CITY OF BELVEDERE FLOODPLAIN ANALYSIS COMMITTEE
THURSDAY, MAY 14, 2020, 2:00 P.M.
REMOTE SPECIAL MEETING

On March 16, 2020, the Marin County Public Health Officer issued a legal shelter in place order. On March 31, 2020 the Marin County Public Health Officer issued an updated legal order directing all residents to shelter at their place of residence through May 3, 2020, except to perform Essential Activities. Again on April 29, 2020 the Marin County Public Health Officer again updated the Order directing all residents to shelter in place until May 31. The April 29, 2020 Order prohibits the gathering of any number of people occurring outside a household unit, except for the limited purpose of participating in an Essential Activity. Additional information is available at https://coronavirus.marinhhs.org/.

This meeting is necessary so that the City of Belvedere can continue its business and is considered an Essential Activity. Consistent with Executive Orders No. 25-20 and No. 29-20 from the Executive Department of the State of California, the meeting will not be physically open to the public. Members of the City Council and staff will participate in this meeting remotely as permitted under said Executive Orders.

As always, the public may submit comments in advance of the meeting by emailing the Building Official or the Director of Planning and Building at: bvanson@cityofbelvedere.org or iborba@cityofbelvedere.org. Please write “Floodplain Analysis Committee Public Comment” in the subject line. Comments submitted one hour prior to the commencement of the meeting will be presented to the City Council and included in the public record for the meeting. Those received after this time will be added to the record and shared with City Councilmembers after the meeting.

The meeting will be available to the public through Zoom video conference. Those who do not have access to Zoom may access the meeting by calling the number below.

Join Zoom Meeting
https://us02web.zoom.us/j/86068790745?pwd=dzJYdU9tM1pNRW1zY3VtR3RQU0s0QT09
Meeting ID: 860 6879 0745, Password: 630560

Call into Zoom Meeting:
888 788 0099 US Toll-free
877 853 5247 US Toll-free
Meeting ID: 860 6879 0745, Password 630560

The City encourages that comments be submitted in advance of the meeting. However, for members of the public using the Zoom video conference function, those who wish to comment on an agenda item should write “I wish to make a public comment” in the chat section of the remote meeting platform. At the appropriate time, the Director of Planning and Building will allow oral public comment through the remote meeting platform.

Any member of the public who needs special accommodations to access the public meeting should email the Building Official at bvanson@cityofbelvedere.org, who will use his best efforts to provide assistance.

COMMENTS ON AGENDA ITEMS BY MEMBERS OF THE AUDIENCE

The audience will be given an opportunity to speak on each agenda item when it is called. Upon being recognized by the meeting chair, please state your name and address, and limit your oral statement to no more than three minutes. The Committee welcomes comments and questions raised by interested citizens but typically does not respond during the comment period.
AGENDA

OPEN FORUM

This is an opportunity for any citizen to briefly address the Floodplain Analysis Committee on any matter that does not appear on this agenda. Upon being recognized by the Chair, please state your name, address, and limit your oral statement to no more than three minutes. Matters that appear to warrant a more lengthy presentation or Committee consideration may be agenized for further discussion at a later meeting.

SCHEDULED ITEMS

1. Approval of Floodplain Analysis Committee January 28, 2020 Meeting minutes.

2. Briefings/Discussion
   a. Review of the goals and objectives established in previous Sub-committee Meetings.
   b. Review and discuss contents of newly revised draft Floodplain Analysis policy and procedures dated May 6, 2020:
      i. Correlation between projects defined as a demolition, as per the Planning Dept. definition, and a substantial improvement
      ii. Establishing a construction price per square foot valuation for projects.
      iii. Standardizing analysis process of appraisals providing valuations of Floodplain properties and/or conducting an independent third party appraisals. Additionally, approving the list of appraisers that will be utilized for this work.
      iv. Confirm the timeframe of one year between projects for properties located in the Floodplain.
      v. Confirm new Design Review finding allowing the Planning Commission to deny a project based on inconsistencies with Floodplain documentation.

