BELVEDERE PLANNING COMMISSION

MINUTES

REGULAR MEETING

JUNE 16, 2014, 6:30 P.M.

A. RECEPTION IN HONOR OF RETIRING CHAIRMAN LOUIS LENZEN (6:00 – 6:30 PM)

Mayor Thomas Cromwell presented a plaque to Chairman Louis Lenzen who is retiring from the Planning Commission at the end of June which stated:

PROCLAMATION

The City of Belvedere is pleased to honor

Louis C. Lenzen

FOR OUTSTANDING SERVICE TO THE BELVEDERE COMMUNITY

WHEREAS, Louis “Lou” Lenzen is a California native, born in Palo Alto and raised in Atherton, is a graduate, magna cum laude, of Princeton University with a degree in International Affairs, and a graduate with honors of the Berkeley Boalt Law School; and

WHEREAS, Lou Lenzen is a 43 year resident of Belvedere, having lived here with his family since 1971; and

WHEREAS, Lou Lenzen practiced law in both Paris and the Bay Area; working with Citibank in Paris, and Chevron, for whom he negotiated contracts with foreign governments; and,

WHEREAS, Lou Lenzen has an expressed interest in real estate and land use planning as well as a life – long interest in architecture, having studied and traveled widely in pursuit of that interest; and

WHEREAS, Lou Lenzen is still involved in International Relations, and belongs to the Council on Foreign Relations and the Bohemian Club; and

WHEREAS, Lou Lenzen was appointed to the Belvedere Planning Commission in June, 2004 and has served continuously for 11 years through June, 2014, as Planning Commissioner, Vice-Chairman, and elected Chairman in February 2013; has attended over 125 meetings, and served on the Ad Hoc and Design Review Subcommittees of the Planning Commission, as well as attending many public meetings and workshops during the preparation of the Belvedere 2030 General Plan Update; and has contributed his professional experience, leadership, and diligence in the effort to preserve the beauty and character of the City of Belvedere.

NOW, THEREFORE, I, Thomas Cromwell, Mayor of the City of Belvedere, on behalf of the citizens of Belvedere, sincerely thank Louis Lenzen for his dedication, commitment, and community spirit and join in recognizing Louis Lenzen for his contribution to the Belvedere Community.

ss://Thomas Cromwell, Mayor 2014
Minutes of the Regular Planning Commission meeting  
June 17, 2014  
Page 2 of 12

Former Planning Commission Chairman Michael Lasky read an original poem about Louis Lenzen. Commissioner Nancy Kemnitzer and others related anecdotes about Mr. Lenzen, and thanked him for his service.

B. CALL TO ORDER OF THE REGULAR MEETING

Chairman Louis Lenzen called the regular meeting to order at 6:30 p.m. in the Council Chambers. Commissioners present: Louis Lenzen, Aleck Wilson, Paul Rosenlund, David Feinberg, Marsha Lasky, Nena Hart and Nancy Kemnitzer. Commissioners absent: None. Staff present: City Planner Irene Borba, Associate Planner Jocelyn Drake, Deputy City Attorney Emily Longfellow, Building Official Eric Banvard, City Manager Mary Neilan, and Secretary Nancy Miller.

C. OPEN FORUM

No one wished to speak

D. REPORTS

There were no reports.

E. CONSENT CALENDAR


MOTION: To approve the draft Minutes of the April 20, 2014 Regular Meeting of the Planning Commission as corrected on Page 5.

MOVED BY: Aleck Wilson, seconded by Paul Rosenlund

VOTE: Ayes: Louis Lenzen, Paul Rosenlund, Aleck Wilson, Nena Hart, Nancy Kemnitzer

Noes: None

Abstain: David Feinberg, Marsha Lasky (both due to absence from that meeting)


MOTION: To approve the draft Minutes of the April 20, 2014 Regular Meeting of the Planning Commission as corrected on Page 5.

MOVED BY: Aleck Wilson, seconded by Paul Rosenlund

VOTE: Ayes: Louis Lenzen, Paul Rosenlund, Aleck Wilson, David Feinberg

Noes: None

Abstain: Nena Hart, Nancy Kemnitzer, Marsha Lasky (all due to absence from that meeting)

Commissioner Wilson stated he must recuse himself from Item 3 (36 Bayview Avenue) because his firm is the applicant.

