
To: Mayor and City Council

From: Rebecca Markwick, Associate Planner

Subject: **Approve revocable license for private improvements in the City street right-of-way in front of 1 Belvedere Avenue**

Recommended Motion/Item Description

That the City Council approve the revocable license agreement for 1 Belvedere Avenue for improvements in the street right-of-way as part of the Consent Calendar.

Background and Findings

Proposed encroachment on City property – 1 Belvedere Avenue – APN 060-141-08

The attached license agreement requires the property owner to assume liability and maintenance responsibilities for:

Landscaping, retaining walls, guard rails, gate, concrete stairs, and parking area in the street right-of-way in front of 1 Belvedere Avenue. (Refer to attached draft Revocable License No 2017.16 and associated exhibit.)

Background of current application

City records show that in 2014 the Planning Commission granted Demolition, Design Review, Second Unit and Exception to Total Floor Area and recommended two revocable licenses for demolition of 50 percent of the existing house and construction of a 5,540 square-foot addition. None of these improvements were constructed.

The revocable licenses were approved by the City Council in August 2014 for improvements constructed in the Belvedere Avenue right-of-way, including landscaping and a portion of the driveway (Revocable License No. 2014.09). A second Revocable License (No. 2014.10) was approved by the City Council in August 2014 for a natural path on City property below 1 Belvedere to provide access from the residence to West Shore Road.

A new revocable license is required to reflect proposed modifications to private improvements constructed in the Belvedere Avenue right-of-way. Revocable License No. 2014.10, the natural path on City property to provide access to West Shore Road, will remain unchanged.

On August 15, 2017, the City of Belvedere Planning Commission approved application requests for Demolition, Design Review, an Exception to Total Floor Area, and a Variance application to

build a new single family home and attached carport. The Planning Commission approved the proposed modifications and recommended City Council approve the proposed encroachments into the public right-of-way. The parking, stairs, and retaining wall improvements are part of the Fire Department requirements to provide access to the home in case of an emergency. The landscaping is to provide screening and softening of the retaining walls.

The Commission/staff finds that encroachment is necessary to provide pedestrian access from private property to the adjacent public street. Additionally, the four parking places on the street will provide parking for vehicles or a fire engine in the case of emergency. One parking place exists, very close to the street corner. The four new spaces will be further down Belvedere Avenue, creating a safer driving situation. The use of the public right-of-way will permit landscaping that will enhance the aesthetic qualities of the neighborhood, while also maintaining views from the public right-of-way.

Future improvements

The license covers any future improvements within the revocable license area which receive staff or Planning Commission design review approval and which meet one or more of the criteria for approval of revocable license listed in the City's Administrative Policy Manual, Policy 272.05, as adopted by City Council resolution. Applications for substantial, potentially permanent and/or obstructive structures within the City right-of-way, which fall outside the criteria, will still be required to go to the City Council for consideration and approval/denial. Detailed records at City Hall, maintained in the Planning Department file for this address, will always be available to show exactly what structures have been approved within the license area. This will save considerable staff time that would be devoted to bringing a revised license and staff report to the City Council and in issuing, recording, and archiving a new license agreement.

Recommended Action

That the City Council approve the revocable license agreement for 1 Belvedere Avenue for improvements in the street right-of-way as part of the Consent Calendar.

Attachments

- Draft license agreement with attached exhibit.
- Landscape plan.

RECORDING REQUESTED BY:
City Clerk, City of Belvedere
RECORD WITHOUT FEE PER G.C. 27383

AND WHEN RECORDED MAIL TO:

City Clerk
City of Belvedere
450 San Rafael Avenue
Belvedere, CA 94920-2336

CITY OF BELVEDERE

REVOCABLE LICENSE NO. 2017.16

ASSESSOR'S PARCEL NO.: **060-141-08**
ADDRESS: **1 Belvedere Avenue, Belvedere, California 94920**
OWNER: **Susan Corridoni Kelly Revocable Trust**
DATE ISSUED: **October 9, 2017**

The City of Belvedere, California, a municipal corporation (hereinafter referred to as "City"), hereby authorizes and licenses the owner of the land described above and in Exhibit "A" (hereinafter referred to as "Licensee"), at its own cost and expense, to encroach upon the adjoining land owned by the City of Belvedere (hereinafter referred to as "Premises") for the following purpose: Landscaping, retaining walls, guard rails, gate, concrete stairs, and parking area.

The above-described improvements received City design review approval. This license shall cover any future improvements within the revocable license area which receive design review approval and which meet one or more of the criteria adopted by City Council resolution for the granting of revocable licenses. Any future revocable license application which does not meet the criteria must be approved by the City Council.

