

BELVEDERE PLANNING COMMISSION

MINUTES

REGULAR MEETING

May 16 , 2023 6:30 P.M.

A. CALL TO ORDER OF THE REGULAR MEETING

Chair Pat Carapiet called the regular meeting to order at 6:30 p.m. in the Council Chambers. The meeting was also available via Zoom webinar. Commissioners present: Pat Carapiet, Nena Hart, Marsha Lasky, Larry Stoehr, Claire Slaymaker and Ashley Johnson. Attending via Zoom: Kevin Burke, Commissioners Absent: None. Staff present: Director of Planning and Building Bradley Evanson, City Attorney Ann Danforth, Associate Planner Samie Malakiman, Contract Planner Isabelle Loh, and Technician Nancy Miller.

B. OPEN FORUM

This is an opportunity for any citizen to briefly address the Planning Commission on any matter that does not appear on this agenda. Upon being recognized by the Chair, please state your name, address, and limit your oral statement to no more than three minutes. Matters that appear to warrant a more-lengthy presentation or Commission consideration will be agendized for further discussion at a later meeting.

No one wished to speak.

C. REPORTS

There were no reports.

D. CONSENT CALENDAR

MOTION: To approve the Consent Calendar as agendized below.

MOVED BY: Larry Stoehr, seconded by Ashley Johnson

VOTE: AYES: Kevin Burke, Marsha Lasky, Larry Stoehr, Nena Hart,
Claire Slaymaker, Ashely Johnson, Pat Carapiet.
ABSENT: None
ABSTAIN: None

1. Draft Minutes of the April 18, 2023, regular meeting of the Planning Commission.

E. PUBLIC HEARINGS

2. Design Review application for renovation, internal reconfiguration, and exterior improvements for the property located at 49 Peninsula Road (APN: 060-051-28). The project proposes enclosure of the outdoor entry under the second level, extending second-floor footprint within the existing double-height space, and interior reconfiguration of the living spaces. Exterior improvements include new fenestration, removal and infill of existing chimney, installation of a new hot tub and grill, partial removal of trellis sections, and a new fence at the entry. The proposed enclosure and expansion of the structure are located in areas already calculated towards existing floor area; as such, no change will occur to the existing gross floor area or lot coverage. The project is categorically exempt from CEQA pursuant to *Section 15301(l)(1) Existing Facilities*. Project Applicant: Robert Tranter, Formed Architecture; Property Owners: Nathan Allen & Heidi Bioski.

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

There were no questions for staff.

Project Architects Robert Tranter, Formed Architecture, project architect, presented the revised project. A slide show accompanied his remarks.²

Commissioners requested clarifications on some details of the revised application regarding the location of the hot tub, the lighting plan, and possible reduction of the number of windows.

Open public hearing.

No one wished to speak.

Close public hearing.

Commissioner Burke stated that his concerns are being addressed. He can make the findings for Design Review.

Commissioner Lasky expressed concerns about whether replanting the mature Japanese Maples would be successful. She suggested some reconfiguration of the floor plan might be considered. She can make findings for Design Review with final review of landscaping and lighting as a condition of approval.

Commissioner Stoehr likes the idea of the relocation of the hot tub as discussed. He would like the small front trellis detail retained. He can make the findings for Design Review.

Commissioner Slaymaker appreciates the communication with neighbors during the designing of the project. If the trellis were retained at the rear side of the home, there might be a good opportunity for the Wisteria to thrive. Additional attention to the lighting and landscape final plan can be reviewed as a condition of approval.

Commissioner Hart supports the redesign. She has no issue with any of the proposed windows. She can make the findings if the hot tub is moved back is added as a condition of approval.

Vice-Chair Johnson can make the findings for Design Review and agrees with the condition to relocate the hot tub, and to preserve the crepe myrtle tree in the original location.