3. Conclude meeting and discuss further action to be taken by City Staff

ADJOURN
NOTICE: WHERE TO VIEW AGENDA MATERIALS
Staff reports and other writings distributed to the Committee, including those distributed after the posting date of this agenda, are available for public inspection at Belvedere City Hall, 450 San Rafael Avenue, Belvedere. To request automatic mailing of agenda materials, please contact the City Clerk at 415-435-3838.

NOTICE: AMERICANS WITH DISABILITIES ACT
The following accommodations will be provided, upon request, to persons with a disability: agendas and/or agenda packet materials in alternate formats and special assistance needed to attend or participate in this meeting. Please make your request at City Hall or by calling 415/435-3838. Whenever possible, please make your request four working days in advance.

Posted 5/12/2020
RECOMMENDATIONS

Pursuant to guidance provided to staff from the Floodplain Analysis Subcommittee in previous meetings, staff now proposes an administrative policy amendment, Policy 14.7, and a Design Review finding ordinance amendment that will assist in providing more predictability and consistency in determining whether a project constitutes a “substantial improvement” and is therefore subject to floodplain regulations. Staff recommends that the Subcommittee review the proposed policy language modifications and proposed Design Review finding and either approve the policy as suggested or provide staff with additional guidance/direction.

BACKGROUND

Currently, the City of Belvedere Municipal Code (BMC) Floodplain Ordinance, Chapter 16.20, states that any residential remodel/addition defined as a substantial improvement shall be elevated a minimum of one foot above the Base Flood Elevation for that area.

The Ordinance defines a **substantial improvement** as;

*Any reconstruction, rehabilitation, addition, or other proposed new development of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed.*

Additionally, the Ordinance defines **market value** as;
The appraised valuation for the property minus the land value as determined by an independent appraisal by a certified appraiser.

Due to the approval process for projects in Belvedere, much of this information is provided at the time of Planning Design Review. Commonly, a contractor has yet to be chosen at this time, which makes it extremely difficult for the applicant to provide an accurate valuation for the cost of the proposed construction. Many times, a contractor is not chosen until the end of the building permit process, at which point a more accurate project valuation is given. This can be extremely detrimental to the project and the applicant; due to the fact that the later valuation often comes in greater than the original valuation. Should the second valuation come in at a level that is 50% or greater of the structure’s valuation, the project will be required to be elevated pursuant to floodplain regulations or the scope of the project will need to be revised. This will most likely require the project to go back through the Design Review process and require plans, specifications, and other documents to be revised. All of this will occur at the cost of the property owner.

Planning Commission Meeting - August 20, 2019
At the August 20, 2019, Planning Commission Meeting, the Commission directed staff to form a subcommittee to create a policy that would allow the Planning and Building Depts. to more consistently analyze proposed projects within the City’s two designated Flood zones. This policy is intended to provide predictability and transparency for whether a project would constitute a “substantial remodel” requiring elevation. With a clear process established, all parties would be aware of the City’s standards and the parameters in which the proposed project can be designed. Staff is proposing four separate methods to analyze these projects:

1) Provide staff access to a California State licensed appraiser to provide an unbiased third-party independent representation of the existing structure’s value,
2) Create a correlation between the Planning Dept. definition of demolition, as provided in BMC section 19.08.136, and a substantial improvement,
3) Create a standardized project square-foot multiplier to cross reference provided project valuations. This would be established be a national referenced standard such as the Craftsman National Building Cost Manual (CNBM), and
4) Lengthening the timeframe between construction projects and promoting a phased approach for projects.