Vice-Chairman Rosenlund and Chairman Lenzen stated they must recuse themselves from Item 3 (36 Bayview Avenue) because they own property within 500 feet of the subject property.

All three Commissioners retired from the Council Chambers.

Commissioner Kemnitzer presided.
F. PUBLIC HEARINGS

3. Design Review, Variance, Exception to Total Floor Area and Revocable License for expansion and modifications to the existing residence at 36 Bayview Avenue. The project includes but is not limited to: modifications to the roof at the front (south) and right (east) side of the residence, an addition (approx., 177SF) to the northeast corner of the home, replacement of all exterior doors and windows, new front gate, fence, walkways and two new decks in the rear yard, new wood ramp along the west side of residence and interior remodel. The proposal includes the request for two (2) Variances for encroachment into the left and right side yard setbacks and a Floor Area Exception to exceed the allowable floor area. A Revocable License is also requested for improvements into the public right-of-way, including landscaping and paving. Property Owners: Bob & Christy Acker; Applicant: Aleck Wilson, Aleck Wilson

City Planner Irene Borba presented the staff report. A slide show accompanied her remarks. A color and materials board was circulated to the Planning Commission.

Commissioner Lasky asked for clarification of the floor area of the existing property is as stated on the first page of the report at 3,331 SF or on other pages of the report with a lower figure, 3,256 SF.

Ms. Borba stated she will check the plans for the correct number and report back to the Commission.

Commissioner Kemnitzer asked for clarification as to which set of plans will be considered tonight, those dated June 2, 2014 as referenced in the Resolutions, or March 24, 2014 as referenced in the neighbor noticing memos provided by the architects?

Ms. Borba replied that those plans are the same. The later date is a reference to the date that the additional sets of plans were stamped in “Received by the City of Belvedere” for distribution with the staff reports. The June 2, 2014 plans are those in the packets and will be the approved plans.

Commissioner Kemnitzer replied that it is very important that the Commission knows that the neighbor approvals or comments are on the same set of plans as the Commission is considering.

Commissioner Lasky stated that the discrepancy in the floor area figure is consistent with a change on the neighbor noticing memos.

Commissioner Kemnitzer asked that the applicant make that clarification.

Robert Acker, 36 Bayview Avenue stated that he and his wife Christine would like to remain in the community with their three children. They love their neighborhood and the street they live on which is very flat. The main purpose of the project is to open up the interior spaces of the home and to make improvements to have it more accessible for a son who uses a walker. He requested the Commission’s approval of the project.

Alexa Schlow, Aleck Wilson Architects, stated she is representing the project architect’s firm tonight. The main goals of the design were to update the home’s appearance and to open up interior gathering spaces for the active family and to improve the functionality of the house. The exterior ramp is for accessibility for one of the children. Most of the home is not visible from the street due to the downsloping lot.

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1 The slide show presentation has been archived with the public record of the meeting.
Commissioner Lasky asked whether the fence will be behind the existing hedge? She added she would like to request that the owners pay particular attention to protection of the beautiful Japanese Maple. She understands some branches must be removed to accommodate the project, but she would like to see the tree preserved. This tree also is important for screening.

Ms. Schlow replied that the fence will be behind the hedge.

Open public hearing.

No one wished to speak.

Close public hearing.

Commissioner Lasky stated she has already mentioned protection of the Maple tree. She understands another tree will be removed. She stated that this design really enhances the architecture and is appropriate for the neighborhood. She stated that she understands the requested Variance as an existing encroachment and for the purpose of the ramp. Because the house is on a slope this appears as a one-story house without issues of bulk and mass. She stated she can make all the findings for the requested applications.

Commissioner Feinberg stated he concurs with Commissioner Lasky. He stated the design will enhance the street view of the home. Most of the changes will be well hidden and of no concern. He can make the findings for all the requests.

Commissioner Hart stated she visited the site and she is impressed that such small additions will make such a great improvement to the use of the home. She concurs with her fellow Commissioners that the appearance of the house will be greatly enhanced with the additions of the doors, dormer and window changes, the trellis and other details. Even without the solid hedge the house will not be seen due to the downslope. She is in total agreement with the staff report and can make the findings for Design Review, Variances, Exception to Total Floor Area, and recommendation of the Revocable License.

Acting Chair Kemnitzer asked whether staff can report the correct figures?