Chair Carapiet agrees with her fellow Commissioners. She agrees about the relocation of the hot tub. The landscape and lighting plan is on regarding the exterior lighting. She can make the findings for Design Review as conditioned:

That the hot tub be moved to the southwest corner and relocate the adjacent barbeque;

That the color of the house as presented is to be a specific, named paint color;

That a final landscape and lighting plan be reviewed and approved by the Planning Director and the Chair of the Planning Commission.

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

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

MOTION: To grant Design Review for the property at **49 Peninsula Road** as conditioned.

MOVED BY: Ashley Johnson seconded by Claire Slaymaker

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

3. Design Review application for the property located at **101 Golden Gate Avenue** (APN: 060-142-01). The project proposes to remove nine (9) Eucalyptus trees, and two (2) Monterey Pines. The project would plant three (3) Coast Live Oak trees, San Gabriel Flannel Bush, California Lilac, and seven (7) Toyon. The project is categorically exempt from CEQA pursuant to CEQA Guideline Section 15304 Minor Alterations to Land. Project Applicant: Geneva Michaelcheck; Property Owner: Hiba Hassan & Akmal Hashmi.

Associate Planner Samie Malakiman presented the staff report. A slide show presentation accompanied his report.³ The project was continued at the prior meeting of the Planning Commission. Late submittal letters have been provided to the Commission. Two draft Resolutions have been provided, one for approval and one for denial.

Elizabeth Brekhus representing the property owners presented their request. The Commission has received a separate arborist report they commissioned to further establish the condition of the trees. They believe this is in concurrence with the original City Arborist report. Their arborist also expressed concerns about fire hazards from these Eucalyptus trees. Her clients are willing to plant replacement trees under guidance from the Planning Commission. Support from neighbors has been expressed. Their position is that the condition of the trees is such that they should be approved for removal.

Hiba Hassan, property owner, applicant, requested approval to remove the requested trees. She expressed concern that the trees are failing, limbs are breaking and they present a safety hazard to her home and to passersby.

Vice-Chair Johnson asked whether there has been any maintenance work on these trees and also whether her landscape architect aware that the stumps of the cut trees would remain in the ground.

Ms. Hassan replied that the side limbs might be trimmed, but the crossed limbs are difficult to manage. In regards to the stumps, she would need direction from the Commission.

Chair Carapiet asked why the vegetation and the fallen limbs on the ground have not been cleaned up.

Ms. Hassan replied that the back yard was already cleaned up. They have not done it in this area because they believed that it would be cleaned up when the trees were removed.

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

Chair Carapiet asked about an application in June 2022 asking for the same tree removals. At that time 2 trees were approved for removal with condition that the removal of the Eucalyptus trees come for Design Review to the Planning Commission.

Ms. Hassan replied that they have pursued cleanup but there has been a lot to handle since the recent winter storms.

Open public hearing.

Betty Hasler, 102 Golden Gate Avenue, stated that she is afraid of these trees falling and supports the removal. She disagrees with comments about the trees in question being a windbreak. The windbreak was already removed with the removals of trees at 1 Belvedere Avenue during the construction project. Removal of these trees will not affect the windbreak factor. The removal of the trees requested tonight has no benefit for her views.

Geneva Michaelcheck, 104 Golden Gate Avenue, has been in conversation with the neighbors for many years including during the years of the big fires on up to this recent stormy season. She is very concerned that these large trees will come down just like many others that fell in the Bay Area this past winter from the heavy rains. The replacement native trees will stabilize the site and create a new windbreak for the neighbors.

Close public hearing.

Vice-Chair Johnson agrees with the arborists that the two Monterey Pines are found to be diseased and it appears that they need to be removed. She has done research about Eucalyptus trees and there is disagreement as to whether Eucalyptus are fire hazards. She stated that, holistically, there are other benefits to the retention of the Eucalyptus trees, as they are the habitats of animals, butterflies, etc; in terms of climate change, one must consider that trees of this size are important in sequestering carbon. She believes that these trees could be made a lot safer with regular maintenance and care. A maintenance plan should be pursued to reduce the danger. Both arborist reports agree the trees are healthy and the Fire Marshal stated he does not have concerns. She can support the removal of the 2 Monterey Pines but not the others.

