

BELVEDERE PLANNING COMMISSION

MINUTES

REGULAR MEETING

OCTOBER 15, 2019 6:30 P.M.

**A. 5:45 P.M. CALL TO ORDER FOR CLOSED SESSION**

Conference with Legal Counsel – Anticipated Litigation

Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) and paragraph (1) of subdivision (e) of Section 54956.9

**B. 6:30 P.M. RETURN TO OPEN SESSION**

**CALL TO ORDER OF THE REGULAR MEETING**

Chair Jim Lynch called the regular meeting to order at 6:30 p.m. in the Council Chambers. Commissioners present: Jim Lynch, Nena Hart, Marsha Lasky, Larry Stoehr, Pat Carapiet, Peter Mark. Absent: Claire Slaymaker. Staff present: Director of Planning and Building Irene Borba, Building Official Brian Van Son, City Attorney Emily Longfellow, and Secretary Nancy Miller.

**ANNOUNCE ACTIONS TAKEN IN CLOSED SESSION IF ANY.**

City Attorney Longfellow stated there were no reportable actions taken.

**C. OPEN FORUM**

*This is an opportunity for any citizen to briefly address the Planning Commission 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 an more lengthy presentation or Commission consideration will be agendized for further discussion at a later meeting.*

No one wished to speak.

**D. REPORTS**

*The Reports agenda item consists of any oral reports from standing Planning Commission committees (if any), an individual member of the Planning Commission, and staff.*

Director Borba reported that three appeals of Planning Commission actions were agendized at the City Council meeting on October 14:

- 36 Cove Road was continued to the November City Council meeting.
- 121 Belvedere Avenue, appealed by the property owner of 125 Belvedere Avenue was denied by the City Council.
- 130 Bella Vista Avenue was appealed by the property owner: The City Council upheld the Planning Commission decision, but removed the Retroactive Design Review fine.

**E. CONSENT CALENDAR**

*The Consent Calendar consists of items that the Planning Commission considers to be non-controversial. Unless any item is specifically removed by any member of the Planning Commission, staff, or audience, the Consent Calendar will be adopted by one motion. Items*

*removed will be considered in the sequence as they appear below. If any member of the audience wishes to have an item removed, please step to the microphone, state your name, and indicate the item.*

MOTION: To approve the Consent Calendar for Items 1 and 2 as agendized below:

MOVED BY: Peter Mark, seconded by Pat Carapiet.

VOTE: AYES: Jim Lynch, Peter Mark, Larry Stoehr, Marsha Lasky, Pat Carapiet,  
Nena Hart  
NOES: None  
ABSTAIN: None  
RECUSED: Jim Lynch, Nena Hart (on Item 1 due to absence from meeting)  
ABSENT: Claire Slaymaker.

1. Draft **Minutes of the September 17, 2019** regular meeting of the Planning Commission.
2. Design Review, Exception to Total Floor Area and a Variance for an addition (approximately 197SF in area) and a remodel of the existing residence located at **2 Golden Gate Avenue**. The proposed project includes other site improvements such as a 6' tall retaining wall at the rear/side of the property, a new pool and patio areas as well as new landscaping. The proposed project requires an Exception to Total Floor Area as the property currently exceed the allowable floor area and with the proposed addition, the project will further exceed the requirements. A Variance is required to construct a 6' tall retaining wall that is partially in the setbacks. Revocable Licenses are required for existing and proposed improvements in the City right-of-way on Golden Gate Avenue and San Rafael Avenue. Project Applicant: Holscher Architects. Property Owners: Jane & Scott Stitler.

#### **F. PUBLIC HEARINGS**

3. Design Review and Variance (for encroachment into the setbacks) to extend and change the orientation of the existing garage located at **105 Golden Gate Avenue** to allow for safer ingress/egress from the property. Additionally, a new fenced-in trash area is proposed north of the garage and a new entrance gate and fence are proposed to accommodate the new driveway. Applicant: David Kotzebue (architect). Property Owner: Tozzi Family Trust.

Director Borba presented the staff report. A slide show presentation accompanied her remarks.<sup>1</sup>

There were no questions to staff from the Commission.

David Kotzebue, project architect presented the revised project which he believes has addressed concerns expressed at the prior hearing.

Commissioners asked questions regarding driveway safety concerns, eaves, and reduced heights.

Mr. Kotzebue replied that the straighter and less steep driveway will resolve current difficulties with backing up to the street. Eaves were designed to match current home.

Open public hearing.

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<sup>1</sup> The staff presentation is archived with the record of the meeting.

Geneva Michaelcheck Hernandez, 104 Golden Gate Avenue, stated that the changes are a good improvement. She requested that the eave at the rear side be reduced to address a view blockage at her property. She and her husband believe that if the cars were to back into the garage it would be better as it would allow them to come out more safely to enter the street facing forward. They would also like to have the hedges at 105 Golden Gate Avenue maintained at the required lower height.

Mr. Kotzebue replied they would be able to reduce the eave in question by about one foot in length.

Ms. Michaelcheck Hernandez replied that would be acceptable.

Close public hearing.

Commissioners Lasky, Mark, Carapiet, and Hart discussed the revised project. They can make the findings for Design Review and Variance. They requested an added condition of approval to include the reduction of one foot on the eave per the request of the neighbor.

