) [REDACTED]>
Date: Wednesday, January 25, 2023 at 3:08 PM
To: "Dhaliwal, Deepeaka@ [REDACTED]" <[Deepeaka.Dhaliwa](#) [REDACTED]>
Cc: Riley Hurd <[rhurd](#) [REDACTED]>
Subject: Re: Mallard Pointe

Hi Deepeaka,

The four proposed lower income units are located as follows (unit numbering as shown on sheets MF-2 and MF-3 of the Apartment plan set):

- One (1) Very Low-Income Unit #108 (2-bedroom)
- Three (3) Low-Income Units #103 (1-bedroom), #204 (2-bedroom) and #208 (2-bedroom)

We'd also like to bring your attention to the City's redlines in Belvedere's draft Housing Element, linked on p. 4 of the attached agenda. The City has made severe deletions to Section 1.4 Affirmatively Furthering Fair Housing, including deleting the entire sections of *Defining Segregation* and *Segregation Patterns in the Bay Area*. One City Council member is also on the record citing concerns about the draft Housing Element's "very woke narrative." Despite not having submitted their draft Housing Element to HCD for review, the City Council voted to adopt the housing element at their meeting last night.

Please let us know if you have any other questions – thank you!

Best regards,
Joanna

Joanna Julian
[REDACTED]
[REDACTED]

From: "Dhaliwal, Deepeeka@[REDACTED]"
Date: Monday, January 23, 2023 at 2:52 PM
To: Joanna Julian [REDACTED]
Cc: Riley Hurd [REDACTED]
Subject: RE: Mallard Pointe

Hi Joanna and Riley,

Could you please confirm which of the proposed 4 units will be low-income? Just want to double check we have the most current information.

Thank you,
Deepeeka

From: Joanna Julian [REDACTED]
Sent: Thursday, January 19, 2023 8:59 AM
To: Dhaliwal, Deepeeka@HCD [REDACTED]
Cc: Riley Hurd [REDACTED]
Subject: Re: Mallard Pointe

Hi Deepeeka,

Here is the contact information:

Robert Zadnik

City Manager

[REDACTED]
[REDACTED]

Tricia Stevens, AICP

she | her | hers

Contract Planner

MIG

[REDACTED]
[REDACTED]

The two City attorneys we have interacted with for this project are below (Primary contact – Barbara):

Barbara E. Kautz

she | her | hers

Goldfarb & Lipman LLP

[REDACTED]
[REDACTED]

Ann Danforth

Of Counsel

Renne Public Law Group

[REDACTED]
[REDACTED]

Thank you,

Joanna Julian

[REDACTED]
[REDACTED]

From: "Dhaliwal, Deepeeka" [REDACTED]

Date: Wednesday, January 18, 2023 at 4:06 PM

To: Joanna Julian [REDACTED]

Cc: Riley Hurd [REDACTED]

Subject: RE: Mallard Pointe

Hi Joanna,

Thanks so much for this information. Do you mind also sending along the contact information for the planner, city manager, and city attorney?

Thank you,
Deepeaka

From: Joanna Julian [REDACTED]
Sent: Wednesday, January 18, 2023 2:17 PM
To: Dhaliwal, Deepeaka@[REDACTED]
Cc: Riley Hurd [REDACTED]
Subject: Re: Mallard Pointe

Deepeaka,

Here is the contact information for Belvedere's Planning Director:

Irene Borba
Director of Planning & Building
City of Belvedere

[REDACTED]
[REDACTED]
[REDACTED]

Thank you again for your and John's time this afternoon.

Best regards,

Joanna Julian

[REDACTED]
[REDACTED]

From: "Dhaliwal, Deepeaka@[REDACTED]"
Date: Wednesday, January 18, 2023 at 12:04 PM
To: Joanna Julian [REDACTED]
Cc: Riley Hurd [REDACTED]
Subject: RE: Mallard Pointe

Hi Joanna,

Thanks for these additional items and talk to you soon!

From: Joanna Julian [REDACTED]
Sent: Wednesday, January 18, 2023 11:38 AM
To: Dhaliwal, Deepeeka@[REDACTED]
Cc: Riley Hurd [REDACTED]
Subject: Re: Mallard Pointe

Hi Deepeeka,

We're looking forward to our meeting today. I wanted to send you two additional pieces of information.

1. News article from today's Ark (the Belvedere-Tiburon local paper) regarding the City's plan to adopt the housing element prior to HCD's review.
2. Email from the City of Belvedere received Jan 4, 2022 a few weeks prior to our full application submission.
 - a. We had shared our draft notice to tenants (requesting income information for the purpose of establishing replacement housing requirements) with the City for their input in December 2021. In the City's reply on Jan 4, 2022, the City explicitly asked that we remove the statement at the end of the tenant forms that the City of Belvedere will be relying on the income certifications, because the City would be doing its own verification process. We modified our form as requested before sharing it with the tenants. In the following months after we submitted our application, the City then made repeated, though varying, requests to receive the financial information we were provided.

We can discuss more detail on our 1pm call.

Thank you,

Joanna Julian
[REDACTED]
[REDACTED]

From: "Dhaliwal, Deepeeka@[REDACTED]"
Date: Tuesday, January 17, 2023 at 10:24 AM
To: Joanna Julian [REDACTED]
Cc: Riley Hurd [REDACTED]
Subject: RE: Mallard Pointe

Hi Joanna,

Thanks so much for these materials. Looking forward to speaking with you tomorrow.

Thank you,
Deepeeka

From: Joanna Julian [REDACTED]
Sent: Monday, January 16, 2023 6:01 PM
To: Dhaliwal, Deepeeka@[REDACTED]
Cc: Riley Hurd [REDACTED]
Subject: Re: Mallard Pointe

Hi Deepeeka,

Here is a Dropbox folder with the CEQA analyses we have completed for Mallard Pointe in response to their consultant's proposal and follow-up questions from the City/Ascent. I also provided the 3/15/22 memo prepared by Riley Hurd outlining the project's qualifications for a CEQA infill exemption.

<https://www.dropbox.com/sh/q4gcn9raz1aifvg/AADLMIUJLk12RjBli4-PPM6ga?dl=0> [dropbox.com]
[url.emailprotection.link] [url.emailprotection.link] [url.emailprotection.link]
[url.emailprotection.link]

Thanks,

Joanna Julian
[REDACTED]
[REDACTED]

From: "Dhaliwal, Deepeeka@[REDACTED]"
Date: Friday, January 13, 2023 at 4:39 PM
To: Joanna Julian [REDACTED]
Cc: Riley Hurd [REDACTED]
Subject: RE: Mallard Pointe

Thanks so much!

