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# CITY OF BELVEDERE

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## Memorandum

DATE: January 19, 2021

TO: Craig Middleton, City Manager

FROM: Irene Borba, Director of Planning & Building

SUBJECT: Housing Update & Information

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### **RHNA**

The Regional Housing Needs Allocation (“RHNA”) is a State-mandated process that identifies the number of housing units by affordability level<sup>1</sup> that each California jurisdiction must accommodate in their Housing Element. Since 1969, State law requires that all jurisdictions must plan to meet their “fair share” of housing for the community.

The objectives of RHNA are:

- Increase housing supply and mix of housing types, tenure, and affordability in all cities and counties in an equitable manner.
- Promote infill development and socioeconomic equity, protect environmental and agricultural resources, encourage efficient development patterns and achieve GHG reduction targets.
- Promote intraregional jobs-housing relationships including balance between low-wage jobs and affordable housing.
- Balance disproportionate household income distributions (more high-income RHNA to lower- income areas and vice-versa).

California Housing and Community Development (“HCD”) identifies the total number of units, across all income groups for which the region must plan for during the eight (8) -year RHNA cycle. The next cycle is 2023- 2031.

The Association of Bay Area Governments (“ABAG”) is responsible for allocating RHNA numbers among the Bay Area jurisdictions. On June 9, 2020, HCD released its Regional Housing Needs Determination for the current Housing Element cycle to ABAG. A total of 441,175 housing units were allocated to the Bay Area for the 2022-2030 Housing Element cycle, almost doubling the needs determination from the most recent 2012 cycle. Marin County’s RHNA allocation increased from 2,298 units to 14,210 units.

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<sup>1</sup> Affordable housing levels are defined as a percentage of Area Median Income (“AMI”), established by HCD and include very low income (30%-50% AMI), low income (50%-80% AMI), and moderate income (“80%-120% AMI).

Marin's increased RHNA numbers reflect changes to State law and methodology changes in allocation calculations. For example, SB 828 adopted in 2018, allows the HCD to consider both existing and future housing need. Additionally, ABAG identified "high resource" and "high opportunity" areas, as a way to address racial equity concerns, and allotted increased units to these areas.<sup>2</sup> A high opportunity and resource area is one that is near public transit, contains amenities conducive to childhood development and economic mobility, including low poverty rates, high home values, high education values, high school test schools, and high employment rates. Belvedere, along with most of Marin County, qualifies as a high opportunity and resource area for purposes of RHNA allocation. Additionally, State law now prohibits stable population numbers or prior housing underproduction as justifications to reduce a jurisdiction's RHNA allocation.

A city accommodates its RHNA numbers by identifying housing sites in its Housing Element. This does not indicate that development proposals are under review, or will necessarily be submitted; rather, the Housing Element indicates possible housing site availability. HCD must certify each jurisdiction's Housing Element, and if unapproved, a city may challenge HCD's determination. A city without a compliant Housing Element may face legal action from the State Attorney General, which may result in fines between \$10,000 and \$600,000 per month until a legal element is adopted.

Currently, Belvedere was allocated a total of 161 units, up from 16 units in the last cycle. Belvedere's units include: 1) 49 units very low income (<50% AMI); 2) 28 units low income (50-80% AMI); 3) 23 units moderate income (80-120% AMI); 4) 61 units above moderate income (> 120% AMI).

There is an appeal period where jurisdictions may challenge their RHNA allocations. Final RHNA numbers will be issued at the end of 2021. Belvedere intends to challenge its RHNA allocation. However, it is expected that the City will be required to accommodate a much higher RHNA number in its upcoming Housing Element than in the past. City staff will work with a Housing Element consultant to identify sites that satisfy Belvedere's allocation.

### **Housing Element Update (2023)**

The City completed a Housing Element Update in 2015; that Housing Element update was an update of specific parts or sections of our Housing Element. The next Housing Element, which will need to be completed by the end of 2023, will need to be more involved to account for new State laws and to plan for our new RHNA allocation number. The Housing Element update process will include public meetings and/or workshops, and additional site analysis to determine potential development and or redevelopment opportunities to accommodate additional housing.

