

The City's Process for Review of the Mallard Pointe Housing Development

On January 26, 2022, the City received an application for a housing development at Mallard Pointe. Many residents have questions about the process the City must use to review this application. We describe the process below. It is important to note that in the past few years, the Legislature has set the procedures for review of applications of "housing development projects," such as the proposed Mallard Point project, and the City is required to comply with those state laws.

Step One: Submittal of a Preliminary Application: State law allows, but does not require, an applicant to submit an abbreviated planning application called a "preliminary application." On the date that all of the materials required by state law are *submitted*, the City's zoning and planning standards are "frozen," meaning that only zoning and planning standards in effect on that date can be applied to the project.

On August 6, 2021, the developer of the Mallard Pointe project submitted all of the materials required for a preliminary application.

State law requires that the developer submit an application for the project, as described in the next step, within 180 days after submitting the preliminary application.

Step Two: Submittal of Application to City: The developer then submits completed application forms, project plans, required fees, and any required studies. The City has detailed checklists that describe the information that is required to be submitted.

On January 26, 2022, the Mallard Point project submitted its application. The application was filed within the 180 day period.

Step Three: Review of Application for Completeness: The City has 30 days, until February 25, 2022, to review the application to determine if it is complete. Within the 30 day period, the City must provide a letter to the applicant indicating whether or not the application is complete. If the application is not complete, the City must provide a detailed list of the missing items and explain what information is still required. If the City does not provide this letter within 30 days of application submittal, the application is "deemed complete." This process is repeated each time the applicant submits additional materials until the application is found to be complete.

For the preliminary application to remain effective, the applicants must complete their application within 90 days of receiving a letter from the City stating that their application is incomplete.

Step Four: Preliminary Review Under the California Environmental Quality Act (CEQA): The City must review the application to determine what type of review is required under CEQA. Not every project requires a full environmental analysis. In addition, because the Legislature wants to streamline the construction of housing projects in California, the state has created multiple statutory exemptions for housing and streamlined regulations for certain types of projects that typically do not have substantial impacts on the environment.

The City has hired a consultant who will conduct an initial study to determine the scope of review under CEQA. The consultant will determine: (1) whether, under the criteria established in state law, the project may have any significant environmental impacts and (2) whether those impacts could be "mitigated," that is, whether there are any measures that can reduce those impacts to an "insignificant" level. Based on the result of the initial study, staff will make an initial determination that the project is either: (1) is exempt from CEQA review; (2) requires a Negative Declaration (that there are significant environmental impacts,

but those impacts can be mitigated so that no Environmental Impact Report is required) or (3) require a full Environmental Impact Report.

CEQA review is *required* to begin when the application is complete, but may begin earlier. The process the City will follow after completion of the initial study will vary depending on whether the project is exempt from CEQA review, requires a Negative Declaration, or requires a full Environmental Impact Report. In any case, the Planning Commission and City Council (if a decision on the project is appealed) must review the CEQA documents as part of their review of the project and make certain findings.

Step Five: Review Project for Consistency with Adopted Plans and Policies: Within 30 days after the City determines that the application is complete, the City must provide the applicant with a written statement listing all City policies and standards that the project is not consistent with and explain why the project is inconsistent. If the City fails to provide the letter within 30 days, the project is “deemed consistent.” (Step Four occurs during the same time period as Step Five.)

Step Six: Public Hearings: Once the application is complete and the environmental review under CEQA is ready for review, the Planning Commission must hold a formal public hearing to consider the project. The Commission must either approve the project, approve it with conditions (place additional requirements on the project), or deny the project. The Planning Commission’s decision may be appealed to the City Council.

State law limits the number of formal hearings on the Mallard Pointe project to a total of five. The total includes Planning Commission hearings, City Council hearings, and continued hearings. If an appeal is expected, the Planning Commission will have no more than three hearings, in order to leave the City Council with the opportunity to hold two hearings.

The following exceptions apply to the five public hearing rule:

1. Any meetings conducted by the City before the City determines that the application is complete do not count as a public hearing. For instance, the City Council and/or Planning Commission could hold a study session before the project is complete to hear a description of the project and ask questions, without making a decision on the project.
2. If the project requires the Council to amend Belvedere’s general plan or zoning laws in order to approve the project, hearings to consider those amendments are not counted in the five public hearing rule.
3. Meetings required to comply with CEQA, if they result in more than five meetings.
4. Meetings not conducted by the City, such as those conducted by the developer.