Commissioner Hart agrees that Eucalyptus trees can be very beautiful with proper tree care and garden maintenance. They are the homes of barn owls and screech owls and hawks who would not live in little, small trees. The Pines possibly could be saved or else removed and replaced with something more substantial to take their place. If the 9 Eucalyptus are really too close together perhaps a few of them might be removed. She cannot make the findings to remove these trees based on the debris and low maintenance.

Commissioner Slaymaker could support the removal of the Monterey Pines with some suitable substitutions. The removal of the Eucalyptus would dramatically change the character of the area. Any replacements would take years to compensate for their removals. She believes maintenance would be a better approach. She cannot make the findings to remove them.

Commissioner Burke stated that based on reviewing the second Arborist report he could make the findings to remove them with substantial replacements in at least 48-inch boxes. He can approve removal of the two Monterey pines with suitable large replacements.

Commissioner Stoehr stated that two arborists have warned that the Eucalyptus trees are a safety concern. Fire is not the issue for him, but if they fall he believes that the City might face liability if removal is denied and if there is a branch that falls and hurts someone. He believes that the stumps should remain for site stability. The stumps will remain alive and continue to sprout which can be taken care of with maintenance. He disagrees that these are some kind of windscreen. The proposed trees are too close to the road and should be set back. He can make the findings to remove all the requested trees if they are replaced with substantial replacement trees.

Commissioner Lasky stated that the two Pines can be removed due to their current poor condition. The Eucalyptus trees have been there for a very long time and with proper maintenance they should be preserved. Three of these trees have crossing limbs and might be investigated if they should be removed while keeping the rest. She requested that the stumps should not be removed and no herbicide can be allowed.

Chair Carapiet agrees with the Commission to remove the two Monterey Pines. She would like to learn from the City Arborist in more detail about what can be done regarding the 3 that have crossed limbs. It appears that there is some disagreement as to how many of the Eucalyptus might be removed. She asked for clarification as to the question before the Commissioners.

City Attorney Danforth stated that there is consensus that the Monterey Pines might be removed. The issue of the Eucalyptus trees could be a separate motion.

MOTION: To approve the applications for removal of two Pine trees at **101 Golden Gate Avenue** with 2 replacement trees to be approved by the Planning Chair and staff.

MOVED BY: Kevin Burke, seconded by Claire Slaymaker

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

Discussion was held as to options for motions regarding the removals of some or all of the Eucalyptus trees. It was suggested a motion be made to request a continuance in order to obtain an additional report and recommendations for the maintenance or management of each tree from the City Arborist.

Chair Carapiet asked the applicant if they would want a vote tonight or a continuance.

Ms. Brekhuis requested that a vote be taken tonight.

Commissioner Stoehr pointed out that the Resolution contains conditions that should be deleted.

City Attorney Danforth agreed that a Resolution of denial should not be conditioned.

MOTION: To deny removal of 9 Eucalyptus trees at **101 Golden Gate Avenue**, with conditions a) through j) deleted.

MOVED BY: Ashley Johnson, seconded by Claire Slaymaker

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

Commissioners Burke, Hart and Slaymaker recused themselves from Item 4 (135 Belvedere Avenue) due to owning property within 500 feet of the subject project. They departed from the meeting.

