

September 26, 2023

Via U.S. Mail & E-Mail

Robert Zadnick, City Manager
City of Belvedere
450 San Rafael Avenue
Belvedere, CA. 94920
rzadnik@cityofbelvedere.org

Re: Mallard Pointe Application Status

Dear Mr. Zadnick:

On behalf of BRIG, this is to respond to some of the points raised by Mallard Pointe developer Bruce Dorfman in his August 28, 2023 letter to you concerning the above-referenced Project application. Preliminarily, BRIG seconds and supports your August 17 letter to Mr. Dorfman, in which you affirm that any perceived delay in scheduling public hearings on the application is in no manner the fault of the City. It is instead due to the developer's failure to pay funds necessary for Ascent to complete its review for a possible CEQA exemption, and its unwillingness to erect story poles at the Project site despite the Zoning Code's clear requirement that it do so. Furthermore, as you correctly observed, the developer itself asked for a delay in completing Ascent's review pending the possible submission of a revised Project application.

The developer's most recent letter repeats the claim that the Zoning Code's prohibition of apartment houses in the R-2 district is inconsistent with the City's General Plan, and that an apartment building is required to meet the General Plan's specified density of 20 units per net acre at the site. BRIG has addressed and refuted this claim on multiple occasions in past correspondence addressed to the City Council and other City officials. More specifically, BRIG has documented how the R-2 district's apartment prohibition is fully consistent with the General Plan, and has provided an architect's schematic plainly showing that 48 duplex units can be built at

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the site, thereby meeting the General Plan's density specification in a manner consistent with R-2 zoning. (*See* BRIG memo to Planning Director Irene Borba, July 1, 2022; BRIG letter to City Council, October 18, 2021; BRIG memo to Irene Borba, September 20, 2022; and BRIG memo to Robert Zadnick, May 16, 2023; *see also* letter from Pamela Lee of Aleshire & Wynder, LLP, to Robert Zadnick and Irene Borba, September 7, 2022.)

BRIG has also refuted the developer's claim that the R-2 zone's apartment prohibition can be waived or otherwise made unenforceable pursuant to the State Density Bonus Law. (*See* BRIG memos to Irene Borba, July 1, 2022, August 10, 2022 and November 10, 2022; *see also* letter from Pamela Lee, cited above.) These memos and letters may be found in the attached hyperlinked compendium of BRIG's various submittals to the City dating back to July, 2021.

The developer's letter also states that in the event the City determines the current iteration of the Project to be exempt from CEQA, the developer will then submit "alternative plans" that replace the proposed apartment building with three-plexes and four-plexes. Please note that such alternative plans would still be inconsistent with the R-2 zoning designation, which as you know only allows for duplexes or single-family residential uses at the site. Regardless, the Project does not qualify for any categorical exemption from CEQA, as BRIG has also repeatedly explained. (*See* BRIG memos dated April 27, 2022, June 16, 2023, and August 2, 2023.)

Finally, the developer's refusal to provide the City with a story pole plan is simply unfounded. Regardless of whether computer-generated graphics can meaningfully represent the size, scale, and bulk of the Project on paper, story poles are plainly required for any development application seeking design review approval under section 20.04.080 of the Belvedere Zoning Code. Story poles serve an important purpose, providing both the public and City officials with a sense of a project's future volume and spatial placement that cannot be replicated by computer modeling. The City should not waive this requirement for the Mallard Pointe Project.

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Thank you for your consideration of these points.

Most sincerely,

M. R. WOLFE & ASSOCIATES, P.C



Mark R. Wolfe

On behalf of BRIG

cc: Rebecca Markwick, Director of Planning & Building
Beth Haener, City Clerk
Members of the City Council
Members of the Planning Commission
Andrew Shen, City Attorney