

September 12, 2022

To: Robert Zadnick, Belvedere City Manager, Irene Borba, Director of Planning

Re: Proposed Mallard Pointe Development

Dear Mr. Zadnick and Ms. Borba:

I am writing to comment on the Mallard Pointe project application dated July 15, 2022. Once again, it seems clear that this proposed very large demolition and construction project does not meet the goals and intent of our City's General Plan and Housing Element and is not compliant with the current R-2 zoning for "two family duplex housing." Furthermore, as noted in the City's comments, there appear to be many inaccuracies, inadequacies, and misstatements as well as many areas where the proposed project applications do not conform with local or state laws, environmental, water quality, FEMA or fire codes. So, I'd urge you to now make these determinations formally and reject this project.

1. Does not comply with our General Plan. Our published 2030 General Plan mission and goals are to: "preserve the special and unique sense of place," "provide a diversity of housing types for residents of all ages and all income levels" and "expand the opportunity for housing available to persons of low- and moderate-income, especially the elderly." This proposed development of large luxury single family homes, large luxury townhome "duettes" and 'luxury flats for empty nesters" clearly designed for upper-income households is in one of the few areas of the City zoned R-2 for modest-sized "two family duplex dwellings" and not at all comparable in terms of size, amenities or potential rents. This project does not comply with our General Plan and current Housing Element.

2. Not compliant with City zoning laws. Belvedere's codes and ordinances are all very specific and consistent about maintaining the density and character of existing neighborhoods, not approving variances or exceptions than allowed by zoning, not approving buildings that are out of scale and character with others in the community, or that might tax existing utilities, systems, community facilities or services (*BMC 19.04.10*). Also, that "all new construction projects" must "correct existing non-conformities" and "meet all applicable City, state and other applicable codes." (*BMC 16.20*). This project does not do that.

3. Not compliant with R-2 zoning. For decades now, Belvedere has had distinct zoning areas for different types and sizes of residential dwellings –

R-1 for single family homes, R-2 for “two family duplex dwellings” along the lagoon and Beach Road, and R-3 for higher density apartment buildings near the commercial area. Should this project be approved as submitted, it would effectively rezone all other R-2 properties here in Belvedere without going through the proper rezoning process. Since the proposed project does not meet underlying R-2 zoning standards (or even the objective design development standards (ODDS) developed for qualified multifamily projects passed in 2021-22) it cannot be approved by the City on this R-2 zoned property.

4. Not eligible for Density Bonus concessions and waivers. By proposing to build just four “lower income” units in a \$47 million development, the developer is requesting concessions of the City’s requirements for open space, exceptions to parking ratios, height, lot size per unit, and lot coverage development standards. They are also requesting waivers on construction time limits and the R-2 zoning prohibition on apartments – neither of which are development standards so can not be waived. As your letter points out, the developers must first prove the project is eligible under state laws intended to “**encourage the development of affordable and senior housing.**” **This project does not do that.**

5. Subdivision and tentative maps also non-conforming. As stated in previous letters, this proposed project is not just for a new residential development but a new tentative map and subdivision. Under state laws, a new tentative map cannot be approved unless it “satisfies all applicable subdivision regulations” and is “in conformance with the zoning ordinance of the City.”(*Gov. Code 66452.4, BMC 18.08.30*). City code also states that design and improvements for a new subdivision must be “consistent with the General Plan,” and “the site found physically suitable for type of development and density proposed” (*BMC 18.20*). Here again the project doesn’t comply with our codes so cannot move forward.

I recognize that it must be extremely challenging, time-consuming and costly for the City to keep responding to the developer’s various claims, assertions and often circular and conflicting arguments that they can build whatever they want here. But that doesn’t change the fact that Belvedere’s zoning codes, plans, ordinances and laws were developed for good and sound reasons that benefit our whole community and should now be followed.

Respectfully submitted,

Susan Cluff, BRIG member

cc. Belvedere City Council members, Belvedere Planning Commission
members