From: Joanna Julian [REDACTED]
Sent: Friday, January 13, 2023 4:10 PM
To: Dhaliwal, Deepeeka@[REDACTED]
Cc: Riley Hurd [REDACTED]
Subject: Re: Mallard Pointe

Hi Deepeeka,

I've attached the City's compliance review as well as subsequent comment letters we received. I am also working on compiling the CEQA information – I will send that later today or over the weekend.

A 1-hour call is great – thank you.

Have a great weekend,

Joanna Julian

[REDACTED]
[REDACTED]

From: "Dhaliwal, Deepeeka@[REDACTED]"

Date: Friday, January 13, 2023 at 3:01 PM

To: Joanna Julian [REDACTED] Riley Hurd [REDACTED]

Subject: RE: Mallard Pointe

Hi Riley and Joanna,

Thanks again for the materials. While reviewing the 6/23/22 letter issued by the City regarding deeming the application complete, we saw that they noted that they would be providing another letter within 30 days with a comprehensive review of the conformance of the project with the City's standards. Was this letter issued within 30 days and if so can you please provide a copy?

I also changed our meeting from 30 minutes to 1 hour so that we have plenty of time to discuss. If that doesn't work with your schedules, please let me know. Thanks so much, and have a great weekend.

Thank you,
Deepeeka

From: Joanna Julian [REDACTED]

Sent: Wednesday, January 11, 2023 11:57 AM

To: Dhaliwal, Deepeeka@[REDACTED]

Cc: Riley Hurd [REDACTED]

Subject: Re: Mallard Pointe

Hello Deepeeka,

On behalf of the applicant team, we truly appreciate your looking into this matter. Below is a Dropbox link to our full application including revised materials that have been submitted over the past year:

https://www.dropbox.com/sh/gpusp4htgami36a/AAAQ8MEVY45Up_oHKldwtmfSa?dl=0
[dropbox.com] [url.emailprotection.link] [url.emailprotection.link] [url.emailprotection.link]

[\[url.emailprotection.link\]](#) [\[url.emailprotection.link\]](#) [\[url.emailprotection.link\]](#)

In addition, we have had lengthy correspondence with the City regarding CEQA review. Please let me know if you would like a copy of those files and comment responses.

We look forward to speaking next Wednesday.

Best,

Joanna Julian
Thompson Dorfman Partners
818.631.7789 mobile

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

From: "Dhaliwal, Deepeeka@ [REDACTED]"
Date: Tuesday, January 10, 2023 at 3:30 PM
To: Riley Hurd [REDACTED]
Cc: Joanna Julian [REDACTED]
Subject: RE: Mallard Pointe

Good afternoon Riley,

Thanks again for the materials. Could you please also send us the full development application? We have the preliminary application that you sent us and we would like to review the full application as well. I don't believe it was in the files that were sent over. My apologies if you have sent it and I overlooked it.

Thanks so much,
Deepeeka

From: Dhaliwal, Deepeeka [REDACTED]
Sent: Monday, January 9, 2023 11:21 AM
To: Riley Hurd [REDACTED]
Cc: Joanna Julian [REDACTED]
Subject: RE: Mallard Pointe

Hi Riley,

Thanks so much for both of your follow-up emails. We will review the information you sent and get back to you as soon as we can.

Thank you,
Deepeaka

From: Riley Hurd [REDACTED]
Sent: Monday, January 9, 2023 8:49 AM
To: Dhaliwal, Deepeaka@[REDACTED]
Cc: Joanna Julian [REDACTED]
Subject: RE: Mallard Pointe

Hello,

Just a follow up as it appears the most important document did not go through. Please see attached.
Thanks again!

Riley F. Hurd III, Esq.
RAGGHIANI | FREITAS LLP
1101 5th Avenue, Suite 100
San Rafael, CA 94901

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

From: Riley Hurd
Sent: Sunday, January 8, 2023 8:43 AM
To: Dhaliwal, Deepeaka@[REDACTED]
Cc: Joanna Julian [REDACTED]
Subject: RE: Mallard Pointe

Deepeaka,

Hello, and thank you for looking into this. Belvedere is now claiming their Housing Element is exempt from CEQA review, so the hits just keep coming.

In any event, I would first like to direct you to the City's website regarding the project:
<https://www.cityofbelvedere.org/443/Mallard-Pointe-Project> [cityofbelvedere.org]
[url.emailprotection.link] [url.emailprotection.link] [url.emailprotection.link]
[url.emailprotection.link] [url.emailprotection.link] [url.emailprotection.link]
[url.emailprotection.link] On this site you can find nearly every document associated with the project.

To expedite your review, I will try to provide each item you have asked for. Attached is:

- the initial SB 330 app
- My March 15 2021 memo explaining that the general plan controls
- The City’s response letter of July 18, 2021
- My response of August 6, 2021
- My January 20, 2022 memo explaining the housing laws to the City – **if you read anything, please read this one**
- City’s incomplete letter of Feb 23, 2022
- City completeness letter of June 23
- City consultant cost estimate of \$69,000 for us to see if we qualify for an exemption
- My letter of September 8, 2022 explaining GP density to the City
- My letter of October 7, 2022 explaining concessions and waivers
- The R2 zoning for the property
- Various opposition letters
- City conformance letter

The general plan is here: <https://www.cityofbelvedere.org/213/General-Plan-Housing>
[\[cityofbelvedere.org\]](#) [\[url.emailprotection.link\]](#) [\[url.emailprotection.link\]](#) [\[url.emailprotection.link\]](#)
[\[url.emailprotection.link\]](#) [\[url.emailprotection.link\]](#) [\[url.emailprotection.link\]](#)
[\[url.emailprotection.link\]](#)

There is an **extreme** amount of additional documentation. Much of it has to do with incredibly onerous requirements from DPW and building even though we are at the design phase. The rhetoric from the local opposition group and their counsel is voluminous.

I am copying a representative from the applicant who can provide other relevant information and also try to apprise you of the scope of the housing relocation issues the City has put us through.

We are very appreciative of you taking a look at this and I am free for a call whenever works for you.

Riley F. Hurd III, Esq.
RAGGHIANI | FREITAS LLP
1101 5th Avenue, Suite 100
San Rafael, CA 94901

[REDACTED]

From: Dhaliwal, Deepeaka@ [REDACTED]
Sent: Friday, January 6, 2023 4:19 PM
To: Riley Hurd [REDACTED]

Subject: Mallard Pointe

Good afternoon Riley,

I hope all is well. I am the analyst assigned to assist with your inquiry regarding the Mallard Pointe project. Thank you for your detailed email. We would also like to request some additional information listed below. Once we receive this additional information, we will review and follow up with you to set up a time to discuss.

