CITY of BRISBANE

City Council Meeting Agenda

Thursday, September 17, 2020 at 7:45 PM ● Virtual Meeting

This meeting is compliant with the Governors Executive Order N-29-20 issued on March 17, 2020 allowing for deviation of teleconference rules required by the Brown Act. The purpose of this is to provide the safest environment for staff, Councilmembers and the public while allowing for public participation. The public may address the council using exclusively remote public comment options.

TO ADDRESS THE COUNCIL

The City Council Meeting will be an exclusively virtual meeting. The City Council agenda materials may be viewed online at www.brisbaneca.org at least 24 hours prior to a Special Meeting, and at least 72 hours prior to a Regular Meeting.

Remote Public Comments:
Meeting participants are encouraged to submit public comments in writing in advance of the meeting. The following email and text line will be monitored during the meeting and public comments received will be read into the record during Oral Communications 1 and 2 or during an Item.

Email: ipadilla@brisbaneca.org
Text: 628-219-2922
Oral Comments for the Public Hearing Only: Dial: 1 (669) 900 9128 and then enter the Meeting ID: 948 5997 4861 and Passcode: 917009. Dial *6 to unmute yourself and to avoid audio feedback please lower the volume on your device.

PUBLIC MEETING VIDEOS

Public Meetings can be viewed live and/or on-demand via the City's YouTube Channel, www.youtube.com/brisbaneca, or on Comcast Channel 27. Archived videos can be replayed on the City's website via the All Meetings Page (http://brisbaneca.org/meetings).

SPECIAL ASSISTANCE

If you need special assistance to participate in this meeting, please contact the City Clerk at (415) 508-2113. Notification in advance of the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

1. 7:45 P.M. CALL TO ORDER – PLEDGE OF ALLEGIANCE

2. ROLL CALL

3. ADOPTION OF AGENDA

4. PRESENTATIONS AND AWARDS

A. Proclamation Recognizing Constitution Week from September 17-23, 2020.

5. ORAL COMMUNICATIONS NO. 1

6. CONSENT CALENDAR

B. Approve Minutes of City Council Closed Session Meeting of September 3, 2020

C. Approve Minutes of City Council Meeting of September 3, 2020

D. Adopt Resolution No. 2020-58 Approving Application(s) for Per Capita Grant Funds from State Proposition 68

E. Adopt Resolution No. 2020-55 Declaring Property Owned by the City of Brisbane as Surplus Land Adopt

(Resolution No. 2020-55 is regarding declaring a certain property owned by the City, a landlocked, vacant site of approximately 28,000 square feet located in Crocker Park, encumbered by a drainage canal, as surplus land)

F. Adopt Resolution No. 2020-57 approving the Memorandum of Understanding between the City and the Brisbane Police Officers Association for the term of July 1, 2019 to June 30, 2022

7. PUBLIC HEARING

G. Consider Introduction of Ordinance No. 653 amending Title 17 of the Brisbane Municipal Code to Regulate Accessory Dwelling Units and Junior Accessory Dwelling Units and Amending Title 15 of the Brisbane Municipal Code to Regulate Alterations and Additions to Existing Structures

H. Consider Introduction of Ordinance No. 657 Brisbane amending sections 17.06.040, 17.08.040, and 17.10.040 of the Brisbane municipal code concerning the floor area ratio exemption for garages on small lots.

I. Consider Adoption of Resolution No. 2020-56 Imposing Assessments on Certain Specially Benefitted Property Owners in Sierra Point for Developing, Implementing and Maintaining a Utility Structure Monitoring Program

J. Consider Introduction of Ordinance 579- Proposed Amendment of Titles 15 and 17 of the Brisbane Municipal Code Pertaining to the Regulation of Grading

(*This item will be continued at a future City Council Meeting and will not be heard on September 17, 2020).*

8. OLD BUSINESS

K. Dog Park Resurfacing

(Council will consider approving funding in the amount of $60,000 for resurfacing of the dog park as recommended by the Parks & Recreation Commission)

9. NEW BUSINESS

L. Temporary shelter improvement for Lunch Truck at Park n Ride Site

10. STAFF REPORTS

M. City Manager's Report on upcoming activities

11. MAYOR/COUNCIL MATTERS

N. Countywide Assignments and/Subcommittee Reports

O. City Council Meeting Schedule

P. Written Communications

12. ORAL COMMUNICATIONS NO. 2

13. ADJOURNMENT

File Attachments for Item:

B. Approve Minutes of City Council Closed Session Meeting of September 3, 2020

BRISBANE CITY COUNCIL

ACTION MINUTES

CITY OF BRISBANE CITY COUNCIL CLOSED SESSION MEETING AGENDA

THURSDAY, SEPTEMBER 3, 2020

VIRTUAL MEETING

6:30 P.M. CLOSED SESSION

A. Approval of the Closed Session Agenda

B. Public Comment. Members of the public may address the Councilmembers on any item on the closed session agenda

C. Adjournment into Closed Session

D. Liability Claim: Claimant Nagamine, pursuant to Government Code, section 54956.95

E. Liability Claim: Claimant Trzeciak, pursuant to Government Code, section 54956.95

F. Conference With Legal Counsel--Anticipated Litigation

Significant exposure to litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9

Number of Potential Cases: One (High Speed Rail Authority)

ADJOURNMENT

Mayor O'Connell called the Closed Session Meeting to order at 6:34 p.m.
No member of the public wished to speak during public comment. Mayor O'Connell adjourned the meeting into Closed Session.

REPORT OUT OF CLOSED SESSION

Interim City Attorney McMorrow reported that liability claim Item D was denied by the City Council. Item E was a liability claim settled during the summer. He also reported that direction was provided to staff on Item F and that no formal action was taken.

_____

Ingrid Padilla
City Clerk

File Attachments for Item:

C. Approve Minutes of City Council Meeting of September 3, 2020

BRISBANE CITY COUNCIL

ACTION MINUTES

JOINT CITY OF BRISBANE CITY COUNCIL AND GUADALUPE VALLEY MUNICIPAL IMPROVEMENT DISTRICT SPECIAL MEETING AGENDA

THURSDAY, SEPTEMBER 3, 2020

VIRTUAL MEETING

CALL TO ORDER & PLEDGE OF ALLEGIANCE

Mayor O'Connell called the meeting to order at 7:37 p.m. and led the Pledge of Allegiance.

ROLL CALL

Councilmembers present: Councilmembers Conway, Cunningham, Davis, Lentz, and Mayor O'Connell

Councilmembers absent: None

Staff Present: City Manager Holstine, City Clerk Padilla, Interim City Attorney McMorrow, Director of Administrative Services Schillinger, Community Development Director Swiecki, City Engineer Breault, Deputy Director of Public Works Kinser, Senior Planner Ayres, Fire Captain Abelson, Police Commander Garcia, and Deputy City Clerk Ibarra.

REPORT OUT OF CLOSED SESSION

Interim City Attorney McMorrow reported that liability claim Item D was denied by the City Council. Item E was a liability claim settled during the summer. He also reported that direction was provided to staff on Item F and that no formal action was taken.

ADOPTION OF AGENDA

PRESENTATIONS AND AWARDS

A. National Preparedness Month Proclamation

Mayor O'Connell read the National Preparedness Month Proclamation. Fire Chief Abelson accepted the Proclamation and provided emergency preparedness tips for residents. Councilmembers thanked Fire Chief Abelson.

B. Update on Action taken on the Housing Authority Meeting of July 28, 2020 regarding 1 San Bruno, Unit D

Executive Director Holstine reported that 1 San Bruno, Unit D was sold for $640,000 and the net proceeds will be deposited into the Housing Authority's low and moderate income housing fund.

Dana Dillworth's written correspondence was read into the record. She expressed her concern that the City did not make the effort to reach out to teachers and low income communities before selling the property.

ORAL COMMUNICATIONS NO. 1

No member of the public wished to provide public comment.

CONSENT CALENDAR

C. Adopt City Council Closed Session Meeting Minutes of June 4, 2020

D. Adopt Joint City Council and Guadalupe Valley Municipal Improvement District Meeting Minutes of June 4, 2020

E. Accept Investment Report as of June 2020

F. Accept Investment Report as of July 2020

G. Adopt Ordinance No. 655, waiving second reading, amending Title 17 of the Brisbane Municipal Code to regulate short term residential rentals

H. Ratify Award of Construction Contract to Central Striping, Inc. for the Guadalupe Canyon Parkway Safety Improvements

J. Approve Request of the Bridge Housing Corporation to Defer 2019 Loan Payment to December 2020

K. Adopt Resolution No. 2020-51 Amending the City of Brisbane's Investment Policy

L. Approve Request to begin the Process of Performing a Water and Sewer Rate Study

M. Adopt Resolution No. 2020-52 Establishing the Business License Tax on Recycling Establishments for Fiscal Years 2019/20, 2020/21 and 2021/22

N. Adopt Resolution No. 2020-54 Confirming and Ratifying the Proclamation Declaring the Continued Existence of a Local Emergency in the City of Brisbane in Response to the COVID-19 Pandemic

CM Lentz requested Item I to be removed for discussion. Mayor O'Connell and the Council received public comment regarding Item O. Mayor O'Connell removed the item for discussion.

CM Conway made a motion, seconded by CM Davis, to approved Consent Calendar Items C-H, and J-N. The motion was carried unanimously by all present.

Ayes: Councilmembers Conway, Cunningham, Davis, Lentz and Mayor O'Connell
Noes: None
Absent: None
Abstain: None

O. Ratify Agreement between the City, the Friends of the Brisbane Library and Precita Eyes for the Design and Installation of Public Art (a Mural) at the New Brisbane Library

Dana Dillworth's written correspondence was read into the record. She expressed the pivotal images missing in the mural design.

Michelle Salmon wrote in a text her concern that an invasive species would be featured in the mural.

After some council discussion, CM Cunningham made a motion, seconded by CM Lentz to approve Consent Calendar Item O. The motion was carried unanimously by all present.

Ayes: Councilmembers Conway, Cunningham, Davis, Lentz and Mayor O'Connell
Noes: None
Absent: None
Abstain: None

I. Reject All Bids for the Guadalupe Channel Erosion Control Project

After some Council questions and discussion with City Engineer Breault, public comment was received from Michelle Salmon asking if the High Speed Rail would affect this project.

CM Lentz made a motion, seconded by CM Cunningham to approve Consent Calendar Item I. The motion was carried unanimously by all present.

Ayes: Councilmembers Conway, Cunningham, Davis, Lentz and Mayor O'Connell
Noes: None
Absent: None
Abstain: None

1. PUBLIC HEARING

P. 338 Kings Road; Appeal of Grading Review EX-4-19

(Council will Consider Appeal of Planning Commission's denial of proposed grading plan involving approximately 357 cubic yards of soil cut and export to accommodate a new driveway and additions, including a two-car attached garage, for an existing single-family dwelling; Abraham Zavala, applicant; Huang John & Chen Joy Trust, owner)

Interim City Attorney McMorrow reported that CM Conway and CM Cunningham do not have a conflict of interest regarding this public hearing item.

Senior Planner Ayres reported the grading permit involves approximately 357 cubic yards of soil cut and export to accommodate a new driveway and additions including a two-car attached garage, for an existing single-family dwelling. She also reported on the background information of the appeal, namely:

- Feb. 27, 2020: Planning Commission public hearing ends with vote to deny project. Findings of denial not adopted; final action deferred to next meeting.
- May 14, 2020: Planning Commission grants applicant request to allow reconsideration of revised plans before taking final action on application.
- June 25, 2020: Planning Commission holds public hearing to reconsider application with revised plans and scope and denies application.
- July 9, 2020: Property owner (appellant) appeals denial to the City Council.

Senior Planner Ayres also reported that the appellant requests that Council overturn the Planning Commission denial and approve the grading application. And that the Appeal hearing is "de novo." Council may affirm, reverse, or modify the decision of the Planning Commission.

After Council questions, Mayor O'Connell opened the public hearing.

Applicant Abraham Zavala and Owner John Huang asked the Council to consider upholding their appeal and addressed questions the Council had about their project.

Prem Lall's written correspondence asking questions about the appeal process was read into the record.

Kim Follien's written correspondence asking the Council to uphold the appeal of the property owners of 338 Kings Road.

Prem Lall spoke and wrote email and text correspondences asking the Council to deny the appeal because it could be a disaster for down slope neighbors without a hydrological study.

Michelle Salmon spoke and wrote text messages about her concerns for the tree. She also commended the Planning Commission for doing a very diligent job.

Michael Barnes spoke in support of the owners and expressed that the Council should approve the original configuration.

After Council questions, and discussion with staff, appellant and owner, CM Cunningham made the motion, seconded by CM Conway, to close the public hearing. The motion was carried unanimously by all present.

Ayes: Councilmembers Conway, Cunningham, Davis, Lentz and Mayor O'Connell
Noes: None
Absent: None
Abstain: None

After Council questions and discussion with staff, Mayor O'Connell called for a 15 minute break.

After the break and further Council discussion and questions, CM Davis made a motion, seconded by CM Lentz, to adopt Resolution No. 2020-53 to uphold the appeal of the property owners of 338 Kings Road and conditionally approving grading permit EX-4-19 for driveway and site access improvements and additions to an existing single-family dwelling at 338 Kings Road, subject to staff clarifying on street parking and waiving appeal fee.

The motion passed with a 4 to 1 vote:

Ayes: Councilmembers Conway, Cunningham, Davis, and Lentz
Noes: Mayor O'Connell
Absent: None
Abstain: None

2. OLD BUSINESS

Q. Consider Adoption of Ordinance 654, waiving second reading, Authorizing an Amendment to the Contract Between the City of Brisbane and the Board of Administration of the California Public Employees' Retirement System to Add Cost-Sharing Pursuant to Government Code Section 20516

Administrative Services Director Schillinger reported that Ordinance 654 is up for adoption to amend the City's contract with the California Public Employees Retirement System (CalPERS) to include a monthly employee contribution of 2.0% of salary as provided under Government Code Section 20516, applicable to all classic members represented by the International Association of Firefighters-Local 2400, AFL-CIO.

CM Conway made a motion, seconded by CM Lentz to adopt Ordinance 654 waiving second reading, Authorizing an Amendment to the Contract Between the City of Brisbane and the Board of Administration of the California Public Employees' Retirement System to Add Cost-Sharing Pursuant to Government Code Section 20516. The motion was carried unanimously by all present.

Ayes: Councilmembers Conway, Cunningham, Davis, Lentz and Mayor O'Connell
Noes: None
Absent: None
Abstain: None

R. Consider Approval of funding the 400 Kings Road Slope Stability Plans Project from the General Fund in the amount of $250,000

CM Lentz made a motion, seconded by CM Davis, to approve funding of the 400 Kings Road Slope Stability Plans Project from the General Fund in the amount of $250,000.

The motion was carried unanimously by all present.

Ayes: Councilmembers Conway, Cunningham, Davis, Lentz and Mayor O'Connell
Noes: None
Absent: None
Abstain: None

3. NEW BUSINESS

S. Use of Co-sponsorship funds to assist non-profit organizations in Brisbane

(Council will consider directing staff to set aside $10,000 from Co-sponsorship budget and create a process for non-profits to submit requests for funding due to an inability to have their usual fundraisers)

4. STAFF REPORTS

T. City Manager's Report on Upcoming Activities

City Manager Holstine provided an update on short term rentals and the importance of signing up for SMC Alert. CM Davis also reminded members of the public to participate in the Open Space and Ecology Committee's Recycled Art contest and to fill out the 2020 Census.

5. MAYOR/COUNCIL MATTERS

U. City Council Ad Hoc Subcommittee on Equity, Diversity and Inclusion

CM Davis reported that members of the community reached out to her about creating a subcommittee to discuss equity, diversity and inclusion issues affecting the City. Mayor O'Connell directed staff to create an ad hoc subcommittee for Equity, Diversity and Inclusion for the newly elected Councilmembers from the November 3, 2020 elections.

V. Council Commissions and Committees Recruitment Update

CM Davis reported that diversity in Council Commissions and Committees should be considered by the Council. After some Council discussion with staff, Mayor O'Connell and Council directed staff to reopen recruitment in November for City Council Commissions and Committees and begin interviews in January of 2021.

W. Designation of Voting Delegates and Alternates to the League of California Cities Annual Conference and Expo –October 7-9, 2020

Mayor O'Connell was voted delegate and Mayor Pro Tem Cunningham was voted alternate to the League of California Cities Annual Conference and Expo. This virtual event will be held on October 7 and October 9, 2020.

X. Countywide Assignments and/Subcommittee Reports

Due to the late hour, no reports were given.

Y. City Council Meeting Schedule

The next City Council Meeting is scheduled for September 17, 2020.

Z. Written Communications

Due to the late hour written communication was not read into the record. The following written communication was received by the Council between June 19th and September 3, 2020.

- Anja Miller (6/21/20) OPPOSE the Worst Bills of 2020 and Back 1 Good Bill! Instantly
- Silicon Valley Bicycle Coalition (6/22/20) SVBC covid emergence recommendations
- Sepi Wood (6/23/20) COMMENTS – 340 KINGS ROAD – THE WOOD FAMILY- June 23,
- Matthew Page (6/26/20) INVITATION: Kaiser Permanente Youth Mental Health During COVID-19 Briefing
- David Page (7/2/20) Tele-commute talk?
- Karen Lentz (7./3/20) With Appreciation
- Alice Lee (7/16/20) [REQUEST FOR SUPPORT] Help COVID-19 Vaccines
- Stoneridge Hospitality (7/18/20) Council Correspondence: Notice of Permanent Layoff- Stoneridge Hospitality
- Nancy Lacsamana (7/19/20) AIR BNB's during COVID and during the 90 day period
- Jim O'Shea (7/22/20) Black Lives Matter Flag on City Property
- CJ MacDonald (7/22/20) City of Brisbane Short Term Rental Policy Update
- Del Shembari (7/31/20) San Bruno Mountain Watch Peking Handicraft/Levinson Property position Letter
- Karen Lentz (7/31/20) P&R application
- Jefferson Union High School District (7/31/20) 14 Day Notice of Proposal to Implement Developer Fees
- Sandie Goda (8/1/20) Save the Acres
- Jean Nordstrom (8/20/20) Receipt Confirmation
- Prem Lall (8/26/20) September 3, 2020 City Council hearing re Grading Review EX-4-19
- Dana Dillworth (9/1/20) Item O
- Kim Follien (9/2/20) BCC 9/3/2020 Meeting: 7. Public Hearing for 338 Kings Rd Appeal of Grading Review
- Dana Dillworth (9/3/20) 1 San Bruno Sale

6. ORAL COMMUNICATIONS NO. 2

No members of the public wished to provide public comment.

ADJOURNMENT

AA. Closing the City Council Meeting in Memory of Robert "Rob" O'Connell, Dan Hayes, Robert (Kolbe) Keidler, and Gary B. Stockton

Mayor Pro Tem Cunningham adjourned the meeting at 11:15 p.m. in memory of Robert "Rob" O'Connell, Dan Hayes, Robert (Kolbe) Keidler, and Gary B. Stockton

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Ingrid Padilla, City Clerk

File Attachments for Item:

D. Adopt Resolution No. 2020-58 Approving Application(s) for Per Capita Grant Funds from State Proposition 68

CITY COUNCIL AGENDA REPORT

Meeting Date: September 17th, 2020

From: Noreen Leek, Recreation Manager

Subject: Resolution Approving Application(s) for Per Capita Grant Funds from State Proposition 68

Community Goal/Result
Community Building

Purpose
Maintain high-quality recreation facilities for community interaction.

Recommendation
Adopt Resolution No. 2020-58 approving application(s) for per capita grant funds generated by Proposition 68.

Background
The mission of the California Department of Parks and Recreation is to provide for the health, inspiration, and education of the people of California by helping to preserve the state's extraordinary biological diversity, protecting its most valued natural and cultural resources, and creating opportunities for high-quality outdoor recreation.

The Per Capita grant funding program originates from Proposition 68, placed on the ballot via Senate Bill 5 (DeLeon, Chapter 852, statues of 2017), and approved by voters on June 5, 2018. Funds for the program were appropriated via State Budget item 3790-101-6088(b).

Funds are available for local park rehabilitation, creation, and improvement grants to local governments on a per capita basis. Grant recipients are encouraged to utilize awards to rehabilitate existing infrastructure and to address deficiencies in neighborhoods lacking access. Projects must be for recreational purposes, either acquisition or development. Projects not serving a severely disadvantaged community require a 20% match. Grantees must use per capita grant funds to supplement existing expenditures, rather than replace them.

All grantees must pass one resolution approving the filing of all applications associated with the contract and submit the resolution to the State Department's Office of Grants and Local Services (OGALS). The authorizing resolution serves two purposes:

1. It is the means by which the grantee's governing body agrees to the terms of the contract.
2. Designates a position title to represent the governing body on all matters regarding projects associated with the contract.

Fiscal Impact

The per capita grant funding allocation for Brisbane could total $177,952.00

Attachments

1. Resolution No. 2020-58

Noreen Leek, Recreation Manager

Clay Holstine, City Manager

Resolution Number: 2020-58
RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE APPROVING APPLICATION(S) FOR PER CAPITA GRANT FUNDS

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility by the Legislature of the State of California for the administration of the Per Capita Grant Program, setting up necessary procedures governing application(s); and

WHEREAS, said procedures established by the State Department of Parks and Recreation require the grantee's Governing Body to certify by resolution the approval of project application(s) before submission of said applications to the State; and

WHEREAS, the grantee will enter into a contract(s) with the State of California to complete project(s);

NOW, THEREFORE, BE IT RESOLVED that the Brisbane City Council hereby:

1. Approves the filing of project application(s) for Per Capita program grant project(s); and

2. Certifies that said grantee has or will have available, prior to commencement of project work utilizing Per Capita funding, sufficient funds to complete the project(s); and

3. Certifies that the grantee has or will have sufficient funds to operate and maintain the project(s), and

4. Certifies that all projects proposed will be consistent with the park and recreation element of the City of Brisbane's general or recreation plan (PRC §80063(a)), and

5. Certifies that these funds will be used to supplement, not supplant, local revenues in existence as of June 5, 2018 (PRC §80062(d)), and

6. Certifies that it will comply with the provisions of §1771.5 of the State Labor Code, and

7. (PRC §80001(b)(8)(A-G)) To the extent practicable, as identified in the "Presidential Memorandum--Promoting Diversity and Inclusion in Our National Parks, National Forests, and Other Public Lands and Waters," dated January 12,2017, the City of Brisbane will consider a range of actions that include, but are not limited to, the following:

(A) Conducting active outreach to diverse populations, particularly minority, low-income, and disabled populations and tribal communities, to increase awareness within those communities and the public generally about specific programs and opportunities.

(B) Mentoring new environmental, outdoor recreation, and conservation leaders to increase diverse representation across these areas.

(C) Creating new partnerships with state, local, tribal, private, and nonprofit organizations to expand access for diverse populations.

(D) Identifying and implementing improvements to existing programs to increase visitation and access by diverse populations, particularly minority, low-income, and disabled populations and tribal communities.

(E) Expanding the use of multilingual and culturally appropriate materials in public communications and educational strategies, including through social media strategies, as appropriate, that target diverse populations.

(F) Developing or expanding coordinated efforts to promote youth engagement and empowerment, including fostering new partnerships with diversity-serving and youth-serving organizations, urban areas, and programs.

(G) Identifying possible staff liaisons to diverse populations.

8. Agrees that to the extent practicable, the project(s) will provide workforce education and training, contractor and job opportunities for disadvantaged communities (PRC §80001(b)(5)).

9. Certifies that the grantee shall not reduce the amount of funding otherwise available to be spent on parks or other projects eligible for funds under this division in its jurisdiction. A one-time allocation of other funding that has been expended for parks or other projects, but which is not available on an ongoing basis, shall not be considered when calculating a recipient's annual expenditures. (PRC §80062(d)).

10. Certifies that the grantee has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Procedural Guide; and

11. Delegates the authority to the Brisbane City Manager or designee to conduct all negotiations, sign and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the grant scope(s); and

12. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

Terry O'Connell
Mayor

I, the undersigned, hereby certify that the foregoing Resolution Number 2020-58 was duly adopted on September 17, 2020 by the Brisbane City Council following a roll call vote:

Ayes:
Noes:
Absent:

_____

Ingrid Padilla
City Clerk

File Attachments for Item:

E. Adopt Resolution No. 2020-55 Declaring Property Owned by the City of Brisbane as Surplus Land Adopt

(Resolution No. 2020-55 is regarding declaring a certain property owned by the City, a landlocked, vacant site of approximately 28,000 square feet located in Crocker Park, encumbered by a drainage canal, as surplus land)

CITY COUNCIL AGENDA REPORT

Meeting Date: September 17, 2020

From: Clay Holstine, City Manager

Subject: Resolution Declaring Property Owned by the City of Brisbane as Surplus Land

Community Goal/Result
Fiscally Prudent

Recommendation

Adopt the attached resolution (Attachment 1) declaring that certain property owned by the City, a landlocked, vacant site of approximately 28,000 square feet located in Crocker Park, encumbered by a drainage canal, as surplus land.

Background

State law, the Surplus Lands Act ("SLA") requires that before a local agency (broadly defined) takes any action to dispose (sell or lease) property, it must declare the property to be either "surplus land" or "exempt surplus land". Unless the surplus land is exempt, the agency must give written notice of its availability to any local public entity, including schools and park districts, within whose jurisdiction the property is located, as well as to housing sponsors that have notified the State Department of Housing and Community Development (HCD) of their interest in surplus property. The notice of availability must be given prior to the agency "participating in negotiations to dispose of the property". An entity receiving notice from the agency has 60 days to notify the agency of its interest in purchasing the property and the agency is required to negotiate in good faith for not less than 90 days with any entity that has responded. Notwithstanding the obligation to negotiate in good faith, the local agency is not required to sell or lease the property for less than fair market value.

If an agency fails to provide the proper notices, there is a significant penalty that requires a local agency to forfeit 30% of the purchase/lease proceeds for the first violation and 50% for any subsequent violations.

The SLA has a number of exemptions but none of those exemptions are expressly applicable to this site.

The City owns property in Crocker Park that it obtained without cost from the McKesson Corporation in 1996. The property in question is former railroad right of way and, at the time the City took title to the property, the property was approximately six hundred ninety (690) feet in length and forty-four (44) feet in width. This strip of land was (and remains) undeveloped and is landlocked. Portions of the property are encumbered with a drainage

canal. The McKesson Corporation did not impose any conditions or restrictions on the use of the property when it transferred the property to the City and no conditions or restrictions on its use exist today. Many of the properties that adjoin this strip of land are developed.

In 2015, the City sold a portion of former railroad right of way property (29,306 square feet) to South Hill Properties (Sheng Kee Bakery) that owned (and owns) property (201 South Hill Drive) immediately adjacent to the property sold by the City. Also adjacent to this City owned property in question is a 2.1 acre site owned by the Frito-Lay Corporation ("Frito-Lay"), at 151 West Hill Place. Frito-Lay has also requested the City to sell a portion of City property—approximately 28,000 square feet-- immediately adjacent to its property, as occurred in an earlier South Hill Properties transaction, for parking purposes. A map depicting the area of which Frito-Lay has an interest in attached as Attachment 2. Of the 28,000 square feet adjacent to the Frito-Lay property, approximately one-third is encumbered with a drainage canal. Frito-Lay has indicated that if this property were sold to it, it would construct a trail on a portion of its property as well as on the property sold to it by the City, in order to connect to the eastern boundary of San Bruno Mountain State and County Park Frito-Lay has also indicated it would restrict the property it would purchase from the City for parking of vehicles only and that it would maintain the drainage canal.

The City has no current use of this property and has no foreseeable use of it for public purposes. The City would, however, maintain the trail if this property were sold to Frito-Lay and the trail constructed.

Discussion

Because the City does not need this property for its use, in order for the City to sell the property, it must declare the property surplus land (and provide the notices described above).

As to this property, staff recommends the City declare this property "surplus land", as none of the exemptions apply. Following that declaration, City staff will notify the various agencies and any "sponsors" on HCD's list of the availability of the site. Assuming the City does not receive any interest within 60 days from any one to whom notice has been sent, staff will proceed with its discussions with Frito-Lay. If the City receives any interest, it must in good faith negotiate for the sale of the property for 90 days with the interested party. The City, however, is under no obligation to sell the property for less than fair market value. If the City does not receive any interest or, if such interest is received but no agreement is reached, then discussions with Frito-Lay for disposition of the property will continue.

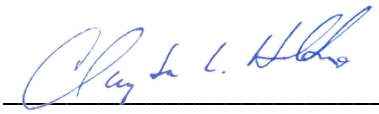
Attached is a resolution making the findings that the property is surplus land.

Fiscal Impact

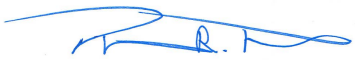
There is no fiscal impact by adopting the attached resolution. If the resolution is adopted, the City may proceed to sell the property for its fair market value. Any purchase and sale agreement would be presented to the City Council at a City Council meeting.

Attachments:

1. Resolution Declaring Property Owned by the City of Brisbane as Surplus Land
2. Map depicting the Property to be declared Surplus Land



Clay Holstine, Executive Director



Thomas McMorrow, Interim City Attorney

Michael Roush, Legal Counsel

BRISBANE CITY COUNCIL RESOLUTION NO. 2020-55

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE DECLARING CERTAIN PROPERTY IT OWNS AS SURPLUS LAND

Whereas, State law, the Surplus Lands Act ("SLA") requires that before a local agency, including a City, takes any action to sell or lease its property, it must declare the property to be either "surplus land" or "exempt surplus land"; and

Whereas, "surplus land" means land owned in fee simple by any local agency for which the local agency's governing body takes formal action in a regular meeting declaring that such land is surplus and is not necessary for the agency's use; and

Whereas, unless the surplus land is exempt, the agency must give written notice of its availability to any local public entity, including schools and park districts, within whose jurisdiction the property is located, as well as to housing sponsors that have notified the State Department of Housing and Community Development (HCD) of their interest in surplus property; and

Whereas, the City of Brisbane owns vacant, landlocked, property in Crocker Park, and

Whereas, the Frito-Lay Corporation also owns property within Crocker Park and approximately 28,000 square feet of City owned property lies immediately adjacent to the Frito-Lay property; and

Whereas, Frito Lay has asked the City whether it would sell to it the approximate 28,000 square feet of City property, as depicted on the attached Exhibit 1, to be used by Frito-Lay solely for the parking of vehicles; and

Whereas, there is a drainage canal on the property and Frito-Lay has indicated that if the City sells the property to it, it would maintain the drainage canal in perpetuity; and

Whereas, Frito-Lay has also indicated that it would construct on its existing property and on the property it would acquire from the City a trail that would connect to the eastern boundary of San Bruno Mountain State and County Park; and

Whereas, the City Council finds and determines that the City has no need of this property for public purposes because of its odd shape and location and that Frito-Lay, should the property be sold to it, would maintain the drainage canal on the property in perpetuity; and

Whereas, the City Council further finds, based upon the foregoing recitals, that the approximate 28,000 square feet of City owned property is surplus land.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BRISBANE RESOLVES AS FOLLOWS:

Section 1. The vacant, approximately 28,000 square foot site in Crocker Park, as depicted on the attached Exhibit 1, is declared surplus land and the City Manager shall, on behalf of the City, (a) send the appropriate notices under Government Code, section 54222, (b) negotiate in good faith for the disposition of the property should there be any interest in the property, and (c) participate in negotiations to dispose of the property should there be no interest or, if there is interest, no agreement as to the property's disposition is reached.

Section 2. This Resolution shall become effective immediately upon its adoption.

Terry O'Connell, Mayor

I hereby certify that the foregoing Resolution No. 2020-55 was duly and regularly adopted at a regular meeting of the Brisbane City Council on September 17, 2020 by the following vote:

AYES:

NOES:

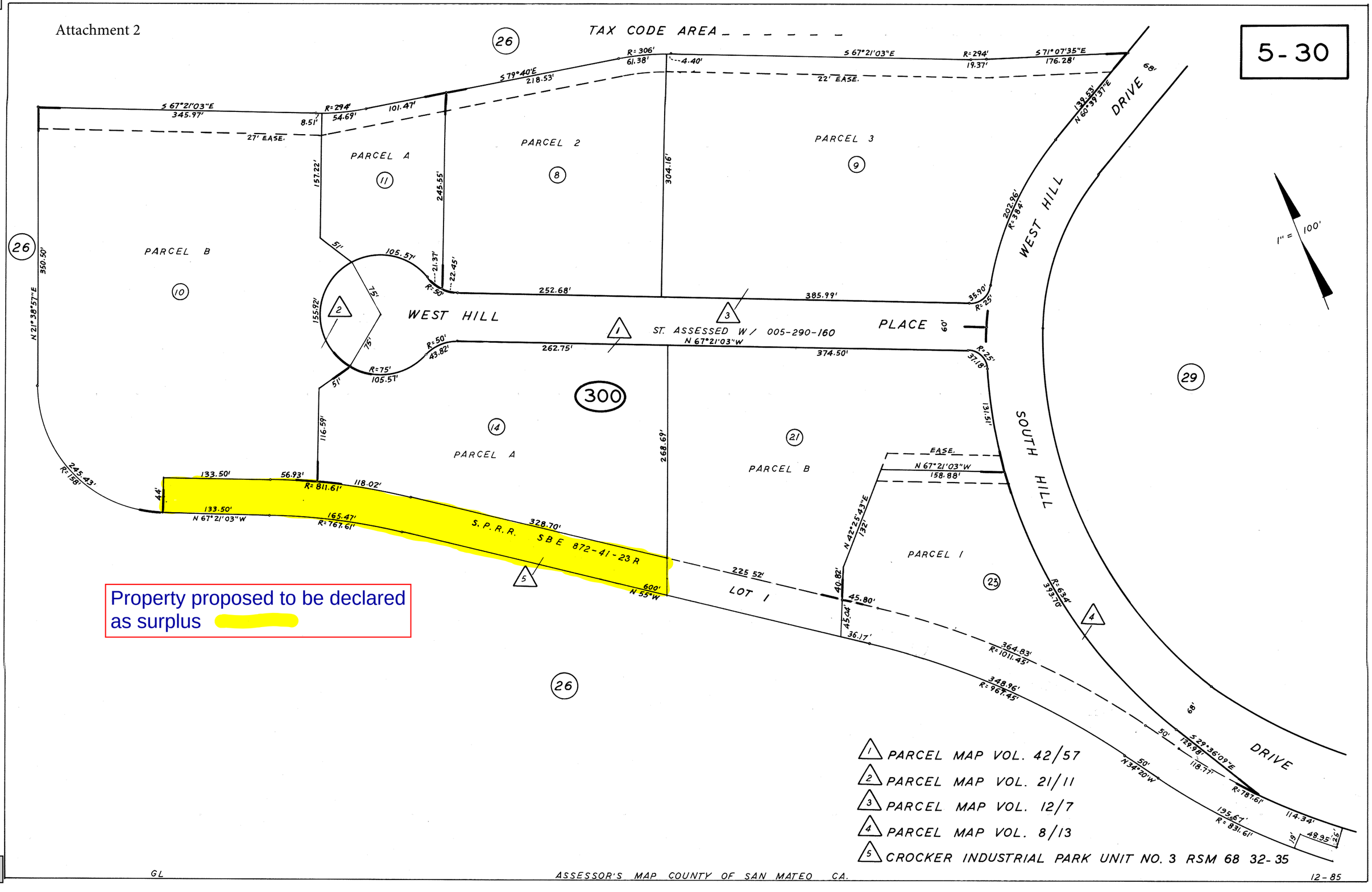
ABSENT:

ABSTAIN:

Ingrid Padilla, City Clerk

Attachment 2

5-30



Property proposed to be declared as surplus

GL ASSESSOR'S MAP COUNTY OF SAN MATEO CA. 12-85

File Attachments for Item:

F. Adopt Resolution No. 2020-57 approving the Memorandum of Understanding between the City and the Brisbane Police Officers Association for the term of July 1, 2019 to June 30, 2022

CITY COUNCIL AGENDA REPORT

Meeting Date: September 17, 2020

From: Abby Partin, Human Resources Administrator

Subject: Adopt Resolution No. 2020-57 approving the Memorandum of Understanding between the City and the Brisbane Police Officers Association for the term of July 1, 2019 to June 30, 2022

Community Goal/Result
Fiscally Prudent

Purpose

To ensure the community continues to receive excellent service by retaining and attracting exceptional employees in a financially prudent manner.

