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# CITY OF BELVEDERE

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July 20, 2022

SENT VIA EMAIL

Mallard Point 1951, LLC Bruce Dorfman  
39 Forrest Street  
Suite 202  
Mill Valley, CA 94941

RE: **Mallard Pointe 1951, LLC – Compliance Review**

Dear Mr. Dorfman:

On June 23, 2022, the City determined that the application for Mallard Pointe submitted on May 24, 2022 was complete in that that application contained all of the items listed in the City's application forms. As required by Government Code Section 65589.5((j)(2), the City is hereby providing a detailed list of items describing any inconsistencies between the project submitted on May 24, 2022 and adopted City plans, ordinances, standards, and requirements. Additional applications or project modifications may be needed to correct the inconsistencies. The City may also request information needed to comply with the California Environmental Quality Act.

At 8:15 pm on July 15, 2022 (received by the City on July 18, 2022), a revised application was submitted for Mallard Pointe, including removal of two accessory dwelling units and a revised density bonus application. The City will review that revised application to determine if it contains all of the items listed in the City's application forms and, once the revisions are complete, provide a detailed list of any inconsistencies as required by Government Code Section 65589.5(j)(2). The comments below refer only to the application submitted on May 24, 2022.

**Inconsistency with Zoning.** The project applications include requests for waivers, concessions, and a parking reduction. The City can only grant those requests if the project is eligible for a density bonus pursuant to Section 65915 of the California Government Code. To be eligible for a density bonus, the project must provide a minimum of five percent very low-income units based on the total number of units excluding any bonus units, or ten percent low-income units based on the total number of units excluding any bonus units. (See Government Code Sections 65915

(b)(1)(A), (b)(1)(B), (o)(6).)

The project includes 42 units, with no bonus units requested. The proposed very low-income unit equals only two percent of the total number of units and is insufficient to establish eligibility for a density bonus; three very low-income units would be required. Similarly, the four lower income units proposed (total of very low- and low-income units) is less than 10 percent of the “total units,” as defined by the statute; five lower income units are required to be eligible for a density bonus. Accordingly, the project as proposed is not eligible for the requested waivers, concessions, and parking reductions.

As proposed, the project is not consistent with the following City standards, as follows:

- A. Parking: 29 spaces for the single-family and duplex units are provided where 32 spaces are required by Section 19.68.020. Additionally, not all spaces are located in a garage or carport as required by Section 19.68.050.A, as tandem parking on the driveways is proposed.
- B. Apartment House: An apartment house is proposed, where Section 19.28.030 does not permit apartment houses.
- C. Open Space for Apartments: 2,868 square feet provided where 10,350 square feet is required by Section 19.52.150.A.
- D. Height for Apartments: 34 foot 6 inches proposed where 22 feet (with allowances for up to 26 feet) is required by Section 19.28.040.
- E. Lot Frontage for Lot 5: 27 feet is provided where 60 feet is required by Section 19.28.040.
- F. Lot Coverage for Apartments: 63 percent is proposed where a maximum of 40 percent (excluding uncovered decks) and 60 percent (including uncovered decks) is required by Section 19.28.040.

**Construction Time Limits.** The cover letter states that a waiver is requested for construction time limits, but the Density Bonus application does not list this as a requested waiver. We note that a separate application was filed for an Extension of Construction Time. As this application is for a modification that is not a development standard, as defined in Government Code section 65915(o)(1), it is not eligible to be granted as a waiver.

**Signage.** The submitted signage plan shows a 24 square foot sign where Section 19.72.030 allows a maximum of four square feet per lot.

**Replacement Housing and Relocation Plan.** The City cannot approve the application unless the project conforms with the replacement housing provisions of the Housing Crisis Act of 2019

(Section 66300(d)). The following additional information is needed to verify conformance:

1. A copy of each of the income certifications provided by the tenants and identification of which units are occupied by lower income tenants. Note that all tenants who currently occupy the units, or who occupy the units prior to demolition, are potentially eligible for the benefits provided under the Housing Crisis Act. Income limits for lower income households have substantially increased since the initial survey was completed, and the certifications should be updated to utilize the current income limits.
2. A completed relocation plan for lower income households (which you have indicated is being prepared by your consultant).