The Floodplain Analysis Committee was formed, consisting of Planning Commission members; Patricia Carapiet, Jim Lynch, Larry Stoehr, and Planning Commission Chair Peter Mark, as well as, City of Belvedere staff members Irene Borba, Director of Planning and Building, Emily Longfellow, City Attorney, and Brian Van Son, Building Official/Floodplain Administrator. The initial meeting was held on October 16, 2019. Minutes of the August 2019, Planning Commission meeting can be found at:

Floodplain Analysis Committee - October 16, 2019 Meeting
At this meeting, the goals and purpose of the Committee were discussed and established. The goal is to provide a streamlined and transparent process that will allow staff to consistently evaluate projects in the Floodplain and allow property owners and designers a clear understanding of how the City of Belvedere will be conducting its evaluation.

The first method discussed was the evaluation of the submitted appraisals. As per the provided definition of “market value” above, the market value of a structure is determined by an appraisal conducted by a California State licensed appraiser. The Committee emphasized that a consistent methodology be created to evaluate the provided appraisals. Additionally, the Committee wanted staff to research if a second approval could be required and if the City could provide a list of preferred appraisers to the applicant at the time of Design Review.

The second method discussed at this meeting was correlating a Planning Department definition of demolition and the designation of a substantial improvement. Most Committee members agreed with this idea and felt it was a logical assumption to make. The Committee also felt that should this correlation not be made; quantitative data would need to be provided documenting compliance with the City’s Floodplain Ordinance.

**Floodplain Analysis Committee - November 14, 2019 Meeting**

At the second Floodplain Analysis Committee Meeting the remaining two proposed methods of evaluation were discussed.

First, was the project square foot multiplier or the price of construction per square foot. There was concern from the Committee that establishing this number could be problematic, due to the unique building and construction elements often found in residential construction in Belvedere. Although the Committee did express that this method would benefit staff, it was stated that this number should be conservative and be used to provide staff a general idea of the cost of construction per square foot. Committee members requested an informal survey be conducted of local contractors of their average cost per square foot, as well as separate values should be established for new construction, heavily remodeled areas, and areas of minor remodels.

Finally, the phasing of large remodel projects was discussed. Currently, the Floodplain Ordinance allows large remodel projects to be phased and constructed as two separate projects, as long as neither project is deemed a substantial improvement and both projects are separated by a minimum of one year. The Committee members agreed that this was an acceptable timeframe, however, the structure had to be defined as habitable at the completion of the first phase and that the Planning Commission had a clear understanding of the total project scope of work at the time of initial Design Review approval.

At the conclusion of the meeting, staff was directed to create a draft policy outlining the means and methods of analyzing construction projects in the Floodplain. In doing so, staff would outline:

1) A correlation between a project defined, by the Planning Department as a demolition and a substantial improvement, as defined by the Floodplain Ordinance,

2) A more consistent method of analyzing appraisals submitted for structure valuation,
3) A consistent valuation of price per square foot for proposed construction projects, and
4) Clarification of the method of compliance for phased projects.

The Committee members still had reservations regarding all options and wanted to review a draft policy and discuss the proposed analysis methods.

**Floodplain Analysis Committee - January 28, 2020 Meeting**

At the third meeting, staff presented draft Policy 14.7, Assessment of Construction Projects Within the Designated Floodplains (Attachment 1), to the Floodplain Analysis Committee.

The Committee agreed that the third option of item 4 was too subject to interpretation and should be removed from the policy.

There was further discussion as to which number should be utilized as the market value of the structure, as provided in the appraisal package. Some members wanted to utilize the depreciated value, while other members felt the gross appraised valuation should be used. Staff was directed to provide clarification, as per the FEMA guidelines, as to which appraised valuation number should be utilized.

The Committee also expressed concern with the correlation of a substantial improvement with the Planning Department definition of demolition. It was stated that a project could be deemed a substantial improvement without meeting the demolition definition. Staff reiterated that when this definition is used in conjunction with the other proposed evaluation methods, it provides a better understanding of the total extent of the project and the cost of such.

Furthermore, the Committee directed staff to produce a cost per square foot worksheet and/or checklist that would consistently provide an evaluation method for all projects located within the Floodplains. The worksheet should include separate valuations for new construction, areas of major remodel, and areas of minor remodel.