Recommendation

Adopt Resolution No. 2020-57 approving the Memorandum of Understanding between the City and the Brisbane Police Officers Association for the term of July 1, 2019 to June 30, 2022

Background

The Brisbane Police Department includes ten (10) police officers and four (4) sergeants that are represented by the Police Officers Association (POA). The current Memorandum of Understanding (MOU) with the Brisbane Police Officers Association expired on June 30, 2019.

The labor relations team and POA representatives have met and conferred on terms and conditions over the past months and presented a Tentative Agreement, which the City Council approved.

Discussion

The City's and the POA's negotiation teams reached a Tentative Agreement on November 27, 2019. Discussions with the POA have resulted in the following elements of the Tentative Agreement:

- **Article 5.A.** Salary adjustments
  - 4% Cost of Living Adjustment effective first full pay period in January 2020
  - 4% increase to offset change in Flexible Savings Account amount effective first full pay period in January 2020
  - $1,500 one-time lump sum payment effective first full pay period in January 2020
  - 4% Cost of Living Adjustment effective first full pay period in July 2020
  - 4% Cost of Living Adjustment effective first full pay period in July 2021

- **Article 5.B.** Clarify payroll deduction for association dues consistent with the Supreme Court's decision in *Janus v. AFSCME* and state legislation
- **Article 7.A.** Increase court time from a minimum of 3 hours to 4 hours
- **Article 13.B.**
    - City Contribution to the Flexible Compensation Plan effective December 2019:
        - No Plan: $622.71, Single Party: $765.03, Two Party: $1677.74, Family: $2225.40
    - The City's contribution to the cafeteria plan shall increase as follows:
        - 3% guaranteed increase in December 2020
        - 3% guaranteed increase in December 2021
        - The overall increase in the cafeteria plan will be no more than a cumulative 12% over the three-year period, Increases above the guaranteed rates will occur if the Kaiser Area 1 rate increases above the cumulative guaranteed rate
- **Article 13.C**. Dental Insurance: The City will increase the benefit by $50 a month. The City anticipates that a non-city reimbursement plan will be chosen, if an alternative plan isn't chosen, the City will conform to the rules of the existing plan and pay for costs covered by the amount available within the plan funds.
- **Article 48** The Parties agree to work collaboratively in an attempt to reduce the number of instances when shift start time are changed on short notice. The Parties agree that, in order to do so, sworn employees will need to provide additional notice to the department of planned absences. The Parties agree that flexibility requires mutual effort. The Parties shall meet within 60 days of ratification of this agreement with the intention of developing protocols to further these goals.

Additional changes observed in the MOU can be characterized as clean up items, where previously negotiated amendments to the MOU are now being placed within the MOU:

- **Article 3.C.** Added language that it shall be understood to include all genders when using gender pronoun
- **Article 13** Updated CalPERS Employer Health Contribution with current rates

Fiscal Impact

The costs to implement the Memorandum of Understanding are included in the adopted budget for fiscal year 2020-21 and will be incorporated in the ensuing budget.

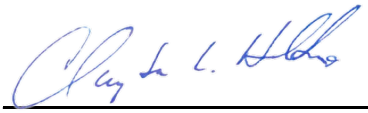
Measure of Success

Reach an agreement with the bargaining group which protects the City's long-term interests.

Attachments

Resolution 2020-57

Abby Partin, HR Administrator



Clay Holstine, City Manager

RESOLUTION NO 2020-57

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE CONCERNING WAGES, HOURS AND WORKING CONDITIONS FOR THE BRISBANE POLICE OFFICERS ASSOCIATION

WHEREAS, the City of Brisbane and the Brisbane Police Officers Association, have met and conferred in accordance with the requirements of the Meyers-Milias-Brown Act; and

WHEREAS, the City of Brisbane and the Brisbane Police Officers Association have reached an agreement regarding wages, hours and working conditions; and

NOW, THEREFORE, the City Council of the City of Brisbane resolves as follows:
The agreement is approved as set forth in Exhibit A and is incorporated by reference as though fully set forth herein.

_____

Terry O'Connell, Mayor

I hereby certify that the foregoing Resolution No. 2020-57 was duly and regularly adopted at a regular meeting of the Brisbane City Council on September 17, 2020, by the following vote:

Ayes:
Noes:
Absent:
Abstain:

_____

Ingrid Padilla, City Clerk

Exhibit A

MEMORANDUM OF UNDERSTANDING

BETWEEN THE

CITY OF BRISBANE

AND THE

BRISBANE POLICE OFFICERS ASSOCIATION

JULY 1, 2019 – JUNE 30, 2022

MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF BRISBANE AND THE BRISBANE POLICE OFFICERS ASSOCIATION

ARTICLE 1. PREAMBLE

Pursuant to Government Code 3500, as amended, et seq., this Memorandum of Understanding has been entered into by the City of Brisbane, hereafter referred to as "the City", and the Brisbane Police Officers Association, hereafter referred to as "the Association", on September 17, 2020. The purpose of this Memorandum of Understanding is the promotion of harmonious relations, peaceful resolution of differences, and the establishment of rates of compensation, hours of work, and other matters relating to employment conditions to be observed by the parties.

The terms of the Memorandum of Understanding shall be subject to review and meet and confer by the parties if the State of California or the Federal government through executive or legislative action substantially affects the ability of the City to provide funding for City Council adopted services. This review and meet and confer may also be exercised in the event there is a recession (as declared by the National Bureau of Economic Research and defined as two consecutive quarters of negative growth in the United States Gross Domestic Product (GDP)).

ARTICLE 2. RECOGNITION

A. Bargaining Unit Representation
The City hereby recognizes the Association as the sole and exclusive representative for the bargaining unit consisting of the following classifications.

Police Officer
Sergeant

B. Authorized Representatives
The Association shall provide and maintain with the City's authorized labor relations representative and the Chief of Police, a list of current officials of the Association, as well as the names of any other person(s) who are authorized to officially represent the Association in its dealings with the City.

The City Manager or designee of the City of Brisbane or any person or organization duly authorized by the City Manager or designee, is the representative of the City of Brisbane.

ARTICLE 3. NON-DISCRIMINATION

A. The parties mutually recognize and agree to protect the rights of all employees hereby to join and/or participate in protected Association activities or to refrain from joining or participating

in protected activities in accordance with the Employer-Employee Relations Resolution and Government Code Sections 3500, et seq.

B. The City and Association agree that they shall not discriminate against any employee because of race, color, religion, sex, sexual orientation, marital status, age, national origin, ancestry, disability, medical condition, military or veteran status. The City and the Association shall reopen any provision of this Agreement for the purpose of complying with any order of a federal or state agency or court of competent jurisdiction requiring modification or change in any provision or provisions of this Agreement in compliance with state and federal anti-discrimination laws.

C. Whenever a gender pronoun is used in this Memorandum of Understanding, it shall be understood to include all genders.

ARTICLE 4. MANAGEMENT RIGHTS AND IMPACT OF MANAGEMENT RIGHTS

A. The City reserves, retains, and is vested with, solely and exclusively, all rights of management which have not be expressed or abridged by specific provisions of this Memorandum of Understanding or by law to manage the City, as such rights existed prior to the execution of the Memorandum of Understanding. The sole and exclusive rights of management, as they are not abridged by this Agreement or by law, shall include, but not be limited to, the following rights:

1. To manage the City generally and to determine the issues of policy;
2. To determine the existence of non-existence of facts which are the basis of the management decision;
3. To determine the necessity of organization of any service or activity conducted by the City and expand or diminish services;
4. To determine the nature, manner, means, technology, and extent of services to be provided to the public;
5. Methods of financing;
6. Types of equipment or technology to be used;
7. To determine and/or change the facilities, methods, technology, means and size of the work force by which the City operations are to be conducted;
8. To determine and change the number of locations, relocations and types of operations, processes and materials to be used in carrying out all City functions including, but not limited to, the right to contract for or subcontract any work or operation of the City;
9. To assign work to and schedule employees in accordance with requirements as determined by the City, and to establish and change work schedules and assignments;
10. To relieve employees from duties for lack of work or similar non-disciplinary reasons;
11. To establish and modify productivity and performance programs and standards;
12. To discharge, suspend, demote or otherwise discipline employees for proper cause in accordance with the provision and procedures set forth in City Personnel Rules and Regulations;
13. To determine job classifications and to reclassify employees;

14. To hire, transfer, promote and demote employees for non-disciplinary reasons in accordance with this Memorandum of Understanding and City's Rules and Regulations;
15. To determine policies, procedures and standards for selection, training and promotion of employees;
16. To establish employee performance standards including, but not limited to, quality and quality standards; and to require compliance therewith;
17. To maintain order and efficiency in its facilities and operations;
18. To establish and promulgate and/or modify rules and regulations to maintain order and safety in the City which are not in contravention with the Agreement;
19. To take any and all necessary action to carry out the mission of the City in emergencies.

B. Impact of Management Rights

Where required by law, and within the scope of representation, the City agrees prior to implementation to meet and confer with the Association over the impact of the exercise of management's rights upon the wages, hours, and terms and conditions of employment on unit members unless the impact consequences of the exercise of a management right upon unit members is provided for in the Memorandum of Understanding.

ARTICLE 5. CLASSIFICATION AND PAY RATES

A. Wages

Wages for covered employees are set forth in Appendix A, which is hereby incorporated as though set forth in full.

Each employee shall be compensated on a bi-weekly basis. Payment will normally be made on Friday immediately following the conclusion of a City payroll period. A City payroll period begins on the Monday which is the first day of the City pay period and ends on the Sunday which is the last day of the City pay period and consists of fourteen (14) calendar days.

The following changes in the wages will be made during the term of the agreement:

1. Effective the first full pay period in January 2020, the bargaining unit will receive a Cost of Living Adjustment of 4%.
2. In addition, effective the first full payroll period in January 2020, the bargaining unit will receive an increase of 4.0% to offset the change in employee contribution amount to the Cafeteria Plan.
3. Effective the first full pay period in January 2020, the bargaining unit will receive a one-time lump sum payment in the amount of one thousand five hundred dollars ($1,500).
4. Effective the first full pay period in July 2020, the bargaining unit will receive a Cost of Living Adjustment of 4%.
5. Effective the first full pay period in July 2021, the bargaining unit will receive a Cost of Living Adjustment of 4%.

B. Payroll Deduction – Association Dues

Upon the receipt of a written request and authorization from the Union for deduction of Association dues from an employee's paycheck, the City shall withhold such dues and deductions from the salary of the employee. The amount of the deductions shall be submitted by the City to the officer, bank, and/or firm designated by the Union as the person, bank, or firm authorized to receive such funds. The City shall continue to withhold such deductions unless the Union files a statement with the City withdrawing authorization for the continued withholding of the deductions. Payroll deductions for association dues shall be conducted in accordance with applicable state law.

ARTICLE 6. OVERTIME

Overtime when authorized by an employee's supervisor, shall be paid on the following basis:

A. The work period for employees assigned to positions other than shift work shall begin on Monday and end on Sunday (40-hours per workweek) and the hours worked will normally fall between 8:00 AM and 5:00 PM or such other schedule as determined by the Department Head.

B. Employees assigned to shift work shall work a 7(k) work period. The shift cycle (average of 42-hours per week) shall be four (4) consecutive tours of duty followed by four (4) consecutive days off-duty. The workday shall be 12-hours, with the shifts beginning at 7:00 AM and 7:00 PM or such other schedule as determined by the Department Head. The work period shall be 24 days, where the maximum non-overtime hours will be 147 hours. The City shall retain the right to change the shift cycle and/or work period, so long as the change is intended to be permanent and not done to avoid overtime obligations required under the Fair Labor Standards Act.

C. An employee required to work in excess of the regularly scheduled workday or regularly scheduled work shift, or as required under the Fair Labor Standard Act, shall be compensated for each overtime hour as authorized by employee's supervisor at a rate of one-and one-half times the employee's regular rate of pay.

D. The Fair Labor Standards Act requires that educational and other incentive pays be included in determining the regular rate of pay. For shift personnel, the hourly equivalent to the regular rate of pay shall be computed by dividing the annual base pay, including educational and incentive pays, by the total scheduled hours of 2,184. For employees assigned to a forty (40) hour workweek, the regular rate of pay shall be computed by dividing the annual base pay, including educational and incentive pays, by 2,080 hours.

E. Nothing herein shall preclude the covered employee and supervisor from adjusting the employee's work schedule to reduce or eliminate such overtime if such adjustment is with the mutual consent of the employee and supervisor.

ARTICLE 7. CALLBACK PAY

When an off-duty employee is called back to work, a minimum of two (2) hours pay shall be paid. The callback pay shall be paid at overtime rates if the employee has worked sufficient hours to have been placed into an overtime situation.

A. Court Time
Any employee required to report to court while not on duty shall receive a minimum of four (4) hours pay for such court appearance at the time and one-half rate of pay.

B. Page Standby
Police Sergeants and Officers who volunteer to be on pager standby for purposes of callback to duty shall receive one hour of overtime compensation for every 24 consecutive hours of standby. The employee has the choice of either pay or compensatory time off.

Standby compensation is only authorized by the Chief of Police or his/her designee based on shift staffing. When patrol staffing levels reach a minimum of two sworn employees per each 12-hour shift, then pager standby is authorized for one sworn employee. When one or more of the shifts in a 24-hour period has more than two sworn employees scheduled to work, then pager standby is not authorized.

For the purpose of this article, sworn employees are defined as:

Officer/Officer
Officer/Sergeant
Sergeant/Sergeant

ARTICLE 8. SPECIAL ASSIGNMENT PAYS

A. Field Training Officer
A Police Officer shall receive an additional $15.00 per shift when assigned as a Field Training Officer.

B. Special Assignment
The Police Chief may, from time to time, make special assignments outside the employee's classification. Such assignments carry no permanency in class and are made at the sole discretion of the Chief of Police. Participation in such assignments is strictly voluntary. Personnel will receive 5.0% above base salary for the duration of the assignment.

C. K-9 Maintenance Pay
K-9 Officers shall receive compensation equivalent to eight (8) hours of pay at the overtime rate for the care and grooming of their K-9 partner during their off-duty time as outlined in General Directives, Canine Policy.

D. Detective Pay

Officers assigned to detective duties shall receive an additional 10.0% of base salary when so assigned. The assignment to such a position shall be at the discretion of the Police Chief and shall not be considered a "promotional" assignment with the expectation of continuing to receive additional compensation when re-assigned to patrol duties. Employees assigned to detective duties are not eligible to receive holiday pay (6.0%) in lieu of holiday observance.

E. Commander Pay

The City may assign a Sergeant to perform the full range of duties of a City of Brisbane Police Commander. An employee so assigned will receive ten percent (10%) above the employee's current Sergeant base pay for the duration of such assignment. Such assignment outside of the Brisbane Police Officers' Association's bargaining unit is at the sole discretion of the City and may be revoked at any time.

ARTICLE 9. OUT-OF-CLASS PAY

Law enforcement shift personnel may be assigned to assume the duties of a higher shift rank. Law enforcement shift personnel shall be eligible to receive Out-of-Class pay immediately upon assuming such duties. The rate of pay shall be the first step of the higher classification or the next step in the employee's classification, which is not less than 5% more than the employee's current regular rate pay.

ARTICLE 10. WORK WEEK

A. Police Officers and Police Sergeants assigned shift work shall work four consecutive days of twelve-hour shifts followed by four consecutive days off as the shift cycle to be followed during the course of the Agreement. However, it is also understood that nothing contained in the Agreement precludes the Police Chief from making assignments of other hours of work or shift schedules for individuals should the Police Chief determine that the needs of the service so warrant such assignment(s).

B. There will be varying shift cycles for employees covered by this unit as outlined below:

1. Police Officers and Police Sergeants assigned to shift work will work 147 hours in a twenty-four (24) day cycle and/or 2,184 hours annually.

2. Members who are full-time employee and not assigned as shift work personnel shall work a forty-hour workweek and/or 2,080 hours annually.

3. Nothing herein shall restrict the City rights under its layoff procedure set forth in its Rules and Regulations.

ARTICLE 11. SHIFT DIFFERENTIAL

A. Shift employees assigned to and who work a forty-two (42) hour per week work schedule will receive an additional payment of two and a half percent (2.5%) of base wage.

ARTICLE 11. VACATION

A. All full-time personnel in the Classified Service shall be entitled to annual vacation leave as provided below:

Law Enforcement Shift Personnel (42-hour workweek)

Years Continuous Service	Annual Accrual Amount	Maximum Accrual
First 4 years	84 hours	168 hours
After 4 years	126 hours	252 hours
After 9 years	168 hours	336 hours

Non-Shift Personnel (40-hour workweek)

Years Continuous Service	Annual Accrual Amount	Maximum Accrual
First 4 years	80 hours	160 hours
After 4 years	120 hours	240 hours
After 9 years	160 hours	320 hours

B. Vacation credits shall be accrued pro rata on each pay period. Original appointees to law enforcement classifications shall not be eligible to take vacation during the first six (6) months of employment, but shall receive credits for that period when six (6) months of service have been attained.

Lateral appointees to law enforcement classifications shall be eligible for the second tier of vacation, if upon the date of hire, the employee possess nine (9) years of demonstrated experience in his/her field of hire. Advance vacation leave allowance shall be awarded at the discretion of the City Manager. Lateral appointees awarded the second tier of vacation upon the date of hire shall be eligible to move to the third tier of vacation after four (4) years of service. The third tier of vacation shall be the maximum allowable annual vacation accrual.

C. Subject to approval of the City Manager or designee, the department and employee shall schedule the times at which vacation leave is to be taken with due consideration being given to the desires of the employee and the operational needs of the department. Use of vacation leave in less than one-day increments shall be discouraged.

D. Based on operational needs or employee preference, vacation leave earned in a given year may be deferred to the following year. However, the total amount of vacation accrued shall not exceed the maximum accrual listed above, except as noted below.

E. Vacation leave accrued may exceed the listed maximum hours only with approval of the Appointing Authority. Documentation of all vacation deferments approved by the Appointing Authority shall be provided to Human Resources in such form as specified.

F. It is the employee's responsibility to keep track of his/her accrued hours and make timely requests to take earned vacation leave. The granting of a vacation leave request is at the discretion of the Police Chief or designee, based on staffing and operational needs of the department. Failure to plan for and timely scheduling of vacation leave shall result in the loss of further accrual of vacation hours when the maximum number of accrued vacation hours is reached. However, no employee shall lose the accrual of vacation hours when timely vacation requests are made. A timely vacation request shall be one which is submitted within ten (10) days of the requested leave date(s).

G. Where an illness or injury necessitates care and treatment by a physician during an employee's vacation leave, the days of care and treatment shall not be charged against the employee's vacation accrual. Upon presentation of appropriate documentation from the physician such leave will be changed to the employee's sick leave.

H. Employees who leave the City service during their first six months of employment under original appointments shall not receive any vacation leave or payment therefor. All other employees in the Classified Service shall, upon separation in good standing, be entitled to receive payment at their current base rate of pay for all vacation credits earned, but not taken as of the effective date of separation. However, no such payment shall be made for vacation leave credited in advance of being earned.

ARTICLE 12. SICK LEAVE

Employees covered by this agreement shall be provided paid sick leave as set forth below. Sick leave shall not be considered as a right that an employee may use at his/her discretion, but shall be allowed only in the case of actual sickness, injury, disability or medical condition that prevents the employee from performing the full scope of the usual and customary duties of his/her classification. An employee who is granted sick leave is expected to take the appropriate recuperative steps and/or follow physician recommended recuperative steps to assure a timely return to work.

The accrual and usage of sick leave shall be governed by the following provisions:

A. Sick leave shall be earned at the rate of eight hours for each calendar month of service, except that shift personnel shall accrue such leave at the rate of 8.4 hours per month.

B. Sick leave credits for law enforcement shift personnel may be accumulated to a maximum of 1,092 hours and non-shift personnel may accumulate sick leave credits to a maximum of 1,040

hours. Employees separating from the City service shall not be entitled to any payment of unused, accrued leave.

C. Employees shall not accrue sick leave during their first ninety (90) days of employment under original appointments, but shall receive credits for that period when ninety (90) days of service have been attained. However, lateral entry appointment shall be eligible to accrue and use sick leave credits upon the date of hire.

D. In order to be entitled to sick leave, an employee who, because of illness or injury, is unable to report for work shall so notify his immediate supervisor within one hour prior to the commencement of the shift. Per the department's General Orders, a department head may require an earlier notification where it is warranted due to operational needs.

Failure to provide such notification without good reason may result in that day of absence being treated as a leave of absence without pay. The determination in this regard shall be made by the department head and is subject to final approval by the City Manager or designee. Where the period of absence due to illness or injury is not known at the outset, it shall be the responsibility of the employee to remain in contact with his/her immediate supervisor, on a daily basis if deemed necessary by the supervisor.

Where the absence is, or is expected to be, for more than one workday, the employee may be required to file a physician's certificate or stating the specific medical condition and the cause and nature of the illness, injury, disability, or condition that prevents the employee from performing the usual and customary duties of his/her classification with the City Manager or designee. When deemed appropriate, the City Manager or designee may require verification of the employee's 'doctor" certificate by a physician specified by the City.

In the event the employee's doctor's certificate and the opinion of the City's specified doctor's verification as to the employee's ability and/or scheduled time to return to work disagree, the employee may be required to report to a physician that has been agreed to by the employee's physician and the City's physician. The opinion of this physician shall be the final determination. The City will agree to pay for all costs associated with this verification and/or examination. A request for sick leave may be denied and the employee placed on leave without pay and/or disciplinary action being taken up to and including termination, should the employee fail to return to work after being deemed eligible to return to work by this third physician.

The department head or designee may deny a sick leave request and place the employee on leave without pay based on reasonable evidence that the employee failed to follow appropriate and/or doctor specified recuperative steps.

The payment of sick leave may be suspended by the City Manager or designee where there is reasonable grounds to believe that absences on a given day or days are the result of a concerted action on the part of two or more employees which is related to a labor dispute with the City directly or one in which the City is involved as a third party.

E. Where an illness or injury is job-related and covered by State Worker's Compensation, accrued sick leave and vacation credits shall be applied to make up the difference between State benefits and full, base salary. However, sick leave shall not be paid for any absence of a law enforcement employee resulting from illness or injury arising out of the course of employment by the City which is covered under Labor Code 4850.

F. An employee may use one-half of his/her annual accrual of sick leave to attend to the diagnosis, care, or treatment of an existing health condition or preventative care for a child, , spouse, registered domestic partner, parent (including biological, adoptive, foster parent, stepparent or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child), grandparent, grandchild, or sibling. The City Manager or designee may approve use of leave for this purpose for other than the family members defined above.

G. Usage of this benefit shall be charged as follows:

1. Law enforcement shift personnel – One shift equals twelve (12) hours charged against the applicable balance.

2. 40-hour law enforcement personnel – One shift equals eight (8) hours charged against the applicable balance.

H. Accrued sick leave may, with department head approval, be used for medical and dental appointments of the employee where it is unfeasible to schedule them on the employee's own time.

I. No accrued sick leave may be used for any injury or illness arising out of outside employment.

ARTICLE 13. INSURANCE

A. CalPERS Employer Health Contribution
The City shall contribute the minimum health premium contribution for participating active and retired employees under the Public Employees' Medical and Hospital Care Act (PEMHCA), currently at $136 for 2019 and $139 for 2020.

B. Flexible Compensation Plan
The City shall continue to offer a bona fide Flexible Compensation Plan and to make monthly contributions for allocation to health insurance and health and dependent care reimbursement accounts. It is understood that the City may establish such regulations as may become necessary to ensure that the cafeteria plan remains a bona fide plan for the purpose of taxation and FLSA compliance, subject to meet and confer to the extend required by state law.:

The City's contribution to the Flexible Compensation Plan (cafeteria plan) effective December 2019 shall be increased by 3% to the following amounts:

- No Plan $622.71
- Single party $765.03
- Two party $1677.74
- Family $2225.40

The City's contribution to the Flexible Compensation Plan (cafeteria plan) shall increase as follows:

- 3% guaranteed increase in December 2020
- 3% guaranteed increase in December 2021
- The overall increase in the cafeteria plan will be no more than a cumulative 12% over the three-year period 2020 - 2022. Increases above the guaranteed rates will occur if the Kaiser Area 1 rate increases above the cumulative guaranteed rate.

Calendar Year	Guaranteed Increase	Amount Available based on Cumulative Kaiser Increase above Cumulative Guaranteed Increase
2020	3%	
2021	3%	3%
2022	3%	3% unless a portion used in previous year

C. Dental Benefits

During the term of this agreement, the City shall contribute the sum of $145 per month per employee toward a dental plan.

Within 90 days of ratification, the City will convene a meeting of the Dental Plan group with the anticipation that the existing dental benefit will be replaced by an indemnity plan, effective July 1, 2020. If the group cannot agree upon such an alternative plan, the City will continue with the existing plan, however, employees will be required to pay all costs of the plan not covered by the above City contribution.

Maximum Coverage:

The current maximum reimbursement amount for eligible employees is $2,000 per plan year.

The current maximum reimbursement amount for eligible dependents is $1,100 per plan year.

The amount of the unused employee balance that can be applied to the outstanding dependent balance is $530 per fiscal year.

D. Life and Long Term Disability Insurance
The City shall maintain in effect for the term of this agreement its existing life insurance plan. The City agrees to maintain in effect for the term of this agreement long-term disability insurance with the carrier requested by the unit, California Law Enforcement Association. The City further agrees to add the cost of the long-term disability premium to the employee's pay warrant as gross income for the purpose of the disability premium being paid by the employee through a payroll tax deduction.

E. Vision Care Insurance
The City shall maintain in effect for the term of this agreement its existing level of vision care insurance. The City shall contribute 100% of the family rate for such vision care coverage.

F. Employee Assistance Program
The City shall maintain in effect for the term of this agreement its existing agreement in order to provide an employee assistance program. In addition, this existing agreement shall provide for five (5) additional counseling sessions per incident for employees of this unit, for a total of 10 visits per incident.

ARTICLE 14. SUPPLEMENTAL STIPEND

The parties agree to a Supplemental Stipend, in recognition of long-term service with the City of Brisbane, for employees retiring from City service after July 1, 2002.

For employees who retire after July 1, 2002, a stipend will be paid that is equal to the single party premium rate charged to the City by Kaiser- if all of the following conditions are satisfied:

1) the employee was hired prior to January 1, 2013;
2) the employee has 15 years or more service with the City of Brisbane;
3) retires from service;
4) the effective date of the retirement is within 120 days of separation from the City of Brisbane.

In addition, it is agreed that an employee will no longer be eligible for such stipend should the employee elect to be covered by another medical plan other than that provided at the time of retirement. Furthermore, it is agreed that an employee who once waives his/her participation, such medical plan coverage and such waiver shall be irrevocable.

ARTICLE 15. DEFERRED COMPENSATION PLAN

A. Employees may voluntarily participate in the City's deferred compensation plan.

B. For employees hired on or after January 1, 2013 the City will contribute one point five percent (1.5%) of the employee's base monthly salary toward a deferred compensation plan and the above Supplemental Stipend will not apply. In the event the employee makes a contribution of up to two point five percent (2.5%) of the employee's base monthly salary toward the deferred compensation plan, the City will match such contribution up to one percent (1.0%).

The City's total contribution toward any employee will not exceed two point five percent (2.5%).

C. For individual employees eligible for the Supplemental Stipend who voluntarily elect to irrevocably opt out of the supplemental stipend benefit, the City will contribute three percent (3.0%) of the employee's base monthly salary toward a deferred compensation plan and the above supplemental stipend will not apply. In the event the employee makes a contribution up to five percent (5.0%) of the employee's base monthly salary towards the deferred compensation plan, the City will match such contribution up to two percent (2.0%). The City's total contribution toward any employee will not exceed five percent (5.0%). This benefit will terminate upon separation from service with the City. Furthermore, it is agreed that an employee who once waives his/her participation in the supplemental stipend program, it shall be irrevocable.

ARTICLE 16. EDUCATION INCENTIVE

Educational incentive pay is provided to those law enforcement sworn personnel covered by the agreement as follows.

Plan A
An additional 3.5% of base salary is granted to such employees holding an Intermediate POST Certificate. Another 2.5% of base salary is granted to such employees holding an Advanced POST Certificate. The maximum aggregate educational incentive pay granted under Plan A is 6.0% of base salary.

Plan B
An additional 5.0% of base salary is granted to such employees holding an Associate of Arts Degree. Another 5.0% of base salary is granted to such employee holding a Bachelor's Degree. The maximum aggregate educational incentive granted under Plan B is 10.0% of base salary.

Employee hired prior to April 1, 2001, are eligible to elect either Plan A or Plan B. Employees who elect Plan A, then subsequently meet the requirement of Plan B, are eligible to move to Plan B. Employees hired after April 1, 2001, are eligible for Plan B only.

ARTICLE 17. UNIFORM SUPPLY AND MAINTENANCE

A. Department will issue to all safety employees the following equipment, which shall remain Department property at all times:

1. Law enforcement safety equipment, including belt, firearm, handcuff, riot gear, flashlight, rain gear and rubber boots, and jump suit.

2. Badges, identification cards, keys.

B. The Department will issue the following to all new employees and will inventory all existing officers and supply additional items to reach the following number and specifications. All listed items shall become the property of the officer upon successful completion of probation.

1. One nylon jacket
2. Three short-sleeve wool uniform shirts
3. Three long-sleeve wool uniform shirts
4. Three pair wool uniform trousers
5. One pair OSHA boots
6. Four cotton T-shirts
7. One dress jacket and tie
8. All uniform patches
9. One wool visor cap
10. Three name tags
11. 500 personalized business cards
12. One bullet-resistant vest and two covers selected by the officers from Department approved vendors within threat level, to a maximum of $400.

C. The Department will replace all unserviceable items, as needed.

D. Officers will receive annually three T-shirts and one nametag.

E. Vests will be replaced at the officer's option at five years of service. Old vests shall be returned.

F. The Department will also provide the following:
1. Unlimited cleaning
2. Tailoring, alteration and repairs
3. Service stripes, rank insignia and special assignment accouterments

G. Personal Property
The Department will repair or replace all items of personal property lost or damaged during the performance of duty. The maximum loss paid at any one incident will be $100.

ARTICLE 18. COMPENSATORY TIME OFF

Members of the Association who are eligible to earn overtime shall be eligible to earn compensatory time off (CTO) at the rate of one-and-one-half times for every hour of overtime. No one may accumulate more than one hundred sixty (160) hours of comp time. An employee who has requested to use accumulated compensatory time off is permitted to use such time within a reasonable period after making the request unless, in the opinion of the department head or designee, the request would unduly disrupt the operations of the department.

ARTICLE 19. PUBLIC EMPLOYEES' RETIREMENT SYSTEM

The City participates in the California Public Employees Retirement System (CalPERS). Retirement benefits under CalPERS are as follows:

A. For employees classified as "Classic Members" and/or became a CalPERS member prior to January 1, 2013:
   1. 3% @ 55Local Safety Police retirement formula.
   2. Final Compensation one (1) year
   3. 1959 Survivor Benefits (Level 3)
   4. Unused Sick Leave Credit – Local Member
   5. 2% Annual Cost-of-Living Allowance Increase
   6. Improved Non-Industrial Disability Allowance
   7. Military Service Credit as Public Service
   8. $5,000 Retired Death Benefit

   Employees classified as "Classic Members" shall pay the 9% employee CalPERS contribution.

B. For employees classified as "New Members" and/or became a CalPERS member on or after January 1, 2013:
   1. 2.7% @ 57 Safety Members retirement formula
   2. Final Compensation three (3) year
   3. 1959 Survivor Benefits (Level 3)
   4. Unused Sick Leave Credit – Local Member
   5. 2% Annual Cost-of-Living Allowance Increase
   6. Improved Non-Industrial Disability Allowance
   7. Military Service Credit as Public Service
   8. $5,000 Retired Death Benefit

   Employees classified as "New Members" pay 50% of the normal cost of the CalPERS contribution.

C. To the extent permitted by law, including but not limited to Internal Revenue Code Section 414(h)(2), pension cost contributions shall be made on a pre-tax basis. It is understood that the City cannot guarantee such tax treatment as the State Legislature or Congress may alter the statutory authority for this tax treatment and the Franchise Tax Board, the IRS or the U.S. Treasury Department may alter revenue rulings regarding such tax treatment.

ARTICLE 20. TUITION REIMBURSEMENT

Tuition reimbursement shall be governed by Police Department General Orders, Tuition Reimbursement Policy. However, any tuition reimbursement provided under said orders shall be limited to the amount which the California State University system charges under its fee schedule for tuition and books.

ARTICLE 21. HOLIDAYS

A. Employees assigned to law enforcement shifts (42-hour) shall receive compensation in lieu of holiday observance in the amount of six percent (6.0%) of their base salary.

B. Employees assigned to duties that are scheduled for a forty-hour workweek and non-rotating shifts shall receive paid holiday time for all City holidays and take off all City holidays. Specifically, January 1, February 12, the 3rd Monday in February, the last Monday in May, July 4, 1st Monday in September, the 2nd Monday in October, November 11, Thanksgiving Day, Day after Thanksgiving, four hours on the work day prior to the observance of December 25, December 25 and four hours on the work day prior to January 1 holidays.

