



CITY OF BELVEDERE PLANNING COMMISSION  
MEMO

**REPORT DATE:** March 8, 2022

**AGENDA ITEM NO. 3  
CONSENT CALENDAR**

**MEETING DATE:** March 15, 2022

**TO:** City of Belvedere Planning Commission

**FROM:** Rebecca Markwick, Senior Planner

**REVIEWED BY:** Irene Borba, Director of Planning and Building

**SUBJECT:** **Revocable License for the Property Located at 70 San Rafael Avenue**

**RECOMMENDATION**

The proposed project includes a Revocable License for improvements in the public right of way located at 70 San Rafael Avenue. The application and plans are included as **Attachment 2**.

Staff recommends that the Planning Commission conduct the required public hearing and take the following action:

**MOTION 1** Recommend to the City Council approval of a Revocable License for improvements located in the San Rafael Avenue right-of-way for the property located at **70 San Rafael Avenue**.

**BACKGROUND**

This agenda item was reviewed and approved at the January 2022 Planning Commission hearing. It was determined at the hearing that a Revocable License was required for the existing and proposed improvements in the right of way. Because the Revocable License was not noticed for the Planning Commission could not review it and asked staff to bring it to the Commission at the following hearing.

The staff report, resolution and plans for this project can be found [here](#).

**REVOCABLE LICENSE**

In accordance with Section 272.05 the City's Administrative Procedures Manual, a Revocable License for private use of excess street right-of-way may be granted in the discretion of the City Council when there is some benefit to the public, provided any proposed encroachment into the right-of-way complies with the Design Review requirements of Title 20 of the Belvedere Municipal Code.

A review of city records indicates that there is no existing Revocable License for the property.

*Existing Improvements*

- Driveway
- Fence
- Landscaping
- Wood Wall
- Pedestrian walkway

*Proposed Improvements in the San Rafael Avenue Right of Way*

- Driveway
- Landscaping
- Steps
- Two Wood Entry gates
- Bluestone “Deck”
- Fence
- Pedestrian Walkways

Factors the City Council considers when determining whether to grant a Revocable License for the private use of excess street right-of-way include, but are not limited to, the following listed below. Staff suggests the factors are satisfied, as explained in the italicized language, and that a Revocable License is appropriate. Staff suggests that the Revocable License is for the public benefit.

- a. Where necessary to provide pedestrian or vehicular access from private property to the adjacent public street;

*The proposed gates provide pedestrian access to the home. The driveway provides access from the property to the street.*

- b. Where use of the public right-of-way will permit landscaping and/or related improvements to be installed that the City Council determines will enhance the aesthetic qualities of the streetscape. Any such landscaping and/or related improvements should not significantly impede public views or views from neighboring properties, or infringe on the privacy of neighboring properties;

*There is existing vegetation in the San Rafael right of way that will be replaced with an updated landscape plan. The vegetation helps to soften and screen the property along the San Rafael Avenue and improves the aesthetic qualities of the lot. Said landscaping will not significantly impede public views from what currently exists or infringe on the privacy of neighboring properties.*

- c. Where use of the public right-of-way will permit the creation of an off-street parking area, and will thereby relieve parking or traffic congestion on the adjacent City street;

*A portion of the driveway is in the San Rafael Avenue right of way. The driveway will provide off street parking for the site.*

- d. Where the public right-of-way will be used to construct retaining walls, drainage structures or other facilities that the City considers necessary to protect or maintain the public infrastructure;

*There are no new retaining wall or drainage structures proposed with this project.*

- e. Where appropriate to validate already existing private improvements in the public right-of-way for the purpose of shifting the City’s potential liability for injuries and damages to the private property owners using the right of-way for private purposes;

*The existing improvements on San Rafael Avenue include: Driveway, landscaping, steps and a retaining wall. A Revocable License is necessary to validate the existing improvements and shift potential liability for injury and damages to the private property owner.*

- f. Where necessary to protect or enhance public safety;

*There are no improvements proposed that will enhance public safety.*

- g. Where use of the public right-of-way will provide an area for street-level refuse and recycling containers on property that would otherwise not have an area for such improvements.

*Not applicable as no street-level refuse area is proposed with this project.*

Additionally, the Administrative Policy further states that “Where fencing is proposed on City property, with the exception of where said fencing would be located on a very steep slope and would serve as a safety measure for vehicles and pedestrians said fencing should normally be avoided as this effectively turns public property into private property and potentially creates the unwanted image of a “tunnel effect” along our city streets. Fences and other similar barriers, including landscaping, that enclose public property for private use should be avoided.”