4. Demolition, Design Review, Exception to Total Floor Area, Use Permit, Revocable License, and Extension of Construction Time applications for the property located at **135 Belvedere Avenue** (APN 060-181-36). The project includes a 790 square-foot Accessory Dwelling Unit that would be approved ministerially. The project proposes to demolish an existing single-family home and detached garage, and Design Review to construct a new 9,936 square-foot residence that includes a 1,006 square-foot garage and 128 square-foot boat storage area. Other improvements include a motorcourt, swimming pool, retaining walls, landscaping, terraced patios, bioretention basin, and stairway access to a 668 square-foot deck, 875 square-foot pier, 12 square-foot boatlift, and 96 square-foot platform lift on the adjacent County of Marin tide lot. Total lot size is 52,965 square-feet (1.24 acres) based on an approved 2019 lot merger. An exception to total floor area is requested for exceeding the allowable floor area per Belvedere Municipal Code Section 19.52.115. A Use Permit is requested to allow private recreation use of the R- Recreation zoned tide lot. The project would require a Revocable License for curb, concrete apron, landscaping, and trash enclosure improvements in the public right of way. The applicant is requesting a 24-month Construction Time Limit. The project is categorically exempt from CEQA pursuant to *Section 15301(l)(1) Existing Facilities*, and *Section 15303(a) New Construction or Conversion of Small Structures*. Project Applicant: Kurt Melander; Property Owner: LFB 135, LLC. **(Commissioners Hart, Slaymaker and Burke, recused)**

Associate Planner Samie Malakiman presented the staff report. A slide show presentation accompanied his remarks.⁴ The applicant has requested to present the changes to the project since the prior hearing. The item was continued from the prior meeting to accommodate additional revisions. The applicant will be adding an ADU above the garage as the main revision which qualifies for ministerial approval and is not before the Commission tonight. Lighting and landscaping modifications have been incorporated into the current plans tonight.

Commissioner Stoehr asked whether the ADU is eligible for ministerial approval because of its location in the setback, per 19.48.190(f). The ADU could fit into another location on the property. He stated that it would be a poor precedent to allow an ADU at the front of the property where there are options for a different location on the very large lot.

Planner Malakiman stated that the updated ADU Ordinance allows for this ADU to be located at a zero setback. Tonight, there is no action regarding the ADU on the Agenda. Staff has determined that this ADU meets the requirements for ministerial approval. If it is not able to be ministerially approved then there would need to be applications for a Variance and Floor Area Exception at a future meeting.

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

Chair Carapiet commented that the applicant had explained to her during her site visit that any other location for the ADU would create more cut and fill, which was expressly studied to satisfy the Commission's requirement to reduce that to the current levels.

Attorney Danforth stated that if the proposed ADU fits into the parameters of a ministerial approval it may be located with a zero setback. If the City's cut and fill restrictions preclude the location of the ADU elsewhere on the site, then the current ADU front setback requirement may be waived.

Open public hearing.

Kurt Melander, project architect, stated that the geotechnical studies reflected that the building needed to be moved closer to Belvedere Avenue in order to meet the City's mandates for cut and fill to 45 cubic yards. Changes to lighting have been significantly reduced.

Marta Fry, landscape architect, attending by Zoom, was available to address changes to the landscaping design.

Commissioner Lasky requested that the trees be installed as early as possible at the beginning of the building permit.

Additional discussion regarding the accuracy of the site plan resulted in that a determination that a correction to the information on the site plan is that the front eave of the garage is actually 15' 2" from the improved streetline and therefore the garage/ADU is not in the setback and the building is very much lower than the street. As a result, there would be no longer be any issue with ministerial approval of the ADU.

Commissioner Stoehr stated that he believes that proposed trees on Belvedere Avenue would grow to a width that could exceed the width of the front property line. He believes that the 7 trees would block the entire public view. He would like to see fewer trees to open that up.

Ms. Fry responded that it is difficult to rely on general literature to determine the effect of these trees. From her experience, this design, tree choice and planned maintenance will allow for the preservation of framing views, while still shielding views down to the auto court and to screen the sight of street parking from the property occupants. The trees would be maintained to frame public views. They would be held to a width of 16 feet and the canopy would be higher than a pedestrian's height with only 1 tree is at the auto gate and the other 6 trees would be along that frontage.