ARTICLE 22. ATTENDANCE

Employees shall be in attendance at their work in accordance with rules and policies regarding hours of work, leaves and related conditions. Department heads shall be responsible for maintaining employee attendance records which shall be reported to the City Manager or his designee in the form and at the time prescribed by him.

Except in extraordinary circumstance, an employee who is unable to report for work at the beginning of his established shift shall notify his immediate supervisor within one hour from the commencement of such shift. Failure to provide this notification may result in the unreported period of absence for the day being considered as leave without pay. An employee who is absent without notification for more than one work day shall be subject to disciplinary action including discharge, pursuant to Rule 13, Personnel Actions: Disciplinary, of the Personnel Rules and Regulations. The one-hour notification provision shall not preclude a department head, with approval of the City Manager or his designee, from requiring an earlier notification where it is warranted due to operational needs.

In order to insure employee availability for the protection of life and property and to otherwise serve the health, safety and welfare of the community, the City Manager or designee is authorized to establish a reasonable response time for employees to report to work after call to duty under emergency conditions. This response time may vary be operating unit, the type of personnel involved and the type of emergency, but shall not serve to require employees to reside within City boundaries.

ARTICLE 23. PARENTAL LEAVE

Parental leaves of absence shall be granted in accordance with applicable provisions of Federal and State law.

ARTICLE 24. MEDICAL LEAVE

The City Manager or designee may place an employee on a medical leave of absence without pay where, in the City Manager or designee's judgment, that employee is incapacitated to perform the

regular functions of his position. This type of leave may be used pending the employee's anticipated recovery or pending the outcome of a medical evaluation of the employees physical or mental health as it relates to the performance of his work. Before an employee is placed on such leave status, the employee shall be permitted to utilize all accrued sick leave and vacation credits.

A medical leave of absence may also be directed by the City Manager or designee in cases where an employee is already off the job due to illness or injury has exhausted all accrued sick and vacation credits.

Under normal circumstances, no leave directed or granted under this rule shall exceed 90 days, at which time the City Manager or designee may, under extraordinary circumstances, extend the leave for a definite period. Otherwise, the leave shall be terminated.

Nothing herein shall be construed as modifying the provisions of the State Labor Code Section 4850 as it relates to public safety personnel.

ARTICLE 25. MANDATORY ADMINISTRATIVE LEAVE

The City Manager or designee may place an employee in the Classified Service on administrative leave where, in his judgment, such action would be in the best interests of the City service. This leave may be with or without pay. Its application may include, but not be limited to, situations where disciplinary matters are pending.

ARTICLE 26. OTHERS LEAVES WITHOUT PAY

The City Manager or designee may grant an employee a leave of absence without pay for a definite period not to exceed three months. Department heads may grant such leaves not to exceed five working days.

The request for leave, and the reasons therefor, shall be submitted in writing by the employee and must be approved in advance by the City Manager or designee or the department head, as appropriate.

On expiration of the approved leave, the employee shall be reinstated to his former position or to a comparable one if the former position is abolished during the period of leave and the employee otherwise would not have been laid off. Based upon unforeseeable changes in operating requirements, the City Manager or his designee may recall the employee from leave prior to its expiration.

ARTICLE 27. LEAVES OF ABSENCE WITHOUT PAY; AFFECT ON SENIORITY AND BENEFITS

Except as provided under State Law for employees on military leaves of absence, employees on leaves of absence without pay shall not, after the first 30 days of such leave, accrue service or leave credits, nor shall the City be required to maintain contributions toward group insurance

coverages. During the period of such leaves, all service and leave credits shall be reinstated at the levels as of the effective date of the leave.

ARTICLE 28. BEREAVEMENT LEAVE

Up to five working days per occurrence may be granted by the department head to employees where there has been a death in the employee's immediate family (as defined in Rule 17.03, Sick Leave, as employee's spouse, domestic partner, children, parents, in-laws, brothers, sisters, grandparents and grandchildren). The City Manager or his designee may approve use of leave for this purpose for other than the family members defined above. Extensions to such leaves due to unusual circumstances may be approved by the City Manager or designee.

ARTICLE 29. JURY DUTY

An employee who is called to serve as a juror shall be entitled to leave during the period of such service or while necessarily being present in court as the result of such a summons. Under these circumstances, the employee shall be paid his full salary for this period, provided the employee remits jury fees received to the City. Such fees shall not include mileage reimbursements or subsistence payments.

ARTICLE 30. LAYOFF PROCEDURE

A. The City Council may abolish any position in the Classified Service due to lack of funds, work or need.

B. The layoff of employees resulting from the elimination of positions shall be governed by the following procedures:

1. Layoffs shall be made within the affected job classification in reverse order of total time in the Classified Service, including any period of probation, paid leave or active military leave. Except as provided under the Personnel Rules & Regulations, Leaves of Absence Without Pay: Effect on Seniority and Benefits of these Regulations, no service credits shall be earned during any leave of absence without pay. Where time in service is equal between two (2) or more affected employees, their evaluations shall serve as the determining factor.

2. The order of layoff in the affected classifications shall be:

   a. Temporary employees
   b. Probationary employees
   c. Permanent employees

3. Probationary and permanent employees in the Classified Service who, under paragraph 1., above, are scheduled to be laid off shall receive at least twenty-one (21) days' written notice to this effect.

In lieu of layoff, a permanent employee may elect transfer or demotion to a vacant position in the Classified Service, which the City intends to fill and for which the employee is qualified. Such actions shall be governed by the terms of Rule 12.03, Demotion, and 12.04, Transfer, and in no event shall result in an employee being placed in a classification carrying a higher maximum rate of pay.

Within ten (10) days from the date layoff notices are issued, an employee who would otherwise be laid off may elect to displace an employee in a classification carrying a lower or the same maximum rate of pay; provided, however, that the displacing employee must have held permanent status in such classification and have greater time in the Classified Service than the employee being displaced.

A probationary or permanent employee displaced in accordance with this paragraph shall, in turn, be provided the same notice and displacement privilege as set forth in this paragraph.

4. Permanent and probationary personnel laid off in accordance with this Rule shall, at their request, be placed on a re-employment list as provided by Rule 9.03 of these Regulations. If an employee is re-employed from such a list, all service credits and other benefits accrued to the date of layoff shall be restored. In no event, however, shall the City be required to restore credits for vacation and other benefits paid out at the time of layoff.

   At the time of layoff, the employee's name shall be removed from all promotional eligible lists, but, at the employee's request, shall be retained on open-competitive lists subject to the provisions of Rule 9.05, Employment Lists, of these Regulations.

5. A probationary or permanent employee laid off pursuant to this Rule shall have the right of appeal directly to Step 3 of the Grievance Procedure contained in Rule 15, Grievance Procedure, of these Regulations. An appeal filed under these circumstances shall not in any way be construed as stemming from a disciplinary action and the sole issue appropriated for determination shall be questions concerning interpretation or administration of the layoff procedure. An appeal filed under this paragraph shall not serve to suspend or delay layoff proceedings unless the City Manager determines otherwise.

   In no event shall the City Manager be empowered to hear and rule upon the City Council's judgment as to the merit and necessity of the elimination of positions.

ARTICLE 31. DEMOTIONS

A. Based upon an employee's request or upon an employee's demonstrated inability to perform the tasks of the position, the City Manager may demote an employee to a position in a classification which carries a lower maximum rate of pay and which the employee is qualified to perform. Under these circumstances, the employee's new rate of pay shall be that step on the new salary range which most closely corresponds to the employee's former salary step.

B. Where such action is based upon an employee's inability to perform the work of the current position, the employee may appeal the action of the City Manager pursuant to Article 37, Grievance Procedure.

C. Advance written notice of demotion, together with the effective date, shall be provided the employee and the employee's department head.

ARTICLE 32. TRANSFER

A. An employee may be transferred by the City Manager from one position to another position in the same classification or in a comparable classification carrying the same maximum salary rate and which the employee is qualified to perform. Where a transfer would involve two (2) departments or two (2) divisions of the same department, the transfer shall be subject to the approval of both department heads unless it is being made for the purpose of economy or efficiency.

B. Advance written notice of this action, together with its effective date, shall be provided the employee and the affected managers.

ARTICLE 33. PROMOTIONS

Candidates who successfully complete all components of the examination shall be placed on the appropriate employment list. Preparation and maintenance of employment lists under these Rules shall be the responsibility of the City Manager or designee.

All open-competitive and promotional lists shall remain in effect for one year unless exhausted or abolished within that period as provided below. The City Manager or designee may extend such list up to six months. The effective date of a list shall be that date on which it is approved for posting by the City Manager or designee.

ARTICLE 34. PROBATIONARY PERIOD AND PERFORMANCE RATINGS

The probationary period shall be regarded as part of the testing process and shall be utilized for closely observing the employee's work, for securing the most effective adjustment of the employee to a new position and for rejecting any probationary employee whose performance does not meet the required standards of work.

All original appointees to positions in classifications covered by this agreement shall serve a probationary period of twelve (12) months. Promotional appointees shall serve a probationary period of not less than six (6) months, nor more than twelve (12) months.

Where the probationer loses time from the job, whether paid or unpaid, in sufficient amounts as to detract from the stated objectives of City's Rule 11.01, Objective of Probationary Period, the City Manager or his designee may extend the period of probation beyond the limits contained in the preceding paragraph. This extension may not exceed the aggregate amount of lost time which

caused the extension. The probationer shall be so advised prior to the effective date of the extension.

It shall be the duty of each department head and immediate supervisor to investigate carefully the probationer's adjustment and performance to determine whether or not the probationer is qualified for permanent status. The department head shall submit to the City Manager or his designee an evaluation of the probationer's performance at times specified by the Officer, but no less that twice during the employee's probationary period.

The final probationary report on each probationer shall include, and earlier reports may include, the department head's recommendation regarding retention.

During the probationary period, and appointee may be rejected at any time by the City Manager or his designee without cause and without right of appeal. Notice of rejection shall be served in writing on the probationer.

An employee rejected during the probationary period from a position in the Classified Service to which he has been promoted shall be reinstated to a position in the class from which he was promoted unless the rejection results in dismissal from City service. Where rejection results in dismissal, the employee shall have the right to appeal such action in accordance with Rule 14, Appeals Procedure and shall be furnished advance notice pursuant to Rule 13.02, Notice of Disciplinary Action.

Performance reports shall be completed at least annually for all personnel having permanent status in positions in the Classified Service. Such reports may be required more frequently by the City Manager of his designee.

ARTICLE 35. DISCIPLINARY PROCEDURE

A. The City Manager or designee may take disciplinary action against an employee in the Classified Service for misconduct including, but not limited to, chronic absenteeism; incompetence; insubordination; failure to follow work rules; misstatement of fact on an application or other personnel document; falsification of records; unfitness for duty; and absence without authorized leave.

B. The disciplinary action(s) taken may include suspension, pay reduction, demotion, discharge, or any combination of these or other appropriate penalties.

C. All discipline action taken against an employee in the Classified Service must receive the prior approval of the City Manager except under emergency circumstances which dictate immediate suspension of the employee by the department head or supervisor. In such cases, the employee's department head shall immediately report the action taken to the City Manager who shall review the case and make a determination concerning the appropriateness of the suspension and of further disciplinary action.

D. All actions resulting in salary reductions or demotions shall be subject to review by the City Manager and the department head involved within thirty (30) days following the effective date of the initial action and at regular intervals thereafter.

E. Employees shall have the right to appeal disciplinary actions pursuant to the Personnel Rules & Regulations.

ARTICLE 36. GRIEVANCE PROCEDURE

A grievance is any dispute which involved the interpretation or application of any provision of this Memorandum of Understanding excluding, however, those provisions of the Memorandum of Understanding which specifically provide that the decision of the City Manager or any City official shall be final, the interpretation or application of those provision not being subject to the grievance procedure.

STEP 1 An employee who has a grievance shall bring it to the attention of his immediate supervisor within five (5) working days of the occurrence of the act which is the basis for the dispute. Where the grievance concerns a matter of proper compensation or a matter which could not reasonably be discovered by the employee within five (5) working days of its occurrence, the grievance on such a matter shall be raised within twenty (20) working days of the occurrence. If the employee and the immediate supervisor are unable to resolve the grievance within five (5) working days of the date it is raised with the immediate supervisor, the employee shall have the right to submit a formal grievance which shall contain the information set forth below.

1. The name of the grievant.
2. The grievant's department and specific work site.
3. The name of the grievant's immediate supervisor.
4. A statement of the nature of the grievance including date and place of occurrence.
5. The specific provision, policy, or procedure alleged to have been violated.
6. The remedy sought by the grievant.
7. The name of the individual or organization, if any, designated by the grievant to represent him in the processing of the grievance. However, in no event shall an employee organization other than the one which formally represents the position occupied by the grievant be designated as the grievant's representative.

Formal grievances shall be processed beginning with Step 2 of this procedure.

STEP 2 An employee dissatisfied with the decision of the immediate supervisor in Step 1 may submit the grievance to his department head within seven (7) working days from the date of the immediate supervisor's decision. The department head shall respond to the grievance in writing within seven (7) working days from the date of receipt.

STEP 3 If the employee is dissatisfied with the decision of the department head in Step 2, he may submit the grievance to the City Manager or his designee within ten (10) working days from receipt of the department head's response. The City Manager, or designated representative, shall respond to the grievance in writing within ten (10) working days of its receipt. Within this period the City Manager, at his discretion, may conduct an informal hearing involving the parties to the dispute.

STEP 4 For any disciplinary suspensions, disciplinary demotions or disciplinary terminations and for no other action(s), an employee who is dissatisfied with the decision of the City Manager in Step 3 may submit the grievance to arbitration within ten (10) working days from receipt of the City Manager's decision.

The City and the Association shall meet promptly to select a mutually acceptable arbitrator. The fees and expenses of the arbitrator and a court reporter shall be shared by the City and the Association. Each party, however, shall bear the cost of its own presentation, including preparation and post hearing briefs, if any.

Decision of arbitrators on matters properly set before them shall be final and binding on the parties hereto.

ARTICLE 37. BULLETIN BOARDS

Officers shall secure permission of their superior officer before placing any material on a departmental bulletin board, and placing notices on the daily bulletin shall conform with departmental directives.

ARTICLE 38. MEALS

All Police employees shall be granted two, 20-minute breaks during their tour of duty. Police personnel shall be granted one, 45-minute meal break during a 12-hour tour of duty. Officers shall not go out of service for meals and personal breaks without available radio or telephone communications. Officers shall not leave the City of Brisbane for meals or personal breaks without the permission of a superior officer.

ARTICLE 39. MILITARY LEAVE

Military leave shall be granted in accordance with the provisions of the State Military and Veterans Code. An employee requesting leave for this purpose shall provide the department head with a copy of the military orders specifying the dates, site and purpose of the activity or mission. Within the limits of such orders, the department head may determine when the leave is to be taken and may modify the employee's work schedule to accommodate the request for leave.

ARTICLE 40. RESIDENCE REQUIREMENTS

Employees shall establish residence within fifty (50) air miles from the police department headquarters building.

ARTICLE 41. OUTSIDE EMPLOYMENT

Employees shall not carry on, concurrently with their public employment, any other employment, business or undertaking which conflicts or interferes with their City employment.

Outside employment shall not be undertaken by full-time employees in the Classified Service unless the department head and the City Manager or his designee first approve the employment and determine that it will not adversely affect the employee's quality of work or availability for City service.

Under no circumstances shall an employee be authorized to perform any function related to outside employment or activities during working hours.

ARTICLE 42. WAIVER PROVISION ON BARGAINING DURING TERM OF AGREEMENT

Except as specifically provided for in the Agreement or by mutual agreement in writing during the term of this Agreement, the Association and the City hereby agree not to seek to negotiate or bargain with respect to any matters pertaining to rates, wages, hours, and terms and conditions or employment covered by this Memorandum of Understanding or in negotiations leading thereto, and irrespective of whether or not matters were discussed or were even within the contemplation of any parties hereto during negotiations leading to this Agreement, and any rights in that respect are hereby expressly waived during the term of this Agreement.

During the term of this Agreement, the Association may, upon action by its Executive Board, request in writing to reopen and meet and confer regarding working conditions. This reopener shall not apply to salary, insurance, or any other monetary item(s), nor shall it apply to specific individual problems, which shall be handled under the grievance procedure.

ARTICLE 43. EMERGENCY WAIVER PROVISIONS

In the event of circumstance beyond the control of the City, such as acts of God, fire, flood, insurrection, civil disorder, national emergency, or similar circumstances, the provisions of this Memorandum of Understanding which restrict the City's ability to respond to these emergencies shall be suspended for the duration of such emergency. After the emergency is over, the Association shall have the right to meet with the City regarding their impact on employees of the suspension of these provisions in the Memorandum of Understanding.

ARTICLE 44. SEVERABILITY PROVISION

Should any article, section, subsection, subdivision, sentence, clause, phrase, or provision of this Memorandum of Understanding be found to be inoperative, void, or invalid by a court of competent jurisdiction, all other provisions of the Memorandum of Understanding shall remain in full force and effect for the duration of this Memorandum of Understanding.

ARTICLE 45. PAST PRACTICE

Continuance of working conditions and practices not specifically provided herein shall not be guaranteed by this Memorandum of Understanding. The City shall be relieved of its obligation to meet and confer with the Association regarding changes in working conditions and practices where otherwise required by law.

The City's Personnel Rules and Regulations shall remain in full force and effect unless contraindicated by a specific provision of this Memorandum of Understanding.

ARTICLE 46. USE OF CITY FACILITIES

Upon reasonable advance notice, the City Manager or his designee may authorize the use of appropriate City facilities by recognized employee organizations for meetings involving City employees they represent. Such meetings shall not conflict with the conduct of normal City business nor be held during on-duty time of the City personnel concerned.

Exceptions to the aforementioned on-duty policy may be granted by the City Manager or designee where it is clearly necessary for a represented employee to confer with his employee representative on a matter concerning employee relations and the City. The time devoted to such meetings shall be kept to a minimum, and the employee representative shall notify the responsible supervisor or manager when arriving at and leaving the work site.

Except as provided above, employee representatives shall not have access to City premises for the conduct of union or association business.

Upon request, the City Manager or designee shall also provide a reasonable amount of space at appropriate City facilities for posting of material by recognized employee organizations. This material shall be subject to review by the City Manager or designee prior to posting. Space allotted for this purpose shall be withdrawn should any posted material contain inflammatory or other objectionable content.

ARTICLE 47. PROHIBITED ACTIVITIES

No employee organization shall encourage participation in, nor shall any employee participate in any strike, picketing, slow down, sick-out, or any other form of concerted activity against the City during the term of the Agreement; nor shall any employee recognize any picket line in the course of his duty, nor in any way be involved in the reduction or denial of City service to any premises

because of a labor dispute. Any employee who violates any portion of this section is subject to disciplinary action.

ARTICLE 48. NOTICE OF SHIFT CHANGES

The Parties agree to work collaboratively in an attempt to reduce the number of instances when shift start times are changed on short notice. The Parties agree that, in order to do so, sworn employees will need to provide additional notice to the department of planned absences. The Parties agree that flexibility requires mutual effort. The Parties shall meet within 60 days of ratification of this agreement with the intention of developing protocols to further these goals.

ARTICLE 49. TERM OF MEMORANDUM OF UNDERSTANDING

The term of this Memorandum of Understanding shall be for the period of July 1, 2019 through June 30, 2022.

RATIFICATION AND EXECUTION

The City of Brisbane and the Brisbane Police Officers Association have reached an understanding as to certain recommendations to be made to the City Council for the City of Brisbane and have agreed that the parties hereto will jointly urge Council to adopt a new wage and salary resolution which will provide for the changes contained in said joint recommendations. The City and the Association acknowledge that this Memorandum of Understanding shall not be in full force and effect until adopted by the City Council of the City of Brisbane. Subject to the foregoing, this Memorandum of Understanding is hereby executed by the authorized representative of the City and the Association and entered into this 24th day of August, 2020.

CITY OF BRISBANE

Clayton Holstine, City Manager

Stuart Schillinger, Deputy City Manager

BRISBANE POLICE OFFICERS ASSOC.

Lester Vega, President

Robert Malone, Vice President

Effective Date: 7/6/2020 **CITY OF BRISBANE** Exhibit A

4.0% Increase Police Officers Association

Job Title		Step A	Step B	Step C	Step D	Step E
Police Officer	Monthly	7,989.12	8,388.57	8,807.99	9,248.38	9,710.80
	Bi-weekly	3,687.29	3,871.65	4,065.23	4,268.49	4,481.91
	Hourly	43.90	46.09	48.40	50.82	53.36
Police Sergeant	Monthly	9,625.29	10,106.57	10,611.90	11,142.49	11,699.60
	Bi-weekly	4,442.44	4,664.57	4,897.80	5,142.69	5,399.81
	Hourly	52.89	55.53	58.31	61.22	64.28

Note: Hourly wages above are calculated based on 2,184 hours per year.

Job Title		Step A	Step B	Step C	Step D	Step E
Police Officer	Monthly	7,989.12	8,388.57	8,807.99	9,248.38	9,710.80
For Detective and	Bi-weekly	3,687.29	3,871.65	4,065.23	4,268.49	4,481.91
School Resource Officer	Hourly	46.09	48.40	50.82	53.36	56.02
Police Sergeant	Monthly	9,625.29	10,106.57	10,611.90	11,142.49	11,699.60
	Bi-weekly	4,442.44	4,664.57	4,897.80	5,142.69	5,399.81
	Hourly	55.53	58.31	61.22	64.28	67.50

Note: Hourly wages above are calculated based on 2,080 hours per year.

File Attachments for Item:

G. Consider Introduction of Ordinance No. 653 amending Title 17 of the Brisbane Municipal Code to Regulate Accessory Dwelling Units and Junior Accessory Dwelling Units and Amending Title 15 of the Brisbane Municipal Code to Regulate Alterations and Additions to Existing Structures

CITY COUNCIL AGENDA REPORT

Meeting Date: September 17, 2020

From: John Swiecki, Community Development Director

Subject: Proposed Ordinance No. 653 (Zoning Text Amendment RZ-1-20); Municipal Code amendments to update existing accessory dwelling unit regulations

Community Goal/Result
Community Building

Purpose

To amend the Brisbane Municipal Code (BMC) to update existing Accessory Dwelling Unit (ADU) regulations in Title 17 and Title 15 to comply with State law.

Recommendation

That the City Council introduce Ordinance No. 653.

Background

In the past five years, the State Legislature has adopted a number of bills to incentivize the construction of ADUs as a key component of legislative packages related to the statewide housing crisis. In 2019, the California State Legislature passed another round of ADU streamlining legislation that became effective January 1, 2020. The City's ADU regulations must be updated to comply with current State law. (See Attachment 3.C, 3.D, and 3.E for a detailed explanation of the new State law.)

On May 14, 2020, the Planning Commission adopted Resolution RZ-1-20 recommending approval of a suite of zoning amendments to achieve consistency with the new State regulations throughout Title 17. These amendments are reflect in the attached draft Ordinance 653 (Attachment 2). (Note: RZ-1-20 also contained zoning amendments pertaining to the FAR exemption for garages on small lots, which will be presented separately to the Council as Ordinance No. 657.) The Planning Commission's adopted resolution, agenda report, and draft meeting minutes are attached for reference and include a detailed description of the proposed zoning amendments, which are summarized below.

Discussion

<u>Zoning Amendments</u>

The attached May 14, 2020 Planning Commission agenda report provides a detailed review of the proposed zoning text amendments (see Attachment 3), while a summary is provided below.

The draft Ordinance would amend the ADU development regulations in BMC Chapter 17.43 to permit ADUs to be constructed in more zones than previously allowed, allow ADUs in multiple-

family dwellings, and exempt unrestricted ADUs (ADUs less than 800 square feet in floor area) from some development regulations, including lot coverage and floor area ratio maximums.

Because Chapter 17.43 must be revised to comply with new State legislation, a number of other related BMC sections must be amended to maintain consistency within the zoning ordinance. Such updates include:

- Amending the development regulations of any zoning district that permits residential uses to allow ADUs and Junior Accessory Dwelling Units (JADUs) in any single-family dwelling;
- Amending the off-street parking requirements to require one off-street parking space in the R-BA and PD Zoning Districts when the ADU is more than ½ mile from transit;
- Amending existing setback exceptions to allow unrestricted ADUs to encroach within the side and rear setbacks as mandated by State law; and
- Amending BMC Chapter 17.38, Nonconforming Uses and Structures, to allow limited ADU development on sites with nonconforming uses or structures.

Title 15 Amendments

The draft Ordinance also contains recommended amendments to Title 15 to extract Section 15.08.140 and replace it with Chapter 15.10. (See Attachment 1.) Section 15.08.140 addresses required infrastructure and building modifications required for projects that involve alteration or additions that exceed 50% of the existing gross floor area on the property. The content and regulations of Section 15.08.140 would largely carry over unchanged into the new chapter 15.10, with the modification that unrestricted ADUs are excluded from the calculation of the area of additions or alterations for any given project.

Fiscal Impact

None.

Measure of Success

Adoption of zoning regulations that bring the City's ordinance into compliance with current State law.

Attachments

1. Redline Copy of proposed Zoning Text Amendments
2. Draft Ordinance No. 653
3. May 14, 2020 Planning Commission Resolution RZ-1-20 (excerpt), Agenda Report, and Minutes

John Swiecki

John Swiecki, Community Development Director

Clay Holstine, City Manager

ATTACHMENT 1

REDLINE COPY OF PROPOSED AMENDMENTS

Proposed Zoning Text Amendments: RZ-1-20 ADU

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Proposed Zoning Text Amendments: RZ-1-20 ADU

13.04.453 - Disclosure and sewer lateral certificate; when required.

A. A person must possess or obtain a sewer lateral certificate issued under Section 13.04.452 before the city will issue a final building permit when the person has undertaken work that:

1. Triggers the requirements of Chapter 15.10 ~~Section 15.08.140~~ of this code; or.
2. Is associated with a change in water service (e.g., change in meter size or the addition of a meter).

B. Beginning April 20, 2015, any person intending to sell or transfer a fee interest in real property must disclose the requirements of this section to each of the following, except as provided in subsection C:

1. The person's real estate broker or agent, if any;
2. The person to whom the real property is intended to be sold or transferred;
3. The real estate broker or agent, if any, of the person to whom the real property is intended to be sold or transferred;
4. The escrow company or holder involved in the real property sale or transfer, if any.

C. Subsection B does not apply to:

1. Sales or transfers of individual units within a condominium as defined in Section 17.02.150 of this code;
2. Sales or transfers of less than a fee interest, e.g., a leasehold;
3. Sales or transfers to a fiduciary in the course of the administration of a decedent's estate, a guardianship or a conservatorship;
4. Transfers from one co-owner to one or more other co-owners;
5. Transfers to a revocable trust if the trust is for the benefit of the grantor(s);
6. Transfers made by a trustor to an intervivos trust;
7. Transfers between spouses or between registered domestic partners;
8. Transfers to a financial institution, trust deed holder, or trustee of a deed of trust, as part of foreclosure or similar process.

D. The director shall prepare a handout or other written material, to be made available to the public, describing the requirements of this section. A person may satisfy the disclosure requirements of subsection B by providing a then current copy of the handout or other written material to those parties identified in subsection B.

15.08.130 - Additions, alterations or repairs—Compliance with construction codes.

Any addition, alteration, or repair to, or change of use of, or occupancy in a building or structure shall comply with the provisions for new buildings and structures set out in the construction codes, except as may otherwise be provided in Chapter 15.10, Sections ~~15.08.140~~15.08.180 through 15.08.210, and in Section 502 of the Uniform Building Code, latest adopted edition.

15.44.080 - Section 903 amended—Automatic sprinkler systems.

Section 903 of the fire code is amended in its entirety to read as follows:

903 Automatic fire extinguishing systems.

(a) Notwithstanding any other provisions of this Code or any other code or ordinance of the City of Brisbane, automatic fire sprinkler systems, approved by the Fire Marshal, shall be installed in the following buildings and structures that are classified as new construction:

1. For all occupancies except R-3 occupancies: Any new building or structure, regardless of size, except stand alone, uninhabitable buildings, garages and sheds having a floor area of less than 400 square feet.

2. For all R-3 occupancies: Any new single-family or duplex structure, excluding any detached accessory structure that does not constitute habitable space having a floor area of less than 400 square feet.

(b) When additions or alterations made to an existing building fall within the requirements under Brisbane Municipal Code Chapter 15.10,~~Section 15.08.140,~~ an automatic fire sprinkler system shall be provided for the entire building.

(c) Other Areas. An automatic fire sprinkler system shall be installed in all garbage compartments, rubbish and linen chutes, linen rooms, incinerator compartments, dumb waiter shafts, and storage rooms when located in all occupancies except Group R, Division 3. An accessible indicating shut off valve shall also be installed.

(d) Condominium Conversions. An automatic fire sprinkler system shall be installed for all condominium conversions.

(e) Where automatic fire sprinkler systems are required to be installed, the following additional requirements shall also be satisfied, as applicable:

1. A minimum of three (3) copies of plans and specifications for automatic sprinkler installations, plus water supply calculations, shall be provided to the Fire Department for review and approval prior to commencement of the installation work.

2. All required automatic sprinkler systems shall be approved by the Fire Department.

3. All acceptance tests and such periodic tests as required by the Fire Marshall or pursuant to NFPA Pamphlets No. 13, 13D, 13R and/or Subchapter 5, Title 19, California Code of Regulations, shall be conducted and, where applicable, witnessed by a representative of the Fire Department.

An approved exterior visual fire alarm device may be required for buildings that have numerous fire department connections (FDC's). Type and locations will be determined by the Fire Department. Such visual alarm devices are not to replace the exterior audible device, but to assist fire suppression personnel as to location(s) of systems which require pumping operations.

15.08.140 - Additions or alterations in excess of fifty percent of floor area.

A. When alterations or to a lawfully constructed building or structure made within any five (5) year period exceed fifty percent (50%) of the floor area of the pre-existing building or structure, as determined by the building official, then except as otherwise provided in subsection C of this section, the pre-existing building or structure to be brought into conformity with the such of standards for new construction as that the building official may determine to be necessary or appropriate to eliminate existing health or safety hazards including, but not limited to, defects in structural integrity, defective or inadequate electrical installations, defective or inadequate fire sprinkler, sanitary sewer or storm drainage facilities, and substandard street access to the property.

B. For the purposes of making the determinations required by subsection A of this Section 15.08.140, the following definitions, rules of interpretation, and procedures shall be applied:

1. For the purposes of this Section 15.08.140, the "floor area" of a building or structure shall mean the sum of the gross horizontal areas of a floors of all building or structure measured from the interior face of the exterior walls, but excluding each of the following:

    a. Any area where the floor to ceiling height is less than six (6) feet; or

    b. Any detached garage or other detached accessory structure which does not constitute habitable space; or

    c. Any attached carport or covered deck.

2. The "standards for new construction" shall mean: (a) the requirements of the California Buildings Code adopted by this Title 15; and (b) the storm water management and discharge requirements established by Chapter 13.06 of the Brisbane Municipal Code ; and (c) the standard specifications and street standards adopted by Section 12.24.010 of the Brisbane Municipal Code.

3. Calculation of the changes to the structure are to be determined by the building official, who may require documentation of applicants regarding effected areas and/or impose conditions of approval upon issuance of a building permit. The building official shall have the authority to determine whether combinations of additions or alterations, or combinations thereof are subject to subsection A of this Section 15.08.140 or if they qualify under the exceptions.

C. Exceptions to subsection A of Section 15.08.140:

1. Additions or alterations performed at different periods of time shall be considered to have been made within a five (5) years period if any building permits are issued or any work is commenced within five (5) years following the date of completion of any earlier work on the same building or structure. The date of completion shall normally be established as the date on which final inspection approval of the earlier work is granted by the city.

2. The area of any additions and/or alterations not exceeding a cumulative total of four hundred (400) square feet, permitted to be made under the provisions of

Section 17.34.110 of the Brisbane Municipal Code, shall not be subject to the provisions of subsection A of this Section 15.08.140.

3. Work involving exterior surfaces, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck shall not be considered alterations subject to the provisions of this chapter.

4. Alterations, renovations or repairs which do not essentially change the original size, configuration, and habitable floor area of the building or structure or basic uses of the rooms within the building or structure, shall not be considered as additions or alterations subject to the provisions of this; provided, however:

    a. This exception includes conversion of existing room(s) in an existing single-family dwelling to an accessory dwelling unit, as provided by Chapter 17.43 of the Brisbane Municipal Code, as long as the use of those rooms remains the same (e.g. bedroom for bedroom, etc.).

    b. Conversion or recognition of previously undocumented rooms to be permitted as habitable may be included in the calculation of alteration of space, at the discretion of the building official.

    c. This exception may not be applied where the building official has determined that the alteration or repair constitutes a "major rebuild", where seventy-five percent (75%) or more of the combined surface area of the interior walls and ceilings of the habitable rooms are to be removed to expose support members.

B. Where an existing building or structure is required by this Section 15.08.140 to be brought into conformity with the standards for new construction, the building official shall have authority in individual cases to grant modifications of any such requirements, if the building official is able to find and determine that:

    1. Compliance with the requirement will cause practical difficulties or unreasonable hardship; and

    2. The modification does not reduce any requirements for fire protection or any requirements relating to structural support and integrity; and

    3. The modification does not create any new or increased hazard to the health or safety of the occupants of the existing building or structure.

E. This Section 15.08.140 is intended to establish requirements which are in addition to, and not in replacement of, any other ordinance, rule, regulation, or policy of the city which may be applicable to the proposed development project, including any of the codes adopted by this and include also any policy adopted in the Brisbane General Plan.

Where the requirements of subsection A of this Section 15.08.140 are not applicable because the additions or alterations do not exceed fifty percent (50%) of the floor area of the pre-existing building or structure, the proposed development shall nevertheless comply with the requirements of Section 17.01.060 of the Brisbane Municipal Code unless: (1) the pre-existing building or structure is located upon a lot of record, as such term is defined in Chapter

~~17.02 of the Brisbane Municipal Code, and (2) a public street abutting such lot of record provides the principal means of access to that lot.~~

Chapter 15.10 - Additions, alterations, and major rebuilds to existing buildings.

15.10.010 - Authority.

The building official or the building official's designee shall have the authority to enforce the provisions of this Chapter.

15.10.020 - Coordination with other Chapters.

This Chapter is intended to establish requirements which are in addition to, and not in replacement of, any other ordinance, rule, regulation, or policy of the city which may be applicable to the proposed development project, including any of the codes adopted by this Title 15 and the requirements of Section 17.01.060 of this title.

15.10.030 - Applicability.