Ms. Borba replied that the correct numbers are as listed on the plans and the front of the staff report, as well as in the draft Resolutions. The neighbor approvals are also consistent with these figures.

Acting Chair Kemnitzer stated she concurs with most of what her fellow Commissioners have stated tonight. She has visited the site twice, the first a tour by the owners, and the second time to review the exquisite Japanese Maple tree in the rear garden. She stated she shares a concern that that this tree be protected. She is advised that the tree can be kept and the applicant intends to retain that tree, only removing a couple of branches, and as much as 20% of the root structure. She stated she would like to add condition n) to the Resolution for Design Review “that all necessary steps be taken to protect and preserve the mature Japanese Maple tree during construction”.

Acting Chair Kemnitzer stated she can make all the findings for the Variance for the access ramp; it is entirely appropriate for the property as a whole, with the special circumstances of the family and there is no objection from the most affected neighbor, as well as it is not visible from the street. She asked that in finding 1) references from the other Variances granted in the vicinity should not be a part of this finding. That is a statistical analysis that omits the fact that the Commission has had to make findings for special circumstances for each of those other Variances for other parcels in the community. Those special circumstances are not explained by the mere statistics and it is a boot-strapping argument that is not necessary, especially in this case because there are ample grounds for making the findings for this
application. Just because a neighbor has a Variance does not entitle his neighbor to his own Variance. Rather, this is a bit of helpful information in determining whether a particular request is harmonious with a neighborhood.

Acting Chair Kemnitzer polled the Commissioners as to whether they would be amenable to the proposed changes. First, would the other Commissioners be able to make the findings for the Variance absent the deleted last paragraph in finding 1? All Commissioners indicated they would. Second, would the other Commissioners accept the added condition n) for tree protection to the Design Review Resolution? All Commissioners indicated they would.

**MOTION:** To adopt the Resolution granting Design Review for proposed modifications to the existing residence at **36 Bayview Avenue**, as conditioned.

**MOVED BY:** Marsha Lasky, seconded by David Feinberg

**VOTE:**

**Ayes:** Nancy Kemnitzer, Marsha Lasky, David Feinberg, Nena Hart

**Noes:** None

**Recused:** Aleck Wilson, Paul Rosenlund, Louis Lenzen

**MOTION:** To adopt the Resolution granting an Exception to Total Floor Area to allow a maximum floor area of 3,508 square feet where 3,331 square feet currently exists and 2,693 square feet is permitted at **36 Bayview Avenue**.

**MOVED BY:** Marsha Lasky, seconded by David Feinberg

**VOTE:**

**Ayes:** Nancy Kemnitzer, Marsha Lasky, David Feinberg, Nena Hart

**Noes:** None

**Recused:** Aleck Wilson, Paul Rosenlund, Louis Lenzen

**MOTION:** To adopt a Resolution granting a Variance for encroachment into the required left (west) and right (east) side yard setbacks **36 Bayview Avenue**, as modified per the Minutes of the meeting tonight.

**MOVED BY:** Marsha Lasky, seconded by David Feinberg

**VOTE:**

**Ayes:** Nancy Kemnitzer, Marsha Lasky, David Feinberg, Nena Hart

**Noes:** None

**Recused:** Aleck Wilson, Paul Rosenlund, Louis Lenzen

**MOTION:** To recommend to the City Council approval of a Revocable License for private improvements in the right-of-way at **36 Bayview Avenue**.

Chairman Lenzen and Vice-Chairman Rosenlund and Commissioner Wilson rejoined the Planning Commission.

Commissioner Wilson stated he must recuse himself from Item 3 (**200 San Rafael Avenue**) because he owns property within 500 feet of the subject property. He again departed from the Council Chambers.