This revocable license is granted subject to the following terms and conditions:

1. Licensee shall save and hold harmless the City of Belvedere from any loss, damage, or injury of any kind or character whatsoever that may arise from anything done, or omitted to be done, by Licensee, its agents, employees or contractors in connection with or in any way related to the matters authorized by this License. Licensee agrees to hold City harmless and indemnify City (including, but not limited to, attorney fees, expert witness costs and court costs), without limitation, from and against any and all claims, injuries, damage, liability and/or cause of action which may ever arise as a result of injury and/or damage to property claimed to be the result of construction and/or failure to maintain said property or improvements by Licensee in, on, under, or above City property which is the subject of the revocable license granted Licensee by City.
2. To the extent this License authorizes the erection or installation of any building, fence, wall, or other structure or facility in or upon land owned by City, Licensee agrees to erect and install the same in accordance with plans and specifications approved by the Planning Commission of the City of Belvedere and further agrees to maintain the same at all times in good condition and repair, all at Licensee's sole cost and expense.
3. To the extent this License authorizes the erection or installation of any infrastructure improvements which are subject to the Americans With Disabilities Act ("the Act"), Licensee agrees to construct and maintain those improvements in full compliance with the requirements of the Act.

4. If Licensee shall fail to comply with the terms and conditions of this License, the City, at its option may immediately terminate and revoke this License by mailing or delivering written notice thereof to Licensee at the address hereinabove stated. Licensee shall not restrict access by the public and/or by adjacent property owners to the licensed area.
5. Licensee shall execute this License by: signing the License; making an acknowledgement of the License before a notary public or an officer specified by the State to take the acknowledgement of instruments of writing; and delivering the signed License and certificate of acknowledgement to the City. If Licensee shall fail to execute this License within thirty days of the date issued, the City may immediately terminate and revoke this License by mailing or delivering written notice thereof to Licensee at the address hereinabove stated.
6. Anything herein to the contrary notwithstanding, this License shall be revocable at the pleasure of the City Council of the City of Belvedere. The election to revoke this License may be exercised at any time by mailing or delivering to Licensee at the address hereinabove stated a notice of revocation and termination. Within the time specified in said notice, Licensee shall, at its own cost and expense, remove from the Premises the encroachment and all structures and facilities placed thereon or therein by Licensee.
7. That upon the failure of Licensee to comply with any of the agreements contained herein, City may declare said improvements to be a public nuisance, and may take such action as may be authorized by law to abate said nuisance. The City shall be entitled to recover from Licensee costs of suit and reasonable attorney's fees, to be determined by the court. The remedy of City as contained in this paragraph shall not be exclusive.
8. The Licensee acknowledges that the property interest created hereunder by issuance of this license may be subject to possessory interest taxation and said Licensee in whom such possessory interest is vested recognizes and agrees that it/they shall be solely responsible for payment of all such taxes levied upon said possessory interest.
9. The Licensee shall deliver this license to any successor in interest to the above-described land.
10. The agreements contained herein are covenants and servitudes running with the land and shall be binding upon Licensee and its successors, assignors, executors, administrators, and personal representatives.
11. The Licensee shall obtain an encroachment permit from the City prior to the commencement of any work on City property.
12. Any previous revocable licenses issued to this property (including Revocable License No. 2014.09) are now null and void with the exception of Revocable License No. 2014.10 which shall remain in effect.

Issued by direction of the City Council of the City of Belvedere pursuant to action taken at its meeting of October 9, 2017.

Craig Middleton, City Manager

The foregoing License is accepted and its terms and conditions are agreed to:

