



September 12, 2022

To: Mr. Robert Zadnik (Belvedere City Manager), Ms. Irene Borba (Belvedere Director of Planning and Building), Members of the Belvedere City Council, and Members of the Belvedere Planning Commission:

As Belvedere residents who are deeply concerned about the future of our community, we urge you to follow Belvedere’s Municipal Code and find the proposed Mallard Pointe development to be **noncompliant** with Belvedere’s zoning provisions.

- The proposed multi-story, 23-unit apartment house directly conflicts with R-2 zoning’s express prohibition on apartment houses (BMC Section 19.28.030).
- The prohibition on apartment houses is fully consistent with the City’s General Plan.
- The City is not required to waive the apartment house prohibition under the State Density Bonus Law or any other provision of state law. Waivers are only allowed for Belvedere’s listed “development standards,” such as height, setbacks, and open space (BMC Section 19.28.040), and the apartment house prohibition is not a “development standard.”
- Because the project as proposed is **not consistent** with Belvedere’s R-2 zoning provisions, it may not lawfully be approved under the streamlined process provided by SB 330.
- For the proposed project to be approved, a rezoning would be required.

Our conclusions are based on the legal opinions of BRIG’s retained counsel, Mark Wolfe and Pam Lee, previously submitted to you.

Respectfully,

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