This Chapter shall apply to additions, alterations, or major rebuilds, as defined in Section 15.10.040 of this Chapter, to a lawfully constructed building completed within any five (5) year period. The date of completion shall normally be established as the date on which the City grants final inspection approval of the work.

15.10.040 - Definitions.

For the purposes of this Chapter 15.10 the following definitions apply:

A. “Addition and Alteration” shall mean new floor area added to an existing lawfully constructed building and/or changes to the existing floor area of a lawfully constructed building, which calculated together or apart constitute fifty (50) percent of the pre-existing floor area of the building. The conversion or recognition of non-habitable rooms to habitable space may be included in the calculation of alteration of space, at the discretion of the building official.

B. “Major rebuild” shall mean removal of seventy-five percent (75%) or more of the combined surface area of the interior walls and ceilings of the habitable rooms of a building or structure to expose support members.

C. “Floor Area” shall mean the sum of the gross horizontal areas of all floors of all buildings or structures measured from the interior face of the exterior walls, but excluding each of the following:

1. Any area where the floor to ceiling height is less than six (6) feet.

2. Any detached garage or other detached accessory structure which does not constitute habitable space.

3. Any attached carport or covered deck.

4. Any attached or detached accessory dwelling unit eight hundred (800) square feet or less in gross horizontal area that, if detached, does not exceed sixteen (16) feet in height, where authorized pursuant to Chapter 17.43 of Title 17 of this Code.

D. "Standards for new construction" shall mean:

1. The requirements of the California Buildings Code adopted by this Title 15; and

2. The storm water management and discharge requirements established by Chapter 13.06 of Title 13; and

3. The standard specifications and street standards adopted by Section 12.24.010 of Title 12.

E. "Hardship" means some verifiable level of difficulty or adversity, beyond the control of the applicant, by which the applicant cannot reasonably comply with the requirements of this Chapter.

15.10.050 - Compliance Standards.

For applicable projects, the entire building shall be brought into conformity with the standards for new construction that the building official determines to be necessary or appropriate to eliminate existing health or safety hazards, including, but is not limited to, defects in structural integrity, defective or inadequate electrical installations, defective or inadequate fire sprinklers, sanitary sewer or storm drainage facilities, and substandard street access to the property.

15.10.060 - Exceptions.

A. Standard Exceptions. The following standard exceptions to Section 15.10.050 shall apply:

1. The area of any additions and/or alterations not exceeding a cumulative total of four hundred (400) square feet within any five (5) year period.

2. The conversion of existing floor area in an existing single-family or multiple-family dwelling to an accessory dwelling unit where authorized pursuant to Chapter 17.43 of Title 17.

3. The area of any addition and/or alteration for the creation or expansion of an attached or detached accessory dwelling unit eight hundred (800) square feet or less in floor area where authorized pursuant to Chapter 17.43 of Title 17. If detached, the accessory dwelling unit may not exceed sixteen (16) feet in height.

4. Work involving exterior surfaces, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck.

5. Alterations, renovations or repairs which do not essentially change the uses of the rooms within the building.

B. Other Exceptions. Where the above listed exceptions do not apply, the building official shall have authority on a case-by-case basis to grant modifications of any such requirements for the standards of new construction if the building official is able to find and determine that:

1. Compliance with the requirement will cause unreasonable hardship; or

2. The modification does not reduce any requirements for fire protection or any requirements relating to structural support and integrity; or

3. The modification does not create any new or increased hazard to the health or safety of the occupants of the existing building or structure.

17.01.060 - Requirement for lot of record and infrastructure improvements.

A. Except as permitted under subsections B and C of this section or as may be permitted under other provisions of this title, no permit or approval shall be granted for the construction or expansion of any new or existing main or accessory structure of any size upon any land, nor shall any permit or approval be granted for the establishment or expansion of any use upon any land, unless both of the following requirements are satisfied:

1. The land constitutes a lot of record, as such term is defined in Chapter 17.02 of this title, or the granting of the permit or approval is conditioned upon such land being established as a lot of record through the recording of a parcel map approved by the city; and

2. All infrastructure improvements necessary for providing service to the existing or proposed structure or use have been constructed or installed in accordance with applicable city standards as determined by the city engineer, or the granting of the permit or approval is conditioned upon such improvements being constructed or installed pursuant to the terms and within such period of time as set forth in an improvement agreement between the city and the applicant, which agreement shall be recorded in the office of the county recorder and shall constitute a covenant running with the land. The improvement agreement may require the applicant to provide security for performance of the work, in such form and amount as determined by the approving authority, and may provide for the applicant to either construct the improvements or to participate in an arrangement for such construction by others, or any combination thereof.

B. In the case of a lot of record which does not abut a public street providing the principal means of access to that lot, the following improvements may be constructed without compliance with the infrastructure requirements set forth in subsection (A)(2) of this section; provided, however no such improvements shall be allowed unless the approving authority determines that adequate infrastructure to service the proposed improvement is available at the site or will be constructed as part of the project:

1. Unenclosed hot tubs, decks, stairways and landings located on the same lot as a lawfully constructed dwelling;

2. Retaining walls;

3. Parking garages and carports, no portion of which is used or usable for human occupancy;

4. An addition, not exceeding a floor area of one hundred (100) square feet, to a lawfully constructed building or structure. Only one such addition shall be allowed under this exemption;

5. Repairs or remodels which do not change the original size or significantly alter the configuration and/or habitable floor area of a lawfully constructed building or structure, as determined by the planning director.

6. The conversion of existing floor area of the main dwelling or the conversion of existing floor area of an accessory structure to an accessory dwelling unit or a

junior accessory dwelling unit as permitted under Chapter 17.43 of this title. Such conversion may include the addition of floor area as provided in paragraph 4 of this subsection B. Only one such conversion shall be allowed under this exemption.

C. Additions or alterations may be made to a lawfully constructed building or structure which is located on a lot of record, without compliance with the infrastructure requirements set forth in subsection (A)(2) of this section, where both of the following conditions are satisfied:

1. The additions or alterations ~~do not exceed fifty percent (50%) of the market value or fifty percent (50%) of the floor area of the existing building or structure, determined in accordance with~~are exempt from the provisions of ~~Section~~ Chapter 15.10.060~~15.08.140~~; and

~~2.~~ A public street abutting the lot on which the building or structure is located provides the principal means of access to that lot.

17.02.235 - Dwelling.

"Dwelling" means a place that is used as the personal residence of the occupants thereof, including transitional housing as defined in California Health and Safety Code Section 50675.2(h) and supportive housing as defined in California Health and Safety Code Sections 50675.14(b)(2) and (3). The term includes factory-built or manufactured housing, such as mobilehomes, but excludes trailers, campers, tents, recreational vehicles, hotels, motels, boarding houses and temporary structures.

A. "Dwelling group" means a group of two (2) or more detached buildings located upon the same site, each of which contains one or more dwelling units.

B. "Dwelling unit" means a room or group of rooms including living, sleeping, eating, cooking and sanitation facilities, constituting a separate and independent housekeeping unit, designed, occupied, or intended for occupancy by one family on a permanent basis. Permanent residency shall mean continuous occupancy of the dwelling unit for a period of thirty (30) days or more.

C. "Multiple-family dwelling" means a building or site containing three (3) or more dwelling units (also see "duplex"). The term includes single-room-occupancy dwelling units, typically comprised of one or two (2) rooms (which may include a kitchen and/or a bathroom, in addition to a bed), that are restricted to occupancy by no more than two (2) persons.

D. "Accessory dwelling unit" means a separate dwelling unit created upon a site that contains a single-family dwelling, duplex, or multiple-family dwelling ~~and for which an accessory dwelling unit permit has been granted pursuant to Chapter 17.43 of this title~~. Subject to the restrictions of this title, the accessory dwelling unit may be within, attached to, or detached from the single-family dwelling, duplex, or multiple-family dwelling. An accessory dwelling unit shall include permanent provisions for living, sleeping, eating, cooking, and sanitation. The term "secondary dwelling unit" shall have the same meaning throughout this title.

E. "Junior accessory dwelling unit" means a dwelling unit that is no more than five hundred (500) square feet in size and contained entirely within a single-family dwelling. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the single-family dwelling. Junior accessory dwelling units are distinguished from accessory dwelling units in that they: (1) must include the conversion of existing, legally permitted floor area within an existing single-family dwelling; (2) must be owner occupied, or the main dwelling be owner occupied; and (3) are subject to unique standards that are not applicable to accessory dwelling units, as specified in Chapter 17.43 of this Title.

F. "Single-family dwelling" means a dwelling unit constituting the only principal structure upon a single site (excluding any lawfully established accessory dwelling unit that may be located within the same structure on upon the same site). The term includes employee housing for six (6) or fewer persons, residential care facilities, licensed by the state to provide twenty-four (24) hour nonmedical care, serving six (6) or fewer persons (not including the operator, the operator's family or persons employed as staff) in need of supervision, personal services, or assistance essential for sustaining the activities of daily living or for the protection of the individual. Also see "Group care home" for seven (7) or more persons.

17.06.020 - Permitted uses. (R-1)

The following permitted uses shall be allowed in the R-1 district:

A. Single-family dwellings.

B. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.

C. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.

D. Small family day care homes.

E. ~~Secondary~~ Accessory dwelling units and junior accessory dwelling units, ~~when authorized by a permit granted pursuant to~~ in accordance with Chapter 17.43 of this title.

17.06.040 - Development regulations.

The following development regulations shall apply to any lot in the R-1 district:

A. Lot Area.

1. The minimum area of any lot shall be five thousand (5,000) square feet.

2. A single-family dwelling may be constructed on a lot of record with an area of less than five thousand (5,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.32.100.

B. Density of Development. Not more than one single-family dwelling ~~unit~~ shall be located on each lot in the R-1 district~~, except for a secondary dwelling unit authorized pursuant to Chapter 17.43 of this title~~.

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
50 feet	100 feet

D. Setbacks. The minimum required setbacks for any lot, except as provided in Section 17.32.070, shall be as follows:

1. Front setback: Fifteen (15) feet, with the following exceptions:

a. Where the lot has a slope of fifteen percent (15%) or greater, the minimum front setback may be reduced to ten (10) feet.

b. Where fifty percent (50%) or more of the lots of record in a block have been improved with single-family dwellings, the minimum front setback may be the average distance of the front outside wall of the single-family structures from the front lot line, if less than fifteen (15) feet. Notwithstanding the foregoing, the minimum front setback for garages or carports shall be ten (10) feet, except

where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

2. Side setback: five (5) feet, with the exception that a lot having a width of less than fifty (50) feet may have a side setback reduced to ten percent (10%) of the lot width, but in no event less than three (3) feet or the minimum setback required by the Uniform Building Code, whichever is greater. Notwithstanding the foregoing, the minimum side setback for garages or carports accessed from a street or alley along that side of the lot shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

3. Rear setback: Ten (10) feet.

E. Lot Coverage. The maximum coverage by all structures on any lot shall be forty percent (40%).

F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72. Where the size of the lot is three thousand seven hundred (3,700) square feet or less, one covered parking space designed to accommodate a full-size automobile shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of two hundred (200) square feet.

G. Height of Structures.

1. Except as otherwise provided in paragraph 2 ~~subsection (G)(2)~~ of this subsection G and in Section 17.32.060, the maximum height of any structure shall be as follows:

a. Twenty-eight (28) feet, for lots having a slope of less than twenty percent (20%); or

b. Thirty (30) feet, for lots having a slope of twenty percent (20%) or more.

2. For a distance of fifteen (15) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however, garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street when permitted by Section 17.32.070 of this title. A garage or carport in compliance with this subsection may exceed a height of thirty (30) feet, but the height of any permitted living area underneath shall not exceed thirty (30) feet from finish grade.

H. Articulation Requirements. Unless exempted, outside walls that are greater in size than twenty (20) feet in width and twenty (20) feet in height shall have a cumulative area of articulation as follows:

1. Front outside wall: Thirty percent (30%) articulation.

2. Side outside walls:

a. Interior side outside wall: No articulation requirement.

b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No articulation shall be required for the exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.

3. Rear outside wall: Thirty percent (30%) articulation.

4. Exemptions: Single story two (2) car garages and accessory structures not exceeding a floor area of one hundred twenty (120) square feet shall be exempted from all articulation requirements.

I. Landscaping Requirements.

1. Front Setback. A minimum of fifteen percent (15%) of the front setback area shall be landscaped where the lot has a front lot line of thirty (30) feet or greater.

2. Downslope Lots. The rear of any newly constructed main structure on a downslope lot shall be screened with trees and shrubs in accordance with a landscape plan approved by the planning director.

3. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

J. Nonconforming Residential Structures and Uses. Nonconforming residential structures and nonconforming residential uses, as defined in Section 17.02.560, may be repaired, restored, reconstructed, enlarged or expanded in accordance with the provisions of Chapters 17.38 and 17.34 of this title.

K. Recycling Area Requirements. For new subdivisions containing an area where solid waste is collected and loaded in a location which serves five (5) or more living units, adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided to serve the needs of the living units which utilize the area. This requirement shall also apply to all institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

17.08.020 - Permitted uses. (R-2)

The following permitted uses shall be allowed in the R-2 district:

A. Single-family dwellings ~~and accessory dwelling units associated with an existing or proposed single-family dwelling in compliance with Chapter 17.43~~.

B. Duplexes.

C. Multiple family dwellings containing not more than six (6) dwelling units.

D. Dwelling groups.

E. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.

F. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.

G. Small family day care homes.

H. Accessory dwelling units and junior accessory dwelling units, in accordance with Chapter 17.43 of this title.

17.08.040 - Development regulations.

The following development regulations shall apply to any lot in the R-2 district:

A. Lot Area.

1. The minimum area of any lot shall be five thousand (5,000) square feet, except as otherwise provided in subsection B of this Section 17.08.040~~(B)~~.

2. A single-family dwelling may be constructed on a lot of record with an area of less than five thousand (5,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.32.100.

B. Density of Development. The minimum lot area for each dwelling unit on the site shall be two thousand five hundred (2,500) square feet; provided, however, a lot having an area of four thousand nine hundred fifty (4,950) square feet or greater shall be considered conforming for a development density of two (2) units.

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
50 feet	100 feet

D. Setbacks. The minimum required setbacks for any lot, except as provided in Section 17.32.070, shall be as follows:

1. Front setback: Fifteen (15) feet, with the following exceptions:

a. Where the lot has a slope of fifteen percent (15%) or greater, the minimum front setback may be reduced to ten (10) feet.

b. Where fifty percent (50%) or more of the lots of record in a block have been improved with single-family dwellings, the minimum front setback may be the average distance of the front outside wall of the single-family structures from the front lot line, if less than fifteen (15) feet. Notwithstanding the foregoing, the minimum front setback for garages or carports shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

2. Side setback: five (5) feet, with the exception that a lot having a width of less than fifty (50) feet may have a side setback reduced to ten percent (10%) of the lot width, but in no event less than three (3) feet or the minimum setback required by the Uniform Building Code, whichever is greater. Notwithstanding the foregoing, the minimum side setback for garages, or carports accessed from a street or alley along that side of the lot shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

3. Rear setback: Ten (10) feet.

E. Lot Coverage. The maximum coverage by all structures on any lot shall be fifty percent (50%).

F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72, subject to the following exclusions:

1. In the case of single-family dwellings, where the size of the lot is three thousand seven hundred (3,700) square feet or less, one covered parking space designed to accommodate a full-size automobile shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of two hundred (200) square feet.

2. In the case of duplexes and multiple-family dwellings, the area of all covered parking spaces required to be provided for the site shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of four hundred (400) square feet per unit.

G. Height of Structures.

1. Except as otherwise provided in paragraph 2 ~~subsection (G)(2)~~ of this subsection~~,~~ G and in Section 17.32.060, the maximum height of any structure shall be as follows:

a. Twenty-eight (28) feet, for lots having a slope of less than twenty percent (20%); or

b. Thirty (30) feet, for lots having a slope of twenty percent (20%) or more.

2. For a distance of fifteen (15) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however, garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street when permitted by Section 17.32.070 of this title. A garage or carport in compliance

with this subsection may exceed a height of thirty (30) feet, but the height of any permitted living area underneath shall not exceed thirty (30) feet from finish grade.

H. Articulation Requirements. Unless exempted, outside walls that are greater in size than twenty (20) feet in width and twenty (20) feet in height shall have a cumulative area of articulation as follows:

1. Front outside wall: Thirty percent (30%) articulation.

2. Side outside walls:

    a. Interior side outside wall: No articulation requirement.

    b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No articulation shall be required for the exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.

3. Rear outside wall: Thirty percent (30%) articulation.

4. Exemptions: Single story two (2) car garages and accessory structures not exceeding a floor area of one hundred twenty (120) square feet shall be exempted from all articulation requirements.

I. Landscaping Requirements.

1. Front Setback. A minimum of fifteen percent (15%) of the front setback area shall be landscaped where the lot has a front lot line of thirty (30) feet or greater.

2. Downslope Lots. The rear of any newly constructed main structure on a downslope lot shall be screened with trees and shrubs in accordance with a landscape plan approved by the planning director.

3. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

J. Nonconforming Residential Structures and Uses. Nonconforming residential structures and nonconforming residential uses, as defined in Section 17.02.560, may be repaired, restored, reconstructed, enlarged or expanded in accordance with the provisions of Chapters 17.38 and 17.34 of this title.

K. Recycling Area Requirements:

1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff

from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

2. This requirement shall apply to all new residential buildings having five (5) or more living units, institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. This requirement shall also apply to such existing developments for which building permit applications are submitted within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of the development project.

17.10.020 - Permitted uses. (R-3)

The following permitted uses shall be allowed in the R-3 district:

A. Multiple-family dwellings;

B. Single-family dwellings ~~and accessory dwelling units associated with an existing or proposed single-family dwelling in compliance with Chapter 17.43~~.

C. Duplexes.

D. Dwelling groups.

E. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.

F. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.

G. Small family day care homes.

H. Accessory dwelling units and junior accessory dwelling units, in accordance with Chapter 17.43 of this title.

17.10.040 - Development regulations.

The following development regulations shall apply to any lot in the R-3 district:

A. Lot Area.

1. The minimum area of any lot shall be five thousand (5,000) square feet, except as otherwise provided in subsection B of this section.

2. A single-family dwelling may be constructed on a lot of record with an area of less than five thousand (5,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.32.100.

B. Density of Development. The minimum lot area for each dwelling unit on the site shall be one thousand five hundred (1,500) square feet; provided, however, a lot having an area of four thousand nine hundred fifty (4,950) square feet or greater shall be considered conforming for a development density of three (3) units.

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
50 feet	100 feet

D. Setbacks. The minimum required setbacks for any lot, except as provided in Section 17.32.070, shall be as follows:

1. Front setback: Fifteen (15) feet, with the following exceptions:

a. Where the lot has a slope of fifteen percent (15%) or greater, the minimum front setback may be reduced to ten (10) feet.

b. Where fifty percent (50%) or more of the lots of record in a block have been improved with single-family dwellings, the minimum front setback may be the average distance of the front outside wall of the single-family structures from the front lot line, if less than fifteen (15) feet. Notwithstanding the foregoing, the minimum front setback for garages or carports shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

2. Side setback: five (5) feet, with the exception that a lot having a width of less than fifty (50) feet may have a side setback reduced to ten percent (10%) of the lot width, but in no event less than three (3) feet or the minimum setback required by the Uniform Building Code, whichever is greater. Notwithstanding the foregoing, the minimum side setback for garages, or carports accessed from a street or alley along that side of the lot shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

3. Rear setback: Ten (10) feet.

E. Lot Coverage. The maximum coverage by all structures on any lot shall be sixty percent (60%).

F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72, subject to the following exclusions:

1. In the case of single-family dwellings, where the size of the lot is three thousand seven hundred (3,700) square feet or less, one covered parking space designed to accommodate a full-size automobile shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of two hundred (200) square feet.

2. In the case of duplexes and multiple-family dwellings, the area of all covered parking spaces required to be provided for the site shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of four hundred (400) square feet per unit.

G. Height of Structures.

1. Except as otherwise provided in paragraph 2 ~~subsection (G)(2)~~ of this subsection G and in Section 17.32.060, the maximum height of any structure shall be as follows:

a. Twenty-eight (28) feet, for lots having a slope of less than twenty percent (20%); or

b. Thirty (30) feet, for lots having a slope of twenty percent (20%) or more.

2. For a distance of fifteen (15) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however, garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street when permitted by Section 17.32.070 of this title. A garage or carport in compliance

with this subsection may exceed a height of thirty (30) feet, but the height of any permitted living area underneath shall not exceed thirty (30) feet from finish grade.

H. Articulation Requirements. Unless exempted, outside walls that are greater in size than twenty (20) feet in width and twenty (20) feet in height shall have a cumulative area of articulation as follows:

1. Front outside wall: Thirty percent (30%) articulation.
2. Side outside walls:
    a. Interior side outside wall: No articulation requirement.
    b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No articulation shall be required for the exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.
3. Rear outside wall: Thirty percent (30%) articulation.
4. Exemptions: Single story two (2) car garages and accessory structures not exceeding a floor area of one hundred twenty (120) square feet shall be exempted from all articulation requirements.

I. Landscaping Requirements.

1. Front Setback. A minimum of fifteen percent (15%) of the front setback area shall be landscaped where the lot has a front lot line of thirty (30) feet or greater.
2. Downslope Lots. The rear of any newly constructed main structure on a downslope lot shall be screened with trees and shrubs in accordance with a landscape plan approved by the planning director.
3. Sites with Three (3) or More Units. Not less than ten percent (10%) of the lot area shall be improved with landscaping where three (3) or more dwelling units are located on the same site.
4. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

J. Nonconforming Residential Structures and Uses. Nonconforming residential structures and nonconforming residential uses, as defined in Section 17.02.560, may be repaired, restored, reconstructed, enlarged or expanded in accordance with the provisions of Chapters 17.38 and 17.34 of this title.

K. Recycling Area Requirements:

1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be

located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

2. This requirement shall apply to all new residential buildings having five (5) or more living units, institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. This requirement shall also apply to such existing developments for which building permit applications are submitted within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of the development project.

17.12.020 - Permitted uses. (R-BA)

The following permitted uses shall be allowed in the R-BA district:

A. Single-family dwellings.

B. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.

C. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.

D. Small family day care homes.

E. ~~Secondary~~ Accessory dwelling units and junior accessory dwelling units, when authorized by a permit under~~granted pursuant to~~ Chapter 17.43 of this title.

17.12.040 - Development regulations.

The following development regulations shall apply to any lot in the R-BA district:

A. Lot Area.

1. The minimum area of any lot shall be twenty thousand (20,000) square feet, except as otherwise provided in Section 17.12.050, Density transfer, and Section 17.12.055, Clustered development, of this chapter.

2. A single-family dwelling may be constructed on a lot of record with an area of less than twenty thousand (20,000) square feet, subject to the provisions of this chapter and the limitations set forth in ~~Section 17.32.100~~ Section 17.01.060 of Chapter 17.01 of this ~~T~~title.

B. Density of Development. Not more than one ~~dwelling unit~~single-family dwelling shall be located on each lot in the R-BA District.~~, except for a secondary unit authorized by a permit granted pursuant to Chapter 17.43 of this title.~~

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
110 feet	140 feet

D. Setbacks. The minimum required setbacks for any lot, except as provided in Section 17.32.070, shall be as follows:

1. Front setback: Ten (10) feet.

2. Side setback: Ten percent (10%) of the lot width, but in no event more than fifteen (15) feet or less than five (5) feet. Notwithstanding the foregoing, the minimum side setback for garages or carports accessed from a street or alley along that side of the lot shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

3. Rear setback: Ten (10) feet.

E. Lot Coverage. The maximum coverage by all structures on any lot shall be twenty-five percent (25%).

F. Floor Area Ratio. The maximum floor area ratio of all buildings on a lot shall be 0.72; provided, however, that in no event shall the floor area of all buildings on a lot exceed five thousand five hundred (5,500) square feet.

G. Height of Structures.

1. Except as otherwise provided in paragraph 2 ~~subsection (G)(2)~~ of this subsection G and in Section 17.32.060, the maximum height of any structure shall be thirty-five (35) feet.

2. For a distance of twenty (20) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however:

a. Residential structures on sites sloping down from the adjacent street may be constructed to a height of twenty (20) feet above the elevation of the center of the street, so long; and

b. Garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street and may exceed a height of thirty-five (35) feet, but the height of any permitted living area underneath shall not exceed thirty-five (35) feet from finish grade.

H. Wildland Interface. The development shall incorporate such measures as the fire chief may deem necessary to protect against the spread of fire between the site and the adjacent wildland.

I. HCP Compliance. All development within the R-BA District, except as provided in Section 17.01.060, shall comply with the requirements of the San Bruno Mountain Area Habitat Conservation Plan (HCP), including site activity review, environmental assessments, and operating programs for planned management units, consistent with the objectives and obligations set forth in the HCP.

J. Articulation Requirements. Unless exempted, outside walls that are greater in size than twenty (20) feet in width and twenty (20) feet in height shall have a cumulative area of articulation as follows:

1. Front outside wall: Thirty percent (30%) articulation.

2. Side outside walls:

a. Interior side outside wall: No articulation requirement.

b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No articulation shall be required for the

exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.

3. Rear outside wall: Thirty percent (30%) articulation.

4. Exemptions: Single story two (2) car garages and accessory structures not exceeding a floor area of one hundred twenty (120) square feet shall be exempted from all articulation requirements.

K. Landscaping Requirements.

1. Landscape Plan. All development proposals and re-landscaping projects subject to the water conservation in landscaping ordinance (Chapter 15.70), except as permitted in Section 17.01.060 of Chapter 17.01 of this title, shall include a landscape plan to be approved by the planning director in consultation with the HCP plan operator. The plan shall show all proposed landscaping and the location of all protected trees and rare plants. The landscape plan shall be consistent with all of the following objectives:

    a. Preservation of protected trees and rare plants to the greatest extent possible;

    b. Use of plants that are compatible with the natural flora and fauna, and are not invasive to the HCP area;

    c. Use of water conserving plants;

    d. Use of plants that will effectively screen structures and blend with the natural landscape; and

    e. Use of landscaping that is fire resistant.

2. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

L. Ridgeline. Development on any site through which a ridgeline runs as identified in Figure 17.02.695, Ridgelines, shall be subject to design permit approval, except for accessory dwelling units and junior accessory dwelling units and except as provided in Section 17.01.060.

1. In addition to the required contents of application for design permit set forth in Section 17.42.020(A), story poles certified by a licensed architect, surveyor, civil engineer or contractor to represent the height of the proposed building shall be erected at the locations of its outer corners and roof peaks according to a plan pre-approved by the community development director. The upper one-foot length of each pole shall be painted OSHA yellow so as to be clearly visible from a distance.

2. In addition to the findings required for issuance of design permits set forth in Section 17.42.040, the planning commission shall find that the building's placement, height, bulk and landscaping will preserve those public views of the San Bruno Mountain State and County Park as seen from the Community Park

and from the Bay Trail along the Brisbane Lagoon and Sierra Point shorelines that are found to be of community-wide value. Methods to accomplish this may include varying the building's roofline to reflect the ridgeline's topography, orienting the building to minimize the impact of its profile upon public views, locating the building on the lower elevations of the site, and reducing the building's height below the maximum permitted in the district.

3. An existing structure may be repaired or replaced in accordance with Section 17.38.090 without design permit approval, but any alteration or expansion which raises any portion of the roofline or increases the building's lot coverage shall be subject to design permit approval under this section.

M. Canyon Watercourses and Wetlands. Development of the site, including any temporary disturbance, shall be set back thirty (30) feet in each direction from the center line of any watercourse, and twenty (20) feet from the boundary of any wetlands. The specific location of watercourse center lines and wetland boundaries shall be determined by qualified personnel under the city's direction.

N. Trails. The development shall incorporate public access trails to the extent feasible given the environmental sensitivities of the site.

O. Nonconforming Residential Structures and Uses. Nonconforming residential structures and nonconforming residential uses, as defined in Section 17.02.560, may be repaired, restored, reconstructed, enlarged or expanded in accordance with the provisions of paragraph 3 of subsection L of Section 17.12.040~~(L(3)~~ and Chapters 17.34 and 17.38~~,and 17.34,~~ of this title.

P. Recycling Area Requirements. For new subdivisions containing an area where solid waste is collected and loaded in a location which serves five (5) or more living units, adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided to serve the needs of the living units which utilize the area. This requirement shall also apply to all institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

17.14.020 - Permitted uses. (NCRO-1 & NCRO-2)

The following uses are permitted uses in the NCRO-1 and NCRO-2 districts, if conducted in accordance with the performance standards set forth in 17.14.070 of this chapter:

A. Financial institutions.

B. Medical facilities.

C. Offices.

D. Personal services.

E. Restaurants.

F. Retail sales and rental.

G. Home occupations, in the NCRO-2 District only.

~~G.~~H. Accessory dwelling units and junior accessory dwelling units associated with an existing or proposed single-family dwelling, duplex, or multiple-family dwelling in compliance with the provisions of Chapter 17.43 of this title, in the NCRO-2 District only.

17.14.060 - Development regulations for the NCRO-2 district.

Development regulations for the NCRO-2 district are as follows:

A. Lot Area. The minimum area of any lot in the NCRO-2 district shall be two thousand five hundred (2,500) square feet.

B. Lot Dimensions. The minimum dimensions of any lot in the NCRO-2 district shall be as follows:

Width	Depth
25 feet	No requirement

C. Density of Residential Use. Dwelling unit density in a mixed use shall be established by the use permit.

D. Setbacks. The minimum required setbacks for any lot in the NCRO-2 district, except as provided in Section 17.32.070, shall be as follows:

1. Front setback: No requirement (0).

2. Side Setback: No requirement (0), except a ten (10) foot setback shall be required on the side setback where ~~when the site is~~ abutting any residential district.

3. Rear Setback: Ten (10) feet.

E. Lot Coverage. The maximum coverage by all structures on any lot in the ~~NCRO-1~~ NCRO-2 district shall be ninety percent (90%).

F. Height of Structures. The maximum height of any structure, except as provided in Section 17.32.060, shall be twenty-eight (28) feet, except that the height may extend to thirty-five (35) feet when authorized by a design permit granted pursuant to Chapter 17.42 of this title and provided the approving authority is able to make the findings set forth in Section 17.14.110 of this chapter.

G. Fencing Requirements. If the site is next to a residential district, a wood fence of not less than eight (8) feet in height that adequately screens the site from the adjacent residential property shall be installed along the property line abutting the residential district. The planning director may approve deviations from the material and height requirements set forth in the preceding sentence, based upon a finding that the modified fence is more appropriate for the site and the adjacent residential property.

H. Storefronts. All uses at street level facing Visitacion and/or San Bruno Avenues shall be storefronts, as defined in Section 17.02.746 of this titlechapter, except for entrances to uses above or behind the storefronts. Such uses shall comply with the following additional requirements:

1. The minimum floor area for a storefront use is six hundred (600) square feet. The approving authority may approve a lesser floor area if the approving authority finds that such lesser area is as large as possible for the intended storefront use, given the size, configuration, and physical constraints of the structure and the site.

2. No off-street parking shall be located on any portion of the site between the curb line and the storefront.

3. New construction shall incorporate the necessary vents and chases into the building design so as to allow future changes in occupancy of the storefront area.

4. Single-family dwellings in which mixed uses are conducted shall have a storefront character as viewed from the street.

I. Passive Open Space. Usable passive open space shall be provided for residential uses of at least sixty (60) square feet per unit. Such passive open space may be provided as individual patios or decks, or as common patio or garden area, or any combination thereof. Notwithstanding that an attached or detached accessory dwelling unit greater than eight hundred (800) square feet is added to an existing residential use, there shall be no reduction in the amount of required usable passive open space for the other residential use. If an existing residential use has passive open space that does not conform to the sixty (60) square feet per unit requirement, the addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet to that use shall not further reduce the amount of passive open space. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) feet or less may result in a loss of the required usable passive open space for the other residential uses, including the loss of non-forming passive open space.

J. Recycling Area Requirements.

1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from

adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

2. This requirement shall apply to all new commercial or institutional buildings, residential buildings having five or more living units, and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. This requirement shall also apply to any existing development for which building permit applications are submitted within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of the development project. For existing developments occupied by multiple tenants, this requirement shall apply to building permit applications submitted by any tenant within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of that portion of the development which said tenant leases. Such recycling areas shall, at a minimum, be sufficient in capacity, number, and distribution to serve that portion of the development project which said tenant leases.

17.16.020 - Permitted uses. (SCRO-1)

A. The following are permitted uses in the SCRO-1 district:

1. Emergency shelters in compliance with Section 17.16.040.

2. Accessory dwelling units and junior accessory dwelling units associated with an existing or proposed single-family dwelling, duplex, or multiple-family dwelling in compliance with the provisions of Chapter 17.43 of this ~~Title~~title.

17.16.040 - Development regulations.

Development regulations in the Southwest Bayshore district are as follows:

A. Lot Area. The minimum area of any lot shall be seven thousand five hundred (7,500) feet.

B. Density of Development. The minimum lot area for each dwelling unit on a site shall be as follows:

1. Single-family dwellings: Seven thousand five hundred (7,500) square feet;

2. Duplex dwellings: Three thousand seven hundred fifty (3,750) square feet;

3. Multiple-family dwellings and dwelling groups: One thousand five hundred (1,500) square feet;

4. Mixed use or live/work development: Dwelling unit density shall be determined by the use permit.

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

~~1. Width: Fifty (50) feet;~~

~~2.~~1. ~~Depth: No requirement.~~

Width	Depth
50 feet	No requirement

D. Setbacks. The minimum required setbacks for any lot, except as provided in Section 17.32.070, shall be as follows:

1. Front setback;

a. Residential/Mixed Use: Ten (10) feet;

b. Commercial Uses: Twenty-five (25) feet for commercial uses;

c. Exception: The setbacks may be reduced to zero (0) where development includes dedication to public right-of-way for a frontage access road and sidewalk, to the satisfaction of the city engineer and fire department.

2. Side setback:

a. Residential/Mixed Use: Five (5) feet;

b. Commercial Uses: Fifteen (15) feet;

c. Exception: The planning commission may approve exceptions to the side setback regulations through the granting of a use permit.

3. Rear setback: Ten (10) feet.

E. Lot Coverage. The maximum coverage by all structures on any lot shall be seventy percent (70%).

F. Height of Structures. The maximum height of any structure, except as provided in Section 17.32.060, shall be thirty-five (35) feet.

G. Landscaping Requirements.

1. Not less than ten percent (10%) of the lot area shall be improved with landscaping. The addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet shall not result in a loss of the required landscape area. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) square feet or less may result in a loss of the required landscape area.