Susan Corridoni Kelly Revocable Trust, Licensee

By: _____
Susan Corridoni Kelly, Trustee

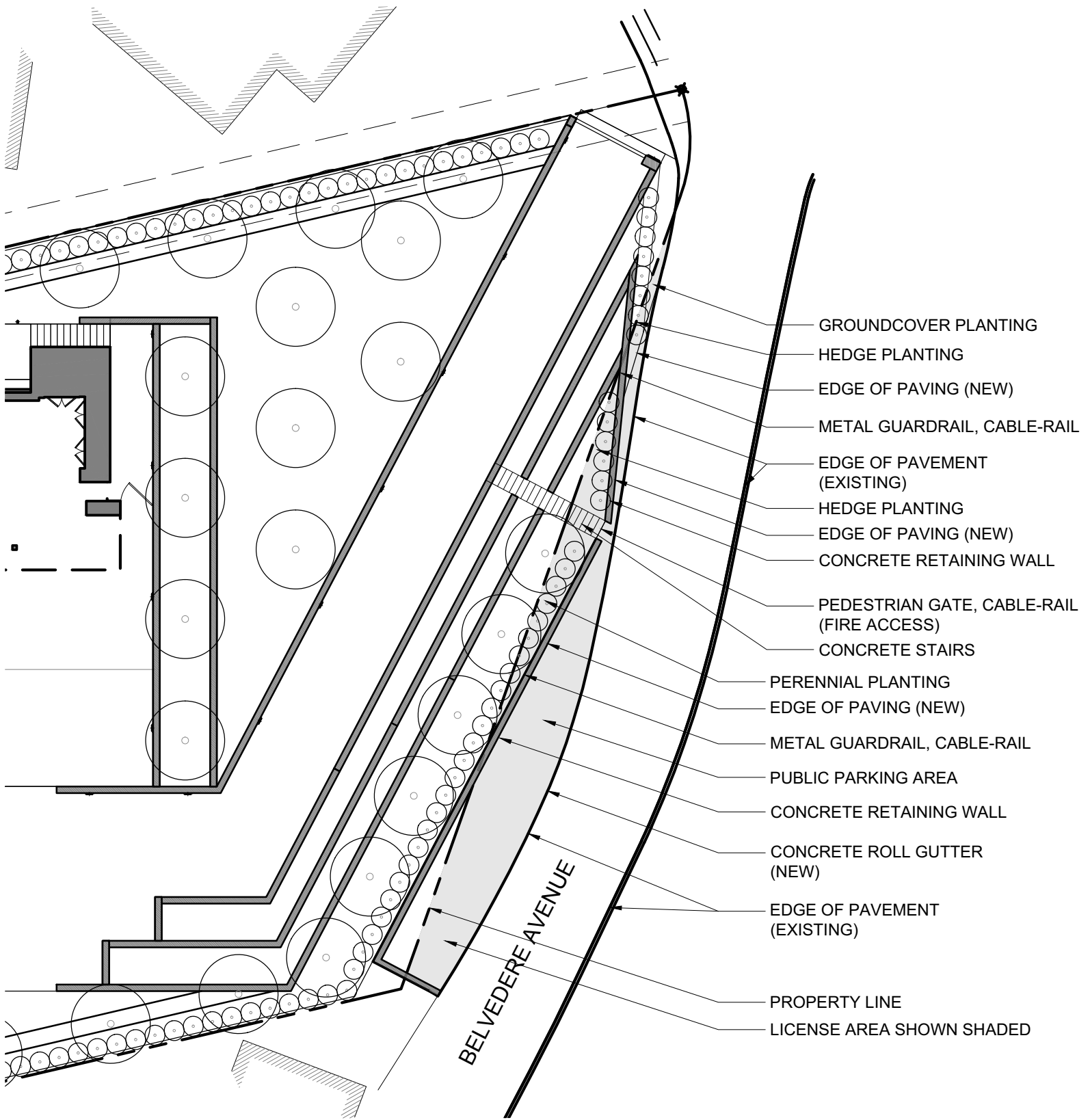
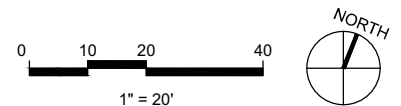
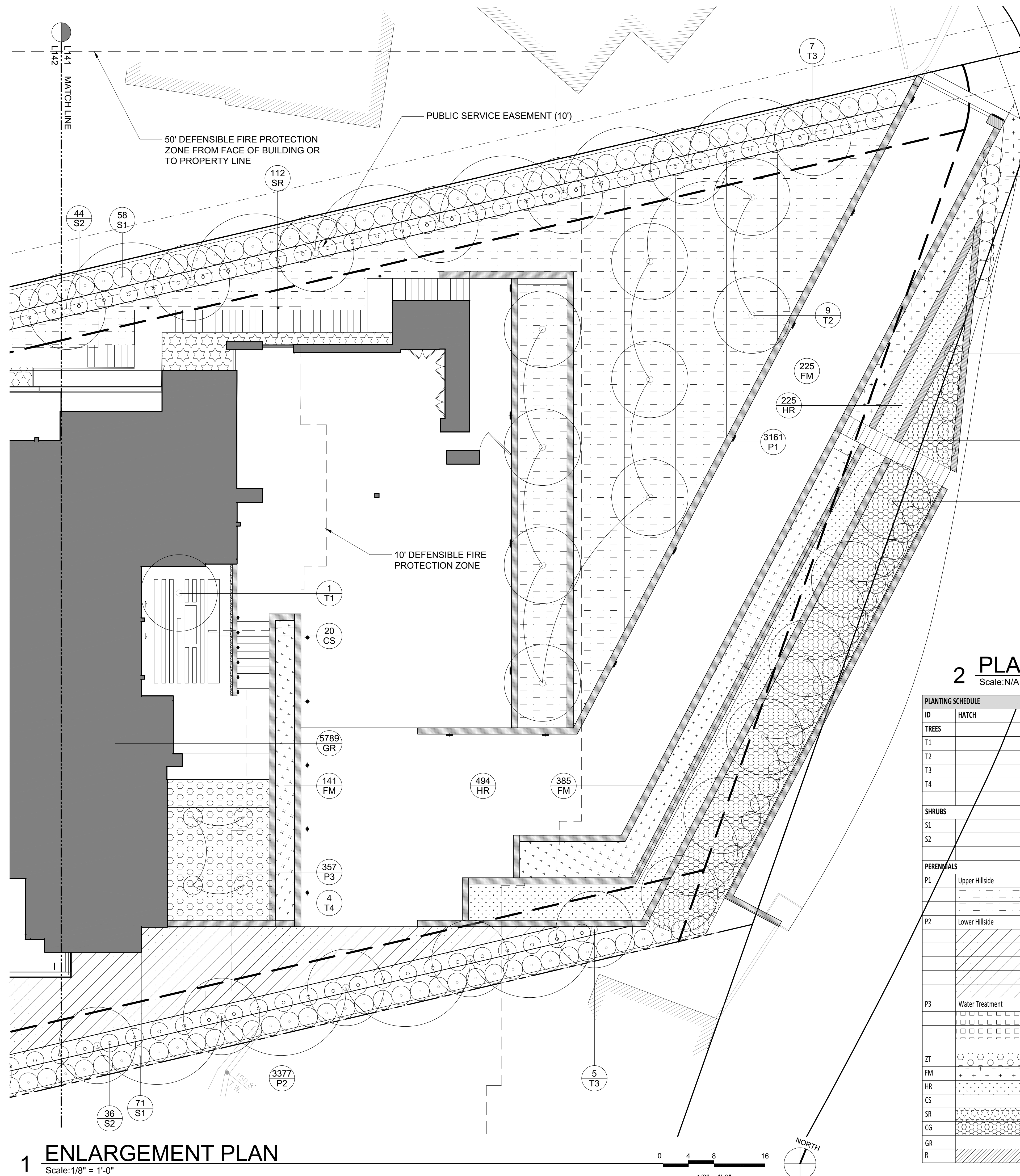