- Both SB 330 applications
- Communication with the City regarding their determination of incompleteness, staff reports if any, and communication/documentation regarding any other matters
- Copy of the General Plan and Zoning Code
- Any other documentation you may have pertaining to the project.

Please let me know if you have any questions and have a great weekend.

Thank you,
Deepeeka



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Deepeeka Dhaliwal

Housing and Community Development Representative
II

Housing and Community Development
2020 W. El Camino Avenue, Suite 500 | Sacramento,
CA 95833



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From: [chuong.vu](#)
To: [Housing@](#) [REDACTED]
Cc: [Housing Elements](#) [REDACTED] [HousingElements](#) [REDACTED]
Subject: Public comment on Belvedere's Housing Element
Date: Monday, October 31, 2022 8:01:29 AM

Hello,

These are my comments for Belvedere's housing element

14 Edgewater Road

Redfin listing for this property is [here \[redfin.com\]](#). The housing element claims that there will be a SFH home with ADU built here. However there is no evidence that an ADU will be built as part of the construction of this parcel.

Additionally the description seems to allude that there was an existing residential property on this lot.

The existing residence has been removed from this oversized 9,240 square foot (.2121 acre) private parcel and resort-like property

22 Eucalyptus Road

This is currently a single family home that was sold in 2019 for \$6 million dollars. I highly doubt the owner is going to tear it down and then build 4 homes here. The housing element should remove this.

28 Eucalyptus Road

Housing element claims that this \$4 million home with an ADU will use SB 9, split and build two more units. This is highly unlikely without any evidence.

Saint Stephen's parking lot

This is laughable. There is limited street parking in the area with narrow roads. Where are the church goers going to park now? And the size is 0.35 acres.

501 San Rafael Avenue

This currently is a church sitting on 0.28 acres. The housing element lists constraints regarding FEMA flood zone and permit review but nothing mentioning about the property owner wanting to keep the existing usage.

43 Cliff Road

According to Redfin, this was last sold in 2020 for \$8 million and renovated in 2018. It sits on 0.69 acres and is literally facing a cliff. The housing element does not include any evidence that the owner is going to create both a JADU and an ADU on this property.

Other comments

Belvedere has a high reliance on parcels being created with single family homes along with an additional ADU. According to the HCD's APR dashboard, Belvedere has only had 5 ADUs created since 2017.

The housing element should be calculating the probability that the parcel continues its existing use and does not develop. A lot of the sites on the site inventory are assumed that they will be built within the next cycle.

I would advise that Belvedere focus on upzoning more areas of the city and reduce the number of parking requirements. The current 1.25 parking space requirement per unit is not suitable for Belvedere. For example, the Housing Element states that 6 units will be built on Saint Stephen's parking lot. Per the parking requirement this would mean at minimal that there be 8 parking spots. And since the site is located in R-15, the max height is 28 feet, which means maybe at most we can get 2 stories. But if you have to factor in underground parking, this does not seem feasible at all.

Chuong Vu



August 04, 2022

Dear Belvedere City Council:

We are writing on behalf of **South Bay YIMBY** regarding Belvedere's 6th Cycle Housing Element Update. As a regional pro-housing advocacy group, South Bay YIMBY works to ensure cities adopt housing elements that are fair, realistic, and lawful.

Per §8899.50(a)(1) of state code, Belvedere's housing element must affirmatively further fair housing, which entails 'taking meaningful actions... that overcome patterns of segregation.'

The City of Belvedere is uniquely positioned to affirmatively further fair housing, as Belvedere is a wealthy, exclusionary city segregated from the rest of the Bay Area. This socioeconomic segregation is caused by the exclusionary cost of housing in your community, where an average home, as of April 30th, costs \$4,948,000, which is only affordable to someone earning a salary of \$721,000, meaning **only the richest 1% of households can afford to settle down in your community**. To put a finer point on the level of affluence in your city, the average home in your city costs more than French castles and private islands in the Caribbeans. It is thus no coincidence that your city is 124% whiter than the rest of the Bay, as well as 85% less black than the rest of the Bay Area. Sadly, your city's demographics have trended in an even less equitable direction, losing 3 black residents while gaining 91 white residents since 2010.

In a 2021 report entitled 'Exclusionary Zoning: Its Effect on Racial Discrimination in the Housing Market,' economic advisors for the White House outline how exclusionary zoning, like yours, causes segregation. Your exclusionary zoning pushes low income children to live in less resourced areas, which begets worse life outcomes from health to income. The research is clear: exclusionary zoning violates your duty to further fair housing.

To take meaningful actions that overcome patterns of segregation, we recommend you:

1. **End apartment bans in high opportunity areas.** This will give middle and working class families the opportunity to share in the resources your rich neighborhoods enjoy. As of 2020, **your city banned apartments in over 92.0% of high opportunity residential areas.**
2. **Accommodate 189 low income homes in your site inventory.** While substantially larger than the floor of 77 low income homes required by RHNA, 189 is the number of homes required to bring the proportion of low income families in your city in line with the rest of the Bay Area. While this number is large enough to be politically challenging, it will always be politically challenging to overcome segregation, as AFFH requires.

Thank you,

Salim Damerджи, South Bay YIMBY

Keith Diggs, YIMBY Law



April 21, 2022

Dear Belvedere City Council:

We are writing on behalf of YIMBY Law and Greenbelt Alliance regarding Belvedere's 6th Cycle Housing Element Update. YIMBY Law is a legal nonprofit working to make housing in California more accessible and affordable through enforcement of state law. Greenbelt Alliance is an environmental nonprofit working to ensure that the Bay Area's lands and communities are resilient to a changing climate.

We are writing to remind you of Belvedere's obligation to include sufficient sites in your upcoming Housing Element to accommodate your Regional Housing Needs Allocation (RHNA) of 160 units.

In the Annual Progress Reports that Belvedere submitted to HCD, we observe the following trend of housing units permitted in the last four years:

Year	Housing units permitted
2019	2
2020	2
2021	2
Average, 2018-2021	2

To meet the 6th cycle RHNA target, the rate of new housing permits in Belvedere would need to increase from 2 units per year in 2018-2021 to 20 units per year in the next 8 years. This is a 900% increase from recent years. If the current pace were to continue, Belvedere would meet only 10% of its new housing target.

Based on these trends, it is unlikely that Belvedere's existing realistic zoning capacity is sufficient to meet its 6th cycle RHNA target. According to HCD's Housing Element Site Inventory Guidebook, housing elements must analyze the realistic capacity of their sites, which may include considerations of " [l]ocal or regional track records", " past production trends", and " the rate at which similar parcels were developed during the previous planning period". A housing element that does not include a significant rezoning component is therefore unlikely to be compliant with state law.