4. **Design Review and Variance applications to renovate the rear yard of the property located at **200 San Rafael Avenue**. Project includes extension of the rear yard deck, installation of low (3’ in height) retaining walls, removal of a 37” diameter pine tree, and construction of a 10’6” wood arbor in the rear yard setback. Property Owners: Nathan and Mary Lane. Applicant: Simmonds and Associates Inc.**
Associate Planner Drake presented the staff report. A slide show accompanied her remarks. Chairman Lenzen asked whether a color and materials board is available? Ms. Drake replied that there is a photographic color board included in the staff report. Chairman Lenzen asked what are the special circumstances of this property for that finding for the Variance request? Staff stated that the reason is removal of the 30 foot tall Pine tree and the substitution of one non-conforming structure for another. He stated that he fails to see how those are special circumstances for the property which are to be physical circumstances of the property. Ms. Drake stated those are the most immediate applicable circumstances for this property. In addition there is a big picture dynamic that the parcels located on the Lagoon tend to be smaller than other parcels in Belvedere and the rear yard setbacks are measured from the summer high tide line which tends to make the rear yards smaller. In the spirit of equity, the approval of a trellis appears reasonable in that multiple Variances have been approved for properties that have similar circumstances to this property.

Deputy City Attorney Longfellow stated that typically, for a Variance, you look at the physical special characteristics of the property. There are cases where the specific impact of regulations on a property may be considered special circumstances. There is a 2000 case out of Santa Cruz, Craik vs. County of Santa Cruz, where the court reviewed requests for a setback Variance and a height Variance. In that case the court upheld the County’s grant of the Variances because of the special impact that flood control regulations had for that property. In addition to the physical characteristics of a property, the effect or impact of an Ordinance or regulation has on a property may also be considered a special circumstance. Here, the special circumstance may be how the Belvedere Municipal Code measures setbacks on the property from the summer high tide line, which decreases the available space for them in comparison to other properties in the community.

Chairman Lenzen stated it is the same for all the Lagoon properties. He does not see how this property is different or has special circumstances. This lot is close to the standard lot size. Everyone has the same requirements.

Ms. Longfellow replied that she is offering the consideration of this case to the Commission in that the effect of regulations may constitute special circumstances sufficient to justify a Variance.

Chairman Lenzen stated that this was not cited in the draft Resolution.

Ms. Longfellow stated that staff would be happy to strengthen the language in the findings for this Resolution if so directed by the Commission. The staff report does indicate that the BMC setback measurement regulation reduces the available building space for the arbor. This may be discussed tonight, at the Commission’s discretion.

Chairman Lenzen stated that precision in the Resolution and the staff report may be desirable. All the lots in this zone have the same restrictions and regulations.

Commissioner Lasky asked for clarification as to whether the paving would be flagstone, as indicated on the plans, or bluestone, as shown on the color and materials sheet.

Ms. Drake stated that the applicant can clarify that.

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2 The slide show presentation has been archived with the public record of the meeting.
Vice-Chairman Rosenlund stated that the staff report notes that there have been a number of Variances granted in the zone for similar types of structures. Certainly, the planning experts would say that when you see a neighborhood with that many Variances, it would be indicative that the Ordinance itself may need to be revisited. That could be an issue to be considered in granting a finding for special circumstances for a Variance.

Ms. Drake stated that the staff report was not specific to the details of those other cited Variances but language could be added here if so desired. Also, staff has been looking at the Zoning regulations themselves because it is affecting requests for projects on the Lagoon. This became apparent with the application for 130 San Rafael Avenue in conjunction with the need to elevate the home with a reduced rear yard.

Open public hearing.

Warren Simmonds, landscape architect and applicant, stated that bluestone is actually a type of flagstone. Their intent is to lay bluestone in a random pattern. The purpose of this project was not to make wholesale changes to the yard, but rather build upon and to renovate what is already there. The large pine tree is cracking the paving and the tree is nearing the end of its life. There are 3 levels to the yard. The pine tree has provided privacy from the adjacent properties and across the Lagoon. Maintaining this kind of privacy has been the main focus in the new design considering that it appears it is timely to remove the tree as determined by both their own and the City’s, arborists. The new trellis will be covered with vines is an attempt to replicate the effect of the tree in the best location in the yard for sitting and viewing and privacy. People across the Lagoon will see a green enclave rather than a wooden structure. There will be layers of whispy plantings. The primary reason for the Variance is the effort to recreate what they had previously with the tree, which places the trellis in the rear yard setback. Mr. Simmonds stated that the applicants have heard concerns about lighting and they will be amenable to removing the hanging lights from the plans. Another good suggestion was to hide the arbor lights within the beams. He stated his client has selected a number of interesting plants.

Commissioner Hart asked for more specific information on the lights.