**Public Works/Engineering Comments.** Please see attached July 13, 2022, comments from the Public Works Department with comments related to the merits and adequacy of submitted plans. The submitted plans do not conform with the following standards:

1. Preliminary Stormwater Control Plan. The City cannot confirm compliance with California's State Water Resources Control Board, Phase II Stormwater National Pollutant Discharge Elimination System (NPDES) Permit for small MS4s, Provision E.12, "Post-Construction Stormwater Management Program." until the comments under #2 are addressed.
2. Preliminary Storm Drain Design. The City cannot confirm compliance with Belvedere Municipal Code, Chapter 18.20 Tentative Map, Section 18.20.020 Information to be shown, C. until the comments under #3 and #15.a are addressed.
3. Boundary Survey. The City cannot confirm compliance with Belvedere Municipal Code Section 18.20.020 in that the existing parcel boundaries identified on the plan do not match the existing parcel boundaries as identified on the record of survey prepared by CSW-ST2, dated 2020.
4. Lotting and Layout Plan. The City cannot confirm compliance with Belvedere Municipal Code, Chapter 18.20 Tentative Map, Section 18.20.020 D until the scope of work beyond the project property line is clearly shown and evidence provided of an existing easement or other right to perform work beyond the project property line . Also, site "Section A" must be to scale and include the proposed elevations of the following: lagoon water surface (higher elevation), bulkhead, lot pads (Lot 9 and Lot 12), streets (Mallard Road and Community Road), apartment parking elevation (Lot 12), finished floor elevations (first floor, Lot 9 and Lot 12) to verify compliance with floodplain standards.
5. Landscaping: There is an existing SD pipe and proposed easement along the southerly property line of Lot 11. Landscape Plan L-1.0 identifies trees along this alignment. The

trees within this easement area violate the existing easement, and those trees must be eliminated.

**Other District Comments.** The comments listed below are from special districts that are neither part of the City of Belvedere nor subsidiary to the City and are being provided as a courtesy.

**Tiburon Fire District.** Please see attached June 20, 2022, comments from the Tiburon Fire Department with comments related to the merits and adequacy of submitted plans. The project does not comply with Roadway and Driveway Minimum Clearance standards in that the dimensions of Mallard Road do not meet 20 feet unobstructed; see red cloud on MP Set "1 Mallard Fire Lane 2-16-22" page TM-3. The "Required" items in the comment letter would be conditions of approval.

**Marin Municipal Water District (MMWD).** Please see attached June 20, 2022, comments from Marin Water with comments related to the merits and adequacy of submitted plans. The project will not comply with MMWD standards until purchase of additional water allotment and water supply for fire flow requirements are confirmed.

**Sanitary District No. 5.** The Sanitary District has no additional comments from the February 11, 2022, comment letter. The project does not comply with District's Sanitary Code Section 3.05.390 until the items identified in the letter are addressed and a will serve letter can be issued.

If you wish to proceed with this project, please advise how you intend to rectify the above inconsistencies at your earliest convenience.

In addition, only \$10,971.20 remains of the initial deposit provided to the City for project review. The City has now entered into a contract with Ascent Environmental to determine the appropriate CEQA document and requires an additional deposit of \$69,000. The CEQA work cannot be completed unless the City receives those funds.

Please note that the categorical infill exception established by CEQA Guidelines Section 15332 requires significant investigation. The project only qualifies for that exemption if the City rules out the exceptions to that exemption based on substantial evidence in the record. Those exceptions include, without limitation, the conditions listed in CEQA Guidelines Sections 15300.2 and 15332. Also note that a project is not eligible for the categorical infill exemption unless it is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations.

Thank you for your attention to these items. Please contact me at [iborba@cityofbelvedere.org](mailto:iborba@cityofbelvedere.org) or (415) 435-8907, or MIG project planner Tricia Stevens at [tstevens@migcom.com](mailto:tstevens@migcom.com) or (916) 698-4592, if you have any questions.

Sincerely,



Irene Borba

Director of Planning and Building  
City of Belvedere

Cc: File  
Robert Zadnik, City Manager

Attachment 1: Public Works comments  
Attachment 2: Fire District comments  
Attachment 3: Water District comments  
Attachment 4: Sewer District comments