We urge Belvedere to include a major rezoning component in its Housing Element—a rezoning large enough to close the gap between recent housing production trends and the RHNA target. The rezoning should be within existing communities and should comply with the city's obligation to Affirmatively Further Fair Housing. We also urge Belvedere to ease any other constraints, such as discretionary approval processes or impact fees, that may impede the rate of development on your city's housing sites.

Thank you,

Sid Kapur, East Bay YIMBY [REDACTED]

Rafa Sonnenfeld, YIMBY Law [REDACTED]

Zoe Siegel, Greenbelt Alliance [REDACTED]

From: [McDougall, Paul](#)
To: [Housing Elements](#)
Cc: [Compliance Review](#)
Subject: FW: City of Belvedere's intention to adopt a housing element without review of any draft by HCD
Date: Wednesday, January 11, 2023 8:04:30 AM

Please store in the public comment folder for Belvedere's housing element

From: Compliance Review@
Sent: Wednesday, January 11, 2023 7:50 AM
To: Matt Gelfand <> Compliance Review <>
<compliance@>
Cc: <> McDougall, Paul <> <Paul.McDougal> West, Shannan <> <Shannan.West>; Zisser, David <> <David.Zisser>
Subject: RE: City of Belvedere's intention to adopt a housing element without review of any draft by HCD

Thank you, Matt. Our housing element review team will be handling the situation.

Regards

From: Matt Gelfand <admin> **On Behalf Of** Matt Gelfand
Sent: Tuesday, January 10, 2023 9:02 PM
To: Compliance Review@ <compliance@>
Cc: [allyson](#) <> McDougall, Paul <> <Paul.McDougal>; West, Shannan <> <Shannan.West> Zisser, David <> <David.Zisser>
Subject: City of Belvedere's intention to adopt a housing element without review of any draft by HCD

Dear Compliance Review Staff:

I am writing to bring your attention to the plan by the City of Belvedere to adopt its sixth cycle housing element update prior to submitting any draft of the update for review by HCD. The City Council was originally scheduled to take this action last night, but continued the matter to January 24 to allow staff to make changes to the draft housing element. The staff report for last night's meeting is available here: <https://www.cityofbelvedere.org/DocumentCenter/View/8577/7B> [[cityofbelvedere.org](https://www.cityofbelvedere.org)].

The City Attorney has advised the City Council that the premature adoption would allow the City to have a "substantially compliant" housing element by January 31, 2023, despite the City not having complied with its obligation under Government Code Section 65585(b)(1) to submit a draft for HCD's review at least 90 days prior to adoption. The City appears to be taking this extraordinary approach in an effort to avoid the application of the limits in Government Code Section 65589.5(d), often referred to as the "builder's remedy."

We respectfully request that HCD provide technical assistance to the City to help steer the City away

from this unlawful frolic. More specifically, we ask that HCD inform the City that (1) a local agency cannot lawfully adopt a sixth cycle housing element update until at least 90 days have passed from submission of the agency's first draft of the update to HCD, and (2) a housing element adopted without complying with this obligation is not substantially compliant with state law, including for the purpose of determining the applicability of the relevant portions of Government Code Section 65589.5(d).

If you have any questions, please do not hesitate to give me a call at [REDACTED]

Sincerely,

Matthew Gelfand

--

Matthew Gelfand
Counsel, Californians for Homeownership
525 S. Virgil Avenue
Los Angeles, CA 90020

[REDACTED]

Californians for Homeownership is a 501(c)(3) non-profit organization that works to address California's housing crisis through impact litigation and other legal tools.

From: [Jenny Silva](#)
To: [Housing](#) [REDACTED]
Cc: [HousingElements](#) [REDACTED] [Housing Elements](#) [REDACTED]
Subject: Town of Belvedere Housing Element - Campaign for Fair Housing Elements - Comments on Public Draft
Date: Wednesday, November 16, 2022 12:53:47 PM

Dear Belvedere Staff,

Thank you for the opportunity to comment on the Belvedere Housing Element. The Housing Element was well written. That said, I believe that the Town of Belvedere will need to make some amendments in order to reach its RHNA numbers this cycle. My comments are in the attached [document \[docs.google.com\]](#), and also provided below my signature below.

Best,

Jenny Silva
Marin Resident and Campaign for Fair Housing Elements Volunteer

I want to thank Belvedere for the well-written [Housing Element \[cityofmillvalley.org\]](#). Housing Elements are necessarily complex and large documents. This is written so a lay person can understand it, and I appreciate the effort taken to communicate its programs and strategies. The Housing Element makes a great case for why Belvedere needs more housing.

Last cycle, Belvedere approved 5 units. This cycle, Belvedere needs to approve 160 units. Belvedere will not be able to address its housing needs through incremental changes to its process. Yet, the housing element expects that 130 units will be built without zoning changes. Belvedere does not provide sufficient analysis that the largely incremental changes it proposes will increase development 26x.

I will begin by noting some missing constraints on development that should be listed in the Housing Element. Then, I will address some more specific policy comments, proposing planning strategies that would improve the housing element. And finally, I will offer some factual context that I believe will provide a more complete documentation of Belvedere Housing.

Missing Constraints to Development

Missing Constraint #1 - Community Resistance to Development

This is not explicitly discussed in the Housing Element, but community resistance is a significant barrier to development in Belvedere, and it has historically been very effective. In fact, so effective that Marin County successfully fought the development of the Martha Property on the Tiburon peninsula, despite losing multiple lawsuits over the last 50 years, . Belvedere residents just passed Measure M which established a parcel tax to help pay for the purchase of the Martha property in order to convert it to Open Space. It is hard to take claims that we are built out seriously when 85% of Marin is not developed, and the County is continuing to spend millions of taxpayer money to

convert more land into a non-developable open space.

Currently, some residents of the Town have been conducting a very vocal campaign against the redevelopment of Mallard Point, one property listed in the inventory. Signs fighting the development are present throughout the community, and the developer has already reduced the unit count to 40 units, far less than the 56 units that would be permitted under the general plan.

Community Resistance should be explicitly identified as a constraint, and programs should be specifically designated to address this constraint. Strategies could include.

- **Strategy #1 - Greatly expanded ministerial approval for projects.** Ministerial approval should be provided for all parcels on the site inventory. Belvedere should make ministerial approval the default, not the exception, for all types of development.
- **Strategy #2 - Reform the community input process.** As HCD states in its “Building Blocks” for housing elements, “[a]n inadequate [public participation](#) process may lead to anti-development initiatives, and strong, vocal community opposition to greatly needed housing development.” Currently, Belvedere’s community input process is unbalanced and problematic. We give community members almost limitless ability to raise issues during public meetings, but due to the Brown Act, the issues cannot be discussed or acted on in a meaningful way. As a result, decisions are often delayed and issues re-raised. Belvedere should (1) cap the number of meetings at which public comment is taken on a project (cf. Gov. Code § 65905.5 [five-hearing limit on complete applications]), and (2) require the commission/council to summarize and to respond in writing to all issues raised in public comment. This would both streamline the process and show residents that their questions and concerns have been heard.

