

BELVEDERE PLANNING COMMISSION

MINUTES

REGULAR MEETING

APRIL 16, 2019 6:30 P.M.

A. 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, Peter Mark, Marsha Lasky, Claire Slaymaker, Larry Stoehr, Nena Hart and Pat Carapiet. Absent: None. Staff present: Director of Planning and Building Irene Borba, Associate Planner Rebecca Markwick, Contract Planner Jayni Allsep, City Attorney Emily Longfellow, and Planning and Building Technician Nancy Miller.

B. OPEN FORUM

No one wished to speak.

C. REPORTS

There were no reports.

D. CONSENT CALENDAR

Chair Lynch stated he would like to separate Item 5 (**9 West Shore Road**) from Consent Calendar items 1 through 4.

Commissioner Lasky stated she is recused on Item 2 because she lives within 500 feet of the subject property (**43 West Shore Road**)

MOTION: To approve the Consent Calendar for Items 1, 2, 3 and 4 as agendized below.

MOVED BY: Pat Carapiet, seconded by Nena Hart.

VOTE: AYES: Jim Lynch, Peter Mark, Marsha Lasky, Larry Stoehr, Pat Carapiet,
Claire Slaymaker, Nena Hart

NOES: None

ABSTAIN: Peter Mark (Item1) due to absence from the meeting.

RECUSED: Marsha Lasky (Item 2)

ABSENT: None

1. Draft **Minutes of the March 19, 2019** regular meeting of the Planning Commission.
2. Design Review application to replace existing wood pier and wood piles with a new wood pier and steel piles at **43 West Shore Road**. The applicant also proposes to raise the pier deck height 1.5 feet (to EL+10.0 MLLW) and install a forklift-style boat lift, floating dock and new guardrail. Property Owner: Steve Allocca; Applicant: Clausen Engineers.
3. **Annual Housing Report** pursuant to California Government Code Section 65400(a)(2) on implementation of the existing City Belvedere Housing Element. Applicant and Property Owner: Citywide.
4. Design Review and Use Permit to install an aluminum boat lift supported by two (2) 8-inch piles on north side of existing wood-framed pier located on City-owned tide lot (APN 060-213-11) adjacent to **180 Beach Road**. The project was approved at the April 18, 2017 Planning Commission hearing and has now since expired. There are no changes proposed to the previously approved project. Property Owner: The Plumer 2002 Trust; Applicant: Peter Clark, Clausen Engineers.

Commissioner Mark stated he is recused from Item 4 (**9 West Shore Road**) because he owns property within 500 feet of the subject property.

5. Design Review, Demolition, Exception to Total Floor Area, and Revocable License applications for a new two-story single-family residence with an attached garage at **9 West Shore Road**. The project proposal requires an Exception to Total Floor Area to exceed the maximum allowable floor area; 3,363 square feet is permitted and 3,794 square feet is proposed. The project is proposing landscaping as well as hardscape improvements throughout the property. Improvements are also proposed in the Revocable License area. The project was approved at the October 17, 2017 Planning Commission hearing and has now since expired. There are no changes proposed to the previously approved project. Applicant: Butler Armsden Architects, Property Owner: 9 West Shore Road, LLC.

Chair Lynch stated that he and Commissioner Stoehr previously voted against this project. This application is being resubmitted in the exact same form.

Open public hearing.

Harry Somerfield, 339 San Rafael Avenue, asked why is it that a completely new house is being allowed to be 500 square feet over the maximum allowed floor area?

Close public hearing.

MOTION: To approve the Consent Calendar Item 5 for **9 West Shore Road**.

MOVED BY: Pat Carapiet, seconded by Claire Slaymaker

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

E. PUBLIC HEARINGS

Commissioner Lasky recused herself from Item 5 (**31 West Shore Road**) because she owns property within 500 feet of the subject property. She retired from the Council Chambers.

6. Retro-Active Design Review to replace the existing front yard fence and gate located at **31 West Shore Road**. The new fence and gate will replace the existing. Applicant: McCauley Construction; Property Owner: Andrew Price.

Associate Planner Markwick presented the staff report. A slide show accompanied her report.¹

Commissioners asked questions of and received answers from staff regarding the Belvedere Municipal Code sections that are applicable to the Retroactive Design Review application and their consideration of the possible imposition of fines on the property owner.

Open public hearing.

Elizabeth Brekhus, attorney for Mr. Price, property owner, requested that the Commission approve the project and impose a minimum fines.

¹ The slide show is archived with the record of the meeting.

Mr. Price related the sequence of events that led up to the fence inadvertently being rebuilt without having received Design Review approvals first. He asked for Design Review approval to keep it as is.

Close public hearing.

Commissioners discussed the facts of the current retroactive situation. Additional discussion was given to consideration as to whether or not a new Revocable License would be necessary since the fence is in the same location and built on the same posts as the prior fence which already has a Revocable License. Commissioners discussed the amount of a fine that they would deem appropriate. Commissioners discussed that if Retroactive Design Review is granted then there needs to be a condition of approval to limit the overall height of the fence to 6 feet.