2. Plant materials shall be drought resistant and non-invasive as required by the planning director.

3. Landscaping required under this section, including replacement landscaping, shall be installed according to detailed plans approved by the planning director. The landscape plans shall be consistent with the following objectives:

a. Use of plants that are not invasive;

b. Use of water conserving plants; and

c. Use of plants and other landscape features that are appropriate to the context.

4. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to ~~the provisions of~~ the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

H. Screening Requirements.

1. Outside storage of pallets or containers used for transportation and delivery of items related to the uses conducted on the site shall not be located in any required setback from a street and shall be screened from off-site view to the extent it is reasonable to do so.

2. The off-site visibility of exterior equipment such as heating and ventilation units, above-ground storage tanks, compactors and compressors, shall be mitigated through such measures as may be reasonable under the circumstances, including, but not limited to, the installation of screening, fencing, painting, or landscaping, or any combination of the foregoing.

3. The screening requirements set forth in subsections (H)(1) and (H)(2) of this section are not intended to be exclusive and the approving authority may require, as a condition of the use permit, such other and additional screening measures as it deems necessary or appropriate to mitigate any potential adverse visual and audible impacts created by the intended use.

I. Recycling Area Requirements.

1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

2. This requirement shall apply to all new commercial or institutional buildings, residential buildings having five (5) or more living units, and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. This requirement shall also apply to any existing development for which building permit applications are submitted within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of the development project. For existing developments occupied by multiple tenants, this requirement shall apply to building permit applications submitted by any tenant within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of that portion of the development which said tenant leases. Such recycling areas shall, at a minimum, be sufficient in capacity, number, and distribution to serve that portion of the development project which said tenant leases.

J. Emergency Shelters. Development standards for emergency shelters shall be the same as for residential development in the district, except density of development regulations, and emergency shelters that meet the following requirements are exempt from the requirement of a design permit and use permit:

1. No emergency shelter shall be allowed to be located within three hundred (300) feet of another emergency shelter.

2. The required setbacks for new development shall be:

a. Front setback: Ten (10) feet; except that the front setback may be reduced to zero (0) where development includes dedication to public right-of-way for a frontage access road and sidewalk, to the satisfaction of the city engineer and fire department.

b. Side setback: Five (5) feet; except that the planning commission may approve exceptions to the side setback regulations through the granting of a use permit.

c. Rear setback: Ten (10) feet.

3. A maximum of twelve (12) persons (twelve (12) beds) to be served nightly.
4. Each resident shall be provided personal living space.
5. Bathrooms and bathing facilities shall be provided, adequate for the number of residents.
6. Laundry facilities or services shall be provided on site, adequate for the number of residents.
7. The length of stay for individual clients shall not exceed six (6) months, or as allowed by state law.
8. Staff and services shall be provided to assist residents to obtain permanent shelter and income.
9. For security, the facility shall provide outdoor lighting of common areas, entries, parking areas, pathways, in compliance with ~~BMC~~ Section 17.16.050(E).
10. For security, the shelter shall be adequately staffed twenty-four (24) hours a day, seven (7) days a week.
11. Parking shall be as specified in ~~BMC~~ Chapter 17.34.
12. Outdoor activities, such as recreation, eating, and staging for drop-off, intake, and pick-up, may be conducted at the facility, between the hours of five (5:00) a.m. and ten (10:00) p.m. A night operations use permit is required for outdoor activities between the hours of ten (10:00) p.m. and five (5:00) a.m., as provided for in ~~BMC~~ Section 17.16.070.
13. The facility may provide the following:
    a. Kitchen facilities;
    b. Dining area;
    c. Recreation room;
    d. Training and counseling support services;
    e. Child care facilities;
    f. Other facilities or services that are accessory to an emergency shelter.
14. Prior to commencing operation, the emergency shelter provider must have a written management plan, which shall be provided to the planning director. The management plan must include provisions for staff training, resident identification process, neighborhood outreach, policies regarding pets, the timing and placement of outdoor activities, provisions for residents' meals (including special dietary needs), medical care, mental health care, dental care, temporary storage of residents' personal belongings, safety and security, provisions in case of area-wide emergencies, screening of residents to ensure compatibility with services provided at the facility, plans to help secure other

provisions for those who may not be part of the shelter's target population, computer access for residents, and training, counseling and social service programs for residents, as applicable.

K. Mobile Home Parks.

1. Mobile home parks in the SCRO-1 district shall be subject to the development and parking standards established in Chapter 17.11 of this Title.

2. Conversion, closure, or cessation of a mobile home park in the SCRO-1 district shall be subject to the procedures established in Section 17.11.090 of this Title.

17.27.020 - Permitted uses. (PAOZ-1 & PAOZ-2)

The following are permitted uses in the PAOZ-1 and PAOZ-2 districts:

PAOZ-1	PAOZ-2	Permitted Uses
X	Not permitted	Single-family dwellings
X	X	Multiple-family dwellings
X	X	Dwelling groups
X	X	Accessory structures
X	X	Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 ~~of the BMC~~
X	X	Small family day care homes
X	X	Accessory dwelling units, in compliance with Chapter 17.43 of this title.
X	Not permitted	Junior accessory dwelling units, in compliance with Chapter 17.43 of this title.

17.27.040 - Development regulations for the PAOZ-1 district.

Development regulations for the PAOZ-1 district are as follows:

A. Lot Area. There is no minimum lot area.

B. Density of Development. The minimum development density for any site shall be twenty (20) dwelling units per acre and the maximum development density shall be twenty-eight (28) dwelling units per acre.

C. Lot Dimensions. There are no minimum lot dimensions.

D. Setbacks. The minimum required setbacks for any building shall be as follows:

1. Front: Five (5) feet minimum, fifteen (15) feet maximum.
2. Side: Five (5) feet minimum, ten (10) feet maximum.
3. Street Side: Ten (10) feet minimum and maximum.
4. Rear: Fifteen (15) feet minimum.
5. Any architectural projection (including lobbies, porches, stoops, canopies, and other entry-related architectural features) may extend up to two (2) feet into the required front setback area.

E. Lot Coverage. There is no maximum lot coverage.

F. Floor Area Ratio. There is no maximum floor area ratio.

G. Height.

1. Buildings and Architectural Features. The maximum building height shall be thirty-eight (38) feet and three (3) stories. Architectural features, including chimneys, elevators, towers, turrets, eaves, skylights or roof windows, utilities, utility penthouses, and solar panels, are allowed to project up to a maximum of ten (10) feet above the maximum building height.
2. Fences and Walls. Fences and walls in front yards shall be no more than three (3) feet in height from the adjacent sidewalk. Fences and walls in side yards shall not exceed six (6) feet in height. Deviations from maximum fence and wall heights shall require approval by the planning commission as provided in Section 17.32.050(B)(5) of this title.

H. Landscaping Requirements. Not less than thirty percent (30%) of the lot area shall be landscaped. New and rehabilitated, irrigated landscapes are subject to ~~ the provisions of~~ the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest State provisions, whichever is more effective in conserving water. Landscaping shall conform to the development standards established in Section 3.5 of the Parkside Precise Plan. The addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet shall not result in a loss of the required landscaping. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) square feet or less may result in a loss of the required landscape area.

I. Open Area Requirements. At least four hundred (400) square feet of open area shall be provided for the dedicated use of each ~~residential~~ dwelling unit. The open area requirement shall not be met by shared or communal open areas. The addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet shall not result in a loss of the required open areas. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) square feet or less may result in a loss of the required open area.

J. Building Design. All buildings shall substantially comply with the building design standards established in Section 3.3 of the Parkside Precise Plan. Projects that do not comply with those building design standards shall be subject to design review as set forth in Section 17.27.060(B), in addition to any other discretionary review required by the specific deviations.

K. Site Design. All projects shall substantially comply with the site design standards established in Section 3.4 of the Parkside Precise Plan. Projects that do not comply with those site design standards shall be subject to design review as set forth in Section 17.27.060(B), in addition to any other discretionary review required by the specific deviations.

L. Parking. Required on-site parking for single-family dwellings shall be two (2) spaces per dwelling, both of which shall be in an enclosed garage. For multiple-family dwellings, accessory dwelling units, and junior accessory dwelling units, required on-site parking and additional guest parking shall be provided as set forth in Section 17.34.020 of this title.

1. Design Requirements. Off-street parking facilities shall comply with the design standards as set forth in Table 1, which appears immediately following this section.

M. Recycling Area Requirements.

1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

2. These requirements shall apply to all new residential buildings having five (5) or more dwelling units, institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the City) where solid waste is collected and loaded. These requirements shall also apply to an existing development project for which building permit applications are submitted within a twelve-month period that collectively add thirty percent (30%) or more to the existing floor area of the development project.

17.27.050 - Development regulations for the PAOZ-2 district.

Development regulations for the PAOZ-2 district are as follows:

A. Lot Area. There is no minimum lot area.

B. Density of Development. The minimum development density for any site shall be twenty-four (24) dwelling units per acre and the maximum development density shall be twenty-eight (28) dwelling units per acre.

C. Lot Dimensions. There are no minimum lot dimensions.

D. Setbacks. The minimum required setbacks for any building shall be as follows:

1. Front: Five (5) feet minimum, twenty (20) feet maximum.

   Any architectural projection (including lobbies, porches, stoops, canopies, and other entry-related architectural features) may extend up to two (2) feet into the required front setback area.

2. Side: Five (5) feet minimum.

   Upper floor second and third-story balconies may extend up to two (2) feet into the required side setback area.

3. Street Side: Ten (10) feet minimum and maximum.

4. Rear: Fifteen (15) feet minimum.

E. Lot Coverage. The maximum coverage by all structures on any lot shall be sixty percent (60%).

F. Floor Area Ratio. There is no maximum floor area ratio.

G. Height.

1. Buildings and Architectural Features. The maximum building height shall be forty (40) feet and three (3) stories. Architectural features, including chimneys, elevators, towers, turrets, eaves, skylights or roof windows, utilities, utility penthouses, and solar panels, are allowed to project up to a maximum of ten (10) feet above the maximum building height.

2. Fences and Walls. Fences and walls in front yards shall be no more than three (3) feet in height from the adjacent sidewalk. Fences and walls in side yards shall not exceed six (6) feet in height. Deviations from the fence and wall heights shall require approval by the planning commission as set forth in Section 17.32.050(B)(5) of this title.

H. Landscaping Requirements. Not less than twenty percent (20%) of the lot area shall be landscaped. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest State provisions, whichever is more effective in conserving water. Landscaping shall conform to the development standards established in Section 3.5 of the Parkside Precise Plan. The addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet shall not result in a loss of the required landscaping area. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) square feet or less may result in a loss of the required landscape area.

I. Open Area Requirements. At least one hundred (100) square feet of open area per dwelling unit shall be provided. The open area may be met through a combination of common or private open areas provided on-site. Open areas shall be usable and shall support residents' passive and/or active use. The computation of open areas may include amenities and structures designed to enhance usability, such as swimming pools, rooftop gardens or decks, fountains, planters, benches, and usable landscaping. The addition of an attached or detached accessory dwelling unit greater

than eight hundred (800) square feet shall not result in a loss of the required open areas. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) square feet or less may result in a loss of the required open area.

J. Building Design. All buildings shall substantially comply with the building design standards established in Section 3.3 of the Parkside Precise Plan. Projects that do not comply with those building design standards shall be subject to design review as set forth in Section 17.27.060(B), in addition to any other discretionary review required by the specific deviations.

K. Site Design. All projects shall substantially comply with the site design standards established in Section 3.4 of the Parkside Precise Plan. Projects that do not comply with those site design standards shall be subject to design review as set forth in Section 17.27.060(B), in addition to any other discretionary review required by the specific deviations.

L. Parking. Required on-site parking and additional guest parking shall be as established in Section 17.34.020 of this title for multiple-family developments and accessory dwelling units.

1. Design Requirements. Off-street parking facilities shall comply with the design standards as set forth in Table 1, which appears immediately following this section.

2. Short-term and long-term parking for bicycles in the PAOZ-2 district shall be provided as follows: Long-Term: 1/10 units; Short-Term: 1/20 units.

   Bicycle parking design shall conform to the standards established in Section 3.4 of the Parkside Precise Plan.

M. Recycling Area Requirements.

1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

2. These requirements shall apply to all new residential buildings having five (5) or more living units, institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. These requirements shall also apply to existing development project for which building permit applications are submitted within a twelve-month period that collectively add thirty percent (30%) or more to the existing floor area of the development project.

17.28.120 - Amendment or modification of PD permit.

A. Amendments or modifications to a PD permit shall require approval by the city council, except as follows:

1. The planning commission and the zoning administrator shall have authority to approve any items which, under the terms of the PD permit, have been specifically delegated to either of them for approval, either as a condition for issuance of the permit or at any time thereafter.

2. Minor changes during the course of construction which do not materially affect the use, nature, appearance, quality or character of the project may be approved by the zoning administrator.

3. The relocation of a use or activity authorized by the PD permit to another location regulated by the same permit where no significant adverse impacts are created as a result of such relocation may be approved by the zoning administrator.

~~3.~~4. The construction of an accessory dwelling unit or junior accessory dwelling unit in compliance with Chapter 17.43 of this title shall be approved ministerially by the zoning administrator.

B. The application requirements, public hearing procedures and findings required for amendments or modifications to a PD permit shall be as prescribed in Sections 17.28.040, 17.28.050 and 17.28.080 of this chapter.

Chapter 17.32.070 - Exceptions – Setback requirements.

A. Notwithstanding any other provision of this title, certain structures or portions thereof may extend into a front, rear or side setback area to the extent permitted by the following chart:
    1. Projections from a Building.
        a. Overhanging Architectural Features (Such as Eaves, Cornices Canopies, Rain Gutters and Downspouts).

Front setback area:	May extend three (3) feet from the building into the front setback area, but no closer than five (5) feet from the front lot line.
Rear setback area:	May extend three (3) feet from the building into the rear setback area, but no closer than seven (7) feet from the rear lot line.
Side setback area:	May extend three (3) feet from the building into the side setback area, but no closer than two and one-half (2½) feet from the side lot line. Rain gutters and downspouts may extend no closer than two (2) feet from the side lot line. In the R-1 district, a noncombustible awning over the main entrance to a residence located at the side of the structure may extend four (4) feet from the building into any portion of the side setback area, but shall not extend over or drain onto the abutting property.

        b. Cantilevered Windows No Greater Than Ten (10) Feet in Length That Do Not Include Any Floor Area (Such ~~As~~ as Bay, Box, Bow, and Greenhouse Windows).

Front setback area:	May extend three (3) feet from the building into the front setback area, but no closer than five (5) feet from the front lot line.
Rear setback area:	May extend three (3) feet from the building into the rear setback area, but no closer than seven (7) feet from the rear lot line.
Side setback area:	May extend two (2) feet into the side setback area, but no closer than three (3) feet from the side lot line.

        c. Supported Decks, Cantilevered Decks and Balconies.

Front setback area:	May extend five (5) feet from the building into the front setback area, but no closer than five (5) feet from the front lot line. Decks may be located atop a garage or carport approved under Section 17.32.070(A)(3)(a) and may extend to the front of the garage, but the railings of such deck may not exceed fifteen (15) feet in height above the elevation of the center of the adjacent street

	or four (4) feet from the surface of the deck, whichever is less, while at the same time maintaining the minimum railing height required by the building code.
Rear setback area:	May extend five (5) feet from the building into the rear setback area, but no closer than five (5) feet from the rear lot line. This exception shall not apply to the NCRO district.
Side setback area:	No exception permitted.

Modifications. The planning commission may approve a modification to the foregoing exceptions if there are not more than two (2) units on the site and the planning commission is able to make all of the following findings:

i. The modification is necessary in order to gain access to the property or to the dwelling unit on the property.
ii. The modification is necessary because of unusual or special circumstances relating to the configuration of the property.
iii. The visual impacts of the modification have been minimized.

d. Deck Railings within Setback Areas.

Front setback area:	May not be higher than four (4) feet from the surface of the deck.
Rear setback area:	May not be higher than four (4) feet from the surface of the deck.
Side setback area:	No exception permitted.

e. Stairs, Ramps and Landings (That Are Open and Uncovered and Serve Buildings with No More Than Two Units).

Front setback area:	No more than one set of stairs per dwelling unit may extend from the building into the front setback area. Each set of stairs must lead to the front entrance of the unit. The height of the stairway within the front setback area shall not exceed twenty (20) feet. Stairs on grade, sidewalks, and other flatwork constructed of noncombustible materials may be located anywhere within the front setback area.
Rear setback area:	No more than one set of stairs per dwelling unit may extend from the building into the rear setback area, but no closer than five (5) feet from the rear lot line. Stairs on grade, sidewalks, and other flatwork constructed of noncombustible materials may be located anywhere within the rear setback area.

Side setback area:	No more than one set of stairs per dwelling unit may extend from the building into the side setback area, but no closer than three (3) feet from the side lot line. Stairs on grade, sidewalks, and other flatwork constructed of noncombustible materials may be located anywhere within the side setback area.

Modifications. The planning commission may approve a modification to the foregoing exceptions for stairs, ramps and landings if there are not more than two units on the site and the planning commission is able to make all of the following findings:

i. The modification is necessary in order to gain access to the property or to the dwelling unit on the property.
ii. The modification is necessary because of unusual or special circumstances relating to the configuration of the property.
iii. The visual impacts of the modification have been minimized.

The planning commission may also approve a modification to the foregoing exceptions as part of a design permit being granted for three (3) or more units on the site, if the commission is able to make all of the findings listed above.

f. Accessibility Improvements (Such as Ramps, Elevators, and Lifts).

All Setback Areas. Accessibility improvements, such as ramps, elevators and lifts, may be allowed within any front, rear or side area setback upon the granting of an accessibility improvement permit by the zoning administrator, following the conduct of a hearing with ten (10) days' notice thereof being given to the owners of all adjacent properties. The zoning administrator may issue the accessibility improvement permit if he or she finds and determines that:

i. The exception is necessary to meet special needs for accessibility of a person having a physical handicap which impairs his or her ability to access the property and cannot be addressed through the standard exceptions to the setback area requirements under this Section 17.32.070.
ii. Visual impacts of the accessibility improvements located within a setback area have been minimized.
iii. The accessibility improvements will not create any significant adverse impacts upon adjacent properties in terms of loss of privacy, noise or glare.
iv. The accessibility improvements will be constructed in a sound and workmanlike manner, in compliance with all applicable provisions of the building and fire codes.

2. Small Free-Standing Structures.

a. Small Accessory Buildings and Roofed Structures (Such as Gazebos, Greenhouses, Garden and Utility Sheds).

Front setback area:	No exception permitted.
Rear setback area:	May be placed at any location within the rear setback area which is not less than five (5) feet from the rear lot line or three (3) feet from the interior side lot line, provided the building or structure, or portion thereof, within the rear setback area does not exceed eight (8) feet in height and does not have a floor area in excess of one hundred twenty (120) square feet.
Side setback area:	May be placed at any location within the interior side setback area which is not less than three (3) feet from the interior side lot line, provided the building or structure, or portion thereof, within the interior side setback area does not exceed eight (8) feet in height and does not have a floor area in excess of one hundred twenty (120) square feet. No exception is permitted for an exterior side setback area.

Modifications. The zoning administrator may approve a modification to the foregoing exceptions for small accessory buildings and roofed structures, following the conduct of a hearing with ten (10) days' notice thereof being given to the owners of all adjacent properties, if the zoning administrator is able to make all of the following findings:

i. The modification will not result in overbuilding the site or result in the removal of significant greenscape.
ii. The modification will not create any significant adverse impacts upon adjacent properties in terms of loss of privacy, noise, or glare.
iii. The accessory structure is designed to be compatible with the primary dwelling(s) on the site.

A building permit shall be required to construct or install any accessory structure for which a modification has been granted under this subsection.

b. Unroofed and Openwork Roofed Garden Structures (Such as Arbors, Porticos, Trellises and Lath Houses).

Front setback area:	May not exceed eight (8) feet in height or cover more than fifteen percent (15%) of the front setback area.
Rear setback area:	May be placed at any location within the rear setback area which is not less than five (5) feet from the rear lot line, provided the

	structure, or portion thereof, within the rear setback area does not exceed eight (8) feet in height and does not cover more than fifteen percent (15%) of the rear setback area.
Side setback area:	May be placed at any location within the side setback area which is not less than three (3) feet from the side lot line, provided the structure, or portion thereof, within the side setback area does not exceed eight (8) feet in height and does not cover more than fifteen percent (15%) of the side setback area.

Modifications. The zoning administrator may approve a modification to the foregoing exceptions for unroofed and openwork roofed garden structures, following the conduct of a hearing with ten (10) days' notice thereof being given to the owners of all adjacent properties, if the zoning administrator is able to make all of the following findings:

i. The modification will not result in overbuilding the site or result in the removal of significant greenscape.
ii. The modification will not create any significant adverse impacts upon adjacent properties in terms of loss of privacy, noise, or glare.
iii. The accessory structure is designed to be compatible with the primary dwelling(s) on the site.

3. Miscellaneous Improvements.

a. Garages and Carports and Parking Decks on Slopes of Fifteen Percent (15%) or Greater.

b. Decorative Artwork, Ponds, Fountains and Similar Water Features, Not More Than Six (6) Feet in Height.

c. Existing Permitted Garages or Accessory Buildings Converted into Accessory Dwelling Units.

Front setback area:	May be placed at any location within the front setback area.
Rear setback area:	May be placed at any location within the rear setback area.
Side setback area:	May be placed at any location within the side setback area.

~~d. Accessory Dwelling Units Built Above Existing Permitted Garages.~~

~~Front setback area:~~	~~No exception permitted.~~

~~Rear setback area:~~	~~May extend into rear setback no closer than five (5) feet from the rear lot line.~~
~~Side setback area:~~	~~No exception permitted.~~

4. Accessory Dwelling Units

a. Exceptions to the setback requirements for accessory dwelling units shall be as established in Chapter 17.43.

B. The exceptions set forth in subsection A of this Section 17.32.070~~(A) of this section~~ shall not be construed to include chimney boxes, swimming pools and spas, exposed plumbing, or mechanical equipment such as heating and air conditioning units or pool pumps, and no exceptions to the setback requirements shall be permitted for any of these structures.

C. Any structure, architectural feature, wall, or other improvement lawfully constructed within a setback area and constituting a nonconforming structure as defined in Section 17.02.560, may be allowed to continue in accordance with~~ the provisions of~~ Chapter 17.38 of this title.

Chapter 17.34.020 – Minimum requirements. (Parking)

A. ~~the~~ The following minimum parking requirements shall apply to all buildings erected, new uses commenced, and to the area of extended uses commenced after the effective date of this Chapter. For any use not specifically mentioned in this Chapter, the planning commission shall determine the amount of parking required. All required off-street parking facilities shall be on-site unless specified differently in this Chapter or as permitted under Title 12 of this Code. Required off-street parking facilities need not be provided as covered parking unless specified differently in this chapter:

Uses:	Parking Requirements:
Single-family dwellings and group care homes:	
Studio or 1-bedroom dwellings not more than 900 square feet in floor area:	1 off-street space (uncovered or covered).
All other dwellings not exceeding 1,800 square feet in floor area:	1 off-street space plus 1 space which shall be in a garage or carport.
Dwellings exceeding 1,800 square feet in floor area on lots having less than 37.5 feet in frontage:	2 off-street spaces plus 1 space which shall be in a garage or carport.
Dwellings exceeding 1,800 square feet in floor area on lots of 37.5 feet frontage or greater:	2 on-street or off-street spaces plus 2 spaces which shall be in a garage or carport.
	See Section 17.34.020(B)(1) regarding garage and carport exclusions from the floor area calculation.

Uses:	Parking Requirements:
	Additional guest parking spaces shall be provided for all residential subdivisions of 5 or more single-family residences, at the rate of 1 parking space for every 5 units. Such spaces shall be located entirely within the public right-of-way and available for public use. Any accessible parking spaces required per Section 17.34.040(D) shall count as guest parking spaces.
Accessory dwelling units	~~No off-street parking required.~~ In the R-1, R-2, R-3, NCRO-2, SCRO-1, PAOZ-1, or PAOZ-2 Districts: No off-street parking required. In the R-BA and PD Districts: 1 off-street parking space (uncovered or covered), unless the accessory dwelling unit is located within one-half mile walking distance of public transit, or the accessory dwelling unit is part of the proposed or existing dwelling, as defined in Section 17.02.235, or an accessory structure as defined in subsection B of Section 17.02.755.
Junior accessory dwelling units	No off-street parking required.

Chapter 17.38 - NONCONFORMING USES AND STRUCTURES

~~Sections:~~

17.38.010 - Continuation of nonconforming uses and structures.

Nonconforming uses and nonconforming structures may be continued only in compliance with, and so long as permitted by, the provisions of this chapter.

17.38.020 - Change or replacement of nonconforming use.

A. A nonconforming use shall not be changed to or replaced by another nonconforming use.

B. A nonconforming use which is changed to or replaced by a conforming use shall not be re-established. Where any portion of a nonconforming facility is changed from a nonconforming use to a conforming use, such portion shall thereafter only be used for a conforming use.

17.38.030 - Expansion of nonconforming uses.

A. Except as otherwise provided in subsection B of this 17.38.030~~(B) of this section~~ and Section 17.38.110 of this chapter, a nonconforming use may not be enlarged, expanded or intensified. This prohibition shall include any enlargement, expansion or intensification of a nonconforming use which:

1. Increases the site area or floor area occupied by the nonconforming use; or

2. Increases the amount, volume, or intensity of nonconforming business use, or the machinery, equipment, trade fixtures or other personal property utilized in the conduct of such use; or

3. Displaces any conforming use occupying a structure or site.

B. Nonconforming residential uses located in the R-1, R-2, R-3 or R-BA district may be enlarged or expanded upon the granting of a use permit by the planning commission pursuant to Chapter 17.40 of this title. In addition to the findings required by Chapter 17.40, the planning commission shall also find and determine that:

1. Parking spaces in accordance with the requirements set forth in Chapter 17.34 of this title will be provided for the nonconforming use and all other uses on the site;

2. Any expansion of the nonconforming facility will comply with all applicable development standards for the district in which the site is located, including, but not limited to, floor area ratio, setbacks, height, and coverage limitations.

3. The nonconforming facility will comply with all applicable provisions of the building, health and fire codes.

4. The nonconforming use will comply with such other conditions and requirements which, in the judgment of the planning commission, are necessary or appropriate to mitigate any potential adverse impacts of the expansion on the neighborhood.

Note. A single-family dwelling on a lot of record in an R-1, R-2, R-3, or R-BA district having less than the minimum lot area prescribed by the applicable district regulations, shall constitute a conforming use and may be enlarged or expanded subject to the development standards of the applicable district and the limitations set forth in Section 17.32.055 of Chapter 17.32 of this title.

17.38.040 - Maintenance and repair of nonconforming facility.

A. Nonconforming facilities may be continued, maintained and repaired so as to protect the health and safety of the occupants and preserve the useful life of the structure.

B. Nonconforming facilities may be remodeled and the interior reconfigured so long as there is no enlargement, expansion, or intensification of the nonconforming use, except as otherwise permitted by subsection B of Section 17.38.030~~(B)~~.

17.38.050 - Abandonment of nonconforming uses.

A. Whenever a nonconforming nonresidential use has been abandoned, such use shall not be resumed or re-established and all subsequent uses of the site shall conform with the requirements of this title. Discontinuance of a nonconforming nonresidential use for a period of one hundred twenty (120) consecutive days or more shall conclusively be presumed an abandonment of such use; provided, however, discontinuance under any of the following circumstances shall not be considered an abandonment of the use:

1. Any discontinuance of use in connection with a pending sale or other transfer of ownership or management of the nonconforming use to a designated person or persons and the discontinuance of use is solely for the purpose of accomplishing the sale or transfer.

2. Any discontinuance of use during a reasonable period of reconstruction or replacement of the damaged or destroyed nonconforming facility, where such reconstruction or replacement is permitted under the provisions of Section 17.38.060.

3. Any other circumstance found by the planning commission to have been beyond the reasonable control of the person conducting the use, and such person commences the activity necessary for re-establishment of the use and prosecutes the same diligently to completion.

B. A nonconforming residential use may not be reestablished if the nonconforming facility has been modified to remove the features of residential occupancy.

17.38.060 - Reconstruction or replacement of nonconforming facility.

A nonconforming facility which is damaged or destroyed may be reconstructed or replaced for continued occupancy by the nonconforming use or uses previously conducted therein, subject to the following limitations:

A. The site area or floor area occupied by the nonconforming use, and the intensity of activity conducted by the nonconforming use, subsequent to reconstruction or replacement of the facility shall not exceed that~~.~~ existing prior to the damage or

destruction of the facility, except as otherwise permitted by subsection B of 17.38.030~~subsection 17.38.030 (B)~~.

B. The reconstructed or replaced facility shall comply with all of the applicable regulations of this title, other than the use of the structure, and all applicable provisions of the building, health, and fire codes.

17.38.070 - Maintenance and repair of nonconforming structures.

Nonconforming structures may be maintained and repaired so as to protect the health and safety of the occupants and preserve the useful life of the structure.

17.38.080 - Alteration or expansion of nonconforming structures.

A. A nonconforming structure shall not be altered, enlarged, or expanded so as to increase the degree of noncompliance or otherwise increase the discrepancy between existing conditions and the requirements of this title.

B. Structural alterations may be permitted when necessary to comply with the requirements of law.

C. The prohibitions of this section shall not apply to any alteration, enlargement or expansion for which a variance is granted pursuant to Chapter 17.46 or to which a use permit is granted pursuant to Chapter 17.34 and 17.40 of this title.

17.38.090 - Repair and replacement of nonconforming residential structures.

A. Damage of Less Than Seventy-Five Percent (75%). A nonconforming structure used for residential purposes which is damaged or destroyed by fire, flood, wind, earthquake, or other natural disaster~~calamity~~ to the extent of less than seventy-five percent (75%) of its floor area may be repaired, restored or reconstructed to its original size and configuration. All new construction, restoration and replacement shall comply with all applicable provisions of the building, health and fire codes.

B. Damage of More Than Seventy-Five Percent (75%). A nonconforming structure used for residential purposes which is damaged or destroyed by fire, flood, wind, earthquake, or other natural disaster~~calamity~~ to the extent of seventy-five percent (75%) or more of its floor area may be repaired, restored or reconstructed provided that all of the following conditions are satisfied:

1. The total floor area of the restored structure shall not be greater than the total floor area of the original structure.

2. The total number of dwelling units in the restored structure shall not be greater than the total number of dwelling units in the original structure.

3. The front, side and rear setbacks of the restored structure shall not be less than the setbacks of the original structure.

4. The number of off-street parking places shall not be reduced from the number available prior to the restoration.

5. The new construction, restoration and replacement shall comply with all applicable provisions of the building, health and fire codes.

C. Mixed Use Structure. A nonconforming structure containing both residential and nonresidential uses may be restored in accordance with the provisions of this section where the residential uses constitute more than fifty percent (50%) of the floor area of the entire structure.

17.38.100 - Replacement of nonconforming nonresidential structures.

A. Nonconforming nonresidential structures which are damaged or destroyed may not be reconstructed or replaced, except as follows:

1. When the entire structure is reconstructed or replaced as a conforming structure.

2. Where the damage or destruction affects only a portion of a nonconforming structure, which portion does not constitute or contribute to the noncompliance, such portion may be reconstructed or replaced to its previous configuration.

3. Where the damage or destruction affects only a portion of a nonconforming structure, which portion constitutes or contributes to the noncompliance and does not exceed fifty percent (50%) of the floor area of the entire structure, such portion may be reconstructed or replaced to its previous configuration.

B. Except as permitted by this section with regard to restoration of a structure to its previous configuration, all reconstruction and replacement shall comply with the provisions of this title and all applicable provisions of the building, health and fire codes.

17.38.110 - Addition of Accessory Dwelling Units to Nonconforming Uses or Structures.

A. Nonconforming single-family, duplex, or multiple-family uses may be expanded to accommodate accessory dwelling units and junior accessory dwelling units pursuant to Chapter 17.43 of this title.

B. A nonconforming structure may be rebuilt in the same location and to the same dimensions, including height, as the existing structure and converted to an accessory dwelling unit pursuant to Chapter 17.43 of this title.

Chapter 17.43 - Accessory Dwelling Units and Junior Accessory Dwelling Units

17.43.010 - Purposes of chapter.

Accessory dwelling units and junior accessory dwelling units are permitted under ~~the provisions of~~ this chapter to achieve the following purposes:

A. To provide opportunities to establish accessory dwelling units and junior accessory dwelling units on building sites developed with existing or proposed single-family dwellings, duplexes, or multiple-family dwellings.

B. To provide affordable housing to meet the needs of Brisbane citizens.

C. To ensure that the development of accessory dwelling units is compatible with existing development and reflects the diversity of the community.

D. To implement and promote the goals and policies of the general plan so as to guide and manage residential development in the city in accordance with such plan.

17.43.020 - Definitions.

In addition to the definitions set forth in Chapter 17.02, all of which are applicable to this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section, unless the context or the provision clearly requires otherwise:

"Impact fees" include the fees specified in Sections 66000 and 66477 of the Government Code, but do not include utility connection fees or capacity charges.

"Living area" means the interior habitable area of a main dwelling unit, including basements and attics but not including a garage or any accessory structure.

"Main dwelling" means that dwelling unit on the property that is not an accessory dwelling unit or a junior accessory dwelling unit.

~~"Public transit" means a transit stop served by at least one publicly provided form of transportation.~~

"Efficiency kitchen" means a kitchenette or a small kitchen or part of a room equipped as a kitchen in a junior accessory dwelling unit and shall include all of the following: (1) a cooking facility with appliances, and (2) a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

"Multiple-family dwellings" means a dwelling than contains two (2) or more dwelling units (including a "duplex"), provided, however, that a property containing a single-family dwelling and a lawful accessory dwelling unit (either~~both~~ attached and detached) and/or a junior accessory dwelling unit shall not be deemed a multiple-family dwelling.

~~**17.43.030 - Applicability and requirements.**~~

~~A. Newly Constructed Accessory Dwelling Units. A newly constructed accessory dwelling unit shall be established or occupied only by an accessory dwelling unit permit granted by the director of community development pursuant to the provisions of this subsection as a ministerial act, in accordance with Section 65852.2 of the California Government Code. An existing nonconforming dwelling unit may be designated as an accessory dwelling unit subject to compliance with the requirements of this subsection.~~

~~Newly constructed accessory dwelling units shall comply with all of the following development standards:~~

~~1. Zoning Districts. Accessory dwelling units may only be established or occupied in the R-1, R-2, R-3, or R-BA Brisbane Acres residential districts, or in the SCRO-1 district, associated with an existing or proposed single-family dwelling, per the applicable district regulations.~~

~~2. Lot Size. There is no minimum lot size requirement.~~

~~3. One Accessory Dwelling Unit per Site. Only one accessory dwelling unit shall be permitted on any one site; provided, however, where a site already contains~~

two (2) or more dwelling units that exist as legally established nonconforming uses, no additional accessory dwelling units shall be allowed on that site.

