

MEMORANDUM

August 2, 2023

To: Belvedere City Council

From: M. R. Wolfe & Associates, P.C.
on behalf of Belvedere Residents for Intelligent Growth (BRIG)

cc: Members of the Planning Commission
Robert Zadnik, City Manager
Rebecca Marwick, Director of Planning & Building
Andrew Shen, City Attorney

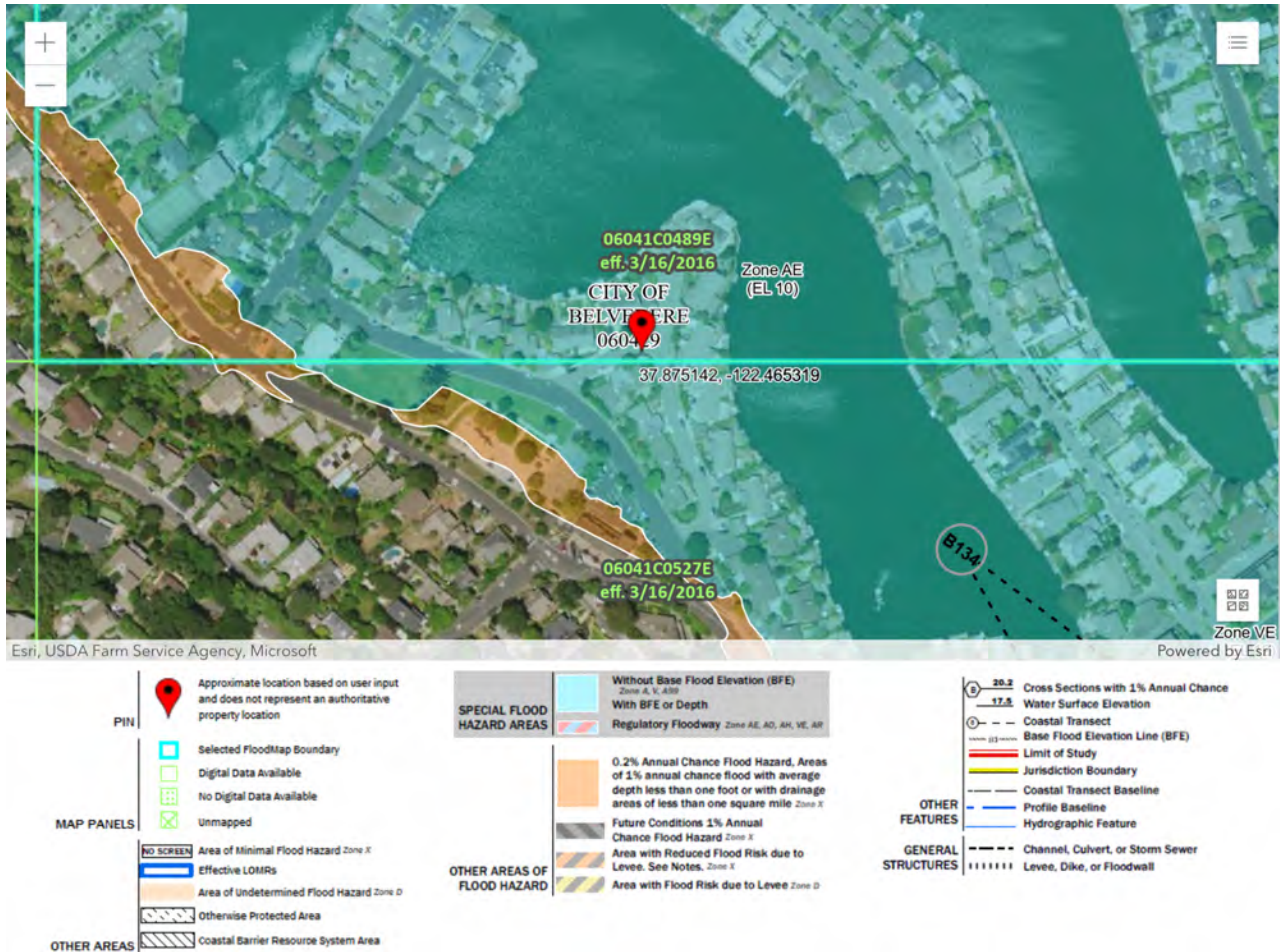
Re: Mallard Pointe Project – Updated Preliminary Geotechnical
Investigation and Floodplain Management Requirements