Staff will be sending out a Requests for Proposals (RFP) for housing consultants that can assist with developing a work plan for the upcoming Housing Element update and can help with the preparation of that required document.

### **Other City Housing Actions**

- SB 2 Planning Grant –

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<sup>2</sup> This analysis reflects AB 686, which mandates that jurisdictions "affirmatively further fair housing."

In 2019, the State provided for an opportunity for grants for planning work to help facilitate development of affordable housing. Belvedere applied for and received \$16,000 grant from the State.

The principal goal of this grant program was to make funding available to all local governments in California for the preparation, adoption, and implementation of plans that streamline housing approvals and accelerate housing production. The grant program is meant to facilitate planning activities that will foster an adequate supply of homes affordable to Californians at all income levels. It is designed to help local governments meet the challenge of preparing and adopting land use plans and integrating strategies to promote housing development. Funded activities are intended to achieve the following program objectives:

- Accelerate housing production
- Streamline the approval of housing development
- Facilitate housing affordability, particularly for lower & moderate-income households
- Promote development consistent with the State Planning Priorities

### ***ODDS Project***

A group of planners in Marin formed the “Housing Working Group” to look at ways to work together on affordable housing issues, with a focus on State housing legislation, and ways to collaboratively utilize funds from the SB2 planning grant. To this end, Belvedere along with other Marin jurisdictions, has worked with professional housing consultants to develop Objective Design and Development Standards (“ODDS”). Under the ODDS project, housing consultants in conjunction with local jurisdictions (including Belvedere) drafted a broad “toolkit” that contains objective design and development standards to be used when reviewing housing development applications that require ministerial review under State law. The toolkit, presented to the Planning Commission in November, allows a local jurisdiction to pick and choose which objective standards to adopt that best apply to the community. Staff is currently working with a Planning Commission subcommittee and housing consultants to craft the toolkit into objective standards that are appropriate for Belvedere. A revised toolkit will be presented to the Planning Commission and the City Council for consideration at a future date. Staff has also requested that the consultants conduct specific site analysis for potential redevelopment opportunities in Belvedere, including the Mallard Road properties and the commercial areas adjacent to Tiburon Boulevard.

As explained below, some recent State laws require that a city review a housing project (defined as two or more units) only by objective standards. Subjective standards, such as design review, may not apply. If a qualifying housing project meets objective standards, then it must be approved. Adoption of objective design and development standards – such as those that will be developed by the customization of the ODDS project toolkit – will allow the City to encourage projects that are consistent with community character. The ODDS standards may serve as a vehicle to apply objective standards in lieu of Design Review.

### ***ADU Workbook & Website***

In addition to the ODDS project, staff has been working with other communities in Marin County, and with consultants, to develop an Accessory Dwelling (ADU) website and workbook. These tools will provide hands-on resources that will assist homeowners in developing ADU’s. Participating jurisdictions have worked together to hire and manage a consultant to upgrade the existing countywide ADU website. The website will summarize all ADU and JADU standards for

participating jurisdictions, and will provide cost estimates, sample floor plans, and community outreach materials for each jurisdiction. Our jurisdiction has collaborated and reviewed the web content. Funds from the SB2 Planning Grant are being utilized for this joint effort.

### ***LEAP Grant***

On January 27, 2020, HCD released a Notice of Funding Availability for the Local Early Action Planning Grant Program (LEAP). Like the SB2 Planning Grant, which the City was awarded in 2019, LEAP provides support to jurisdictions to engage in housing related planning activities to facilitate housing production.

LEAP may be utilized for a variety of housing-related planning activities, including preparation of housing elements to address the sixth cycle of the RHNA.

LEAP funding amounts are determined based on population size; the City may receive up to \$65,000 in LEAP funds. Staff requested the full \$65,000 for staff time to implement programs in the current Housing Element, and to assist in preparation of the next update of the next Housing Element. At this time, staff has received preliminary approval for the full grant amount.

LEAP funding would primarily cover costs for staff work, out-of-pocket expenses, and potentially consultant services for activities such as:

- Ordinances to implement housing element, notably continued updates to ADU ordinance and/or reduction in parking requirements.
- Data collection.
- Public outreach, meetings, and noticing.
- Fair housing analysis.
- Development of housing sites inventory.
- Environmental review.
- Formatting, graphics, mapping work.