*There is one new fence proposed in the right-of-way. The proposed fence will not create the “tunnel effect” as it is low and will be partially screened.*

#### *Public Benefit*

The project benefits the public, as these proposed improvements will enhance the aesthetic appeal of the property and will provide access to the proposed residence and garage. The proposed landscaping will provide screening of the property, as well as creating visual interest on the property.

#### **RECOMMENDATION**

Staff recommends that the Planning Commission review the Revocable License application for consistency with Administrative Policy section 272.05 and recommend approval to the City Council to allow for the Revocable License.



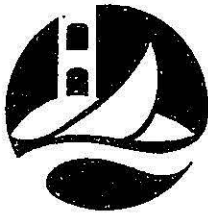
## 70 SAN RAFAEL AVENUE - STREET VIEW FROM THE SOUTHWEST

**THE MA RESIDENCE**  
**70 SAN RAFAEL AVE. BELVEDERE, CA**

**MICHAEL D. HECKMANN, AIA**  
1606 Juanita Lane Suite C-6 415-435-2446 phone [heckmannarchitects@earthlink.net](mailto:heckmannarchitects@earthlink.net)

**INFO # 002**  
**03 MARCH 2022**

Project Address: 70 SAN RAFAEL AVE.



# APPLICATION FOR REVOCABLE LICENSE

CITY OF BELVEDERE  
450 SAN RAFAEL AVE • BELVEDERE, CA 94920-2336  
PH. 415-435-3838 • FAX 415-435-0430 • WWW.CITYOFBELVEDERE.ORG

## FOR STAFF USE ONLY

Date: \_\_\_\_\_ Rec'd. by: \_\_\_\_\_ Amount: \_\_\_\_\_ Receipt No.: \_\_\_\_\_  
Parcel No.: \_\_\_\_\_ Zone: \_\_\_\_\_  
City property to be encroached upon: \_\_\_\_\_

## TO BE COMPLETED BY APPLICANT

Address of Property: 70 SAN RAFAEL AVE.

Type of City Property to Be Encroached Upon (e.g., street right-of-way, view easement, tide lot):  
STREET RIGHT OF WAY

Record Owner of Property: JEFFREY K. MA & KATHERINE BELDEN MA REVOKABLE LIVING TRUST  
Mailing 70 SAN RAFAEL AVE. Daytime Phone: 949.275.1172  
Address: BELVEDERE, CA 94920 Fax: \_\_\_\_\_  
Email: katherine.b.ma@gmail.com

Owner's Representative: MICHAEL HECKMANN  
Mailing 1606 JUANITA LANE Daytime Phone: 415.435.2446  
Address: SUITE C.G Fax: \_\_\_\_\_  
TIBURON, CA 94920 Email: heckmannarchitects@earthlink.net

Description of Encroachment Requested and Its Purpose (include list of private improvements, both existing and proposed, that will encroach onto public property): CONCRETE DRIVEWAY, STEPS, AND WALK - BLUESTONE DECK PAVING & ENTRY WALK - WOOD FENCE & GATES - WOOD DECK

- Applicants, please attach a scale diagram showing your property line and the encroachments. FOLLOW INSTRUCTIONS ON PAGE 3

Project Address: 70 SAN RAFAEL AVE.

**IMPORTANT!** This application will first be reviewed by the City Staff and/or Planning Commission. If the application successfully passes this review, a revocable license agreement will be drawn up by City Staff and a formal recommendation will be made to the City Council to approve it. *The property owner(s) will need to sign the agreement document and have the signature(s) acknowledged by a notary public or the Deputy City Clerk before the agreement can be ratified by the City Council.* A specimen copy of the revocable license agreement is attached for your information. **THE OWNER'S FAILURE TO EXECUTE THE AGREEMENT WILL PREVENT THE ISSUANCE OF ANY BUILDING PERMIT ASSOCIATED WITH THE LICENSE.**

