



**CITY OF BELVEDERE PLANNING COMMISSION
STAFF REPORT**

REPORT DATE: April 11, 2022

AGENDA ITEM: 6

MEETING DATE: April 19, 2022

TO: City of Belvedere Planning Commission

FROM: Rebecca Markwick, Senior Planner

REVIEWED BY: Irene Borba, Director of Planning & Building
Ann Danforth, Assistant City Attorney

SUBJECT: **Design Review and Two Variances for a second story addition to the existing Single-Family Residence Located at 19 Windward Road**

RECOMMENDATION

The applicant requests Design Review and two Variances for a second story addition to the residence at 19 Windward Road. The applications are included as **Attachment 1** and project plans are included as **Attachment 2**.

Staff recommends that the Planning Commission conduct the required public hearing, discuss the project as designed and provide feedback to the applicant as submitted.

PROPERTY SUMMARY

Project Address: 19 Windward Road
APN: 060-021-26
Project Applicant: Lindsay Massey, Architect
Property Owner: Maggie and Christopher Jackson
GP Designation: Medium Density Residential SFR – 3.1 to 6.0 units/net acre
Zoning: R-1L Single Family Residential, Belvedere Lagoon
Existing Use: Single Family Residence
Site Characteristics:

The subject site is a 6,559.5-square-foot parcel located in the R-1L Zoning District in Belvedere Lagoon. The lot is generally flat with a minor slope towards the lagoon. The property is located on the right hand side of the street and is adjacent to single-family homes, and Belvedere Lagoon to the rear. The site has access from Windward Road is developed with a one-story residence, including an attached garage, a dock, pool, decks and landscaped areas.



ELEMENT	PRESCRIBED	EXISTING	PROPOSED
Overall Lot Area	7,500 SF	6,559.5 SF (excluding water)*	No Change
Lot Coverage	40% (structures greater than 15 feet in height)	40% (2,639.5 SF)	45% (2,942.5 SF)
Total Floor Area	50 percent for lots with areas less than or equal to 8,000 SF	31% (2,256 SF)	46% (2,995 SF)
Setbacks			
Front	10'	1'6" (First Story)	5' (Second Story Addition)
Left Side	First Story 5' Second Story 10'	First Story 6' Second Story N/A	First Story No Change Second Story 28'5"
Right Side	First story 5' Second Story 10'	First Story 6'10"	First Story No Change Second Story 18'3"
Rear **	15'	8'7"	No Change 2 nd Story Addition 29'8"
Building Height	26'	11'3"	21'5"
Parking Spaces	2	3	No Change
<p>* In the R-1L Zone, lot area is defined as the total area within the lot lines, excluding any portion which is underwater at summer-level high tide. (BMC Section 19.08.190)</p> <p>** In the R-1L Zone, rear yard setbacks are measured from summer-level high tide. (BMC Section 19.48.010)</p>			

BACKGROUND/PROPERTY HISTORY

A review of City records indicates the home was constructed in 1956 and the subject property has received very few planning approvals.

1974- Planning Commission approval of a Variance for the structure to encroach into the side yard setback.

2004- Staff Design Review approval to remove 10 silky oak trees at the front of the property.

2018- Design Review Exception approval of a remodel and 8.5 SF addition.

2018- Revocable License approval for improvements in the right of way.

According to published Federal Emergency Management Agency (FEMA) 2009 flood maps, the property is in the flood zone "AE". The City's Floodplain Administrator has determined that the

project does not constitute a “substantial improvement” and therefore is not required to comply with floodplain regulations.

New construction that occurs within this flood zone as well as any structures that undergo “substantial improvement” must be elevated such that the habitable space is raised above Base Flood Elevation (BFE). Current flood zone maps set the BFE in this zone at 10 feet NAVD. In addition, the City’s floodplain management ordinance (BMC Section 16.20) requires an additional one-foot of freeboard as a safety factor. Based on the current BFE, this requires that the first finished floor of a new or substantially improved structure be at 11 feet NAVD or higher.

The FEMA definition of “substantial improvement” means any reconstruction, rehabilitation, addition, or other new development of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction. This means that since May 4, 2009, any proposed new residence or remodel project that qualifies as a substantial improvement shall be elevated a minimum of one foot (“freeboard”) above the Base Flood Elevation.

Noted above, the Floodplain Administrator has determined that the project does not constitute a “substantial improvement” and need not comply with floodplain regulations. Here, the property owners have submitted an appraisal dated October 25, 2021 which indicates the structure value of \$1,525,446. Should the valuation of construction be greater than \$762,723 the entire structure will be required to be elevated 1’ above the Base Flood Elevation (BFE).

PROJECT ANALYSIS

The applicant requests Design Review and two Variance applications for modifications to the existing single-family dwelling including a second story addition. The Variances are required to encroach into the front yard setback and to exceed the allowable lot coverage. Staff can make the Design Review findings, the project as designed fits well into the neighborhood, the bulk and mass are appropriate, and the colors and materials are compatible with the site and adjacent properties.

As designed, the project does not appear to satisfy the findings required for the Variances. Section 19.84.010 of the Belvedere Municipal Code requires the Planning Commission to make the following findings before granting a variance:

1. The granting of the variance will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.
2. Because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the Zoning Ordinance section would deprive this property of privileges enjoyed by other properties in the vicinity and under identical zoning classification, so that a denial of the application would result in undue property loss.
3. The granting of such a variance will not be detrimental to the public health, safety or welfare, or injurious to the property or improvements of owners of other premises, or to the quiet enjoyment of their premises.