The Committee also requested a list of City trusted licensed appraisers to provide independent third party appraisals when staff or the Planning Commission have reason to question the valuations provided in the appraisal package provided by the property owner or applicant of a proposed project. The City would rotate through the list, never using the same appraiser consecutively, and passing the cost onto the applicant.

Lastly, the Committee requested staff to create a Design Review finding that would allow the Planning Commission to request further information for a proposed project in the Floodplain or deny the project completely based on inconsistencies in the documentation provided at the time of Design Review.

**Proposed Ordinance Amendment, Design Review Finding**

In addition to the proposed administrative policy amendment attached to this staff report, staff also suggests a Design Review finding as follows. This will allow the Planning Commission to
act as a backstop if it determines that, based on the record presented, the particular project constitutes a substantial improvement, and must therefore either be reduced in value or raised.

20.04.200 The proposed work shall be evaluated as to whether it meets the definition of “substantial improvement” as defined in Section 16.20.040 of the Municipal Code. If it is found that the proposed work constitutes a “substantial improvement” then it must satisfy all applicable floodplain requirements in the Municipal Code and pursuant to Federal Emergency Management Agency guidelines.

ENVIRONMENTAL REVIEW

No environmental review is required for the proposed policy.

CORRESPONDENCE

At the time of writing this staff report, staff has not received any written communications on the draft policy language.

CONCLUSION

It is the City of Belvedere’s intent to provide a clear, concise, and transparent policy to analyze and evaluate all proposed projects within the City’s designated Floodplains. This would provide the property owner a complete understanding of the scope of work that would be allowed under the Floodplain Ordinance. Additionally, it is an attempt to keep the project from being a substantial improvement once the building permit is issued or in the worst-case scenario, at the time of the final building inspection. This would undoubtedly burden the property with major fiscal issues, as well as, protect the community from compliance issues with FEMA and the NFIP. This standardized process would allow City staff to consistently analyze and evaluate all projects equally and document compliance with the Floodplain Ordinance. Lastly, it would prevent undue burden on the property owner during the Design Review and Building Permit process or during the construction process.

RECOMMENDATION

Staff recommends that the Floodplain Analysis Committee review the proposed policy and provide any further guidance/direction or approve the policy to be taken to the Planning Commission for approval (Attachment 2).

ATTACHMENTS.

1. Initial City of Belvedere Draft Policy 14.7, Assessment of Construction Projects Within the Designated Floodplains
2. Revised draft Policy 14.7, Assessment of Construction Projects Within the Designated Floodplains
14.7.1 BACKGROUND

The City of Belvedere is surrounded by two areas designated as floodplains by the Federal Emergency Management Agency (“FEMA”), the AE and VE Zones. These designated floodplains are subject to the Floodplain Management Code sections in the Belvedere Municipal Code, Chapter 16.20, and applicable FEMA regulations. Pursuant to Chapter 16.20 any construction project that constitutes a “substantial improvement” is required to be elevated a minimum of 1 foot above Base Flood Elevation (“BFE”), with minor differences between the separate zones.

BMC section 16.20.040 defines substantial improvement as:

BA. "Substantial improvement" means any reconstruction, rehabilitation, addition, or other proposed new development of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

1. any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or

2. any alteration of a "historic structure", provided that the alteration will not preclude the structure’s continued designation as a "historic structure."

Additionally, the BMC defines “market value” as;

AK. “Market value” means the appraised valuation for the property minus the land value as determined by an independent appraisal by a certified appraiser.

To establish the market value of a construction project, an applicant submits a description of the scope of work, accompanied by a proposed construction valuation with an appraisal, with the building permit application. The Floodplain Administrator then compares the project valuation to the appraised value of the structure. Should the project valuation be 50% or greater of the appraised valuation of the structure, it is designated as a substantial improvement, requiring the structure be raised pursuant to the Floodplain requirements.
Should an applicant wish to avoid raising the structure pursuant to Floodplain requirements, there is an incentive to undervalue a project and overvalue the appraised value of the structure. There is an incentive that the appraised valuation of the structure appears high, whereas, the valuation of construction appears low, so the project will not constitute 50% or more of the market value of the existing structure. This undervaluation of a project allows applicants to avoid Floodplain requirements because the project will not satisfy the substantial improvement threshold. Recently, the valuation of several projects and their appraisals have received scrutiny.