Missing Constraint #2 - Insufficient density

Belvedere has space constraints, a commitment to open space and parkland, and few open lots. If Belvedere wants to maintain its open space, it must embrace density to meet its housing goals. Belvedere asserts on Page C-2 that its zoning densities do not constitute a constraint, but it does not provide analysis to support this. Belvedere states that land cost is a constraint. The most effective mitigation for high land prices is to increase density. Belvedere has parcels zoned for 1-3 units/acre. There are many parcels in Marin with densities higher than 100 units/acre. It is not reasonable to assert that a density of 1-3 units/acre is not a constraint. There are a number of additional strategies that Belvedere can use to increase density:

- **Rezone Belvedere for multi-family housing.** This would also be a strong commitment to Affirmatively Furthering Fair Housing.

- **Increase FARs, building heights and eliminate setbacks.** Setbacks are a terrible waste of space and Belvedere's set-backs are larger than other high income areas in Marin. Belvedere residents love the charm of Europe, which almost universally has minimal setbacks and far higher FARs.
- **Allow much higher densities.** Belvedere's densities are as low as 1-3 units/acre, and multi-family ranges from 5-35 du/acre. This is very low, and not appropriate in a bedroom community of one of the World's largest economic centers.
- **Allow much higher densities for proposed affordable housing.** Sausalito's last affordable housing project has a density of 70 units/acre. Palo Alto recently did a study of its last 3 affordable projects, and they average a density of 100 units/acre. Mill Valley's initial work on 1 Hamilton suggests that at least 40 units are needed to make an affordable project pencil out, if land costs are not a factor. Yet, Belvedere is working with a density of 40 units/acre with many lots under 1 acre. This will not generate sufficient scale for any affordable housing project to work.

In addition, there are a few items not specifically addressed that will improve the likelihood of Belvedere meeting its goals.

- **Belvedere should commit to monitoring the rate at which inventory sites are developed and the number of units built.** If the site inventory yield during the first half of the cycle falls short of projections, Belvedere should trigger automatic zoning adjustments to increase yield. These adjustments should target the constraints identified (density, FAR, building heights) above. This is particularly important because Belvedere's strategies last cycle all failed. We need a way to adjust prior to the next cycle if Belvedere is once again too conservative to attract development.
- **The Housing Element does not address current permitting timeframes and whether the Town is currently in compliance with state permitting benchmarks.** This data should be included in the Housing Element. If the data is not currently available, the Town should include a program to start collecting and monitoring the data. If the Town is missing these benchmarks, there should be programs to meet the benchmarks.
- **The site inventory is insufficient to generate the required 160 units**

required, without significantly more rezoning. (More details are included below.) Significant work remains to be done if the Town is going to generate a housing element that actually generates the required housing.

Additional contextual and detailed policy comments.

Section 2 - Goals, Policies and Programs

- As noted in the introduction, incremental improvements will be insufficient for Belvedere to increase housing permits from 5 to 160 over this housing cycle. Yet, 24 of the 28 programs suggested are repeating programs from the last Housing Element Cycle. They will not produce the required changes. Three of the 4 new programs are primarily implementation of state laws and do not address the issues specific to Belvedere. Only **Program 3.11** provides a meaningful change to the status quo, in that it rezones some land at a higher density. However, the density permitted is only 30 units/acre. Last housing element, developments at 35 units per acre did not develop. Belvedere's history, approval process and land cost does not support development at 30 units/acre. Belvedere cannot obtain results by relying on the failed status quo. Belvedere needs to develop more meaningful and impactful programs.
- A number of Belvedere's sites are recycled from previous housing inventories. Some of these sites will have by-right approval required by law. Given Belvedere's history, all reused sites should have by-right approval. There are no programs listed providing by-right approval for these reused sites.
- The Town also doesn't provide any real programs to address the rapidly rising rental rates in Belvedere. (30.8% since 2009). Only program 4.6 considers tenant protections, but it is limited. Instead, Belvedere should commit to tangible tenant protections including eviction protection and rent stabilization.
- **Page 2-3, Program 1.3. Streamline Permit Processing for Multi-family Rental Projects.** It has been decades since Belvedere has approved any multi-family projects. It is not accurate to refer to "typical permit processing time" in this context. Most land in Belvedere is zoned for single family homes. Streamlined permitting should be made available for ALL projects. Belvedere should provide data on actual permitting times. A timeframe of "biannually" does not make sense in relation to this program. The city should provide a deadline on when the streamlining of the permit processing will be completed.
-

Page 2-5, Program 2.2 Preserve Rental Housing. Belvedere does not specify how it will monitor rental stock. The town should establish a rental registry so that it can track rental units and rental unit rates.

- **Page 2-13, Program 4.5. Fee Reductions for Affordable Housing.** It has been decades since Belvedere has built Affordable Housing. As such, this recycled program has failed at meeting its goals. Belvedere should update this program to address the actual constraints in building affordable housing (community resistance, permitting, density) so that affordable housing is built this cycle. Programs to address constraints should have clear milestones and time frames.
- **Page 2-17, Program 3.6.** There is another Program 3.6 on page 2-8. Should this be number Program 6.1 instead?

Section 3 - Overview of Housing Needs and Constraints

- **Page 3-9.** Belvedere asserts that Multi-family densities, which allow up to 35 dwelling units/acre are high enough to facilitate affordable housing projects. However, the town provides no analysis that this is true. The town has not approved any multi-family developments in decades, and has very little multi-family housing at all. Land prices are extremely high in Belvedere. Although other jurisdictions in California may be able to develop affordable housing at 35 du/acre, the experience of other Marin jurisdictions does not support this assertion. The last affordable development in Sausalito was at 70 du/acre. 1 Hamilton, which is on city-owned land, will need to be at least 40 du/acre to be financially feasible.

Section 4 - Site inventory and Opportunities

- **Page 4-2.** Belvedere claims that it has permitted four units since June 30, 2022. It permitted five during the last cycle. Belvedere should commit that it will track that these 4 units are built.
- **Table 4-3.** The numbers in this table do not match the detailed analysis in Appendix D. This table states a site inventory of 301 units. The appendix details only 235 units. This numbers should be updated to match the analysis.

Appendix C - Housing Constraints

- Page c-2 provides Belvedere's allowable densities, which range from 1-3 du/acre for low density single-family to 35 du/acre for high density single family.