Commissioners asked and received verification that the 45 cubic yards of off haul will be adhered to in the construction process.

Open public hearing.

No one wished to speak.

Close public hearing.

Commissioner Lasky supports the planned trees on the street. She applauds the addition of the ADU to the project. She still requests that there be additional trees at grade adjacent to the pool while avoiding any view blockages for the owners from the first floor. This and other minor revisions will be presented in the final landscape plan.

Commissioner Stoehr likes this design, colors and materials. The new proposal minimizes the amount of off haul. He would have preferred the building to step down the hill but he understands the reason for this design is to provide better light and views to the home. He would like to see the number of street trees reduced. With those conditions he could make the findings for Design Review.

Vice Chair Johnson believes this is a beautiful project with the recent changes much improved. She would like to adhere to a requirement for a 1:1 tree replacement. She can make all the findings for Design Review.

Chair Carapiet has reviewed the project several times. The Applicants have responded to the requests of the Commission. She can make the findings for the project. She would like to condition the approval that the off haul is not to exceed 45 cubic yards. Lighting plan adjustments can be resolved during review of final lighting and landscape plans.

Commissioner Stoehr stated he cannot approve the application unless the number of trees at the street are reduced.

MOTION: Adopt the Resolution adopting an Addendum to an adopted Mitigated Negative Declaration for minor project changes that do not result in any significant environmental changes pursuant to CEQA to the property located at **135 Belvedere Avenue**.

MOVED BY: Marsha Lasky, seconded by Ashley Johnson

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

MOTION: Adopt the Resolution granting Demolition permit to demolish the existing 3,764 square foot house at **135 Belvedere Avenue**.

MOVED BY: Marsha Lasky, seconded by Ashley Johnson

VOTE: AYES: Pat Carapiet, Ashley Johnson, Marsha Lasky
NOES : Larry Stoehr
RECUSED: Kevin Burke, Nena Hart, Claire Slaymaker.

MOTION: Adopt the Resolution granting Design Review for the property located at **135 Belvedere Avenue**, which includes the granting of an Extension of the Construction Time Limit.

MOVED BY: Marsha Lasky, seconded by Ashley Johnson

VOTE: AYES: Pat Carapiet, Ashley Johnson, Marsha Lasky
NOES: Larry Stoehr
RECUSED: Kevin Burke, Nena Hart, Claire Slaymaker.

MOTION: Adopt the Resolution granting Exception to Total Floor Area approval to allow 9,936 SF, where 4,850 SF is permitted at 135 Belvedere Avenue.

MOVED BY: Marsha Lasky, seconded by Ashley Johnson

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

MOTION: Adopt the Resolution granting a Conditional Use Permit pursuant to Title 19 of the Belvedere Municipal Code for private recreational use of property zoned R – Recreation located adjacent to 135 Belvedere Avenue.

MOVED BY: Marsha Lasky, seconded by Ashley Johnson

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

MOTION Recommend to the City Council approval of a Revocable License for improvements located in the public street right-of-way at 135 Belvedere Avenue.


MOVED BY: Marsha Lasky, seconded by Ashley Johnson

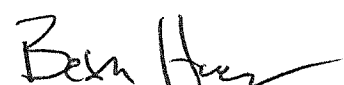
VOTE: AYES: Pat Carapiet, Ashley Johnson, Marsha Lasky
NOES: Larry Stoehr
RECUSED: Nena Hart, Claire Slaymaker, Kevin Burke

Meeting was adjourned at 9:35 PM

PASSED AND APPROVED at a regular meeting of the Belvedere Planning Commission on July 18, 2023 by the following vote:

VOTE AYES: Pat Carapiet, Marsha Lasky, Claire Slaymaker, Ashley Johnson,
Nena Hart, Kevin Burke.
NOES: None
ABSTAIN: None
ABSENT: None

APPROVED: 
Pat Carapiet, Planning Commission Chair

ATTEST: 
Beth Haener, City Clerk