

September 8, 2022

To: Mr. Robert Zadnik, City Manager
Ms. Irene Borba, Director of Planning and Building

Re: Proposed Mallard Pointe Development

Dear Mr. Zadnik and Ms. Borba,

As a 54-year resident of Belvedere who loves our community, and a member of BRIG, I am writing to ask you to determine that:

- (i) The proposed Mallard Point project, which includes a multi-story, 23-unit apartment house, is prohibited by Belvedere Municipal Code (BMC) Sections 19.28.010 and 19.28.030;
- (ii) the “apartment house prohibition” of Section 19.28.030 is not a “development standard,” as that term is defined in BMC Section 19.28.040;
- (iii) the “apartment house prohibition” of Section 19.28.030 is not subject to waiver under the State Density Bonus Law (SDBL), as that Law only requires waivers of “development standards;”
- (iv) even if the “apartment house prohibition” of Section 19.28.030 were a “development standard,” **which emphatically it is not**, it would not be subject to waiver under the SDBL, which only requires waivers of “development standards” that physically preclude construction of a residential project at the General

- Plan-specified density (and here BRIG demonstrated through a site rendering prepared by architect Alex Seidel that 48 units, the General Plan-specified density, can be achieved with duplexes only);
- (v) because it is inconsistent with BMC Sections 19.28.010 and 19.28.030, the proposed project cannot be approved under the streamlined provisions of SB330; and
 - (vi) the proposed project cannot be approved without a rezoning of Mallard Road.

The legal bases for each of the foregoing points are amply set forth in legal opinions submitted by BRIG retained counsel Mark Wolfe and Pam Lee, and I will not repeat them here. I will only add that, as an attorney who practiced environmental, land use, and administrative law for 50 years at Pillsbury Winthrop Shaw Pittman LLP (where I chaired the firm's national Environment, Land Use and Natural Resources Practice Group for close to four decades), and whose career involved analyzing and interpreting literally thousands of statutes and regulations, I concur fully in Mark's and Pam's factual and legal analysis and in their conclusions.

Thank you very much for your consideration of the foregoing, and for your diligence, time, and effort on this proposed project.

Respectfully,
John T. Hansen

cc: Members of Belvedere City Council
Members of Belvedere Planning Commission