

CITY OF BELVEDERE

RESOLUTION NO. 2023-41

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELVEDERE
AFFIRMING CONSTRUCTION TIME LIMIT SUBCOMMITTEE
PENALTY RECOMMENDATION FOR 312 BEACH ROAD**

WHEREAS, Scott L. Robertson is the owner of real property located at 312 Beach Road in Belvedere; and

WHEREAS, in 2020, the Building Department issued a demolition building permit in preparation for a residential remodel/addition and subsequent landscape improvements at 312 Beach Road with an 18-month Construction Time Limit (“CTL”), which expired January 29, 2022; and

WHEREAS, on February 3, 2022, City staff approved a CTL extension based on construction-related delays due to the COVID-19 pandemic, setting a new CTL date of July 29, 2022; and

WHEREAS, the project also received a 90-day landscape extension beginning on November 30, 2022; and

WHEREAS, City staff deemed the project to be final as of March 9, 2023; and

WHEREAS, while the project exceeded its CTL by a longer period, the City assessed a penalty equivalent to an 85-day violation of the CTL with a corresponding penalty of \$58,500; and

WHEREAS, the owner submitted an appeal of the CTL penalty that was heard by the CTL Appeal Committee on June 21, 2023, and the CTL Appeal Committee recommended denial of that appeal; 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 August 14, 2023, the City Council held a duly noticed public hearing regarding the CTL penalty and determined that the construction delay was not caused due to reasons beyond the applicant’s control; and

WHEREAS, based on substantial evidence in the record including testimony presented at the hearing, the City Council therefore voted to affirm the assessed CTL penalty of \$58,500; and

WHEREAS, the City’s decision is not subject to the California Environmental Quality Act (“CEQA”) as the penalty reduction does not constitute a “project” under CEQA; and

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 the assessed CTL penalty of \$58,500.

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 September 11, 2023, by the following vote:

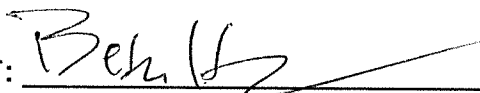
AYES: Mark, Kemnitzer, Cooper
NOES: None
RECUSED: Lynch
ABSTAIN: Wilkinson

APPROVED:



Peter Mark, Vice Mayor

ATTEST:



Beth Haener, City Clerk