4. Attached or Detached. The accessory dwelling unit may be attached to or constructed within the main dwelling or may be detached from the main dwelling on the site.

5. Unit Size. The accessory dwelling unit shall not exceed one thousand (1,000) square feet in floor area.

6. Floor Area Ratio. The floor area of the accessory dwelling unit shall be included in calculating the floor area ratio for the site on which the accessory dwelling unit is located.

7. Parking. Parking spaces for the main dwelling and accessory dwelling units shall be provided in accordance with the requirements set forth in

8. Access. As required byof the Municipal Code, the site on which the accessory dwelling unit is located shall have a legal means of access that complies with the street standards set forth in.

9. Utilities. The site is served by adequate water, sewer, and storm drain facilities which comply with city standards. An accessory dwelling unit shall not be considered a new residential use for the purposes of calculating connection fees or capacity charges for water and sewer service provided by the city.

10. Compliance with Codes. The accessory dwelling unit and all new construction on the site that will be performed in connection therewith shall comply with all applicable provisions of this title and all applicable building, health and fire codes, with the following exception:

    a. Accessory dwelling units shall not be required to provide fire sprinklers if fire sprinklers are not required for the main dwelling, as determined by the building official consistent with BMC.

B. Conversion Accessory Dwelling Units: Notwithstanding subsection A of this, an accessory dwelling unit resulting from the conversion of existing building space shall be established by a city issued building permit and shall be exempt from the development standards of(A) if it meets the following requirements, as determined by the community development director:

1. It is contained within the existing space of a single-family dwelling or accessory structure, as defined in;

2. It has an independent exterior access from the existing residence; and

3. It has sufficient side and rear setbacks for fire safety.

17.43.040 - Owner occupancy restrictions.

Either the main dwelling or the accessory dwelling unit shall be occupied by the record owner of the property as the owner's principal place of residence. In the case of ownership by a corporation, limited liability company, partnership, trust or association, either the main dwelling or the accessory dwelling unit shall be the principal place of residence of an officer, director,

~~shareholder, or member of the company, a partner in the partnership, a trustor or beneficiary of the trust, a member of the association, or an employee of any such organization.~~

~~**17.43.050 - Recordation of accessory dwelling unit permit agreement.**~~

~~The original accessory dwelling unit permit agreement shall be recorded in the office of the county recorder. All of the conditions applicable to the permit shall be set forth therein, and such agreement shall run with the land and be binding upon successive owners and occupants of the property.~~

~~**17.43.060 - Modification or revocation of accessory dwelling unit permit.**~~

~~A. The city shall retain continuing jurisdiction over any accessory dwelling unit permit issued under this chapter and may, at any time, modify or revoke the permit, upon the occurrence of any of the following events:~~

~~1. The holder of the permit has failed to comply with any of the conditions set forth in the permit; or~~

~~2. The holder of the permit has violated the occupancy restriction set forth in Section 17.43.040 of this chapter; or~~

~~3. The accessory dwelling unit has been eliminated through alteration of the structure in which such unit was contained.~~

~~B.~~A. ~~Prior to any modification or revocation of the accessory dwelling unit permit, the director of community development shall conduct a hearing on the proposed action. Written notice of such hearing shall be given to the permittee not less than ten (10) days prior to the date of the hearing.~~

17.43.030 – Permit Requirements.

A. Except as provided by subsection C of this Section 17.43.0430, building permit applications for junior accessory dwelling units or accessory dwelling units shall be ministerially processed within sixty (60) days of receipt of a complete building permit application and approved if they meet the requirements of this chapter. Incomplete applications will be returned to the applicant with a written explanation of the additional information required for approval.

B. Notwithstanding subsection A, if the building permit application submitted will also create a new single-family dwelling or multiple-family dwelling on the lot, the application for the junior accessory dwelling unit or accessory dwelling unit(s) shall not be acted upon until the building permit application for the new single-family dwelling or multiple-family dwelling is approved, but thereafter shall be ministerially processed within sixty (60) days of receipt of a complete application and approved if it meets the requirements of this chapter. Occupancy of the junior accessory dwelling unit or accessory dwelling unit(s) shall not be allowed until the City approves occupancy of the main dwelling.

C. The City shall grant a delay in processing an application for an accessory dwelling unit or junior accessory dwelling unit if requested by the applicant.

D. All junior accessory dwelling unit and accessory dwelling unit applications shall be subject to building inspection and permit fees as established by resolution of the City

Council and water and sewer connection and capacity fees in compliance with Title 13, except that:

1. No impact fees may be imposed on a junior accessory dwelling unit or accessory dwelling unit that is less than seven hundred fifty (750) square feet.

2. For accessory dwelling units that have a floor area of seven hundred fifty (750) square feet or more, impact fees shall be charged proportionately in relation to the current impact fees for the square footage of the main dwelling.

E. Construction of an accessory dwelling unit and/or junior accessory dwelling unit in the R-BA Brisbane Acres Residential District shall require submittal of an application for an accessory dwelling unit permit in addition to an application for a building permit. Accessory dwelling unit permits shall be granted ministerially by the director of community development pursuant to this chapter within sixty (60) days of receipt of a complete permit application in accordance with Section 65852.2 of the California Government Code.

17.43.040 – Development regulations for accessory dwelling units.

Accessory dwelling units shall comply with all of the following development standards:

A. Zoning Districts. Accessory dwelling units may only be established or occupied in the R-1, R-2, R-3, R-BA, NCRO-2, SCRO-1, PAOZ-1, PAOZ-2 and PD zoning districts with an existing or proposed single-family or multiple-family dwelling.

B. Density. An accessory dwelling unit that conforms to this Chapter 17.43 shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located. The accessory dwelling unit shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot and shall not be considered in the application of any City ordinance, policy, or program to limit residential growth.

C. Lot Size. There is no minimum lot size requirement.

D. Number of Units.

1. No more than one accessory dwelling unit may be constructed on any lot developed with a single-family dwelling.

2. The number of accessory dwelling units permitted on any lot developed with a multiple-family dwelling shall comply with Section 17.43.050 of this chapter.

E. Attached or Detached. Accessory dwelling units may be attached to or located within the existing or proposed main dwelling, including garages, storage areas, or accessory structures, or detached from the main dwelling on the same lot.

F. Unit Size. Accessory dwelling units shall not exceed one thousand (1,000) square feet in floor area, as defined in Section 17.02.315 of Chapter 17.02 of this title.

G. Setbacks. Accessory dwelling units shall be subject to the following setback requirements:

1. Front Setback: The minimum front setback shall be as established in the underlying zoning district regulations.

2. Side Setback. Accessory dwelling units on a lot of forty (40) feet or more in width shall have a minimum side setback of four (4) feet. Accessory dwelling units on a lot with a width of less than forty (40) feet shall provide minimum side setbacks in compliance with the underlying zoning district regulations.

3. Rear Setback. Accessory dwelling units on any lot shall have a rear setback of at least four (4) feet.

4. No setback shall be required for an existing, legally permitted living area, garage, or accessory structure with nonconforming setbacks that is converted to an accessory dwelling unit or a portion of an accessory dwelling unit or an accessory dwelling unit constructed in the same location and to the same dimensions, including height, as an existing, legally permitted living area, garage, or accessory structure with nonconforming setbacks.

H. Lot Coverage. Accessory dwelling units shall be included in calculating the lot coverage for the lot on which the accessory dwelling unit is located, except for accessory dwelling units eight hundred (800) square feet or less in floor area and no more than sixteen (16) feet in height.

I. Floor Area Ratio. The floor area of the accessory dwelling unit shall be included in calculating the floor area ratio for the lot on which the accessory dwelling unit is located, except that:

1. Accessory dwelling units eight hundred (800) square feet or less in floor area and no more than sixteen (16) feet in height, if detached, are exempt from calculating the floor area ratio for the lot; and

2. Accessory dwelling units proposed within the space of a single-family dwelling or existing accessory structure may include an expansion of not more than one hundred fifty (150) square feet beyond the physical dimensions of the existing accessory structure or single-family dwelling, provided however, that the expansion of the single-family dwelling or accessory structure shall be limited to accommodating ingress and egress for the accessory dwelling unit, the setbacks of the expansion shall comply with the setback standards set forth in subsection G of Section 17.43.040 or of the underlying zoning district if the accessory dwelling unit is attached to the single-family dwelling, and shall be compliant with building, health, and fire codes.

J. Height. Accessory dwelling units shall not exceed two stories and shall be subject to the height maximum established in the underlying zoning district.

K. Required Facilities. An accessory dwelling unit shall include all of the following facilities:

1. A kitchen, including a sink, food preparation counter, storage cabinets, and permanent cooking facilities such as a range or cooktop and oven, that meet Building Code standards; and

2. A full bathroom, including sink, toilet, and shower and/or bath facilities.

L. Landscaping. Accessory dwelling units shall be subject to the landscaping requirements of the underlying zoning district.

M. Parking. Parking spaces for the main dwelling and accessory dwelling units shall be provided in accordance with the requirements set forth in Chapter 17.34, except that when a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an accessory dwelling unit, any parking spaces that were provided by such garage, carport, or covered parking structure are not required to be replaced.

N. Unit Access.

1. As required by Section 17.01.060, the lot on which the accessory dwelling unit is located shall have a legal means of access to the public right of way that complies with the street standards set forth in Section 12.24.010.

2. A separate exterior entry from the main entrance to the main dwelling shall be required to serve each attached accessory dwelling unit. Interior entry access between an accessory dwelling unit and the main dwelling is permitted, provided that the interior entry is located off a common living area of the main dwelling, such as a living room, family room, dining room, kitchen, or an interior hallway leading to common living areas.

O. Utilities. The lot is served by adequate water, sewer, and storm drain facilities which comply with city standards as established per Title 13 of this Code. An accessory dwelling unit shall not be considered a new residential use for the purposes of calculating connection fees or capacity charges for water and sewer service provided by the City, pursuant to Title 13 of this Code. As to the main dwelling, a separate water connection, a separate sewer service connection, or a separate power connection for water, sewer, and power service is not required for an accessory dwelling unit.

P. Compliance with Codes. The accessory dwelling unit and all new construction on the lot that will be performed in connection therewith shall comply with all applicable provisions of this title and all applicable building, health and fire codes.

1. Accessory dwelling units shall not be required to provide fire sprinklers except when fire sprinklers are required for the main dwelling, as determined by the building official consistent with Chapter 15.10.

17.43.050 - Accessory dwelling units in multiple-family dwellings.

In addition to compliance with the development regulations established in Section 17.43.040 of this chapter, accessory dwelling units on lots with existing multiple-family dwellings shall also comply with all of the following criteria:

A. At least one attached accessory dwelling unit shall be allowed per lot developed with a multiple-family dwelling.

1. The total number of attached accessory dwelling units permitted shall not exceed a maximum of twenty-five percent (25%) of the total number of existing dwelling units within the existing multiple-family dwelling.

2. Attached accessory dwelling units shall be allowed within existing portions of multiple-family dwellings that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, provided, that each accessory dwelling unit complies with state building standards for dwellings. An accessory dwelling unit shall not be created within any portion of the habitable area of an existing dwelling unit in a multiple-family dwelling.

B. In addition to attached accessory dwelling units permitted under subsection A, not more than two detached accessory dwelling units may be allowed on a lot developed with a multiple-family dwelling. Detached accessory dwelling units shall be subject to the following standards:

1. Setbacks. The setback requirements of Section 17.43.040 of this Chapter apply.

2. Floor Area. Detached accessory dwelling units may not exceed eight hundred (800) square feet in floor area per unit.

3. Height. Detached accessory dwelling units shall not exceed sixteen (16) feet in height.

17.43.060 - Development regulations for junior accessory dwelling units.

Junior accessory dwelling units shall comply with all of the following development standards:

A. Zoning Districts. Junior accessory dwelling units may only be established or occupied on lots in the R-1, R-2, R-3, R-BA, NCRO-2, SCRO-1, PAOZ-1, and PD zoning districts with an existing or proposed single-family dwelling.

B. Density. A junior accessory dwelling unit that conforms to this Chapter 17.43 shall be deemed to be an accessory use and shall not be considered to exceed the allowable density for the lot upon which it is located. The junior accessory dwelling unit shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot and shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

C. Lot Size. There is no minimum lot size requirement.

D. Number of Units.

1. No more than one junior accessory dwelling unit may be constructed on any lot developed with an existing or proposed single-family dwelling.

2. A junior accessory dwelling unit may be permitted on a lot with an accessory dwelling unit, provided the following criteria are met:

a. The accessory dwelling unit is fully detached and the junior accessory dwelling unit is within an ~~the~~ existing or proposed single-family dwelling; and

b. The detached accessory dwelling unit does not exceed a total floor area of more than eight hundred (800) square feet and a height limitation of sixteen (16) feet.

E. Floor Area Requirements.

1. Junior accessory dwelling unit shall not exceed five hundred (500) square feet in floor area and shall be constructed within the existing walls of the main dwelling. The floor area of the junior accessory dwelling unit shall be included in calculating the floor area ratio for the lot on which the junior accessory dwelling unit is located and subject to the maximum floor area ratio established in the underlying zoning district.

    a. Exemption: A junior accessory dwelling unit may expand the main dwelling by not more than one hundred fifty (150) square feet beyond the physical dimensions of the main dwelling, provided that the expansion of the main dwelling shall be limited to accommodating ingress and egress for the junior accessory dwelling unit. The setbacks of the expansion shall comply with the setback standards of the underlying zoning district and shall be compliant with building, health, and fire codes.

F. Unit Access.

1. As required by Section 17.01.060, the lot on which the junior accessory dwelling unit is located shall have a legal means of access to the public right of way that complies with the street standards set forth in Section 12.24.010.

2. A separate exterior entry from the main entrance to the main dwelling shall be provided to serve the junior accessory dwelling unit only. Interior entry access between the junior accessory dwelling unit and the main dwelling is permitted, provided that the interior entry is located off a common living area of the main dwelling, such as a living room, family room, dining room, kitchen, or an interior hallway leading to these common living areas.

G. Required Facilities. A junior accessory dwelling unit shall include all of the following facilities:

1. At a minimum, an efficiency kitchen.

2. Sanitation facilities, but such facilities may be separated from or shared with the main dwelling.

H. Owner Occupancy. Either the main dwelling or the junior accessory dwelling unit shall be occupied by the record owner of the property as the owner's principal place of residence. In the case of ownership by a corporation, limited liability company, partnership, trust or association, either the main dwelling or the junior accessory dwelling unit shall be the principal place of residence of an officer, director, shareholder, or member of the company, a partner in the partnership, a trustor or beneficiary of the trust, a member of the association, or an employee of any such organization. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

I. Recordation of Declaration of Restrictions.

1. A Declaration of Restrictions shall be recorded to run with the land that indicates the following:

a. Only one unit may be occupied solely by persons other than the owner or owners of record;

b. If a junior accessory dwelling unit is rented, the unit shall not be rented for a period of less than 30 consecutive calendar days;

c. Sale of the junior accessory dwelling unit separately from the main dwelling is prohibited; and

d. The approved size and attributes of the junior accessory dwelling unit.

2. A copy of this Declaration of Restrictions must be given to each prospective purchaser or occupant.

J. Parking. Parking spaces for the main dwelling and junior accessory dwelling unit shall be provided in accordance with the requirements set forth in Chapter 17.34 of this title.

K. Utilities. The lot shall be served by adequate water, sewer, and storm drain facilities which comply with city standards as established per Title 13 of this Code. A junior accessory dwelling unit shall not be considered a new residential use for the purposes of calculating connection fees or capacity charges for water and sewer service provided by the City.

L. Compliance with Codes. The junior accessory dwelling unit and all new construction on the lot that will be performed in connection therewith shall comply with all applicable provisions of this title and all applicable building, health, and fire codes~~,~~.

1. Junior accessory dwelling units shall not be required to provide fire sprinklers except when fire sprinklers are required for the main dwelling, as determined by the building official consistent with Chapter 15.10.

17.43.070 - Prohibition on sale and limitation on rental.

A. Accessory dwelling units and junior accessory dwelling units shall not be sold separately from the main dwelling(s).

B. If an accessory dwelling unit or junior accessory dwelling unit is rented, the unit shall not be rented for a period of less than 30 consecutive calendar days.

17.43.080 – Delay of enforcement of building standards.

A. Prior to January 1, 2030, the owner of an accessory dwelling unit that was built before January 1, 2020, may submit an application to the building official requesting that correction of any violation of building standards be delayed for five years. For the purposes of this section, “building standards” refer to those standards enforced by local agencies under the authority of Section 17960 and following of the California Health and Safety Code.

B. The building official shall grant any application submitted under subsection A of this Section if the building official determines that enforcement of the building standard is not necessary to protect health and safety. In making this determination, the building official shall consult with the fire marshal.

C. No applications submitted pursuant to this section shall be approved on or after January 1, 2030; provided, however, any delay to correct a violation that was approved by the

building official before January 1, 2030, shall be valid for the full term of the delay that the building official approved at the time the building official approved the application.

D. Until January 1, 2030, any notice to correct a violation of building standard that is issued to the owner of an accessory dwelling unit built before January 1, 2020 shall include a statement that the owner has a right to request a delay in enforcement of the building standard for an accessory dwelling unit pursuant to this section.

E. This section shall remain in effect until January 1, 2035, and as of that date is repealed.

~~17.43.070~~ 17.43.090 - Appeals.

Any decision or determination by the director of community development or building official pursuant to this chapter may be appealed ~~to the city council~~ in accordance with the procedure set forth in Chapter 17.52 of this title.

ATTACHMENT 2

DRAFT ORDINANCE NO. 653

draft
ORDINANCE NO. 653

AN ORDINANCE OF THE CITY OF BRISBANE AMENDING TITLE 17 OF THE BRISBANE MUNICIPAL CODE TO REGULATE ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS AND AMENDING TITLE 15 OF THE BRISBANE MUNICIPAL CODE TO REGULATE ALTERATIONS AND ADDITIONS TO EXISTING STRUCTURES

The City Council of the City of Brisbane hereby ordains as follows:

SECTION 1: Section 13.04.453 - Disclosure and sewer lateral certificate, when required of Chapter 13.04 of the Brisbane Municipal Code is amended to read as follows:

13.04.453 - Disclosure and sewer lateral certificate; when required.

A. A person must possess or obtain a sewer lateral certificate issued under Section 13.04.452 before the city will issue a final building permit when the person has undertaken work that:

1. Triggers the requirements of Chapter 15.10 of this code; or.

2. Is associated with a change in water service (e.g., change in meter size or the addition of a meter).

B. Beginning April 20, 2015, any person intending to sell or transfer a fee interest in real property must disclose the requirements of this section to each of the following, except as provided in subsection C:

1. The person's real estate broker or agent, if any;

2. The person to whom the real property is intended to be sold or transferred;

3. The real estate broker or agent, if any, of the person to whom the real property is intended to be sold or transferred;

4. The escrow company or holder involved in the real property sale or transfer, if any.

C. Subsection B does not apply to:

1. Sales or transfers of individual units within a condominium as defined in Section 17.02.150 of this code;

2. Sales or transfers of less than a fee interest, e.g., a leasehold;

3. Sales or transfers to a fiduciary in the course of the administration of a decedent's estate, a guardianship or a conservatorship;

4. Transfers from one co-owner to one or more other co-owners;

5. Transfers to a revocable trust if the trust is for the benefit of the grantor(s);

6. Transfers made by a trustor to an intervivos trust;

7. Transfers between spouses or between registered domestic partners;

8. Transfers to a financial institution, trust deed holder, or trustee of a deed of trust, as part of foreclosure or similar process.

D. The director shall prepare a handout or other written material, to be made available to the public, describing the requirements of this section. A person may satisfy the disclosure requirements of subsection B by providing a then current copy of the handout or other written material to those parties identified in subsection B.

SECTION 2: Section 15.08.130 - Additions, alterations or repairs - Compliance with construction codes of Chapter 15.08 of the Brisbane Municipal Code is amended to read as follows:

15.08.130 - Additions, alterations or repairs—Compliance with construction codes.

Any addition, alteration, or repair to, or change of use of, or occupancy in a building or structure shall comply with the provisions for new buildings and structures set out in the construction codes, except as may otherwise be provided in Chapter 15.10, Sections 15.08.180 through 15.08.210, and in Section 502 of the Uniform Building Code, latest adopted edition.

SECTION 3: Section 15.44.080 - Section 903 amended—Automatic sprinkler systems of Chapter 15.44 of the Brisbane Municipal Code is amended to read as follows:

15.44.080 - Section 903 amended—Automatic sprinkler systems.

Section 903 of the fire code is amended in its entirety to read as follows:

903 Automatic fire extinguishing systems.

(a) Notwithstanding any other provisions of this Code or any other code or ordinance of the City of Brisbane, automatic fire sprinkler systems, approved by the Fire Marshal, shall be installed in the following buildings and structures that are classified as new construction:

1. For all occupancies except R-3 occupancies: Any new building or structure, regardless of size, except stand alone, uninhabitable buildings, garages and sheds having a floor area of less than 400 square feet.

2. For all R-3 occupancies: Any new single-family or duplex structure, excluding any detached accessory structure that does not constitute habitable space having a floor area of less than 400 square feet.

(b) When additions or alterations made to an existing building fall within the requirements under Brisbane Municipal Code Chapter 15.10, an automatic fire sprinkler system shall be provided for the entire building.

(c) Other Areas. An automatic fire sprinkler system shall be installed in all garbage compartments, rubbish and linen chutes, linen rooms, incinerator compartments, dumb waiter shafts, and storage rooms when located in all occupancies except Group R, Division 3. An accessible indicating shut off valve shall also be installed.

(d) Condominium Conversions. An automatic fire sprinkler system shall be installed for all condominium conversions.

(e) Where automatic fire sprinkler systems are required to be installed, the following additional requirements shall also be satisfied, as applicable:

1. A minimum of three (3) copies of plans and specifications for automatic sprinkler installations, plus water supply calculations, shall be provided to the Fire Department for review and approval prior to commencement of the installation work.

2. All required automatic sprinkler systems shall be approved by the Fire Department.

3. All acceptance tests and such periodic tests as required by the Fire Marshall or pursuant to NFPA Pamphlets No. 13, 13D, 13R and/or Subchapter 5, Title 19, California Code of Regulations, shall be conducted and, where applicable, witnessed by a representative of the Fire Department.

4. An approved exterior visual fire alarm device may be required for buildings that have numerous fire department connections (FDC's). Type and locations will be determined by the Fire Department. Such visual alarm devices are not to replace the exterior audible device, but to assist fire suppression personnel as to location(s) of systems which require pumping operations.

SECTION 4: Section 15.08.140 - Additions or alteration in excess of fifty percent of floor area of Chapter 15.08 of the Brisbane Municipal Code is deleted in its entirety and reserved for future use.

SECTION 5: A new Chapter 15.10 is adopted to read as follows:

Chapter 15.10 - Additions, alterations, and major rebuilds to existing buildings.

15.10.010 - Authority.

The building official or the building official's designee shall have the authority to enforce the provisions of this Chapter.

15.10.020 - Coordination with other Chapters.

This Chapter is intended to establish requirements which are in addition to, and not in replacement of, any other ordinance, rule, regulation, or policy of the city which may be applicable to the proposed development project, including any of the codes adopted by this Title 15 and the requirements of Section 17.01.060 of this title.

15.10.030 - Applicability.

This Chapter shall apply to additions, alterations, or major rebuilds, as defined in Section 15.10.040 of this Chapter, to a lawfully constructed building completed within any five (5) year period. The date of completion shall normally be established as the date on which the City grants final inspection approval of the work.

15.10.040 - Definitions.

For the purposes of this Chapter 15.10 the following definitions apply:

A. “Addition and Alteration” shall mean new floor area added to an existing lawfully constructed building and/or changes to the existing floor area of a lawfully constructed building, which calculated together or apart constitute fifty (50) percent of the pre-existing floor area of the building. The conversion or recognition of - non-habitable rooms to habitable space may be included in the calculation of alteration of space, at the discretion of the building official.

B. “Major rebuild” shall mean removal of seventy-five percent (75%) or more of the combined surface area of the interior walls and ceilings of the habitable rooms of a building or structure to expose support members.

C. “Floor Area” shall mean the sum of the gross horizontal areas of all floors of all buildings or structures measured from the interior face of the exterior walls, but excluding each of the following:

1. Any area where the floor to ceiling height is less than six (6) feet.

2. Any detached garage or other detached accessory structure which does not constitute habitable space.

3. Any attached carport or covered deck.

4. Any attached or detached accessory dwelling unit eight hundred (800) square feet or less in gross horizontal area that, if detached, does not exceed sixteen (16) feet in height, where authorized pursuant to Chapter 17.43 of Title 17 of this Code.

D. "Standards for new construction" shall mean:

1. The requirements of the California Buildings Code adopted by this Title 15; and

2. The storm water management and discharge requirements established by Chapter 13.06 of Title 13; and

3. The standard specifications and street standards adopted by Section 12.24.010 of Title 12.

E. “Hardship” means some verifiable level of difficulty or adversity, beyond the control of the applicant, by which the applicant cannot reasonably comply with the requirements of this Chapter.

15.10.050 - Compliance Standards.

For applicable projects, the entire building shall be brought into conformity with the standards for new construction that the building official determines to be necessary or appropriate to eliminate existing health or safety hazards, including, but is not limited to, defects in structural integrity, defective or inadequate electrical installations, defective or inadequate fire sprinklers, sanitary sewer or storm drainage facilities, and substandard street access to the property.

15.10.060 - Exceptions.

A. Standard Exceptions. The following standard exceptions to Section 15.10.050 shall apply:

1. The area of any additions and/or alterations not exceeding a cumulative total of four hundred (400) square feet within any five (5) year period.

2. The conversion of existing floor area in an existing single-family or multiple-family dwelling to an accessory dwelling unit where authorized pursuant to Chapter 17.43 of Title 17.

3. The area of any addition and/or alteration for the creation or expansion of an attached or detached accessory dwelling unit eight hundred (800) square feet or less in floor area where authorized pursuant to Chapter 17.43 of Title 17. If detached, the accessory dwelling unit may not exceed sixteen (16) feet in height.

4. Work involving exterior surfaces, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck.

5. Alterations, renovations or repairs which do not essentially change the uses of the rooms within the building.

B. Other Exceptions. Where the above listed exceptions do not apply, the building official shall have authority on a case-by-case basis to grant modifications of any such requirements for the standards of new construction if the building official is able to find and determine that:

1. Compliance with the requirement will cause unreasonable hardship; or

2. The modification does not reduce any requirements for fire protection or any requirements relating to structural support and integrity; or

3. The modification does not create any new or increased hazard to the health or safety of the occupants of the existing building or structure.

SECTION 6: Section 17.01.060 - Requirement for lot of record and infrastructure improvements of Chapter 17.01 of the Zoning Ordinance is amended to read as follows:

17.01.060 - Requirement for lot of record and infrastructure improvements.

A. Except as permitted under subsections B and C of this section or as may be permitted under other provisions of this title, no permit or approval shall be granted for the construction or expansion of any new or existing main or accessory structure of any size upon any land, nor shall any permit or approval be granted for the establishment or expansion of any use upon any land, unless both of the following requirements are satisfied:

1. The land constitutes a lot of record, as such term is defined in Chapter 17.02 of this title, or the granting of the permit or approval is conditioned upon such land being established as a lot of record through the recording of a parcel map approved by the city; and

2. All infrastructure improvements necessary for providing service to the existing or proposed structure or use have been constructed or installed in accordance with applicable city standards as determined by the city engineer, or the granting of the permit or approval is conditioned upon such improvements being constructed or installed pursuant to the terms and within such period of time as set forth in an improvement agreement between the city and the applicant, which agreement shall be recorded in the office of the county recorder and shall constitute a covenant running with the land. The improvement agreement may require the applicant to provide security for performance of the work, in such form and amount as determined by the approving authority, and may provide for the applicant to either construct the improvements or to participate in an arrangement for such construction by others, or any combination thereof.

B. In the case of a lot of record which does not abut a public street providing the principal means of access to that lot, the following improvements may be constructed without compliance with the infrastructure requirements set forth in subsection (A)(2) of this section; provided, however no such improvements shall be allowed unless the approving authority determines that adequate infrastructure to service the proposed improvement is available at the site or will be constructed as part of the project:

1. Unenclosed hot tubs, decks, stairways and landings located on the same lot as a lawfully constructed dwelling;

2. Retaining walls;

3. Parking garages and carports, no portion of which is used or usable for human occupancy;

4. An addition, not exceeding a floor area of one hundred (100) square feet, to a lawfully constructed building or structure. Only one such addition shall be allowed under this exemption;

5. Repairs or remodels which do not change the original size or significantly alter the configuration and/or habitable floor area of a lawfully constructed building or structure, as determined by the planning director.

6. The conversion of existing floor area of the main dwelling or the conversion of existing floor area of an accessory structure to an accessory dwelling unit or a junior accessory dwelling unit as permitted under Chapter 17.43 of this title. Such conversion may include the addition of floor area as provided in paragraph 4 of this subsection B. Only one such conversion shall be allowed under this exemption.

C. Additions or alterations may be made to a lawfully constructed building or structure which is located on a lot of record, without compliance with the infrastructure requirements set forth in subsection (A)(2) of this section, where both of the following conditions are satisfied:

1. The additions or alterations are exempt from the provisions of Chapter 15.10.060; and

2. A public street abutting the lot on which the building or structure is located provides the principal means of access to that lot.

SECTION 7: Section 17.02.235 – Dwelling of Chapter 17.02 of the Zoning Ordinance is amended to read as follows:

17.02.235 - Dwelling.

"Dwelling" means a place that is used as the personal residence of the occupants thereof, including transitional housing as defined in California Health and Safety Code Section 50675.2(h) and supportive housing as defined in California Health and Safety Code Sections 50675.14(b)(2) and (3). The term includes factory-built or manufactured housing, such as mobilehomes, but excludes trailers, campers, tents, recreational vehicles, hotels, motels, boarding houses and temporary structures.

A. "Dwelling group" means a group of two (2) or more detached buildings located upon the same site, each of which contains one or more dwelling units.

B. "Dwelling unit" means a room or group of rooms including living, sleeping, eating, cooking and sanitation facilities, constituting a separate and independent housekeeping unit, designed, occupied, or intended for occupancy by one family on a permanent basis. Permanent residency shall mean continuous occupancy of the dwelling unit for a period of thirty (30) days or more.

C. "Multiple-family dwelling" means a building or site containing three (3) or more dwelling units (also see "duplex"). The term includes single-room-occupancy dwelling units, typically comprised of one or two (2) rooms (which may include a kitchen and/or a bathroom, in addition to a bed), that are restricted to occupancy by no more than two (2) persons.

D. "Accessory dwelling unit" means a separate dwelling unit created upon a site that contains a single-family dwelling, duplex, or multiple-family dwelling. Subject to the restrictions of this title, the accessory dwelling unit may be within, attached to, or detached from the single-family dwelling, duplex, or multiple-family dwelling. An accessory dwelling unit shall include permanent provisions for living, sleeping, eating, cooking, and sanitation. The term "secondary dwelling unit" shall have the same meaning throughout this title.

E. “Junior accessory dwelling unit” means a dwelling unit that is no more than five hundred (500) square feet in size and contained entirely within a single-family dwelling. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the single-family dwelling. Junior accessory dwelling units are distinguished from accessory dwelling units in that they: (1) must include the conversion of existing, legally permitted floor area within an existing single-family dwelling; (2) must be owner occupied, or the main dwelling be owner occupied; and (3) are subject to unique standards that are not applicable to accessory dwelling units, as specified in Chapter 17.43 of this Title.

F. "Single-family dwelling" means a dwelling unit constituting the only principal structure upon a single site (excluding any lawfully established accessory dwelling unit that may be located within the same structure on upon the same site). The term includes employee housing for six (6) or fewer persons, residential care facilities, licensed by the state to provide twenty-four (24) hour nonmedical care, serving six (6) or fewer persons (not including the operator, the operator's family or persons employed as staff) in need of supervision, personal services, or assistance essential for sustaining the activities of daily living or for the protection of the individual. Also see "Group care home" for seven (7) or more persons.

SECTION 8: Section 17.06.020 – Permitted uses of Chapter 17.06 of the Zoning Ordinance is amended to read as follows:

17.06.020 - Permitted uses.

The following permitted uses shall be allowed in the R-1 district:

A. Single-family dwellings.

B. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.

C. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.

D. Small family day care homes.

E. Accessory dwelling units and junior accessory dwelling units, in accordance with Chapter 17.43 of this title.

SECTION 9: Section 17.06.040 – Development regulations of Chapter 17.06 of the Zoning Ordinance is amended to read as follows:

17.06.040 - Development regulations.

The following development regulations shall apply to any lot in the R-1 district:

A. Lot Area.

1. The minimum area of any lot shall be five thousand (5,000) square feet.

2. A single-family dwelling may be constructed on a lot of record with an area of less than five thousand (5,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.32.100.

B. Density of Development. Not more than one single-family dwelling shall be located on each lot in the R-1 district.

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
50 feet	100 feet

D. Setbacks. The minimum required setbacks for any lot, except as provided in Section 17.32.070, shall be as follows:

1. Front setback: Fifteen (15) feet, with the following exceptions:

a. Where the lot has a slope of fifteen percent (15%) or greater, the minimum front setback may be reduced to ten (10) feet.

b. Where fifty percent (50%) or more of the lots of record in a block have been improved with single-family dwellings, the minimum front setback may be the average distance of the front outside wall of the single-family structures from the front lot line, if less than fifteen (15) feet. Notwithstanding the foregoing, the minimum front setback for garages or carports shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

2. Side setback: five (5) feet, with the exception that a lot having a width of less than fifty (50) feet may have a side setback reduced to ten percent (10%) of the lot width, but in no event less than three (3) feet or the minimum setback required by the Uniform Building Code, whichever is greater. Notwithstanding the foregoing, the minimum side setback for garages or carports accessed from a street or alley along that side of the lot shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

3. Rear setback: Ten (10) feet.

E. Lot Coverage. The maximum coverage by all structures on any lot shall be forty percent (40%).

F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72. Where the size of the lot is three thousand seven hundred (3,700) square feet or less, one covered parking space designed to accommodate a full-size automobile shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of two hundred (200) square feet.

G. Height of Structures.

1. Except as otherwise provided in paragraph 2 of this subsection G and in Section 17.32.060, the maximum height of any structure shall be as follows:

    a. Twenty-eight (28) feet, for lots having a slope of less than twenty percent (20%); or

    b. Thirty (30) feet, for lots having a slope of twenty percent (20%) or more.