Mr. Simmonds replied the lights will all be LED lights of a maximum of 5 watts and not taller than 3 feet above ground level. They are intended to light the ground plane, with the exception of the arbor lighting. A cut sheet was provided with the applications.

Commissioner Hart stated she would not like to see the hanging lights in trees.

Mr. Simmonds replied that those will be deleted.

Commissioner Lasky asked for clarification as to the purpose of the redwood slab?

Mr. Simmonds replied that is located inside the arbor and will serve as a counter.

Commissioner Lasky stated she appreciated the detailed plans. The neighbors at 206 San Rafael Avenue have a trio of birch trees together and asked would they consider something similar?

Mr. Simmonds stated that a pair of birch trees is proposed. A third birch tree, if there is room, could be added.

Mary Lane, 200 San Rafael Avenue owner, stated that she is very pleased with this plan. They were very reluctant to remove the tree and they made the decision to remove it only because the arborists have said it has about seven years left. They still want to be protected from sun and that is a primary
element of the project. They believe this arbor is a more natural solution to the sun problem than the use of umbrellas. They also enjoy the privacy in this design.

Nathan Lane, 200 San Rafael Avenue owner, stated that they were very sad to lose the tree. It had provided privacy while permitting views of the Lagoon. The arbor is meant to replicate that effect. It is important to note that the bedroom is directly behind the tree. The arbor will preserve this privacy between neighbors.

Commissioner Feinberg asked would the birch trees exceed the height of the arbor? Would they provide screening from the bedroom?

Mr. Simmonds replied that they would get to about 20 feet in height, but as positioned, would not block the bedroom window.

Close public hearing.

Commissioner Kemnitzer stated she toured the property. She understands the applicant’s desire to keep some foliage at the site of the pine tree. A cluster of birch trees is an excellent suggestion or a magnolia tree there would also be nice. The view from the Lagoon, when one kayaks past, has a softened green and lush look. This is a benefit to everyone who uses the Lagoon and the properties across on Edgewater Road. She stated that we all enjoy seeing greenery on the Lagoon and this is a very nice project in that regard. The choice of plantings is original and interesting. She agrees that more detailed information on the lighting fixtures is preferred, especially in evaluating lights and reflectivity at Lagoon properties. She would request an amendment to condition b) in the Design Review Resolution be that a revised lighting plan will be submitted to the Planner and the Chair. With that addition, she can make the findings for Design Review.

Commissioner Kemnitzer stated that she has similar comments regarding this Variance as she had on the Variance in the prior item tonight. She requests that the Variance findings not include references to specific properties in the findings, as that is only statistical information. Each Variance requires the Commission to make specific findings of fact for special circumstances for each of those properties. She requests that paragraph a) be deleted. She stated that her concern, as previously stated by the Chairman, is that the finding for special circumstances is to be a consideration of the physical characteristics of this particular property. She stated she finds that the existence of the 30-foot-tall pine tree is a physical condition of this property. The necessity to remove such a heritage tree of that size is a physical circumstance that can support the building of the arbor. Rather than using the removal of the existing arbor as a special circumstance, she would phrase that as being a mitigating factor. She would phrase paragraph b) after the word ‘removed’, to add this language, “and the fact that the removal of a non-conforming existing arbor of comparable size can mitigate the effect of the requested Variance.” She asked that paragraph b) would be renumbered to be paragraph a) and c) would be renumbered b). With those changes she would make the findings for the approval of the Variance and can approve the project.

Ms. Longfellow asked, is the Commissioner proposing to delete paragraph a)? She stated that is a required finding and cannot be removed.

Commissioner Kemnitzer replied that if paragraph a) is necessary to be retained, then she would just place a period after the word ‘privilege’. There should not be a reference to other Variances at Lagoon properties included in this finding. The Chairman has already observed that all the Lagoon properties have similar requirements and are similarly situated; which, in and of itself, cannot be the basis for the finding.
Ms. Longfellow stated that one of the requirements under State law is that the granting of this Variance would not be a grant of special privilege that is inconsistent with other properties in the vicinity and the zone. There needs to be a finding made behind that requirement, rather than just reiterating the language of the Code. Staff suggests that to show that this is not a grant of special privilege, it can be stated that other Variances have been granted to properties in the vicinity and zone.

Commissioner Kemnitzer stated that there is no information provided as to whether those other properties had similar special circumstances. The staff report did not provide that information.