In a memorandum to you dated June 16, 2023, BRIG addressed the Mallard Pointe Project applicant’s October, 2022 “Updated Geotechnical Investigation” (“Updated Report”), explaining that it had not addressed concerns BRIG and its geotechnical engineering expert, Lawrence Karp, PhD, had raised in April, 2022 with respect to the original Report, and underscoring that the Project does not qualify for any exemption from environmental review under CEQA. Dr. Karp has since had the opportunity to review the Updated Report and has drafted the attached letter responding to it.

In his letter, Dr. Karp confirms that, like its predecessor, the Updated Report does not address the site’s unusual circumstances, which arise from its composition of bay mud and dredged/fill material, or acknowledge that construction of the apartment building will require driven or cased piles driven deep into bedrock, or other environmentally impactful engineered measures that will be necessary to prevent uneven settling of the long, narrow structure, and to comply with floodplain management requirements.

Indeed, further evidence of unusual circumstances giving rise to significant impacts relating to noise, geology and soils, and hydrology, and further corroborating Dr. Karp’s opinion, arises from the fact that the site is within a FEMA-designated Special Flood Hazard Area (“SFHA”). According to FEMA’s National Flood

Insurance Rate Map (“FIRM”), which the City of Belvedere has incorporated by reference for flood hazard delineation within its boundaries,¹ the site sits squarely within a SFHA Zone AE, with a Base Flood Elevation of 10 feet. (See diagram excerpted from the FIRM, below.) This means the Project site is subject to the 100-year flood occurrence at an elevation of 10 feet above sea level.



Because it is situated within an AE Zone, the site is subject to FEMA regulations and guidelines governing new construction of multi-family residential structures in such zones. (See FEMA, National Flood Insurance Program, Mitigation

¹ See Belvedere Municipal Code (“BMC”), Ch. 16.20.010, Flood Plain Management, and sec. 16.20.110 (“The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) dated March 16, 2016, and accompanying Flood Insurance Rate Maps (FIRMs) dated March 16, 2016, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this Chapter.”)

Measures for Multi-Family Buildings (FEMA P-2037, Oct. 2019);² Home Builder's Guide to Coastal Construction (FEMA P-499, Dec. 2010).³ For two- to four-story structures such as the apartment building proposed at Mallard Pointe, the regulations prohibit below-grade parking garages, while also highly recommending use of "deeply embedded" pile or column foundations instead of solid wall, slab, or other forms of shallow foundation.

We note that BMC section 16.20.200 requires the Mallard Pointe developer to apply for and obtain a floodplain development permit before any construction can begin within the SFHA. An application for such a permit must provide detailed information showing structural elevations in relation to the base flood, describing floodproofing measures, and documenting construction methods and practices capable of achieving floodplain construction standards. (BMC § 16.20.300.) BRIG is not aware that any floodplain development permit application, or the required supporting information, has been submitted for Mallard Pointe. Meanwhile, nothing in the Updated Report or any of the developer's other technical submittals documents how the long, narrow apartment building can be safely constructed in a SFHA, on soils comprising fill and bay mud, without deeply embedded piles and/or other environmentally damaging measures.

BRIG submits that under these unusual circumstances it would be irresponsible for the City to allow the Project to evade environmental review by finding it categorically exempt from CEQA.

Thank you for your consideration of these additional comments.

MRW:
Attachment

² https://content.govdelivery.com/attachments/USDHSFEMA/2020/06/24/file_attachments/1481529/16-I-0218_Multi-FamilyGuidance_06222020.pdf

³ https://www.fema.gov/sites/default/files/2020-08/fema499_2010_edition.pdf