Belvedere should also specify how much land is zoned at each density rate, which will provide a more complete understanding of the constraints zoning imposes. Belvedere asserts on page c-3 that zoning does not pose any serious problems to development of remaining sites. Belvedere needs to back up this statement.

- Belvedere states on page C-4 that the city is densely populated. This statement should be eliminated. Its zoning is not consistent with a densely populated city
- Page c-4 - Belvedere states that its low structural coverage ratios are due to its unusual and steep lots. Blanket low density zoning is a blunt and ineffective tool for addressing environmental issues. Belvedere should increase density rates and develop rules that directly address slop issues.
- Page C-17 - typical processing times - Belvedere only approved 5 permits last cycle. No subdivisions or multi-family projects were approved. The data in this table appears to be hypothetical data, not actual data. With 5 permits, Belvedere can readily provide actual permitting times, not theoretical times.
- Page C-19 - off-street parking. Belvedere states that parking requirements are low. Yet, all housing types, except apartments with 2 or fewer bedrooms require 2+ parking spaces. Marin has a very high rate of single households. Belvedere states parking requirements are not a constraint, but this is an assertion with no analysis backing it. Given that Belvedere has not built any multi-family housing for decades, it needs to provide analysis or join the other California jurisdictions that have eliminated parking minimums, and allowed property owners to make those decisions.

Appendix D - Vacant and Available Sites

- **Page D-7:Site 1: 1530 Tiburon.** This parcel is partially in Belvedere, and the Housing Element is listed as being built in both towns. Tiburon has also included this site, and it is planned for 65 Belvedere units and 65 Tiburon units. It does not appear that the two jurisdictions have done any joint planning on this land. Tiburon discusses this site as a possibility, and does not appear to be strongly committed to the project. The owner has stated that rezoning would need to increase FAR and increase the height limit to five stories. Program 3.11 only states rezoning to 30 du/acre. The owner has not indicated that this is sufficient to make this proposal work. To include this site, Tiburon and Belvedere should be required to work out the jurisdiction that will have authority and a zoning proposal that will work with the owner.

- **Page D-9: Site 01B:** This site is currently a nursery school. The City does not provide any analysis or indication that this existing use will be discontinued.
- **Page D-10: Site 01C:** This site was used in the last housing element and was not developed. The City does not plan to rezone. The City does not provide sufficient analysis that this site will be redeveloped during the period, especially given that it did not occur last housing cycle.
- **Page D-11-14: Sites 2A-4A:** The owner has expressed interest IF the city rezones for increased density and height. However, the City does not propose to rezone these sites. Either the City should commit to rezone or remove these sites from the inventory.
- **Page D-15, Site 4B:** This is the Mallard Point project. The project has already been reduced in size due to strong local resistance. This site has already received significant community input and should be granted by-right approval to develop as currently proposed.
- **Page D-16, Site 4C:** This site is a Church. The City does not indicate any indications of discussions with the Church and its interest in stopping operations and converting its land to housing. Without a commitment from the Church, this site should be removed from the inventory.
- **Page D-17, Site 4D.** The owner has expressed interest IF the city rezones for increased density and height. However, the City does not propose to rezone these sites. Either the City should commit to rezone or remove this site from the inventory.
- **Page D-18, Site 5A-** This site serves as the parking lot for Saint Stephen's. The City does not provide any indication that Saint Stephen's is interested in converting its parking lot. Either the City should provide confirmation from Saint Stephen's that they are interested in this use, or they should remove the site from the list.
- **Page D-19, Site 6A -** This site was used in the last housing element and was not developed. The City does not plan to rezone. The City does not provide sufficient analysis that this site will be redeveloped during the period, especially given that it did

not occur last housing cycle.

- **Pages D-20-28, Sites 7A, 7B,7D,8A, 6B-** These are all vacant lots that have been available for development for years. There is no rezoning planned. Given that only 5 units were issued last housing cycle, it is not reasonable to assume that these parcels will all develop to maximum capacity. A probability of development should be applied (probably at less than 5%, based on last cycle). Also, I believe site 6B is a typo and should be labeled 8B.

- **Page D-27, 9A -** There is no planned rezoning and no indication that the current owner wishes to redevelop this land. The City does not provide current use. The City needs to provide analysis that this will likely be redeveloped within the time period.

- **Page 28 - ADUs -** The City is basing the development of ADUs based on a statement of interest. It is not realistic to assume that all statement of interest forms submitted will be developed, and that the ADUs built will be used for housing according to the income levels providedd. I personally know a Belvedere resident who has submitted an application for an ADU which will be used as a home office. Belvedere will need to apply some probability of development for these 36 units.

- The Belvedere site inventory is missing several data points that are required by the state (See [June 10, 2020 Memorandum on Housing Element Site Inventory Guidebook](#).) Required data points missing are:
 - *NEW* Assessor parcel number(s).

 - General plan land use designation.For nonvacant sites, a description of the existing use of each parcel (See Part D)

 - *NEW* Whether the site is publicly owned or leased.

 - *NEW* Whether the parcel has available or planned and accessible infrastructure (Part A: Step 3).

 -

NEW If the parcel was identified in a previous planning period site inventory (Part B: Step 1). These sites should all be by-right.

Overall, 130 units are expected to be built with no changes in zoning and no substantial changes in programs. This is just not realistic, given that only 5 permits were issued last cycle. Belvedere needs to do more to ensure housing is built this cycle. T

Sincerely,

Jennifer Silva

Campaign for Fair Housing Elements Volunteer

Campaign for Fair Housing Elements

[jrskis](#) [REDACTED]

From: [Jenny Silva](#)
To: [Housing \[REDACTED\]](#)
Cc: [Housing Elements \[REDACTED\]](#) [housingelements \[REDACTED\]](#)
Subject: Comments on 1/9 City Council Meeting Agenda Item #7B
Date: Sunday, January 8, 2023 10:11:59 PM

Dear Belvedere City Council:

I am writing to express my opposition to the resolution to adopt its Housing Element on January 9, 2023. My comments are below and in this [Google Doc \[docs.google.com\]](#). I am opposed to this action because:

- The adoption process is not in compliance with the state Housing Element process.
- The content of the Housing Element is not in compliance with state housing law.

The adoption process is not in compliance with the state Housing Element process

Belvedere has not yet submitted a draft of its Housing Element to HCD to review. I have attached a copy of the Dec 16 letter sent by Californians for Homeownership, Yimby Law and California Renters Legal Advocacy. This letter states:

“the City is not legally permitted to adopt a housing element update until 90 days have passed from the submission of an initial draft to the Department of Housing and Community Development (HCD). 4 Thus, in order to timely adopt a sixth cycle housing element, the City was required to submit a draft housing element to HCD by November 2, 2022. It did not do so.”