Ms. Longfellow stated her concern is that the required finding to be made is that this particular Variance does not grant a special privilege that is inconsistent with other properties in the vicinity and the zone. So if the Commissioner does not want staff’s suggestion as the finding, another reason must be given.

Commissioner Kemnitzer stated that in the past the Commission has made the findings without the need to bootstrap to other Variances. One could make the finding here for special privilege because of special circumstances to the property, as previously stated.

Ms. Longfellow replied that under Administrative law there has to be a finding supported by factual analysis. One has to bridge the analytical gap between the Code language for the finding and the statement one is making. One must state ‘why’ one can make this finding. Staff was suggesting that this is not a grant of special privilege, because other properties in the vicinity also have been granted similar Variances. This is not to bootstrap anything, but to use this as a bridge for an analytical gap between the Code language and the reason for making this finding.

Commissioner Kemnitzer stated that if that is the advice of counsel, then she would delete the references to specific addresses. The Commission does not have information that those Variances had anything whatsoever to do with the special circumstances or situation in this application. She stated she can make the findings for this request, but the Resolution as currently worded, is headed down a slippery slope. For example, it is incorrect to say that 32 Cove Road was similar to this parcel. That was not at all similar.

Ms. Longfellow stated that this not an attempt to connect the special circumstances with the granting of special privilege. This finding is saying this is not a grant of special privilege.

Chairman Lenzen stated there still is the concern about there being similar Variances.

Vice-Chairman Rosenlund stated he agrees that the Commission does not want to suggest that they must make the finding for special privilege based on the fact that someone else had similar circumstances elsewhere. In order to tie it together in a better way, there does not need to be a great deal of detail, but factual findings must be made, more than only reciting the language of the statute.

Commissioner Kemnitzer stated that this would entail a discussion by the Commission as to what is, and is not, similar about those other properties, but those facts were not provided tonight. Perhaps one could state that the reason is that other arbors have been approved in the rear yards of Lagoon properties.

Vice-Chairman Rosenlund stated that the staff report states is that there have been at least 8 Variances granted for accessory structures in the rear yard setback in the zone. He stated he is fine with relying on staff’s statement in the report, and that might be included in the finding.
Commissioner Kemnitzer stated that referencing any accessory structure is opening a very wide door. The way the Resolution is worded, one is comparing a large arbor to a windscreen at 32 Cove Road. If one can recall that Variance, the Commission required the top cap rail be removed to make it seem to disappear. This is comparing apples and oranges. The way the Resolution is worded the reference to the specific addresses is problematic. However, the inclusion of the Variance at 53 Peninsula Road would be very similar to this request. If the Resolution were to leave out any reference to addresses, one could put the period after the words “similar improvements”. This would not open that same door as does the current broad description in the language.

Ms. Longfellow stated that focus of finding a) is that the limitations on the properties are similar, not that the projects are similar. One could say that the finding can be made “because City records show that Variances have been granted for similarly situated properties that are subject to similar limitations in the vicinity and zone in which the property is located.”

Commissioners indicated acceptance of this alternative language.

Chairman Lenzen asked does counsel have all the revisions, as just discussed at length?

Ms. Longfellow stated that the revisions to be referenced in the motions are clear in the record of the meeting discussion.

Vice-Chairman Rosenlund stated that this is a nice project. He has reviewed the plans thoroughly and he is familiar with the site. He has viewed the property from a boat and he believes he understands the proposal well. For all the reasons discussed, he can make the findings for Design Review and the Variance per the amended Resolutions.

Commissioner Feinberg stated that he concurs with Vice-Chairman Rosenlund’s comments.

Commissioner Hart stated she visited the property and she understands the applicants’ pain at the loss of the old pine tree. This is a very beautiful design. The layout, plant selections and careful detail of the plan is everything that will make this back yard function as well as it has for the past 18 years for these applicants. With all the amendments to the Resolutions, she can make the findings for Design Review and the granting of Variance.

Commissioner Lasky stated it is always difficult for her to see the loss of a mature tree. However, in this case, it is the best decision. This is a wonderful new plan and it would be a shame to redo the garden and then to have to come back and remove the tree later. That tree has created a huge atmosphere at the property. In future years, hopefully the new trees will be able to recreate that environment. The landscape plan improves and extends the outdoor living area. The chosen materials are beautiful. She stated she can make the findings for Design Review. She would like to add an additional condition to the Design Review Resolution that the privacy fences next to both neighbors remain, with landscape screening. When the existing arbor is removed, with associated ivy, it is not really clear as to what would happen. She can make the finding for the revised Variance Resolution. The new trellis will really soften the area and provide privacy.