Commissioner Stoehr cannot make the findings for the project. He is concerned with the safety issues as they relate to the requested Variance. He believes the hedge height issue could be considered as one of the Design Review findings related to nonconformities. An added condition could be made to require a 6-foot height for that hedge. There are also 2 dead Pine trees that should be removed, although it is uncertain whether both are on the subject property. He cannot support the Variance.

Chair Lynch asked whether the height of the hedge can be included in this consideration?

City Attorney Longfellow replied that there would need to be a reasonable nexus between the project and the existing non-conforming hedge. There are other separate avenues available to address this concern.

Chair Lynch agreed with his fellow Commissioners. He can support the project including Design Review, as conditioned, and the Variance.

MOTION: To approve Design Review for the proposed modifications/addition and associated site improvements for the property at **105 Golden Gate Avenue**, as conditioned for a reduced eave.

MOVED BY: Peter Mark, seconded by Nena Hart.

VOTE: AYES: Peter Mark, Marsha Lasky, Pat Carapiet, Jim Lynch, Nena Hart  
NOES: Larry Stoehr  
ABSTAIN: None  
RECUSED: None  
ABSENT: Claire Slaymaker.

MOTION: To grant a Variance for encroachment into the setback for the property at **105 Golden Gate Avenue**.

MOVED BY: Peter Mark, seconded by Nena Hart.

VOTE:           AYES:           Peter Mark, Marsha Lasky, Pat Carapiet, Jim Lynch, Nena Hart  
                  NOES:           Larry Stoehr  
                  ABSTAIN:       None  
                  RECUSED:       None  
                  ABSENT:        Claire Slaymaker

Commissioner Stoehr recused himself from Item 5 (**17 West Shore Road**) due to a business relationship he has with the contractor. He departed from the meeting.

5. Appeal of the Construction Time Limit Extension (CTL) Committee decision for the ongoing construction project at **17 West Shore Road**. Applicant/Property Owner: Jennifer Fearon. Contractor: Cliff Bolton.

Building Official Brian Van Son presented the staff report. Consideration tonight of the requested Extension to Construction Time Limits is considered *de novo*. The criteria to be considered are those that were in effect at the time of the permit application. There are 5 factors to consider as described on page 2 of the staff report.

Commissioners asked and received answers from staff regarding clarifications of the criteria to be considered in the review tonight.

Jennifer Fearon, property owner, described the unforeseen circumstances that led to the delays in completing the project on time. Specifics were included in the packet in letters provided to the CTL Review Committee and to the Planning Commission. Besides the extremely wet rainy season, there were other unforeseen circumstances that delayed the project. The engineers required deeper helical piers and additional batter piers. The roofing contractor was delayed in starting his work due to weather and other commitments in the wildfire zone. In addition they could not use the manufacturer-supplied fasteners and the roofing contractor insisted that a different hardware be employed which had to be back-ordered.

Cliff Bolton, project contractor, stated that the additional time required for the additional piers and batter piers was at least 3 weeks.

Open public hearing.

No one wished to speak.

Close public hearing.

Commissioners discussed that the contractor should have known about the project materials and installation process for the unusual roofing material as well as the City's CTL process. The impact of increased requirements from the engineer for the structure and piers is a consideration for a compromise as to the number of days for the assessment of the fines. Understatement of project costs at the time of the original permit issuance is a common factor as well.

Chair Lynch stated the lack of precision in information provided with the appeal makes it difficult to fairly assess the situation. He would favor a fine in the range of \$5,000 - \$10,000. The appellants still have additional opportunities to be heard if they do not like the decision tonight.

On further discussion there was consensus that based on the unforeseen geological considerations for the added piers and batter piers, which added 3 weeks of time to the project, the CTL can be extended by 21 days leaving 17 days of fines remaining to be assessed, at a daily rate of \$600 per day, i.e. \$10,200.

MOTION: To adopt the Resolution granting Retroactive Construction Time Limit Extension and Granting Appeal of Construction Time Limit Extension Committee Decision for **17 West Shore Road**. The CTL extension will be for 21 days.

MOVED BY: Peter Mark, seconded by Marsha Lasky

VOTE: AYES: Peter Mark, Marsha Lasky, Pat Carapiet, Jim Lynch, Nena Hart  
NOES: None  
ABSTAIN: None  
RECUSED: Larry Stoehr  
ABSENT: Claire Slaymaker

4. Design Review to paint the exterior of **63 West Shore Road** a shade of white named "Grey Mist." Applicant: Scott McCauley; Owner: Bruce and Kelly Bligh. *(Item to be continued at request of applicant)*

MOTION: To continue the item for **63 West Shore Road** to a future meeting.

MOVED BY: Peter Mark, seconded by Nena Hart.

VOTE: AYES: Peter Mark, Marsha Lasky, Pat Carapiet, Marsha Lasky, Nena Hart  
NOES: None  
ABSTAIN: None  
RECUSED: None  
ABSENT: Claire Slaymaker, Larry Stoehr

#### ADJOURNMENT

The meeting was adjourned at 7:36 pm.

**PASSED AND APPROVED** at a regular meeting of the Belvedere Planning Commission on November 19, 2019 by the following vote:

AYES:  
NOES:  
ABSTAIN:  
RECUSED:  
ABSENT:

**APPROVED:** \_\_\_\_\_  
Jim Lynch, Planning Commission Chair

**ATTEST:** \_\_\_\_\_  
Christina Cook, City Clerk