The City Council’s approval of a resolution does not override the state mandated process for developing a compliant housing element.

I’ll also add that even if Belvedere had submitted its Housing Element for review, the City is required to provide updated drafts for public review for at least seven days. Belvedere released its latest draft on Friday, January 7th, far less than the required seven days.

Furthermore, that draft is incomplete, as it’s missing Appendices B-F. In the earlier draft, Appendix D was missing data required by the state, so it’s critical that the full draft Housing Element is made available for review.

The content of the Housing Element is not in compliance with state housing law

The Campaign For Fair Housing Elements identified a number of issues with the Housing Element in its November 16 letter. Since Belvedere has not provided the legally required review time, I am unable to complete a full analysis for today's meeting. Instead, I will highlight some of the most blatant issues that prevent this housing element from being compliant.

1.

The Housing Element attached to the Resolution is incomplete. Specifically, it is missing Appendices B-F. These appendices include a great deal of data required by state housing law. Appendix D includes the site inventory. In my previous letter, I highlighted that Belvedere was missing a number of data points required by the state.

2.

The Site Inventory Analysis is Incomplete. Since over 50% of Belvedere's low income sites have existing uses, HCD requires that "the housing element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period". Belvedere has not completed this analysis.

Belvedere Land Company owns the properties that cover 68% of the units. Belvedere defends its plan by stating Belvedere Land Company (BLC) together with HBA Properties presented a letter of intent to participate with housing unit construction towards Belvedere's RHNA on August 18, 2022 (see Appendix A-2). That Appendix is missing from the Housing Element, but it does clearly state that the BLC believes that rezoning is necessary in order to achieve this housing. Belvedere has repeatedly stated it does not need rezoning to meet its RHNA. These statements are in conflict. There are a number of other issues with the site inventory raised in our comments, including the unresolved sharing of one large site with Tiburon.

3.

Legally required rezonings are not included. A number of Belvedere's sites are recycled from previous housing inventories. Some of these sites will have by-right approval required by law. Given Belvedere's history, all reused sites should have by-right approval. There are no programs listed providing by-right approval for these reused sites.

The bottom line is that last cycle, Belvedere approved 5 units. This cycle, Belvedere needs to approve 160 units. Belvedere will not be able to address its housing needs through incremental changes to its process. Yet, the housing element expects that 130 units will be built without zoning changes. Belvedere does not provide sufficient analysis that the largely incremental changes it proposes will increase development 26x. Belvedere needs to do more to ensure housing is built this cycle.

Lastly, it is disappointing that Belvedere removed and water-downed language acknowledging that it must play a role in resolving the housing crisis. The residents of Belvedere are among the luckiest on the planet. It is disappointing not to see more grace in trying to address the very challenging housing crisis we are in. Below are statements Belvedere cut from its housing element. It's not a good look.

- As Belvedere looks towards the future, increasing the range and diversity of housing options is an integral component to its long-term success.
- Belvedere must play its part in meeting the growing demand for housing
- Since 2000, Belvedere has only added 29 housing units out of 1,060 total units in the City—less than three percent of the City's total housing stock.
All of this indicates that residential growth for low-income households was slower than anticipated, which may be in part due to: the COVID pandemic, the cost of land, and the overall lack of support for new affordable housing development in the community. As a result, housing costs continued to increase substantially due to low supply, and affordability became more elusive.

Sincerely,

Jennifer Silva

Campaign for Fair Housing Elements Volunteer

Campaign for Fair Housing Elements



From: [Jenny Silva](#)
To: [REDACTED]
Subject: Belvedere Housing Element
Date: Friday, March 3, 2023 8:09:41 AM

Dear Belvedere Planning Staff and HCD,

I am writing to submit my comments on the Belvedere Housing Element. In short, both the adoption and substance of this housing element are highly problematic, and I implore Belvedere to rework its Housing Element to promote the development of Housing.

My comments are long, so are in this Google [document \[docs.google.com\]](#), for easier reference, but are also provided below. We do not believe that this current housing element which Belvedere “adopted” should be certified, because::

- The adoption process was not in compliance with the state Housing Element process.
- The content of the Housing Element is not in compliance with state housing law.

The adoption process was not in compliance with the state Housing Element process

Belvedere adopted its Housing Element prior to submitting it to HCD to review. I have attached a copy of the Dec 16 letter sent by Californians for Homeownership, Yimby Law and California Renters Legal Advocacy. This letter states:

“the City is not legally permitted to adopt a housing element update until 90 days have passed from the submission of an initial draft to the Department of Housing and Community Development (HCD). 4 Thus, in order to timely adopt a sixth cycle housing element, the City was required to submit a draft housing element to HCD by November 2, 2022. It did not do so.”

HCD should not permit Belvedere to flout state requirements.

The content of the Housing Element is not in compliance with state housing law

The residents and officials of Belvedere have made it clear that they do not believe that they need to comply with state housing law, and the Housing Element reflects this. I will highlight some of the most blatant issues that prevent this housing element from being compliant.

1. **The Site Inventory Analysis is Incomplete.** Since over 50% of Belvedere’s low income sites have existing uses, HCD requires that “the housing element must demonstrate existing uses are not an impediment to additional residential

development and will likely discontinue in the planning period". Belvedere has not completed this analysis.

Belvedere Land Company owns the properties that cover 68% of the units. Belvedere defends its plan by stating Belvedere Land Company (BLC) together with HBA Properties presented a letter of intent to participate with housing unit construction towards Belvedere's RHNA on August 18, 2022 (see Appendix A-2). This letter is not a letter of intent, as is commonly understood. The letter states that the owner would have interest in redevelopment, if the area was rezoned for greater height and density. Belvedere has repeatedly stated it does not need rezoning to meet its RHNA. These statements are in conflict. There are a number of other issues with the site inventory raised in our comments, including the unresolved sharing of one large site with Tiburon. I have detailed comments on sites below.

2.

Legally required rezonings are not included. A number of Belvedere's sites are recycled from previous housing inventories. Some of these sites will have by-right approval required by law. Given Belvedere's history, all reused sites should have by-right approval. There are no programs listed providing by-right approval for these reused sites.

3.

Overly aggressive ADU plan. Belvedere built 5 units last cycle, yet is planning on 30 ADUs this cycle. Belvedere states that it has 41 letters of interest in building ADUs. However, many of these letters were generated in a cynical attempt to game the Housing Element system. Homeowners were asked to submit letters, while being assured that there would be no requirement that they build ADUs. Belvedere should be limited to the number of ADUs allowed under the safe harbor.