The purpose of this policy is to facilitate the consistent and predictable application of Floodplain regulations for all projects by providing tools the Floodplain Administrator can utilize when determining whether a project meets the substantial improvement threshold, triggering Floodplain regulations.

14.7.2 COMMENTS

1. Correlation of Substantial Improvement with Planning Department definition of Demolition

This Administrative Policy provides that any project that meets the definition of a demolition in BMC section 19.08.136 is a substantial improvement subject to Floodplain regulations. BMC section 19.08.136, defines demolition as:

19.08.136 Demolition. “Demolition,” for the purposes of this Title and Title 20, means the razing of a building, removal of a dwelling unit, or the removal of more than fifty percent of the total exterior wall and roof area from the grade up, including all exterior openings. Removing a residential second unit or converting a duplex into a single unit is considered a demolition. The following activities shall not be considered to be demolitions within the meaning of this definition: a retrofit (see Section 19.08.458); maintenance, repair and/or replacement of exterior surfaces, so long as the materials are consistent with the requirements of Section 20.04.140 “Materials and colors used;” and other maintenance efforts deemed by the Building and Planning Departments to be minor in nature and scope. It is the intent of this definition to ensure that all alterations to existing structures that are part of a major project for the remodel, alteration, construction, or repair of a home or accessory structure are reviewed by the City through a Design Review process, pursuant to Title 20 of the Belvedere Municipal Code.

For purposes of BMC Title 16; Chapter 16.20, should a proposed residential construction/remodel project located in one of the City’s designated Floodplains, be determined by City Staff to meet this definition, it shall be deemed a substantial improvement, as defined in BMC Section16.20.040, and subsequently comply with the standards and regulations set forth in the aforementioned Chapter.

It logically follows that a project following the removal of more than 50% of a structure will necessarily cost 50% or greater of the structure’s appraised value.
2. **Timeline Between Building Permits for a Phased Approach Project**

The “phased approach” allows the property owner to avoid the application of Floodplain regulations by separating a larger project into smaller component parts that do not independently constitute a substantial improvement. Phasing a project is allowed under FEMA regulations. This policy clarifies that a minimum of 12 months is required between phases of a project.

A minimum of 12 months of construction inactivity is required prior to any application to the Building Department for additional building permits. The first phase of the project must be completed and finalized by the City’s Building and Planning Departments, and the project must comply with the standards set forth in the California Building Codes, as well as, the City of Belvedere Zoning and Municipal Codes.

In order to obtain final approvals, the structure shall be deemed safe and habitable pursuant to applicable building standards as determined by the Department. The structure/site must not appear like a construction zone during the timeframe of inactivity between construction phases. This may include the installation of site improvements, landscaping, or other features required by the Planning Department. These improvements are not included in the project valuation when establishing if the project should be deemed as a substantial improvement.

The second phase, as well as, any additional phase beyond that, would be separated by a minimum of 12 months of construction inactivity. The property owner or their representative may, however, apply for and begin the Design Review process for the following phases of the project during the timeframe of the 12 months of construction inactivity.

3. **Approved List of Licensed Appraisers on Contract for Evaluations of Applicant Appraisals or to Conduct an Independent Third Party Appraisal**

As part of the evaluation of Floodplain construction projects, an applicant must submit an appraisal conducted by a licensed appraiser for verification of the existing structure’s current market value.

Recently, questions have arisen questioning the validity of the submitted appraisals. Noted above, if an applicant wishes to avoid raising a home, there is an incentive for a high appraised value of a structure, and low appraised value of the project. Should the market value of the structure be exaggerated, the total valuation of the scope of work would increase proportionately. This would allow the project a greater scope of work without the requirement of elevating the structure.