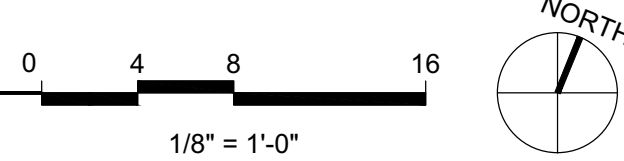
EXHIBIT A
 LICENSE AREA SHOWN SHADED

REVOCABLE LICENSE
 1 BELVEDERE AVENUE, BELVEDERE CA
 APN 060-141-08





1 ENLARGEMENT PLAN
Scale: 1/8" = 1'-0"



2 PLANT SCHEDULE
Scale: N/A

ID	HATCH	SCIENTIFIC NAME	COMMON NAME	SIZE	QTY	SPACING/NOTES	IRRIGATION TYPE	IRRIGATION TYPE	W.U.R.
TREES									
T1		<i>Quercus agrifolia</i>	COASTAL LIVE OAK	84" BOX	1	SPECIMEN TREE	DRIP IRRIGATION	DRIP IRRIGATION	L
T2		<i>Quercus agrifolia</i>	COASTAL LIVE OAK	60" BOX	9	GROVE	DRIP IRRIGATION	DRIP IRRIGATION	L
T3		<i>Quercus agrifolia</i>	COASTAL LIVE OAK	48" BOX	24	PROPERTY LINE / INFILL	DRIP IRRIGATION	DRIP IRRIGATION	L
T4		<i>Acer palmatum dissectum viridis 'Seiryu'</i>	JAPANESE MAPLE	48" BOX	4	SPECIMEN TREE	DRIP IRRIGATION	DRIP IRRIGATION	M
SHRUBS									
S1		<i>Pittosporum tenuifolium</i>	PITTOSPORUM	15 GALLON	143	36" OC SPACING	DRIP IRRIGATION	DRIP IRRIGATION	M
S2		<i>Loropetalum chinense v. Rubrum 'Burgundy'</i>	RED FRINGE FLOWER	5 GALLON	80	48" OC SPACING	DRIP IRRIGATION	DRIP IRRIGATION	M
PERENNIALS									
P1	Upper Hillside				3161	QTY IN SQUARE FOOT			
		<i>Lavandula 'Goodwin Creek Grey'</i>	GOODWIN CREEK LAVENDER	1 GALLON		24" OC SPACING	DRIP IRRIGATION	DRIP IRRIGATION	L
		<i>Lomandra longifolia 'LM300'</i>	BREEZE DWARF MAT RUSH	1 GALLON		24" OC SPACING	DRIP IRRIGATION	DRIP IRRIGATION	L
P2	Lower Hillside				3377	QTY IN SQUARE FOOT			
		<i>Helleborus foretidus</i>	BEARSFOOT HELLEBORUS	1 GALLON		36" OC SPACING	DRIP IRRIGATION	DRIP IRRIGATION	L
		<i>Mahonia repans</i>	CREEPING MAHONIA	1 GALLON		36" OC SPACING	DRIP IRRIGATION	DRIP IRRIGATION	M
		<i>Rubus pentalobus</i>	CREEPING RASBERRY	1 GALLON		36" OC SPACING	DRIP IRRIGATION	DRIP IRRIGATION	L
		<i>Blechnum spicant</i>	DEER FERN	1 GALLON		72" OC	DRIP IRRIGATION	DRIP IRRIGATION	M
		<i>Sarcococca ruscifolia</i>	FRAGRANT SWEET BOX	1 GALLON		36" OC SPACING	DRIP IRRIGATION	DRIP IRRIGATION	M
P3	Water Treatment				435	QTY IN SQUARE FOOT			
		<i>Salvia spathacea</i>	HUMMINGBIRD SAGE	1 GALLON		24" OC SPACING			L
		<i>Sysyrium bellum</i>	BLUE-EYED GRASS	1 GALLON		24" OC SPACING			L
ZT		<i>Zoysia tenuifolia</i>	KOREAN VELVET GRASS	1 GALLON	485	12" OC	DRIP IRRIGATION	DRIP IRRIGATION	M
FM		<i>Festuca mairei</i>	ATLAS FESCUE	1 GALLON	771	18" OC SPACING	DRIP IRRIGATION	DRIP IRRIGATION	M
HR		Hebe 'Red Edge'	HEBE 'RED EDGE'	1 GALLON	719	18" OC SPACING	DRIP IRRIGATION	DRIP IRRIGATION	M
CS		<i>Cobaea scandens</i>	CUP & SAUCER VINE	1 GALLON	20	18" OC SPACING	DRIP IRRIGATION	DRIP IRRIGATION	M
SR		<i>Sarcococca ruscifolia</i>	FRAGRANT SWEET BOX	1 GALLON	134	24" OC SPACING	DRIP IRRIGATION	DRIP IRRIGATION	M
CG		<i>Ceanothus gloriosus 'Anchor Bay'</i>	ANCHOR BAY CEANOETHUS	1 GALLON	390	36" OC SPACING	DRIP IRRIGATION	DRIP IRRIGATION	L
GR		<i>Sedum album</i>	CORAL CARPET	2" PLUG	5789	8" OC SPACING	DRIP IRRIGATION	DRIP IRRIGATION	L
R		N/A	SITE RESTORATION	SEED	9965	QTY IN SQUARE FOOT			

BELVEDERE RESIDENCE
BELVEDERE, CALIFORNIA
CONSTRUCTION DOCUMENTS
1 BELVEDERE AVENUE

NOT FOR CONSTRUCTION

LANDSCAPE ARCHITECT

COEN+PARTNERS
400 1st Avenue North Suite 210
Minneapolis, MN 55401
t 612.341.8070 f 612.339.5907
www.coenpartners.com

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I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Landscape Architect under the laws of the State of Minnesota.

print name: SHANE COEN
signature:
26215 XX-XX-2017

5	07 24 2017	DESIGN REVIEW REVISION
4	06 26 2017	DESIGN REVIEW REVISION
2	05 23 2017	DESIGN REVIEW
1	05 15 2017	DESIGN REVIEW CHECKSET

project: BELVEDERE RESIDENCE
date: JULY 24, 2017
scale: AS INDICATED
drawn by: JB / MS / VE

sheet title
PLANTING PLAN ENLARGEMENT

L141
sheet number