### **Potential Future Housing Projects**

Staff has had preliminary discussions regarding potential future housing projects for Belvedere.

- *Mallard Pointe*

The Mallard Road properties located within the R-2 zoning district have recently been purchased by a developer who is interested in redeveloping the subject properties into a higher density residential project, which would include a mix of single-family homes, duplexes and apartments/flats. A formal application has not been submitted at this point in time, but there have been a number of preliminary discussions regarding the proposal, and the property owners have requested a joint Study Session with the Council and the Planning Commission. The joint study session should happen within the next few weeks and will be publicly noticed to involve the public early on in the process. The possible future development proposal could potentially double the number of housing units currently constructed (22 units).

### ***Belvedere Land Company Properties***

In addition to the Mallard Road properties, staff has had a very preliminary discussion with the Belvedere Land Company; they expressed an interest in being able to provide for additional housing opportunities on some of their properties.

## **State Housing Laws**

Due to California's housing shortage, many State laws adopted in recent years encourage and streamline the production of additional housing units. The majority of these laws apply to housing development projects of two or more units, and therefore do not have the same impact in Belvedere as in other jurisdictions. However, given recent State laws and increased developer interest in Marin, the City will likely see applications in the future. Additionally, these projects may provide a significant benefit to the City in helping to satisfy its RHNA numbers. State housing law is dense and fast-changing, and this synopsis is intended as a broad overview of laws that may apply in Belvedere.

**SB 35**, initially adopted in 2017, allows a developer to request a streamlined, ministerial approval process for a housing project in certain instances where a city has failed to issue building permits for its "fair share" of regional housing need by income category. Belvedere falls into this category. If the project meets objective standards and qualifies under SB 35, then it must be ministerially approved without CEQA review. Qualifying projects may be eligible for reduced parking standards and State-mandated density bonus enhancements.

An SB 35 project must be on land that is zoned for residential use, include at least 2 units, and be consistent with underlying zoning standards (with exceptions for density bonuses and concessions). A city may only apply those objective standards in place at the time of application; no design review is allowed. This is a main benefit of developing objective standards through the ODDS project.

**SB 1485**, adopted in October 2020, adds a new class of projects eligible for the streamlined and objective process of SB 35, to include projects that commit to including 20% of units affordable to the moderate income level (120% Average Median Income). This law applies to projects of 10 or more units, and is therefore unlikely to readily apply in Belvedere as the law is currently drafted.

**SB 330**, the Housing Crisis Act, went into effect in January 2020, and makes numerous changes and amendments to State housing law with the intent to increase residential unit development, protect existing housing inventory, and expedite the permitting process. Currently, many changes sunset in 2025. Broadly, this law restricts the application of local ordinances and policies that can be applied to a housing development (two or more units), and generally requires approval if the project complies with objective standards in the zoning code and general plan. Expedited processing deadlines apply, and no more than five public hearings are allowed. Finally, a city may not adopt land use amendments resulting in a reduction of residential density or intensity of land use beyond what was in effect on January 1, 2018, including reductions to height, floor area ratio, new or increased setback requirements, or lot coverage limitations.

State density bonus laws have been in effect in California since 1979 and, although the details are complicated, the aim is simple: when a developer agrees to construct a certain percentage of housing units at affordable for low or very low income households, or to construct senior housing, a city must grant one or more zoning or building concessions or incentives, and a density bonus. This allows the developer to increase the number of market rate units above the allowable limit under zoning regulations, making a project more financially feasible. Incentives and concessions may include, for example, reduced parking, setbacks, square footage, or height. An additional benefit to the ODDS toolkit is that standards in the toolkit may be used as concessions for density

bonus purposes. This will prevent the City from resorting to, for example, allowing increased height as a density bonus concession.

**AB 1763** creates an enhanced density bonus for qualifying projects located within ½ mile walk of a major transit stop, which may include the ferry terminal. This law applies to affordable housing projects.

Finally, the State Accessory and Junior Accessory Dwelling Unit law requires approval if the proposed unit complies with State-imposed standards, as a way to encourage more housing availability. ADUs may count towards RHNA allocation.