2. For a distance of fifteen (15) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however, garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street when permitted by Section 17.32.070 of this title. A garage or carport in compliance with this subsection may exceed a height of thirty (30) feet, but the height of any permitted living area underneath shall not exceed thirty (30) feet from finish grade.

H. Articulation Requirements. Unless exempted, outside walls that are greater in size than twenty (20) feet in width and twenty (20) feet in height shall have a cumulative area of articulation as follows:

1. Front outside wall: Thirty percent (30%) articulation.

2. Side outside walls:

    a. Interior side outside wall: No articulation requirement.

    b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No articulation shall be required for the exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.

3. Rear outside wall: Thirty percent (30%) articulation.

4. Exemptions: Single story two (2) car garages and accessory structures not exceeding a floor area of one hundred twenty (120) square feet shall be exempted from all articulation requirements.

I. Landscaping Requirements.

1. Front Setback. A minimum of fifteen percent (15%) of the front setback area shall be landscaped where the lot has a front lot line of thirty (30) feet or greater.

2. Downslope Lots. The rear of any newly constructed main structure on a downslope lot shall be screened with trees and shrubs in accordance with a landscape plan approved by the planning director.

3. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

J. Nonconforming Residential Structures and Uses. Nonconforming residential structures and nonconforming residential uses, as defined in Section 17.02.560, may be repaired, restored, reconstructed, enlarged or expanded in accordance with the provisions of Chapters 17.38 and 17.34 of this title.

K. Recycling Area Requirements. For new subdivisions containing an area where solid waste is collected and loaded in a location which serves five (5) or more living units, adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided to serve the needs of the living units which utilize the area. This requirement shall also apply to all institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

SECTION 10: Section 17.08.020 – Permitted uses of Chapter 17.08 of the Zoning Ordinance is amended to read as follows:

17.08.020 - Permitted uses.

The following permitted uses shall be allowed in the R-2 district:

A. Single-family dwellings.

B. Duplexes.

C. Multiple family dwellings containing not more than six (6) dwelling units.

D. Dwelling groups.

E. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.

F. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.

G. Small family day care homes.

H. Accessory dwelling units and junior accessory dwelling units, in accordance with Chapter 17.43 of this title.

SECTION 11: Section 17.08.040 – Development regulations of Chapter 17.08 of the Zoning Ordinance is amended to read as follows:

17.08.040 - Development regulations.

The following development regulations shall apply to any lot in the R-2 district:

A. Lot Area.

1. The minimum area of any lot shall be five thousand (5,000) square feet, except as otherwise provided in subsection B of this Section 17.08.040.

2. A single-family dwelling may be constructed on a lot of record with an area of less than five thousand (5,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.32.100.

B. Density of Development. The minimum lot area for each dwelling unit on the site shall be two thousand five hundred (2,500) square feet; provided, however, a lot having an area of four thousand nine hundred fifty (4,950) square feet or greater shall be considered conforming for a development density of two (2) units.

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
50 feet	100 feet

D. Setbacks. The minimum required setbacks for any lot, except as provided in Section 17.32.070, shall be as follows:

1. Front setback: Fifteen (15) feet, with the following exceptions:

a. Where the lot has a slope of fifteen percent (15%) or greater, the minimum front setback may be reduced to ten (10) feet.

b. Where fifty percent (50%) or more of the lots of record in a block have been improved with single-family dwellings, the minimum front setback may be the average distance of the front outside wall of the single-family structures from the front lot line, if less than fifteen (15) feet. Notwithstanding the foregoing, the minimum front setback for garages or carports shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

2. Side setback: five (5) feet, with the exception that a lot having a width of less than fifty (50) feet may have a side setback reduced to ten percent (10%) of the lot width, but in no event less than three (3) feet or the minimum setback required by the Uniform Building Code, whichever is greater. Notwithstanding the foregoing, the minimum side setback for garages, or carports accessed from a street or alley along that side of the lot

shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

3. Rear setback: Ten (10) feet.

E. Lot Coverage. The maximum coverage by all structures on any lot shall be fifty percent (50%).

F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72, subject to the following exclusions:

1. In the case of single-family dwellings, where the size of the lot is three thousand seven hundred (3,700) square feet or less, one covered parking space designed to accommodate a full-size automobile shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of two hundred (200) square feet.

2. In the case of duplexes and multiple-family dwellings, the area of all covered parking spaces required to be provided for the site shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of four hundred (400) square feet per unit.

G. Height of Structures.

1. Except as otherwise provided in paragraph 2 of this subsection G and in Section 17.32.060, the maximum height of any structure shall be as follows:

a. Twenty-eight (28) feet, for lots having a slope of less than twenty percent (20%); or

b. Thirty (30) feet, for lots having a slope of twenty percent (20%) or more.

2. For a distance of fifteen (15) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however, garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street when permitted by Section 17.32.070 of this title. A garage or carport in compliance with this subsection may exceed a height of thirty (30) feet, but the height of any permitted living area underneath shall not exceed thirty (30) feet from finish grade.

H. Articulation Requirements. Unless exempted, outside walls that are greater in size than twenty (20) feet in width and twenty (20) feet in height shall have a cumulative area of articulation as follows:

1. Front outside wall: Thirty percent (30%) articulation.

2. Side outside walls:

a. Interior side outside wall: No articulation requirement.

b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No

articulation shall be required for the exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.

3. Rear outside wall: Thirty percent (30%) articulation.

4. Exemptions: Single story two (2) car garages and accessory structures not exceeding a floor area of one hundred twenty (120) square feet shall be exempted from all articulation requirements.

I. Landscaping Requirements.

1. Front Setback. A minimum of fifteen percent (15%) of the front setback area shall be landscaped where the lot has a front lot line of thirty (30) feet or greater.

2. Downslope Lots. The rear of any newly constructed main structure on a downslope lot shall be screened with trees and shrubs in accordance with a landscape plan approved by the planning director.

3. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

J. Nonconforming Residential Structures and Uses. Nonconforming residential structures and nonconforming residential uses, as defined in Section 17.02.560, may be repaired, restored, reconstructed, enlarged or expanded in accordance with the provisions of Chapters 17.38 and 17.34 of this title.

K. Recycling Area Requirements:

1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

2. This requirement shall apply to all new residential buildings having five (5) or more living units, institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. This requirement shall also apply to such existing developments for which building permit applications are submitted within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of the development project.

SECTION 12: Section 17.10.020 – Permitted uses of Chapter 17.10 of the Zoning Ordinance is amended to read as follows:

17.10.020 - Permitted uses.

The following permitted uses shall be allowed in the R-3 district:

A. Multiple-family dwellings;

B. Single-family dwellings.

C. Duplexes.

D. Dwelling groups.

E. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.

F. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.

G. Small family day care homes.

H. Accessory dwelling units and junior accessory dwelling units, in accordance with Chapter 17.43 of this title.

SECTION 13: Section 17.10.040 – Development regulations of Chapter 17.10 of the Zoning Ordinance is amended to read as follows:

17.10.040 - Development regulations.

The following development regulations shall apply to any lot in the R-3 district:

A. Lot Area.

1. The minimum area of any lot shall be five thousand (5,000) square feet, except as otherwise provided in subsection B of this section.

2. A single-family dwelling may be constructed on a lot of record with an area of less than five thousand (5,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.32.100.

B. Density of Development. The minimum lot area for each dwelling unit on the site shall be one thousand five hundred (1,500) square feet; provided, however, a lot having an area of four thousand nine hundred fifty (4,950) square feet or greater shall be considered conforming for a development density of three (3) units.

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
50 feet	100 feet

D. Setbacks. The minimum required setbacks for any lot, except as provided in Section 17.32.070, shall be as follows:

1. Front setback: Fifteen (15) feet, with the following exceptions:

a. Where the lot has a slope of fifteen percent (15%) or greater, the minimum front setback may be reduced to ten (10) feet.

b. Where fifty percent (50%) or more of the lots of record in a block have been improved with single-family dwellings, the minimum front setback may be the average distance of the front outside wall of the single-family structures from the front lot line, if less than fifteen (15) feet. Notwithstanding the foregoing, the minimum front setback for garages or carports shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

2. Side setback: five (5) feet, with the exception that a lot having a width of less than fifty (50) feet may have a side setback reduced to ten percent (10%) of the lot width, but in no event less than three (3) feet or the minimum setback required by the Uniform Building Code, whichever is greater. Notwithstanding the foregoing, the minimum side setback for garages, or carports accessed from a street or alley along that side of the lot shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

3. Rear setback: Ten (10) feet.

E. Lot Coverage. The maximum coverage by all structures on any lot shall be sixty percent (60%).

F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72, subject to the following exclusions:

1. In the case of single-family dwellings, where the size of the lot is three thousand seven hundred (3,700) square feet or less, one covered parking space designed to accommodate a full-size automobile shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of two hundred (200) square feet.

2. In the case of duplexes and multiple-family dwellings, the area of all covered parking spaces required to be provided for the site shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of four hundred (400) square feet per unit.

G. Height of Structures.

1. Except as otherwise provided in paragraph 2 of this subsection G and in Section 17.32.060, the maximum height of any structure shall be as follows:

a. Twenty-eight (28) feet, for lots having a slope of less than twenty percent (20%); or

b. Thirty (30) feet, for lots having a slope of twenty percent (20%) or more.

2. For a distance of fifteen (15) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however, garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street when permitted by Section 17.32.070 of this title. A garage or carport in compliance with this subsection may exceed a height of thirty (30) feet, but the height of any permitted living area underneath shall not exceed thirty (30) feet from finish grade.

H. Articulation Requirements. Unless exempted, outside walls that are greater in size than twenty (20) feet in width and twenty (20) feet in height shall have a cumulative area of articulation as follows:

1. Front outside wall: Thirty percent (30%) articulation.

2. Side outside walls:

    a. Interior side outside wall: No articulation requirement.

    b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No articulation shall be required for the exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.

3. Rear outside wall: Thirty percent (30%) articulation.

4. Exemptions: Single story two (2) car garages and accessory structures not exceeding a floor area of one hundred twenty (120) square feet shall be exempted from all articulation requirements.

I. Landscaping Requirements.

1. Front Setback. A minimum of fifteen percent (15%) of the front setback area shall be landscaped where the lot has a front lot line of thirty (30) feet or greater.

2. Downslope Lots. The rear of any newly constructed main structure on a downslope lot shall be screened with trees and shrubs in accordance with a landscape plan approved by the planning director.

3. Sites with Three (3) or More Units. Not less than ten percent (10%) of the lot area shall be improved with landscaping where three (3) or more dwelling units are located on the same site.

4. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

J. Nonconforming Residential Structures and Uses. Nonconforming residential structures and nonconforming residential uses, as defined in Section 17.02.560, may be repaired, restored, reconstructed, enlarged or expanded in accordance with the provisions of Chapters 17.38 and 17.34 of this title.

K. Recycling Area Requirements:

1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid

waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

2. This requirement shall apply to all new residential buildings having five (5) or more living units, institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. This requirement shall also apply to such existing developments for which building permit applications are submitted within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of the development project.

SECTION 14: Section 17.12.020 – Permitted uses of Chapter 17.12 of the Zoning Ordinance is amended to read as follows:

17.12.020 - Permitted uses.

The following permitted uses shall be allowed in the R-BA district:

A. Single-family dwellings.

B. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.

C. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.

D. Small family day care homes.

E. Accessory dwelling units and junior accessory dwelling units, when authorized by a permit under Chapter 17.43 of this title.

SECTION 15: Section 17.12.040 – Development regulations of Chapter 17.12 of the Zoning Ordinance is amended to read as follows:

17.12.040 - Development regulations.

The following development regulations shall apply to any lot in the R-BA district:

A. Lot Area.

1. The minimum area of any lot shall be twenty thousand (20,000) square feet, except as otherwise provided in Section 17.12.050, Density transfer, and Section 17.12.055, Clustered development, of this chapter.

2. A single-family dwelling may be constructed on a lot of record with an area of less than twenty thousand (20,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.01.060 of Chapter 17.01 of this title.

B. Density of Development. Not more than one single-family dwelling shall be located on each lot in the R-BA District.

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
110 feet	140 feet

D. Setbacks. The minimum required setbacks for any lot, except as provided in Section 17.32.070, shall be as follows:

1. Front setback: Ten (10) feet.

2. Side setback: Ten percent (10%) of the lot width, but in no event more than fifteen (15) feet or less than five (5) feet. Notwithstanding the foregoing, the minimum side setback for garages or carports accessed from a street or alley along that side of the lot shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

3. Rear setback: Ten (10) feet.

E. Lot Coverage. The maximum coverage by all structures on any lot shall be twenty-five percent (25%).

F. Floor Area Ratio. The maximum floor area ratio of all buildings on a lot shall be 0.72; provided, however, that in no event shall the floor area of all buildings on a lot exceed five thousand five hundred (5,500) square feet.

G. Height of Structures.

1. Except as otherwise provided in paragraph 2 of this subsection G and in Section 17.32.060, the maximum height of any structure shall be thirty-five (35) feet.

2. For a distance of twenty (20) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however:

a. Residential structures on sites sloping down from the adjacent street may be constructed to a height of twenty (20) feet above the elevation of the center of the street, so long; and

b. Garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street and may exceed a height of thirty-five (35) feet, but the height of any permitted living area underneath shall not exceed thirty-five (35) feet from finish grade.

H. Wildland Interface. The development shall incorporate such measures as the fire chief may deem necessary to protect against the spread of fire between the site and the adjacent wildland.

I. HCP Compliance. All development within the R-BA District, except as provided in Section 17.01.060, shall comply with the requirements of the San Bruno Mountain Area Habitat Conservation Plan (HCP), including site activity review, environmental assessments, and operating programs for planned management units, consistent with the objectives and obligations set forth in the HCP.

J. Articulation Requirements. Unless exempted, outside walls that are greater in size than twenty (20) feet in width and twenty (20) feet in height shall have a cumulative area of articulation as follows:

1. Front outside wall: Thirty percent (30%) articulation.

2. Side outside walls:

    a. Interior side outside wall: No articulation requirement.

    b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No articulation shall be required for the exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.

3. Rear outside wall: Thirty percent (30%) articulation.

4. Exemptions: Single story two (2) car garages and accessory structures not exceeding a floor area of one hundred twenty (120) square feet shall be exempted from all articulation requirements.

K. Landscaping Requirements.

1. Landscape Plan. All development proposals and re-landscaping projects subject to the water conservation in landscaping ordinance (Chapter 15.70), except as permitted in Section 17.01.060 of Chapter 17.01 of this title, shall include a landscape plan to be approved by the planning director in consultation with the HCP plan operator. The plan shall show all proposed landscaping and the location of all protected trees and rare plants. The landscape plan shall be consistent with all of the following objectives:

    a. Preservation of protected trees and rare plants to the greatest extent possible;

    b. Use of plants that are compatible with the natural flora and fauna, and are not invasive to the HCP area;

    c. Use of water conserving plants;

    d. Use of plants that will effectively screen structures and blend with the natural landscape; and

    e. Use of landscaping that is fire resistant.

2. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

L. Ridgeline. Development on any site through which a ridgeline runs as identified in Figure 17.02.695, Ridgelines, shall be subject to design permit approval, except for accessory dwelling units and junior accessory dwelling units and except as provided in Section 17.01.060.

1. In addition to the required contents of application for design permit set forth in Section 17.42.020(A), story poles certified by a licensed architect, surveyor, civil engineer or contractor to represent the height of the proposed building shall be erected at the locations of its outer corners and roof peaks according to a plan pre-approved by the community development director. The upper one-foot length of each pole shall be painted OSHA yellow so as to be clearly visible from a distance.

2. In addition to the findings required for issuance of design permits set forth in Section 17.42.040, the planning commission shall find that the building's placement, height, bulk and landscaping will preserve those public views of the San Bruno Mountain State and County Park as seen from the Community Park and from the Bay Trail along the Brisbane Lagoon and Sierra Point shorelines that are found to be of community-wide value. Methods to accomplish this may include varying the building's roofline to reflect the ridgeline's topography, orienting the building to minimize the impact of its profile upon public views, locating the building on the lower elevations of the site, and reducing the building's height below the maximum permitted in the district.

3. An existing structure may be repaired or replaced in accordance with Section 17.38.090 without design permit approval, but any alteration or expansion which raises any portion of the roofline or increases the building's lot coverage shall be subject to design permit approval under this section.

M. Canyon Watercourses and Wetlands. Development of the site, including any temporary disturbance, shall be set back thirty (30) feet in each direction from the center line of any watercourse, and twenty (20) feet from the boundary of any wetlands. The specific location of watercourse center lines and wetland boundaries shall be determined by qualified personnel under the city's direction.

N. Trails. The development shall incorporate public access trails to the extent feasible given the environmental sensitivities of the site.

O. Nonconforming Residential Structures and Uses. Nonconforming residential structures and nonconforming residential uses, as defined in Section 17.02.560, may be repaired, restored, reconstructed, enlarged or expanded in accordance with the provisions of paragraph 3 of subsection L of Section 17.12.040 and Chapters 17.34 and 17.38 of this title.

P. Recycling Area Requirements. For new subdivisions containing an area where solid waste is collected and loaded in a location which serves five (5) or more living units, adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided to serve the needs of the living units which utilize the area. This requirement shall also apply to all institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

SECTION 16: Section 17.14.020 – Permitted uses of Chapter 17.14 of the Zoning Ordinance is amended to read as follows:

17.14.020 - Permitted uses.

The following uses are permitted uses in the NCRO-1 and NCRO-2 districts, if conducted in accordance with the performance standards set forth in 17.14.070 of this chapter:

A. Financial institutions.

B. Medical facilities.

C. Offices.

D. Personal services.

E. Restaurants.

F. Retail sales and rental.

G. Home occupations, in the NCRO-2 District only.

H. Accessory dwelling units and junior accessory dwelling units associated with an existing or proposed single-family dwelling, duplex, or multiple-family dwelling in compliance with the provisions of Chapter 17.43 of this title, in the NCRO-2 District only.

SECTION 17: Section 17.14.060 – Development regulations for the NCRO-2 district of Chapter 17.14 of the Zoning Ordinance is amended to read as follows:

17.14.060 - Development regulations for the NCRO-2 district.

Development regulations for the NCRO-2 district are as follows:

A. Lot Area. The minimum area of any lot in the NCRO-2 district shall be two thousand five hundred (2,500) square feet.

B. Lot Dimensions. The minimum dimensions of any lot in the NCRO-2 district shall be as follows:

Width	Depth
25 feet	No requirement

C. Density of Residential Use. Dwelling unit density in a mixed use shall be established by the use permit.

D. Setbacks. The minimum required setbacks for any lot in the NCRO-2 district, except as provided in Section 17.32.070, shall be as follows:

1. Front setback: No requirement (0).

2. Side Setback: No requirement (0), except a ten (10) foot setback shall be required on the side setback where abutting any residential district.

3. Rear Setback: Ten (10) feet.

E. Lot Coverage. The maximum coverage by all structures on any lot in the NCRO-2 district shall be ninety percent (90%).

F. Height of Structures. The maximum height of any structure, except as provided in Section 17.32.060, shall be twenty-eight (28) feet, except that the height may extend to thirty-five (35) feet when authorized by a design permit granted pursuant to Chapter 17.42 of this title and provided the approving authority is able to make the findings set forth in Section 17.14.110 of this chapter.

G. Fencing Requirements. If the site is next to a residential district, a wood fence of not less than eight (8) feet in height that adequately screens the site from the adjacent residential property shall be installed along the property line abutting the residential district. The planning director may approve deviations from the material and height requirements set forth in the preceding sentence, based upon a finding that the modified fence is more appropriate for the site and the adjacent residential property.

H. Storefronts. All uses at street level facing Visitacion and/or San Bruno Avenues shall be storefronts, as defined in Section 17.02.746 of this title, except for entrances to uses above or behind the storefronts. Such uses shall comply with the following additional requirements:

1. The minimum floor area for a storefront use is six hundred (600) square feet. The approving authority may approve a lesser floor area if the approving authority finds that such lesser area is as large as possible for the intended storefront use, given the size, configuration, and physical constraints of the structure and the site.

2. No off-street parking shall be located on any portion of the site between the curb line and the storefront.

3. New construction shall incorporate the necessary vents and chases into the building design so as to allow future changes in occupancy of the storefront area.

4. Single-family dwellings in which mixed uses are conducted shall have a storefront character as viewed from the street.

I. Passive Open Space. Usable passive open space shall be provided for residential uses of at least sixty (60) square feet per unit. Such passive open space may be provided as individual patios or decks, or as common patio or garden area, or any combination thereof. Notwithstanding that an attached or detached accessory dwelling unit greater than eight hundred (800) square feet is added to an existing residential use, there shall be no reduction in the amount of required usable passive open space for the other residential use. If an existing residential use has passive open space that does not conform to the sixty (60) square feet per unit requirement, the addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet to that use shall not further reduce the amount of passive open space. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) feet or less may result in a loss of the required usable passive open space for the other residential uses, including the loss of non-forming passive open space.

J. Recycling Area Requirements.

1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

2. This requirement shall apply to all new commercial or institutional buildings, residential buildings having five or more living units, and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. This requirement shall also apply to any existing development for which building permit applications are submitted within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of the development project. For existing developments occupied by multiple tenants, this requirement shall apply to building permit applications submitted by any tenant within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of that portion of the development which said tenant leases. Such recycling areas shall, at a minimum, be sufficient in capacity, number, and distribution to serve that portion of the development project which said tenant leases.

SECTION 18: Section 17.16.020 – Permitted uses of Chapter 17.16 of the Zoning Ordinance is amended to read as follows:

17.16.020 - Permitted uses.

A. The following are permitted uses in the SCRO-1 district:

1. Emergency shelters in compliance with Section 17.16.040.

2. Accessory dwelling units and junior accessory dwelling units associated with an existing or proposed single-family dwelling, duplex, or multiple-family dwelling in compliance with the provisions of Chapter 17.43 of this title.

SECTION 19: Section 17.16.040 – Development regulations of Chapter 17.16 of the Zoning Ordinance is amended to read as follows:

17.16.040 - Development regulations.

Development regulations in the Southwest Bayshore district are as follows:

A. Lot Area. The minimum area of any lot shall be seven thousand five hundred (7,500) feet.

B. Density of Development. The minimum lot area for each dwelling unit on a site shall be as follows:

1. Single-family dwellings: Seven thousand five hundred (7,500) square feet;

2. Duplex dwellings: Three thousand seven hundred fifty (3,750) square feet;

3. Multiple-family dwellings and dwelling groups: One thousand five hundred (1,500) square feet;

4. Mixed use or live/work development: Dwelling unit density shall be determined by the use permit.

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
50 feet	No requirement

D. Setbacks. The minimum required setbacks for any lot, except as provided in Section 17.32.070, shall be as follows:

1. Front setback;

   a. Residential/Mixed Use: Ten (10) feet;

   b. Commercial Uses: Twenty-five (25) feet for commercial uses;

   c. Exception: The setbacks may be reduced to zero (0) where development includes dedication to public right-of-way for a frontage access road and sidewalk, to the satisfaction of the city engineer and fire department.

2. Side setback:

   a. Residential/Mixed Use: Five (5) feet;

   b. Commercial Uses: Fifteen (15) feet;

   c. Exception: The planning commission may approve exceptions to the side setback regulations through the granting of a use permit.

3. Rear setback: Ten (10) feet.

E. Lot Coverage. The maximum coverage by all structures on any lot shall be seventy percent (70%).

F. Height of Structures. The maximum height of any structure, except as provided in Section 17.32.060, shall be thirty-five (35) feet.

G. Landscaping Requirements.

1. Not less than ten percent (10%) of the lot area shall be improved with landscaping. The addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet shall not result in a loss of the required landscape area. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) square feet or less may result in a loss of the required landscape area.

2. Plant materials shall be drought resistant and non-invasive as required by the planning director.

3. Landscaping required under this section, including replacement landscaping, shall be installed according to detailed plans approved by the planning director. The landscape plans shall be consistent with the following objectives:

    a. Use of plants that are not invasive;

    b. Use of water conserving plants; and

    c. Use of plants and other landscape features that are appropriate to the context.

4. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

H. Screening Requirements.

1. Outside storage of pallets or containers used for transportation and delivery of items related to the uses conducted on the site shall not be located in any required setback from a street and shall be screened from off-site view to the extent it is reasonable to do so.

2. The off-site visibility of exterior equipment such as heating and ventilation units, above-ground storage tanks, compactors and compressors, shall be mitigated through such measures as may be reasonable under the circumstances, including, but not limited to, the installation of screening, fencing, painting, or landscaping, or any combination of the foregoing.

3. The screening requirements set forth in subsections (H)(1) and (H)(2) of this section are not intended to be exclusive and the approving authority may require, as a condition of the use permit, such other and additional screening measures as it deems necessary or appropriate to mitigate any potential adverse visual and audible impacts created by the intended use.

I. Recycling Area Requirements.

1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

2. This requirement shall apply to all new commercial or institutional buildings, residential buildings having five (5) or more living units, and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. This requirement shall also apply to any existing development for which building permit applications are submitted within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of the development project. For existing developments occupied by multiple tenants, this requirement shall apply to building permit applications submitted by any tenant within

a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of that portion of the development which said tenant leases. Such recycling areas shall, at a minimum, be sufficient in capacity, number, and distribution to serve that portion of the development project which said tenant leases.

J. Emergency Shelters. Development standards for emergency shelters shall be the same as for residential development in the district, except density of development regulations, and emergency shelters that meet the following requirements are exempt from the requirement of a design permit and use permit:

1. No emergency shelter shall be allowed to be located within three hundred (300) feet of another emergency shelter.

2. The required setbacks for new development shall be:

    a. Front setback: Ten (10) feet; except that the front setback may be reduced to zero (0) where development includes dedication to public right-of-way for a frontage access road and sidewalk, to the satisfaction of the city engineer and fire department.

    b. Side setback: Five (5) feet; except that the planning commission may approve exceptions to the side setback regulations through the granting of a use permit.

    c. Rear setback: Ten (10) feet.

3. A maximum of twelve (12) persons (twelve (12) beds) to be served nightly.

4. Each resident shall be provided personal living space.

5. Bathrooms and bathing facilities shall be provided, adequate for the number of residents.

6. Laundry facilities or services shall be provided on site, adequate for the number of residents.

7. The length of stay for individual clients shall not exceed six (6) months, or as allowed by state law.

8. Staff and services shall be provided to assist residents to obtain permanent shelter and income.

9. For security, the facility shall provide outdoor lighting of common areas, entries, parking areas, pathways, in compliance with Section 17.16.050(E).

10. For security, the shelter shall be adequately staffed twenty-four (24) hours a day, seven (7) days a week.

11. Parking shall be as specified in Chapter 17.34.

12. Outdoor activities, such as recreation, eating, and staging for drop-off, intake, and pick-up, may be conducted at the facility, between the hours of five (5:00) a.m. and ten

(10:00) p.m. A night operations use permit is required for outdoor activities between the hours of ten (10:00) p.m. and five (5:00) a.m., as provided for in Section 17.16.070.

13. The facility may provide the following:

    a. Kitchen facilities;

    b. Dining area;

    c. Recreation room;

    d. Training and counseling support services;

    e. Child care facilities;

    f. Other facilities or services that are accessory to an emergency shelter.

14. Prior to commencing operation, the emergency shelter provider must have a written management plan, which shall be provided to the planning director. The management plan must include provisions for staff training, resident identification process, neighborhood outreach, policies regarding pets, the timing and placement of outdoor activities, provisions for residents' meals (including special dietary needs), medical care, mental health care, dental care, temporary storage of residents' personal belongings, safety and security, provisions in case of area-wide emergencies, screening of residents to ensure compatibility with services provided at the facility, plans to help secure other provisions for those who may not be part of the shelter's target population, computer access for residents, and training, counseling and social service programs for residents, as applicable.

K. Mobile Home Parks.

1. Mobile home parks in the SCRO-1 district shall be subject to the development and parking standards established in Chapter 17.11 of this Title.

2. Conversion, closure, or cessation of a mobile home park in the SCRO-1 district shall be subject to the procedures established in Section 17.11.090 of this Title.

SECTION 20: Section 17.27.020 – Permitted uses of Chapter 17.27 of the Zoning Ordinance is amended to read as follows:

17.27.020 - Permitted uses. (PAOZ-1 & PAOZ-2)

The following are permitted uses in the PAOZ-1 and PAOZ-2 districts:

PAOZ-1	PAOZ-2	Permitted Uses
X	Not permitted	Single-family dwellings

PAOZ-1	PAOZ-2	Permitted Uses
X	X	Multiple-family dwellings
X	X	Dwelling groups
X	X	Accessory structures
X	X	Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44
X	X	Small family day care homes
X	X	Accessory dwelling units, in compliance with Chapter 17.43 of this title.
X	Not permitted	Junior accessory dwelling units, in compliance with Chapter 17.43 of this title.

SECTION 21: Section 17.27.040 – Development regulations for the PAOZ-1 district of Chapter 17.27 of the Zoning Ordinance is amended to read as follows:

17.27.040 - Development regulations for the PAOZ-1 district.

Development regulations for the PAOZ-1 district are as follows:

A. Lot Area. There is no minimum lot area.

B. Density of Development. The minimum development density for any site shall be twenty (20) dwelling units per acre and the maximum development density shall be twenty-eight (28) dwelling units per acre.

C. Lot Dimensions. There are no minimum lot dimensions.

D. Setbacks. The minimum required setbacks for any building shall be as follows:

1. Front: Five (5) feet minimum, fifteen (15) feet maximum.

2. Side: Five (5) feet minimum, ten (10) feet maximum.

3. Street Side: Ten (10) feet minimum and maximum.

4. Rear: Fifteen (15) feet minimum.

5. Any architectural projection (including lobbies, porches, stoops, canopies, and other entry-related architectural features) may extend up to two (2) feet into the required front setback area.

E. Lot Coverage. There is no maximum lot coverage.

F. Floor Area Ratio. There is no maximum floor area ratio.

G. Height.

1. Buildings and Architectural Features. The maximum building height shall be thirty-eight (38) feet and three (3) stories. Architectural features, including chimneys, elevators, towers, turrets, eaves, skylights or roof windows, utilities, utility penthouses, and solar panels, are allowed to project up to a maximum of ten (10) feet above the maximum building height.

2. Fences and Walls. Fences and walls in front yards shall be no more than three (3) feet in height from the adjacent sidewalk. Fences and walls in side yards shall not exceed six (6) feet in height. Deviations from maximum fence and wall heights shall require approval by the planning commission as provided in Section 17.32.050(B)(5) of this title.

H. Landscaping Requirements. Not less than thirty percent (30%) of the lot area shall be landscaped. New and rehabilitated, irrigated landscapes are subject to the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest State provisions, whichever is more effective in conserving water. Landscaping shall conform to the development standards established in Section 3.5 of the Parkside Precise Plan. The addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet shall not result in a loss of the required landscaping. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) square feet or less may result in a loss of the required landscape area.

I. Open Area Requirements. At least four hundred (400) square feet of open area shall be provided for the dedicated use of each dwelling unit. The open area requirement shall not be met by shared or communal open areas. The addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet shall not result in a loss of the required open areas. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) square feet or less may result in a loss of the required open area.

J. Building Design. All buildings shall substantially comply with the building design standards established in Section 3.3 of the Parkside Precise Plan. Projects that do not comply with those building design standards shall be subject to design review as set forth in Section 17.27.060(B), in addition to any other discretionary review required by the specific deviations.

K. Site Design. All projects shall substantially comply with the site design standards established in Section 3.4 of the Parkside Precise Plan. Projects that do not comply with those site design standards shall be subject to design review as set forth in Section 17.27.060(B), in addition to any other discretionary review required by the specific deviations.

L. Parking. Required on-site parking for single-family dwellings shall be two (2) spaces per dwelling, both of which shall be in an enclosed garage. For multiple-family dwellings, accessory dwelling units, and junior accessory dwelling units, required on-site parking and additional guest parking shall be provided as set forth in Section 17.34.020 of this title.

1. Design Requirements. Off-street parking facilities shall comply with the design standards as set forth in Table 1, which appears immediately following this section.

M. Recycling Area Requirements.

1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

2. These requirements shall apply to all new residential buildings having five (5) or more dwelling units, institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the City) where solid waste is collected and loaded. These requirements shall also apply to an existing development project for which building permit applications are submitted within a twelve-month period that collectively add thirty percent (30%) or more to the existing floor area of the development project.

SECTION 22: Section 17.27.050 – Development regulations for the PAOZ-2 district of Chapter 17.27 of the Zoning Ordinance is amended to read as follows:

17.27.050 - Development regulations for the PAOZ-2 district.

Development regulations for the PAOZ-2 district are as follows:

A. Lot Area. There is no minimum lot area.

B. Density of Development. The minimum development density for any site shall be twenty-four (24) dwelling units per acre and the maximum development density shall be twenty-eight (28) dwelling units per acre.

C. Lot Dimensions. There are no minimum lot dimensions.

D. Setbacks. The minimum required setbacks for any building shall be as follows:

1. Front: Five (5) feet minimum, twenty (20) feet maximum.

   Any architectural projection (including lobbies, porches, stoops, canopies, and other entry-related architectural features) may extend up to two (2) feet into the required front setback area.

2. Side: Five (5) feet minimum.

Upper floor second and third-story balconies may extend up to two (2) feet into the required side setback area.

3. Street Side: Ten (10) feet minimum and maximum.

4. Rear: Fifteen (15) feet minimum.

E. Lot Coverage. The maximum coverage by all structures on any lot shall be sixty percent (60%).

F. Floor Area Ratio. There is no maximum floor area ratio.

G. Height.

1. Buildings and Architectural Features. The maximum building height shall be forty (40) feet and three (3) stories. Architectural features, including chimneys, elevators, towers, turrets, eaves, skylights or roof windows, utilities, utility penthouses, and solar panels, are allowed to project up to a maximum of ten (10) feet above the maximum building height.

2. Fences and Walls. Fences and walls in front yards shall be no more than three (3) feet in height from the adjacent sidewalk. Fences and walls in side yards shall not exceed six (6) feet in height. Deviations from the fence and wall heights shall require approval by the planning commission as set forth in Section 17.32.050(B)(5) of this title.

H. Landscaping Requirements. Not less than twenty percent (20%) of the lot area shall be landscaped. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest State provisions, whichever is more effective in conserving water. Landscaping shall conform to the development standards established in Section 3.5 of the Parkside Precise Plan. The addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet shall not result in a loss of the required landscaping area. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) square feet or less may result in a loss of the required landscape area.