MOTION: To approve Retroactive Design Review for the replacement of the existing front yard fence and gate located at **31 West Shore Road** as additionally conditioned to impose a fine of \$5,000 and that the fence adhere to the City's fence regulations.

MOVED BY: Peter Mark, seconded by Claire Slaymaker

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

Commissioners discussed and agreed that no they need not recommend a new Revocable License at this time.

Commissioner Lasky rejoined the Planning Commission.

Commissioners Mark, Hart and Slaymaker recused themselves from Item 7 (**121 Belvedere Avenue.**) as each of them own property within 500 feet of the subject property. They departed from the meeting.

7. As remanded by the City Council on an appeal, consideration of Design Review and Conditional Use Permit for waterfront improvements at **121 Belvedere Avenue.** The proposal includes a new private pier, dock, boat lift, platform lift, access stairs, hillavator and above grade deck. Applicant: LAK Associates, Sean Kennings; Property Owners: David McClosky 121 Belvedere Avenue.

Associate Planner Markwick presented the staff report. A slide show accompanied her remarks.²

David McClosky, property owner, discussed the project history, his interactions with both neighbors and their representatives, and the progression of changes made to the project design per the direction of the Planning Commission as given at prior hearings and in consideration of environmental restraints as well. He requested approval tonight for the project.

Commissioners asked questions about proposed landscaping near the hillavator, deck and staris, and the status of conversations with the neighbors.

Open public hearing.

Christopher Johns, representing the owner of 125 Belvedere Avenue, INJ LLC, presented a plan for alternative siting for the project that would remove the privacy impacts on his client's property,

^{2 2} The slide show is archived with the record of the meeting.

not impact the eel grass, and would accommodate the northern neighbor's impacts as well.³ He believes that approval of the current project would negatively impact his client's privacy and property value.

When asked by Commissioners, Mr. Johns replied he does not know what impacts his client's proposed alternative design (pulled back 30 feet and pier head flipped) would have on the utility of the dock, factoring in water depths during tidal changes, etc. He confirmed the latest alternative proposal seen tonight has not been discussed with the applicant or the other neighbor.

Elizabeth Brekhus, representing the owner of both properties at 111 and 117 Belvedere Avenue, Ms. Safiri, stated that the one of the properties will be precluded from ever having a dock if this application is approved. The prior proposed location is the only workable location for her client to retain her ability to also have a dock on both of her lots in this cove-shaped configuration of properties. Her client also has concerns about privacy impacts on her property from the hillavator and platform portion of the proposed project.

Sean Kennings, LAK Associates, representing the applicant, explained how the current proposal was relocated to be within the property boundaries, and to avoid the eel grass beds. He suggested that the owner of 111 and 117 Belvedere Avenue might also consider the idea of a shared dock for both properties since there is significant eel grass in the vicinity.

Commissioners asked questions as to whether the pier design could not be lower in height, or shorter in length?

Mr. Kennings replied that those configurations would not be workable due to hydrographic considerations.

Mr. McClosky added the eelgrass is in the lower water depths at this location. Shortening the pier might render it only usable at high tide whereas other docks in the area are not similarly restricted. This project is the same as what was previously approved by the Planning Commission before it went to City Council and was remanded back to this Commission.

Close public hearing.

Commissioners discussed the project at length, including the question of making the findings for a Use Permit and Design Review. They discussed the question of potential revisions to the design and position of the pier and future landscaping. New information received (since the prior approval by the Planning Commission) included the Commission becoming aware that there are actually four properties on this Cove, of which three owners are opposed to the current proposal. Also discussed was that the neighborhood might be defined here as broader than just these four properties, as there are several others also along the nearby shoreline with proposed, approved or existing docks. Commissioners discussed whether these factors bear on the finding for neighborhood impacts for the Use Permit. Commissioners agreed that Design Review for the elements of the project proposal other than the pier might be made.

City Attorney Longfellow recapped the Commissioners discussion as to the findings language for a proposed Resolution of denial of the Conditional Use Permit.

MOTION: To deny the Conditional Use Permit for **121 Belvedere Avenue** because it cannot find that the proposed use will not be detrimental to the comfort, convenience and general welfare of persons in the neighborhood of the pier, because the size,

³ The presentation is archived with the record of the meeting.

location, and improvements on the pier in relation to the crescent shape of the cove and the shape and location of neighboring lots in relation to the water, will crowd the shoreline, negatively impacting the views of the water for the neighborhood and the public, and impeding enjoyable use

MOVED BY: Larry Stoehr, seconded by Pat Carapiet

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

MOTION: To grant Design Review for the proposed improvements at **121 Belvedere Avenue** including a new deck, stairs, and hillavator as conditioned (this approval does not include the water improvements) to include a condition of approval for a final landscaping plan to be reviewed and approved by Planning Chair and Director of Planning.

MOVED BY: Pat Carapiet, seconded by Marsha Lasky

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

ADJOURNMENT

The meeting was adjourned at 9:17 pm.

PASSED AND APPROVED at a regular meeting of the Belvedere Planning Commission on May 21, 2019 by the following vote:

MOVED BY: Peter Mark, seconded by Pat Carapiet

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

APPROVED: _____

Jim Lynch, Planning Commission Chair

ATTEST: _____

Alison Foulis, City Clerk