

CITY OF BELVEDERE

RESOLUTION NO. 2023-07

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELVEDERE
AFFIRMING CONSTRUCTION TIME LIMIT SUBCOMMITTEE
PENALTY RECOMMENDATION FOR 300 BELLA VISTA AVENUE**

WHEREAS, Denise and Steven Bauer were the owners of real property located at 300 Bella Vista Avenue in Belvedere; and

WHEREAS, in 2019, the Building Department issued a building permit to demolish an existing garage and construct a new garage, a 410 square foot accessory dwelling unit (ADU), and subsequent site improvements at 300 Bella Vista Avenue with a 12-month Construction Time Limit ("CTL"), which expired June 26, 2020; and

WHEREAS, on March 10, 2020, City staff approved a CTL extension based on construction related delays from the effects of the COVID-19 pandemic, setting a new CTL date of December 26, 2020; and

WHEREAS, the project was also provided CTL timeline relief as set forth in AB 1561, establishing a new CTL deadline of June 26, 2022; and


WHEREAS, due to the time delay caused by the COVID-19 pandemic and the unexpected medical emergency to their contractor, the project exceeded its CTL by 48 days with a corresponding CTL penalty of \$28,800; and

WHEREAS, the applicant appealed the CTL penalty that was heard by the CTL Appeal Committee on January 11, 2023; and

WHEREAS, Belvedere Municipal Code section 20.04.035(F)(4) provides that the City Council may reduce a CTL penalty if the time limit was exceeded for reasons beyond the applicant's control which include, but are not limited to, extreme weather events, labor stoppages, natural disasters, and/or acts of war or terrorism; and

WHEREAS, on March 13, 2023, the City Council held a duly noticed public hearing regarding the CTL penalty and determined that the construction delay was due to reasons beyond the applicant's control in that:

- a. the delay was caused by the effects of the COVID-19 pandemic; and
- b. the loss of the contractor of record due to a large medical emergency.

WHEREAS, based on substantial evidence in the record including testimony presented at the hearing, the City Council therefore voted to ~~affirm, modify, or deny~~ the assessed CTL penalty of \$28,800. 

WHEREAS, the City's decision is not subject to the California Environmental Quality Act ("CEQA") as the CTL penalty reduction does not constitute a "project" subject to CEQA analysis.

NOW, THEREFORE, BE IT RESOLVED that:

1. Pursuant to Belvedere Municipal Code section 20.04.035(F) and based on substantial evidence in the record and based on the findings set forth above

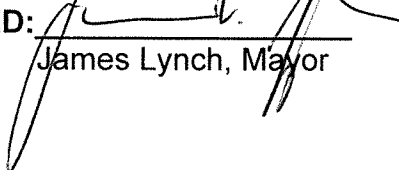
incorporated herein, the City Council of the City of Belvedere affirms and adopts the recommendation of the CTL Appeal Committee to ~~affirm, modify, or deny~~ the assessed CTL penalty of \$28,800, *And impose no penalty. Le*

2. The property owner shall hold the City of Belvedere and its officers, employees, volunteers, and any similarly situated persons, harmless in the event of any legal action, claim, or dispute related to or arising from this Resolution, shall cooperate with the City in the defense of any such action with counsel selected by the City in its sole discretion, and shall fully indemnify the City for any award of damages and/or attorneys' fees and associated costs that may result.

PASSED AND ADOPTED at a regular meeting of the Belvedere City Council on March 13, 2023, by the following vote:

AYES: Cooper, Mark, Wilkinson, Lynch
NOES: None
ABSTAIN: None
ABSENT: Kemnitzer

ATTEST: 
Interim City Clerk

APPROVED: 
James Lynch, Mayor