In addition, Section 65906 of the California Government Code provides the following in pertinent part:

Variations from the terms of the zoning ordinances shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

While Staff is supportive of the applicant's desire to have the second story and agrees with the project conceptually, Staff cannot make the findings for the Variations. The property's circumstances are quite similar to other properties in the vicinity. It appears that there is space on the first story of the home so that the second story could shift towards the lagoon so that it meets the front yard setback requirement. Additionally, there could be a reduction in size or the second story could be shifted over the first story to reduce the lot coverage. A portion of the additional lot coverage is a result of the covered breezeway. Staff cautions that if the second story is shifted it could impact the neighbor to the north at 17 Windward Road. Staff recommends that the Commission discuss the project and provide feedback to the applicant and architect. Staff also asks the Planning Commission provide feedback regarding the requested variations and potential options to avoid the front yard encroachment and excess lot coverage.

The applications are included as **Attachment 1** and project plans are included as **Attachment 2**.

PROJECT DESCRIPTION

Architectural Style, Colors and Materials

All colors and materials will match the existing home, which is board and batten siding painted Benjamin Moore Simply White, stone veneer, stucco and composition shingle cobblestone grey roof.

Site and Floor Plans

The applicant proposes to construct a second story addition (971 SF) above the front, center of the home to accommodate two new bedrooms, an office and loft area. The first floor of the home is proposed to be remain the same except an area to accommodate the new staircase to access the second story.

The project complies with the height requirements of the R1-L Zoning district. For projects that are not considered a "substantial improvement" under FEMA, the height is measured from grade. The maximum height from grade is 21'5". The FEMA definition of "substantial improvement" means any reconstruction, rehabilitation, addition, or other new development of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction.

Here, an analysis of the appraisal indicates that the project does not constitute a "substantial improvement" and is therefore not required to meet FEMA and City floodplain standards.

Landscaping and Lighting

There are no changes proposed to the existing landscaping. New lights will be down lit and match the existing fixtures.

PROJECT DISCUSSION

Design Review

The Design Review findings, specified in Belvedere Municipal Code Title 20, state that all new structures and additions should be designed to avoid excessively large dwellings that are out of character with their setting or with other dwellings in the neighborhood. All buildings should be designed to relate to, and fit in, with others in the neighborhood and should not attract attention to themselves. To avoid monotony or an impression of bulk, large expanses of any one material on a single plane should be avoided. Vertical and horizontal elements should be used to add architectural variety, to break up building planes, and to avoid monotony. Landscaping should also soften and screen structures and maintain privacy.

In summary, staff believes that the evidence can support required findings for Design Review because the project minimizes cut and fill areas, and grade changes, and the project is in harmony with the neighborhood. The entire property has been developed with structures, hardscape, planted landscape areas, and other site improvements and the proposal includes a second story addition. There is a balanced and harmonious relationship between the structures on the site and adjoining properties that relate to the natural landforms and minimize bulk and mass.

Exterior lighting will not create glare, hazard, or annoyance to neighboring property owners or passersby; the lights as proposed are downward facing lights. The colors and materials will blend well into the neighborhood as there is a mix of modern and traditional homes in the neighborhood.

The existing landscaping is compatible with the character of the site and surroundings to soften the structure and provide privacy between the neighbors and is not proposed to change.

ENVIRONMENTAL DETERMINATION

The project has been reviewed under the provisions of the California Environmental Quality Act (CEQA) and the CEQA Guidelines, California Code of Regulations. On April 19, 2022, the proposed project was determined to be categorically exempt from CEQA pursuant to Section 15301 Existing Facilities because the proposed project consists of a renovation of the existing single-family dwelling. City action is required by June 19, 2022, or the project may be deemed approved.

As explained more fully above, CEQA provides certain exceptions where categorical exemptions may not be used. Under one such exception, a CEQA categorical exemption may not be used if the project has the potential to cause a substantial adverse effect on a CEQA Tribal Cultural Resource. Here a categorical exemption is appropriate because there is no possibility that the project would cause a substantial adverse effect on any potential Tribal Cultural Resources that may, or may not, exist on the site. The subject property is categorized as a Medium Sensitivity site for Tribal Cultural Resources and the proposed construction is in already disturbed areas of the property.

Also as explained above, staff finds that the property is not historic under CEQA, nor eligible for listing in the local historic register. The discussion regarding CEQA historical issues is incorporated here by reference.

CORRESPONDENCE

A copy of the public hearing notice for this item was published in *The ARK* newspaper and mailed to all property owners within 300 feet of the subject property. At the time of writing this staff report, Staff has not received any comments.

CONCLUSION AND RECOMMENDATION

Staff recommends that the Planning Commission conduct the required public hearing, discuss the project as designed and provide feedback to the applicant and staff.

ATTACHMENTS

Attachment 1: Applications
Attachment 2: Project plans
Attachment 3: Correspondence

March 6, 2022

Dear Belvedere Planning Commission:

We are writing in response to your notice of redesign at 19 Windward. As the adjacent neighbor (21 Windward) to this property, we have concerns about the size/height of the proposed structure and number of windows facing our property.

In particular this structure now looks directly into two of our three bedrooms, and overviews our whole property from front yard to deck. The current dying hedges which do not provide adequate privacy, are expected to be removed so a standard height fence should be protective of our privacy into our bedrooms.

We certainly respect the Jackson's rights under code, and thus would like to see the structure remain within the height and 40% lot coverage code given its current imposition into our bedrooms and our property.

Given the notice period for this meeting, we already have made travels plans on March 15th. We will try to be on the zoom call, but uncertain if we can make the meeting. Thus, we submit this letter as notice of our concern with respect to the proposed project.

Thank you for your consideration of our concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ann and Stephen Broad". The signature is fluid and cursive, with the first name "Ann" and last name "Broad" being more legible than the middle name "Stephen".

Ann and Stephen Broad
21 Windward Road