Commissioner Hart stated that she is unsure that this condition should be added to the Resolution. The ivy appears to come from the neighbors’ property. The fence is tall enough. Who will police whether the ivy grows or not? The fences are already tall enough for privacy.

Ms. Longfellow stated she would not like to see a condition requiring neighbors to work together.
Minutes of the Regular Planning Commission meeting
June 17, 2014
Page 11 of 12

Vice-Chairman Rosenlund stated that ivy comes and goes, but he notes that the neighbors have not requested any such condition. It is a valid concern to be discussed at the neighbor level, but he does not know that this needs to be part of the Resolution.

Commissioner Kemnitzer stated that the added condition could state that the side yard fences located along the west and east property lines shall remain.

Chairman Lenzen stated he has viewed the property from the water. He is also sorry to see the loss of the tree. He stated that he supports the changes as discussed to the Resolutions. This is an excellent planting plan, an improvement to the property and will serve the applicants well. The landscape architect is to be commended. He can support the applications for Design Review and Variance as amended.

MOTION: To adopt the Resolution granting Design Review for proposed modifications the rear yard at 200 San Rafael Avenue, as conditioned and amended per the Minutes of this meeting.

MOVED BY: Nancy Kemnitzer, seconded by Nena Hart

VOTE: Ayes: Louis Lenzen, Paul Rosenlund, Nancy Kemnitzer, Nena Hart, Marsha Lasky, David Feinberg
Noes: None
Recused: Aleck Wilson

MOTION: To adopt the Resolution granting a Variance to allow for the construction of a 10’6” wood arbor in the rear yard setback of the property located at 200 San Rafael Avenue.

MOVED BY: Nancy Kemnitzer, seconded by Nena Hart

VOTE: Ayes: Louis Lenzen, Paul Rosenlund, Nancy Kemnitzer, Nena Hart, Marsha Lasky, David Feinberg
Noes: None
Recused: Aleck Wilson

Commissioner Wilson rejoined the Planning Commission.

G. ELECTION OF CHAIR AND VICE-CHAIR OF PLANNING COMMISSION

Chairman Lenzen stated that the Planning Commission has discretion to pick its own leadership. He stated he is retiring after 10 years on the Commission at the end of the month. A motion to nominate a new Chair is invited. After the election of the new Chair, a motion to nominate a Vice-Chair will be invited, and election will follow for terms to begin July 1, 2014.

Vice-Chairman Rosenlund asked why the timing of the election is held before the newly constituted Commission is in place? Would it not be more appropriate to wait until the new Commission is seated?

Chairman Lenzen stated that the Chair needs to be filled because of the vacancy. This is the precedent that has been followed in the past. The election has been held at the end of the term, so that the outgoing Chair might participate.

MOTION: To nominate Nancy Kemnitzer to be the Chair of the Planning Commission.

MOVED BY: Marsha Lasky, seconded by Aleck Wilson
Minutes of the Regular Planning Commission meeting
June 17, 2014
Page 12 of 12

VOTE: Ayes: Louis Lenzen, Aleck Wilson, Nena Hart, Marsha Lasky, David Feinberg, Nancy Kemnitzer
Noes: Paul Rosenlund

MOTION: To nominate Aleck Wilson to be the Vice-Chair of the Planning Commission.

MOVED BY: Nancy Kemnitzer, seconded by Nena Hart

VOTE: Ayes: Louis Lenzen, Nancy Kemnitzer, Nena Hart, Marsha Lasky, David Feinberg, Paul Rosenlund, Aleck Wilson
Noes: None

H. ADJOURNMENT

The meeting was adjourned at 8:30 p.m.

PASSED AND ADOPTED at a regular meeting of the Belvedere Planning Commission on ___________, by the following vote:

AYES: ____________________________
NOES: ____________________________
ABSENT: ____________________________
RECUSED: ____________________________

APPROVED: ____________________________
Nancy Kemnitzer, Planning Commission Chair

ATTEST: ____________________________
Leslie Carpentiers, City Clerk