To address this issue, staff has a list of approved state licensed appraisers that will evaluate the applicant submitted appraisal and/or conduct an independent third party appraisal, in order to verify the validity of the valuations established in the applicant’s appraisal package. In either scenario, the cost of the third party appraiser will be placed onto the applicant/property owner.
4. Create a standardized project square-foot multiplier to cross reference estimated construction cost valuations

Currently, the valuation of a construction project is provided by the applicant at the time of building permit application. This may be inaccurate because a contractor to perform the work has yet to be selected, and therefore the valuation is a rough estimate by the architect, designer, or property owner. Once a contractor is retained, the construction value usually increases, and may require the City to rescind project approvals or require the applicant to modify a project.

The Administrative Policy provides a price per square-foot construction valuation to allow City staff to accurately and consistently evaluate construction projects located within the City’s Floodplain. Furthermore, establishing this method creates a more transparent evaluation system that allows property owners, architects, contractors, and all other parties associated with the project to better understand how the City of Belvedere evaluates construction projects within the Floodplain.

The City will utilize the latest version of the Craftsman National Building Cost Manual (CNBM), to establish an average cost per square foot of construction. This publication provides a national and statewide average valuation, per square foot, for construction within specific regions of all 50 states. This manual provides an average cost of construction per square foot, in addition to, local area modification factors for construction within a specific region. This number is based on the size and configuration of the home, as well as, the type of construction.

For example, a 2600 square foot home of luxury construction and finishes in the greater Bay Area region, the type of home most commonly built in Belvedere’s Floodplain; the CNBM provides a cost per square foot of construction as $388.89, with a local area multiplier of 27%. Staff would initially multiply the square footage of the project, in this case 2600 sq. ft., by the cost per square foot, $388.89. This totals $1,011,114.00. That total would then be adjusted with the local area modifier of 27%. This totals $1,284,114.78. Therefore, the total cost of construction for this project would be $1,284,114.78.

14.7.3 Policy/Procedure

1. Any Demolition Constitutes Substantial Improvement for Floodplain Regulation Purposes.

   If a proposed project meets the definition of “demolition” set forth in Municipal Code Chapter 19.08, the project will automatically be considered a “substantial improvement” pursuant to Municipal Code Chapter 16.20 and, as such, must comply with all applicable floodplain requirements.

2. Phased Projects

   Consistent with FEMA regulations, an applicant will not be subject to floodplain requirements if a larger project is phased into multiple discrete projects that individually do not constitute a substantial improvement pursuant to Municipal Code Chapter 16.20. There must be at least 12 months of construction inactivity between the finalization of the
initial building permit and the issuance of a subsequent building permit. During this time of construction inactivity, the site and structure must be safe and habitable as determined by the Planning and Building Departments. Each phase of a project must receive final inspection approval from the City. The structure/site must appear in finished form, and shall not appear incomplete in any way during the time of inactivity between construction phases. This may require the installation of site improvements, landscaping, or other features required by the Planning Department. These improvements are not included in the project valuation when establishing if the project should be deemed as a substantial improvement.

3. **Use of Independent Licensed Appraisers**
   In its discretion, the City may hire an independent licensed appraiser to evaluate any appraisals submitted by an applicant, and/or perform independent appraisals at the City’s direction. The cost of all such evaluations and/or appraisals shall be paid in full by the applicant.

4. **Utilize a standardized project cost of square foot of construction to cross reference estimated construction cost valuations**
   This number is established by the latest version of the CNBM, a nationally recognized reference publication. The explanation and process of establishing the cost of construction per square-foot can be found in the above Comments text.

The methods described above are intended to provide a consistently clear and transparent method as to how the City of Belvedere will evaluate proposed construction projects located within the City’s designated Floodplains. They are to be used in conjunction with Chapter 16.20 of the BMC to gain compliance with all Floodplain standards and requirements.