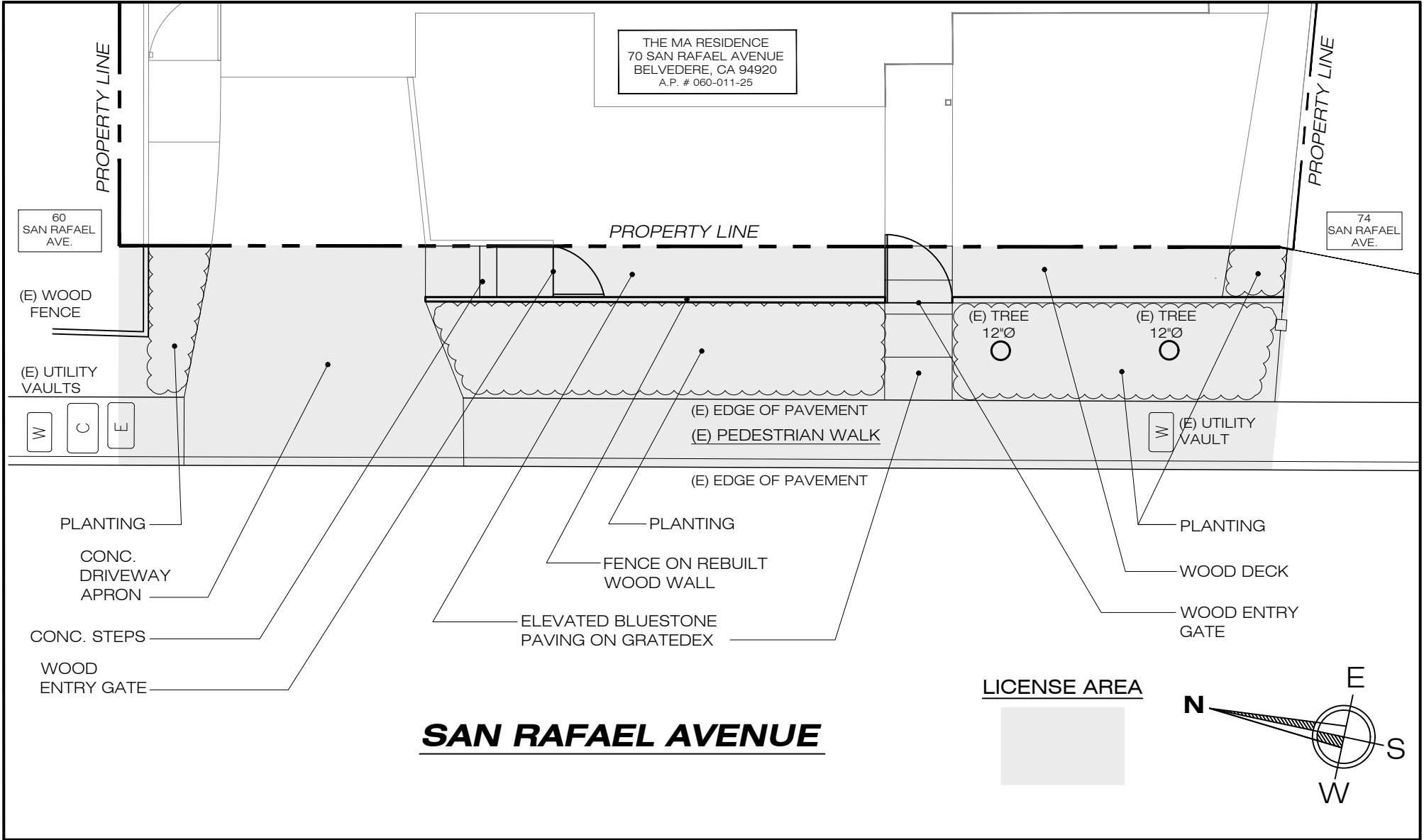
I, the undersigned owner of the property herein described (or owner representative, as authorized by completion of a Statement of Ownership and Designation of Representative), hereby make application for the revocable license requested, and I hereby certify that the facts, statements and information presented herein and in the attached exhibit(s) are true and correct to the best of my knowledge and belief

I understand that the contents of this document are a Public Record.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_



**THE MA RESIDENCE  
70 SAN RAFAEL AVE. BELVEDERE, CA**

**MICHAEL D. HECKMANN, AIA**  
1606 Juanita Lane Suite C-6 415-435-2446 phone [heckmannarchitects@earthlink.net](mailto:heckmannarchitects@earthlink.net)

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**PARTIAL SITE PLAN**  
License Area Shown Shaded

1/8" = 1'-0"

**INFO # 001  
08 FEB 2022**