4.

Lack of upzoning overall. Belvedere has taken a position that it can meet the RHNA numbers without upzoning any of its parcels, other than as required by law. This is despite the fact that Belvedere must increase production from 5 to 160 units. Most every Bay Area jurisdiction has recognized that they cannot produce the increased levels of housing without rezoning. Belvedere must also. The town has not approved any multi-family developments in decades, and has very little multi-family housing at all. It's not realistic that it will develop affordable housing without some rezoning.

5.

Housing Element increases segregation. Program 3.17 Remove Single-Family as an Allowed Use within R-2, R-3, and R-3C Zones. This program works in opposition to Affirmatively Furthering Fair Housing, by further segregating single family housing from multi-family housing. Rather than further limiting integrated

neighborhoods, Belvedere should be allowing multi-family housing in its neighborhoods currently zoned for single family housing. This program should be removed, and replaced with programs that promote integration.

6.

Permitting times needs more analysis. Page C-17 states typical processing times - Belvedere only approved 5 permits last cycle, and there were no subdivisions or multi-family projects approved. The data in this table appears to be hypothetical data, not actual data. With 5 permits, Belvedere can readily provide actual permitting times, not theoretical times. Given the extremely low rate of housing production, permitting times are almost certainly a constraint. The only program currently is the Objective Design Standards, which is only evoked where required by law, and will not address most permitting issues.

1.

Community resistance needs to be identified as a constraint and explicitly addressed. This is not discussed in the Housing Element, but community resistance is a significant barrier to development in Belvedere, and it has historically been very effective. In fact, so effective that Marin County successfully fought the development of the Martha Property on the Tiburon peninsula, despite losing multiple lawsuits over the last 50 years, . Belvedere residents just passed Measure M which established a parcel tax to help pay for the purchase of the Martha property in order to convert it to Open Space. It is hard to take claims that we are built out seriously when 85% of Marin is not developed, and the County is continuing to spend millions of taxpayer money to convert more land into a non-developable open space. Further, strong community resistance has developed to the Mallard Pointe project, which is proposing the first affordable housing in Belvedere in decades. This opposition is well funded, and signs are present throughout the community.

8. Belvedere does not adequately address tenant protections. Rents in Marin are rising far faster than inflation. Belvedere rents have increased 30% since 2009. Many Belvedere sites will require displacement of tenants. Yet, Belvedere is the first Marin Housing Element I've read with no provision to implement or enhance tenant protections. Belvedere must have a program to address the tenants it is planning to displace in this element.

The bottom line is that last cycle, Belvedere approved 5 units. This cycle, Belvedere needs to approve 160 units. Belvedere will not be able to address its housing needs through incremental changes to its process. Yet, the housing element expects that 130 units will be built without zoning changes. Belvedere does not provide sufficient analysis that the largely incremental changes it proposes will increase development 26x. Belvedere needs to do more to ensure housing is built this cycle.

Lastly, it is disappointing that Belvedere removed and water-downed language acknowledging that it must play a role in resolving the housing crisis. The residents of Belvedere are among the luckiest on the planet. They should demonstrate more grace

in trying to address the very challenging housing crisis we are in. Below are statements Belvedere cut from its housing element.

- As Belvedere looks towards the future, increasing the range and diversity of housing options is an integral component to its long-term success.
- Since 2000, Belvedere has only added 29 housing units out of 1,060 total units in the City—less than three percent of the City’s total housing stock. All of this indicates that residential growth for low-income households was slower than anticipated, which may be in part due to: the COVID pandemic, the cost of land, and the overall lack of support for new affordable housing development in the community. As a result, housing costs continued to increase substantially due to low supply, and affordability became more elusive.

Sincerely,

Jennifer Silva

Campaign for Fair Housing Elements Volunteer
Campaign for Fair Housing Elements



Site specific comments:

Appendix D - Vacant and Available Sites

- **Page D-7:Site 1: 1530 Tiburon.** This parcel is partially in Belvedere, and the Housing Element is listed as being built in both towns. Tiburon has also included this site, and it is planned for 65 Belvedere units and 65 Tiburon units. It does not appear that the two jurisdictions have done any joint planning on this land. Tiburon discusses this site as a possibility, and does not appear to be strongly committed to the project. The owner has stated that rezoning would need to increase FAR and increase the height limit to five stories. Program 3.11 only states rezoning to 30 du/acre. The owner has not indicated that this is sufficient to make this proposal work. To include this site, Tiburon and Belvedere should be required to work out the jurisdiction that will have authority and a zoning proposal that will work with the owner.
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Page D-9: Site 01B: This site is currently a nursery school. The City does not provide any analysis or indication that this existing use will be discontinued.

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Page D-10: Site 01C: This site was used in the last housing element and was not developed. The City does not plan to rezone. The City does not provide sufficient analysis that this site will be redeveloped during the period, especially given that it did not occur last housing cycle.

-

Page D-11-14: Sites 2A-4A: The owner has expressed interest IF the city rezones for increased density and height. However, the City does not propose to rezone these sites. Either the City should commit to rezone or remove these sites from the inventory.

-

Page D-15, Site 4B: This is the Mallard Point project. The project has already been reduced in size due to strong local resistance. This site has already received significant community input and should be granted by-right approval to develop as currently proposed.

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Page D-16, Site 4C: This site is a Church. The City does not indicate any indications of discussions with the Church and its interest in stopping operations and converting its land to housing. Without a commitment from the Church, this site should be removed from the inventory.

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Page D-17, Site 4D. The owner has expressed interest IF the city rezones for increased density and height. However, the City does not propose to rezone these sites. Either the City should commit to rezone or remove this site from the inventory.

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Page D-18, Site 5A- This site serves as the parking lot for Saint Stephen's. The City does not provide any indication that Saint Stephen's is interested in converting its parking lot. Either the City should provide confirmation from Saint Stephen's that they are interested in this use, or they should remove the site from the list.

-

Page D-19, Site 6A - This site was used in the last housing element and was not developed. The City does not plan to rezone. The City does not provide sufficient analysis that this site will be redeveloped during the period, especially given that it did not occur last housing cycle.

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Pages D-20-28, Sites 7A, 7B,7D,8A, 6B- These are all vacant lots that have been available for development for years. There is no rezoning planned. Given that only 5

units were issued last housing cycle, it is not reasonable to assume that these parcels will all develop to maximum capacity. A probability of development should be applied (probably at less than 5%, based on last cycle). Also, I believe site 6B is a typo and should be labeled 8B.

- **Page D-27, 9A** - There is no planned rezoning and no indication that the current owner wishes to redevelop this land. The City does not provide current use. The City needs to provide analysis that this will likely be redeveloped within the time period.