I. Open Area Requirements. At least one hundred (100) square feet of open area per dwelling unit shall be provided. The open area may be met through a combination of common or private open areas provided on-site. Open areas shall be usable and shall support residents' passive and/or active use. The computation of open areas may include amenities and structures designed to enhance usability, such as swimming pools, rooftop gardens or decks, fountains, planters, benches, and usable landscaping. The addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet shall not result in a loss of the required open areas. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) square feet or less may result in a loss of the required open area.

J. Building Design. All buildings shall substantially comply with the building design standards established in Section 3.3 of the Parkside Precise Plan. Projects that do not comply with those building design standards shall be subject to design review as set forth in Section 17.27.060(B), in addition to any other discretionary review required by the specific deviations.

K. Site Design. All projects shall substantially comply with the site design standards established in Section 3.4 of the Parkside Precise Plan. Projects that do not comply with those site design

standards shall be subject to design review as set forth in Section 17.27.060(B), in addition to any other discretionary review required by the specific deviations.

L. Parking. Required on-site parking and additional guest parking shall be as established in Section 17.34.020 of this title for multiple-family developments and accessory dwelling units.

1. Design Requirements. Off-street parking facilities shall comply with the design standards as set forth in Table 1, which appears immediately following this section.

2. Short-term and long-term parking for bicycles in the PAOZ-2 district shall be provided as follows: Long-Term: 1/10 units; Short-Term: 1/20 units.

   Bicycle parking design shall conform to the standards established in Section 3.4 of the Parkside Precise Plan.

M. Recycling Area Requirements.

1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

2. These requirements shall apply to all new residential buildings having five (5) or more living units, institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. These requirements shall also apply to existing development project for which building permit applications are submitted within a twelve-month period that collectively add thirty percent (30%) or more to the existing floor area of the development project.

SECTION 23: Section 17.28.120 – Amendment or modification of a PD permit of Chapter 17.28 of the Zoning Ordinance is amended to read as follows:

17.28.120 - Amendment or modification of PD permit.

A. Amendments or modifications to a PD permit shall require approval by the city council, except as follows:

1. The planning commission and the zoning administrator shall have authority to approve any items which, under the terms of the PD permit, have been specifically delegated to either of them for approval, either as a condition for issuance of the permit or at any time thereafter.

2. Minor changes during the course of construction which do not materially affect the use, nature, appearance, quality or character of the project may be approved by the zoning administrator.

3. The relocation of a use or activity authorized by the PD permit to another location regulated by the same permit where no significant adverse impacts are created as a result of such relocation may be approved by the zoning administrator.

4. The construction of an accessory dwelling unit or junior accessory dwelling unit in compliance with Chapter 17.43 of this title shall be approved ministerially by the zoning administrator.

B. The application requirements, public hearing procedures and findings required for amendments or modifications to a PD permit shall be as prescribed in Sections 17.28.040, 17.28.050 and 17.28.080 of this chapter.

SECTION 24: Section 17.32.070 - Exceptions – Setback requirements of Chapter 17.32 of the Zoning Ordinance is amended to read as follows:

17.32.070 - Exceptions – Setback requirements.

A. Notwithstanding any other provision of this title, certain structures or portions thereof may extend into a front, rear or side setback area to the extent permitted by the following chart:

1. Projections from a Building.

a. Overhanging Architectural Features (Such as Eaves, Cornices Canopies, Rain Gutters and Downspouts).

Front setback area:	May extend three (3) feet from the building into the front setback area, but no closer than five (5) feet from the front lot line.
Rear setback area:	May extend three (3) feet from the building into the rear setback area, but no closer than seven (7) feet from the rear lot line.
Side setback area:	May extend three (3) feet from the building into the side setback area, but no closer than two and one-half (2½) feet from the side lot line. Rain gutters and downspouts may extend no closer than two (2) feet from the side lot line. In the R-1 district, a noncombustible awning over the main entrance to a residence located at the side of the structure may extend four (4) feet from the building into any portion of the side setback area, but shall not extend over or drain onto the abutting property.

b. Cantilevered Windows No Greater Than Ten (10) Feet in Length That Do Not Include Any Floor Area (Such as Bay, Box, Bow, and Greenhouse Windows).

Front setback area:	May extend three (3) feet from the building into the front setback area, but no closer than five (5) feet from the front lot line.
Rear setback area:	May extend three (3) feet from the building into the rear setback area, but no closer than seven (7) feet from the rear lot line.

Side setback area:	May extend two (2) feet into the side setback area, but no closer than three (3) feet from the side lot line.

c. Supported Decks, Cantilevered Decks and Balconies.

Front setback area:	May extend five (5) feet from the building into the front setback area, but no closer than five (5) feet from the front lot line. Decks may be located atop a garage or carport approved under Section 17.32.070(A)(3)(a) and may extend to the front of the garage, but the railings of such deck may not exceed fifteen (15) feet in height above the elevation of the center of the adjacent street or four (4) feet from the surface of the deck, whichever is less, while at the same time maintaining the minimum railing height required by the building code.
Rear setback area:	May extend five (5) feet from the building into the rear setback area, but no closer than five (5) feet from the rear lot line. This exception shall not apply to the NCRO district.
Side setback area:	No exception permitted.

Modifications. The planning commission may approve a modification to the foregoing exceptions if there are not more than two (2) units on the site and the planning commission is able to make all of the following findings:

i. The modification is necessary in order to gain access to the property or to the dwelling unit on the property.

ii. The modification is necessary because of unusual or special circumstances relating to the configuration of the property.

iii. The visual impacts of the modification have been minimized.

d. Deck Railings within Setback Areas.

Front setback area:	May not be higher than four (4) feet from the surface of the deck.
Rear setback area:	May not be higher than four (4) feet from the surface of the deck.
Side setback area:	No exception permitted.

e. Stairs, Ramps and Landings (That Are Open and Uncovered and Serve Buildings with No More Than Two Units).

Front setback area:	No more than one set of stairs per dwelling unit may extend from the building into the front setback area. Each set of stairs must lead to the front entrance of the unit. The height of the stairway within the front setback area shall not exceed twenty (20) feet. Stairs on grade, sidewalks, and other flatwork constructed of noncombustible materials may be located anywhere within the front setback area.

Rear setback area:	No more than one set of stairs per dwelling unit may extend from the building into the rear setback area, but no closer than five (5) feet from the rear lot line. Stairs on grade, sidewalks, and other flatwork constructed of noncombustible materials may be located anywhere within the rear setback area.
Side setback area:	No more than one set of stairs per dwelling unit may extend from the building into the side setback area, but no closer than three (3) feet from the side lot line. Stairs on grade, sidewalks, and other flatwork constructed of noncombustible materials may be located anywhere within the side setback area.

Modifications. The planning commission may approve a modification to the foregoing exceptions for stairs, ramps and landings if there are not more than two units on the site and the planning commission is able to make all of the following findings:

i. The modification is necessary in order to gain access to the property or to the dwelling unit on the property.

ii. The modification is necessary because of unusual or special circumstances relating to the configuration of the property.

iii. The visual impacts of the modification have been minimized.

The planning commission may also approve a modification to the foregoing exceptions as part of a design permit being granted for three (3) or more units on the site, if the commission is able to make all of the findings listed above.

f. Accessibility Improvements (Such as Ramps, Elevators, and Lifts).

All Setback Areas. Accessibility improvements, such as ramps, elevators and lifts, may be allowed within any front, rear or side area setback upon the granting of an accessibility improvement permit by the zoning administrator, following the conduct of a hearing with ten (10) days' notice thereof being given to the owners of all adjacent properties. The zoning administrator may issue the accessibility improvement permit if he or she finds and determines that:

i. The exception is necessary to meet special needs for accessibility of a person having a physical handicap which impairs his or her ability to access the property and cannot be addressed through the standard exceptions to the setback area requirements under this Section 17.32.070.

ii. Visual impacts of the accessibility improvements located within a setback area have been minimized.

iii. The accessibility improvements will not create any significant adverse impacts upon adjacent properties in terms of loss of privacy, noise or glare.

iv. The accessibility improvements will be constructed in a sound and workmanlike manner, in compliance with all applicable provisions of the building and fire codes.

2. Small Free-Standing Structures.

a. Small Accessory Buildings and Roofed Structures (Such as Gazebos, Greenhouses, Garden and Utility Sheds).

Front setback area:	No exception permitted.
Rear setback area:	May be placed at any location within the rear setback area which is not less than five (5) feet from the rear lot line or three (3) feet from the interior side lot line, provided the building or structure, or portion thereof, within the rear setback area does not exceed eight (8) feet in height and does not have a floor area in excess of one hundred twenty (120) square feet.
Side setback area:	May be placed at any location within the interior side setback area which is not less than three (3) feet from the interior side lot line, provided the building or structure, or portion thereof, within the interior side setback area does not exceed eight (8) feet in height and does not have a floor area in excess of one hundred twenty (120) square feet. No exception is permitted for an exterior side setback area.

Modifications. The zoning administrator may approve a modification to the foregoing exceptions for small accessory buildings and roofed structures, following the conduct of a hearing with ten (10) days' notice thereof being given to the owners of all adjacent properties, if the zoning administrator is able to make all of the following findings:

i. The modification will not result in overbuilding the site or result in the removal of significant greenscape.

ii. The modification will not create any significant adverse impacts upon adjacent properties in terms of loss of privacy, noise, or glare.

iii. The accessory structure is designed to be compatible with the primary dwelling(s) on the site.

A building permit shall be required to construct or install any accessory structure for which a modification has been granted under this subsection.

b. Unroofed and Openwork Roofed Garden Structures (Such as Arbors, Porticos, Trellises and Lath Houses).

Front setback area:	May not exceed eight (8) feet in height or cover more than fifteen percent (15%) of the front setback area.

Rear setback area:	May be placed at any location within the rear setback area which is not less than five (5) feet from the rear lot line, provided the structure, or portion thereof, within the rear setback area does not exceed eight (8) feet in height and does not cover more than fifteen percent (15%) of the rear setback area.
Side setback area:	May be placed at any location within the side setback area which is not less than three (3) feet from the side lot line, provided the structure, or portion thereof, within the side setback area does not exceed eight (8) feet in height and does not cover more than fifteen percent (15%) of the side setback area.

Modifications. The zoning administrator may approve a modification to the foregoing exceptions for unroofed and openwork roofed garden structures, following the conduct of a hearing with ten (10) days' notice thereof being given to the owners of all adjacent properties, if the zoning administrator is able to make all of the following findings:

i. The modification will not result in overbuilding the site or result in the removal of significant greenscape.

ii. The modification will not create any significant adverse impacts upon adjacent properties in terms of loss of privacy, noise, or glare.

iii. The accessory structure is designed to be compatible with the primary dwelling(s) on the site.

3. Miscellaneous Improvements.

a. Garages and Carports and Parking Decks on Slopes of Fifteen Percent (15%) or Greater.

Front setback area:	Garages, carports and parking decks not more than fifteen (15) feet in height above the elevation of the center of the adjacent street in the R-1, R-2 and R-3 Districts and parking decks in the R-BA District may be placed at any location within the front setback area provided: (i) there is no encroachment into any side setback area, and (ii) the garage is approved by the city engineer, based upon a finding that no traffic or safety hazard will be created.
Rear setback area:	On through lots, garages, carports and parking decks not more than fifteen (15) feet in height above the elevation of the center of the adjacent street may be placed at any location within the rear setback area provided: (i) there is no encroachment into any side setback area, and (ii) the garage is approved by the city engineer, based upon a finding that no traffic or safety hazard will be created.
Side setback area:	No exception permitted.

b. Decorative Artwork, Ponds, Fountains and Similar Water Features, Not More Than Six (6) Feet in Height.

Front setback area:	May be placed at any location within the front setback area.
Rear setback area:	May be placed at any location within the rear setback area.
Side setback area:	No exception permitted.

c. Existing Permitted Garages or Accessory Buildings Converted into Accessory Dwelling Units.

Front setback area:	May be placed at any location within the front setback area.
Rear setback area:	May be placed at any location within the rear setback area.
Side setback area:	May be placed at any location within the side setback area.

4. Accessory Dwelling Units

a. Exceptions to the setback requirements for accessory dwelling units shall be as established in Chapter 17.43.

B. The exceptions set forth in subsection A of this Section 17.32.070 shall not be construed to include chimney boxes, swimming pools and spas, exposed plumbing, or mechanical equipment such as heating and air conditioning units or pool pumps, and no exceptions to the setback requirements shall be permitted for any of these structures.

C. Any structure, architectural feature, wall, or other improvement lawfully constructed within a setback area and constituting a nonconforming structure as defined in Section 17.02.560, may be allowed to continue in accordance with Chapter 17.38 of this title.

SECTION 25: Section 17.34.020 – Minimum requirements of Chapter 17.34 of the Zoning Ordinance is amended to read as follows:

17.34.020 – Minimum requirements.

A. The following minimum parking requirements shall apply to all buildings erected, new uses commenced, and to the area of extended uses commenced after the effective date of this Chapter. For any use not specifically mentioned in this Chapter, the planning commission shall determine the amount of parking required. All required off-street parking facilities shall be on-site unless specified differently in this Chapter or as permitted under Title 12 of this Code. Required off-street parking facilities need not be provided as covered parking unless specified differently in this chapter:

Uses:	Parking Requirements:
Single-family dwellings and group care homes:	

Uses:	Parking Requirements:
Studio or 1-bedroom dwellings not more than 900 square feet in floor area:	1 off-street space (uncovered or covered).
All other dwellings not exceeding 1,800 square feet in floor area:	1 off-street space plus 1 space which shall be in a garage or carport.
Dwellings exceeding 1,800 square feet in floor area on lots having less than 37.5 feet in frontage:	2 off-street spaces plus 1 space which shall be in a garage or carport.
Dwellings exceeding 1,800 square feet in floor area on lots of 37.5 feet frontage or greater:	2 on-street or off-street spaces plus 2 spaces which shall be in a garage or carport.
	See Section 17.34.020(B)(1) regarding garage and carport exclusions from the floor area calculation.
	Additional guest parking spaces shall be provided for all residential subdivisions of 5 or more single-family residences, at the rate of 1 parking space for every 5 units. Such spaces shall be located entirely within the public right-of-way and available for public use. Any accessible parking spaces required per Section 17.34.040(D) shall count as guest parking spaces.
Accessory dwelling units	In the R-1, R-2, R-3, NCRO-2, SCRO-1, PAOZ-1, or PAOZ-2 Districts: No off-street parking required. In the R-BA and PD Districts: 1 off-street parking space (uncovered or covered), unless the accessory dwelling unit is located within one-half mile walking distance of public transit, or the accessory dwelling unit is part of the proposed or existing dwelling, as defined in Section 17.02.235, or an accessory structure as defined in subsection B of Section 17.02.755.
Junior accessory dwelling units	No off-street parking required.
Duplex or multiple family dwelling units; Mobilehome park units:	
Studios	1 (uncovered or covered) space per unit.

Uses:	Parking Requirements:
1-bedroom units	1½ spaces (1 of which shall be covered) per unit; only 1 (covered) space required for units not over 900 square feet in floor area.
2-bedroom units	1½ spaces (1 of which shall be covered) per unit.
3-bedroom units or larger	2 spaces (1 of which shall be covered) per unit, plus 1 (uncovered or covered) space for units over 2,700 square feet.
	See Section 17.34.020(B)(1) regarding garage and carport exclusions from the floor area calculation.
	Additional guest parking spaces shall be provided for all developments of 5 or more units at the rate of 1 parking space for every 5 units. The accessible parking spaces required per Section 17.34.040(D) shall count as guest parking spaces.
Emergency shelters	0.35 space per bed plus 1 space per staff member on the largest shift.
Hotels, motels	1 space per unit, plus applicable requirements for restaurants, bars and meeting halls.
Cultural facilities, meeting halls and places of worship	
	1 space for each 50 square feet of assembly area or 1 space for each 4 fixed seats, whichever is greater, plus 1 space for each 300 square feet of the remaining floor area of the building (meeting rooms not exceeding 750 square feet and ancillary to an office use shall be included with the floor area of the office in calculating the parking requirement for the office use).
Commercial recreation	3 spaces per ball court; 2.5 spaces per batting cage; 4 spaces per lane for bowling alleys; 2 spaces per tee for golf courses; 20 spaces per playing field; 2 spaces per shooting range; 2 spaces per horse stall for stables; 1 space per 100 square feet of water area for swimming pools.

Uses:	Parking Requirements:
	For commercial recreation uses that do not fall within the above categories, 1 parking space shall be required for every 4 fixed seats for spectators, 1 parking space per each 200 square feet of floor area used for indoor commercial recreation, and 1 parking space per each 1,000 square feet of site area used for outdoor commercial recreation.
Marinas	1 space per 0.75 berths.
Schools—Public, private or commercial	1 space for each classroom and office.
Hospitals	1 space per bed plus 1 space for each 2 employees on the largest shift.
Financial services	1 space for each 200 square feet of gross floor area.
Administrative office	1 space for each 300 square feet of gross floor area.
Professional office	1 space for each 250 square feet of gross floor area.
Retail stores, restaurants, bars, offices	1 space for each 300 square feet of gross floor area.
Service stations	2 spaces for each working bay plus 1 space for each employee on the largest shift.
Warehousing, light fabrication, food production, media studios, printing	1 space for each 1,000 square feet of gross floor area.
Convalescent hospitals, sanitariums, rest homes	1 space for each 7 beds plus 1 space for each 2 employees on the largest shift.

B. The minimum parking requirements shall be calculated according to the following:

1. All references to square feet shall be in regards to floor area as defined in Chapter 17.02. The floor area of garages and carports shall not be included in measuring floor area to calculate the parking requirements, except for any floor area exceeding 400 square feet within a garage or carport exclusively for the use of a single residential unit.

2. When more than one use subject to the parking requirements occupies a site, the requirements for each use shall be calculated separately. The floor area occupied by accessory uses, such as hallways, bathrooms, breakrooms, utility rooms and storage closets, shall be included in the calculation of the parking requirements for the associated primary use.

3. No parking shall be required for accessory structures 200 square feet or less in floor area.

4. When application of the parking requirements results in a fractional number, all fractions shall be rounded up from 0.5 to the next whole number, except when specified otherwise. No parking shall be required for uses for which the requirement is less than 0.5 space.

SECTION 26: Section 17.38.030 – Expansion of nonconforming uses of Chapter 17.38 of the Zoning Ordinance is amended to read as follows:

17.38.030 - Expansion of nonconforming uses.

A. Except as otherwise provided in subsection B of this 17.38.030 and Section 17.38.110 of this chapter, a nonconforming use may not be enlarged, expanded or intensified. This prohibition shall include any enlargement, expansion or intensification of a nonconforming use which:

1. Increases the site area or floor area occupied by the nonconforming use; or

2. Increases the amount, volume, or intensity of nonconforming business use, or the machinery, equipment, trade fixtures or other personal property utilized in the conduct of such use; or

3. Displaces any conforming use occupying a structure or site.

B. Nonconforming residential uses located in the R-1, R-2, R-3 or R-BA district may be enlarged or expanded upon the granting of a use permit by the planning commission pursuant to Chapter 17.40 of this title. In addition to the findings required by Chapter 17.40, the planning commission shall also find and determine that:

1. Parking spaces in accordance with the requirements set forth in Chapter 17.34 of this title will be provided for the nonconforming use and all other uses on the site;

2. Any expansion of the nonconforming facility will comply with all applicable development standards for the district in which the site is located, including, but not limited to, floor area ratio, setbacks, height, and coverage limitations.

3. The nonconforming facility will comply with all applicable provisions of the building, health and fire codes.

4. The nonconforming use will comply with such other conditions and requirements which, in the judgment of the planning commission, are necessary or appropriate to mitigate any potential adverse impacts of the expansion on the neighborhood.

Note. A single-family dwelling on a lot of record in an R-1, R-2, R-3, or R-BA district having less than the minimum lot area prescribed by the applicable district regulations, shall constitute a conforming use and may be enlarged or expanded subject to the development standards of the applicable district and the limitations set forth in Section 17.32.055 of Chapter 17.32 of this title.

SECTION 27: Section 17.38.040 – Maintenance and repair of nonconforming facility of Chapter 17.38 of the Zoning Ordinance is amended to read as follows:

17.38.040 - Maintenance and repair of nonconforming facility.

A. Nonconforming facilities may be continued, maintained and repaired so as to protect the health and safety of the occupants and preserve the useful life of the structure.

B. Nonconforming facilities may be remodeled and the interior reconfigured so long as there is no enlargement, expansion, or intensification of the nonconforming use, except as otherwise permitted by subsection B of Section 17.38.030.

SECTION 28: Section 17.38.060 – Reconstruction or replacement of nonconforming facility of Chapter 17.38 of the Zoning Ordinance is amended to read as follows:

17.38.060 - Reconstruction or replacement of nonconforming facility.

A nonconforming facility which is damaged or destroyed may be reconstructed or replaced for continued occupancy by the nonconforming use or uses previously conducted therein, subject to the following limitations:

A. The site area or floor area occupied by the nonconforming use, and the intensity of activity conducted by the nonconforming use, subsequent to reconstruction or replacement of the facility shall not exceed that existing prior to the damage or destruction of the facility, except as otherwise permitted by subsection B of 17.38.030.

B. The reconstructed or replaced facility shall comply with all of the applicable regulations of this title, other than the use of the structure, and all applicable provisions of the building, health, and fire codes.

SECTION 29: Section 17.38.080 – Alteration or expansion if nonconforming structures of Chapter 17.38 of the Zoning Ordinance is amended to read as follows:

17.38.080 - Alteration or expansion of nonconforming structures.

A. A nonconforming structure shall not be altered, enlarged, or expanded so as to increase the degree of noncompliance or otherwise increase the discrepancy between existing conditions and the requirements of this title.

B. Structural alterations may be permitted when necessary to comply with the requirements of law.

C. The prohibitions of this section shall not apply to any alteration, enlargement or expansion for which a variance is granted pursuant to Chapter 17.46 or to which a use permit is granted pursuant to Chapter 17.34 and 17.40 of this title.

SECTION 30: Section 17.38.090 – Repair and replacement of nonconforming residential structures of Chapter 17.38 of the Zoning Ordinance is amended to read as follows:

17.38.090 - Repair and replacement of nonconforming residential structures.

A. Damage of Less Than Seventy-Five Percent (75%). A nonconforming structure used for residential purposes which is damaged or destroyed by fire, flood, wind, earthquake, or other natural disaster to the extent of less than seventy-five percent (75%) of its floor area may be repaired, restored or reconstructed to its original size and configuration. All new construction, restoration and replacement shall comply with all applicable provisions of the building, health and fire codes.

B. Damage of More Than Seventy-Five Percent (75%). A nonconforming structure used for residential purposes which is damaged or destroyed by fire, flood, wind, earthquake, or other natural disaster to the extent of seventy-five percent (75%) or more of its floor area may be repaired, restored or reconstructed provided that all of the following conditions are satisfied:

1. The total floor area of the restored structure shall not be greater than the total floor area of the original structure.

2. The total number of dwelling units in the restored structure shall not be greater than the total number of dwelling units in the original structure.

3. The front, side and rear setbacks of the restored structure shall not be less than the setbacks of the original structure.

4. The number of off-street parking places shall not be reduced from the number available prior to the restoration.

5. The new construction, restoration and replacement shall comply with all applicable provisions of the building, health and fire codes.

C. Mixed Use Structure. A nonconforming structure containing both residential and nonresidential uses may be restored in accordance with the provisions of this section where the residential uses constitute more than fifty percent (50%) of the floor area of the entire structure.

SECTION 31: A new Section 17.38.110 – Addition of accessory dwelling units to nonconforming uses or structures is added to Chapter 17.38 of the Zoning Ordinance to read as follows:

17.38.110 - Addition of Accessory Dwelling Units to Nonconforming Uses or Structures.

A. Nonconforming single-family, duplex, or multiple-family uses may be expanded to accommodate accessory dwelling units and junior accessory dwelling units pursuant to Chapter 17.43 of this title.

B. A nonconforming structure may be rebuilt in the same location and to the same dimensions, including height, as the existing structure and converted to an accessory dwelling unit pursuant to Chapter 17.43 of this title.

SECTION 32: Chapter 17.43 - Accessory Dwelling Units of the Zoning Ordinance is amended in its entirety to read as follows:

Chapter 17.43 - Accessory Dwelling Units and Junior Accessory Dwelling Units

17.43.010 - Purposes of chapter.

Accessory dwelling units and junior accessory dwelling units are permitted under this chapter to achieve the following purposes:

A. To provide opportunities to establish accessory dwelling units and junior accessory dwelling units on building sites developed with existing or proposed single-family dwellings, duplexes, or multiple-family dwellings.

B. To provide affordable housing to meet the needs of Brisbane citizens.

C. To ensure that the development of accessory dwelling units is compatible with existing development and reflects the diversity of the community.

D. To implement and promote the goals and policies of the general plan so as to guide and manage residential development in the city in accordance with such plan.

17.43.020 - Definitions.

In addition to the definitions set forth in Chapter 17.02, all of which are applicable to this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section, unless the context or the provision clearly requires otherwise:

"Impact fees" include the fees specified in Sections 66000 and 66477 of the Government Code, but do not include utility connection fees or capacity charges.

"Living area" means the interior habitable area of a main dwelling unit, including basements and attics but not including a garage or any accessory structure.

"Main dwelling" means that dwelling unit on the property that is not an accessory dwelling unit or a junior accessory dwelling unit.

"Efficiency kitchen" means a kitchenette or a small kitchen or part of a room equipped as a kitchen in a junior accessory dwelling unit and shall include all of the following: (1) a cooking facility with appliances, and (2) a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

"Multiple-family dwellings" means a dwelling than contains two (2) or more dwelling units (including a "duplex"), provided, however, that a property containing a single-family dwelling and a lawful accessory dwelling unit (either attached and detached) and/or a junior accessory dwelling unit shall not be deemed a multiple-family dwelling.

17.43.030 – Permit Requirements.

A. Except as provided by subsection C of this Section 17.43.030, building permit applications for junior accessory dwelling units or accessory dwelling units shall be ministerially processed within sixty (60) days of receipt of a complete building permit application and approved if they meet the requirements of this chapter. Incomplete applications will be returned to the applicant with a written explanation of the additional information required for approval.

B. Notwithstanding subsection A, if the building permit application submitted will also create a new single-family dwelling or multiple-family dwelling on the lot, the application for the junior accessory dwelling unit or accessory dwelling unit(s) shall not be acted upon until the building permit application for the new single-family dwelling or multiple-family dwelling is approved, but thereafter shall be ministerially processed within sixty (60) days of receipt of a complete application and approved if it meets the requirements of this chapter. Occupancy of the junior accessory dwelling unit or accessory dwelling unit(s) shall not be allowed until the City approves occupancy of the main dwelling.

C. The City shall grant a delay in processing an application for an accessory dwelling unit or junior accessory dwelling unit if requested by the applicant.

D. All junior accessory dwelling unit and accessory dwelling unit applications shall be subject to building inspection and permit fees as established by resolution of the City Council and water and sewer connection and capacity fees in compliance with Title 13, except that:

    1. No impact fees may be imposed on a junior accessory dwelling unit or accessory dwelling unit that is less than seven hundred fifty (750) square feet.

2. For accessory dwelling units that have a floor area of seven hundred fifty (750) square feet or more, impact fees shall be charged proportionately in relation to the current impact fees for the square footage of the main dwelling.

E. Construction of an accessory dwelling unit and/or junior accessory dwelling unit in the R-BA Brisbane Acres Residential District shall require submittal of an application for an accessory dwelling unit permit in addition to an application for a building permit. Accessory dwelling unit permits shall be granted ministerially by the director of community development pursuant to this chapter within sixty (60) days of receipt of a complete permit application in accordance with Section 65852.2 of the California Government Code.

17.43.040 – Development regulations for accessory dwelling units.

Accessory dwelling units shall comply with all of the following development standards:

A. Zoning Districts. Accessory dwelling units may only be established or occupied in the R-1, R-2, R-3, R-BA, NCRO-2, SCRO-1, PAOZ-1, PAOZ-2 and PD zoning districts with an existing or proposed single-family or multiple-family dwelling.

B. Density. An accessory dwelling unit that conforms to this Chapter 17.43 shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located. The accessory dwelling unit shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot and shall not be considered in the application of any City ordinance, policy, or program to limit residential growth.

C. Lot Size. There is no minimum lot size requirement.

D. Number of Units.

1. No more than one accessory dwelling unit may be constructed on any lot developed with a single-family dwelling.

2. The number of accessory dwelling units permitted on any lot developed with a multiple-family dwelling shall comply with Section 17.43.050 of this chapter.

E. Attached or Detached. Accessory dwelling units may be attached to or located within the existing or proposed main dwelling, including garages, storage areas, or accessory structures, or detached from the main dwelling on the same lot.

F. Unit Size. Accessory dwelling units shall not exceed one thousand (1,000) square feet in floor area, as defined in Section 17.02.315 of Chapter 17.02 of this title.

G. Setbacks. Accessory dwelling units shall be subject to the following setback requirements:

1. Front Setback: The minimum front setback shall be as established in the underlying zoning district regulations.

2. Side Setback. Accessory dwelling units on a lot of forty (40) feet or more in width shall have a minimum side setback of four (4) feet. Accessory dwelling units on a lot with a width of less than forty (40) feet shall provide minimum side setbacks in compliance with the underlying zoning district regulations.

3. Rear Setback. Accessory dwelling units on any lot shall have a rear setback of at least four (4) feet.

4. No setback shall be required for an existing, legally permitted living area, garage, or accessory structure with nonconforming setbacks that is converted to an accessory dwelling unit or a portion of an accessory dwelling unit or an accessory dwelling unit constructed in the same location and to the same dimensions, including height, as an existing, legally permitted living area, garage, or accessory structure with nonconforming setbacks.

H. Lot Coverage. Accessory dwelling units shall be included in calculating the lot coverage for the lot on which the accessory dwelling unit is located, except for accessory dwelling units eight hundred (800) square feet or less in floor area and no more than sixteen (16) feet in height.

I. Floor Area Ratio. The floor area of the accessory dwelling unit shall be included in calculating the floor area ratio for the lot on which the accessory dwelling unit is located, except that:

1. Accessory dwelling units eight hundred (800) square feet or less in floor area and no more than sixteen (16) feet in height, if detached, are exempt from calculating the floor area ratio for the lot; and

2. Accessory dwelling units proposed within the space of a single-family dwelling or existing accessory structure may include an expansion of not more than one hundred fifty (150) square feet beyond the physical dimensions of the existing accessory structure or single-family dwelling, provided however, that the expansion of the single-family dwelling or accessory structure shall be limited to accommodating ingress and egress for the accessory dwelling unit, the setbacks of the expansion shall comply with the setback standards set forth in subsection G of Section 17.43.040 or of the underlying zoning district if the accessory dwelling unit is attached to the single-family dwelling, and shall be compliant with building, health, and fire codes.

J. Height. Accessory dwelling units shall not exceed two stories and shall be subject to the height maximum established in the underlying zoning district.

K. Required Facilities. An accessory dwelling unit shall include all of the following facilities:

1. A kitchen, including a sink, food preparation counter, storage cabinets, and permanent cooking facilities such as a range or cooktop and oven, that meet Building Code standards; and

2. A full bathroom, including sink, toilet, and shower and/or bath facilities.

L. Landscaping. Accessory dwelling units shall be subject to the landscaping requirements of the underlying zoning district.

M. Parking. Parking spaces for the main dwelling and accessory dwelling units shall be provided in accordance with the requirements set forth in Chapter 17.34, except that when a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an accessory dwelling unit, any parking spaces that were provided by such garage, carport, or covered parking structure are not required to be replaced.

N. Unit Access.

1. As required by Section 17.01.060, the lot on which the accessory dwelling unit is located shall have a legal means of access to the public right of way that complies with the street standards set forth in Section 12.24.010.

2. A separate exterior entry from the main entrance to the main dwelling shall be required to serve each attached accessory dwelling unit. Interior entry access between an accessory dwelling unit and the main dwelling is permitted, provided that the interior entry is located off a common living area of the main dwelling, such as a living room, family room, dining room, kitchen, or an interior hallway leading to common living areas.

O. Utilities. The lot is served by adequate water, sewer, and storm drain facilities which comply with city standards as established per Title 13 of this Code. An accessory dwelling unit shall not be considered a new residential use for the purposes of calculating connection fees or capacity charges for water and sewer service provided by the City, pursuant to Title 13 of this Code. As to the main dwelling, a separate water connection, a separate sewer service connection, or a separate power connection for water, sewer, and power service is not required for an accessory dwelling unit.

P. Compliance with Codes. The accessory dwelling unit and all new construction on the lot that will be performed in connection therewith shall comply with all applicable provisions of this title and all applicable building, health and fire codes.

1. Accessory dwelling units shall not be required to provide fire sprinklers except when fire sprinklers are required for the main dwelling, as determined by the building official consistent with Chapter 15.10.

17.43.050 - Accessory dwelling units in multiple-family dwellings.

In addition to compliance with the development regulations established in Section 17.43.040 of this chapter, accessory dwelling units on lots with existing multiple-family dwellings shall also comply with all of the following criteria:

A. At least one attached accessory dwelling unit shall be allowed per lot developed with a multiple-family dwelling.

1. The total number of attached accessory dwelling units permitted shall not exceed a maximum of twenty-five percent (25%) of the total number of existing dwelling units within the existing multiple-family dwelling.

2. Attached accessory dwelling units shall be allowed within existing portions of multiple-family dwellings that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, provided, that each accessory dwelling unit complies with state building standards for dwellings. An accessory dwelling unit shall not be created within any portion of the habitable area of an existing dwelling unit in a multiple-family dwelling.

B. In addition to attached accessory dwelling units permitted under subsection A, not more than two detached accessory dwelling units may be allowed on a lot developed with a multiple-family dwelling. Detached accessory dwelling units shall be subject to the following standards:

1. Setbacks. The setback requirements of Section 17.43.040 of this Chapter apply.

2. Floor Area. Detached accessory dwelling units may not exceed eight hundred (800) square feet in floor area per unit.

3. Height. Detached accessory dwelling units shall not exceed sixteen (16) feet in height.

17.43.060 - Development regulations for junior accessory dwelling units.

Junior accessory dwelling units shall comply with all of the following development standards:

A. Zoning Districts. Junior accessory dwelling units may only be established or occupied on lots in the R-1, R-2, R-3, R-BA, NCRO-2, SCRO-1, PAOZ-1, and PD zoning districts with an existing or proposed single-family dwelling.

B. Density. A junior accessory dwelling unit that conforms to this Chapter 17.43 shall be deemed to be an accessory use and shall not be considered to exceed the allowable density for the lot upon which it is located. The junior accessory dwelling unit shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot and shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

C. Lot Size. There is no minimum lot size requirement.

D. Number of Units.

1. No more than one junior accessory dwelling unit may be constructed on any lot developed with an existing or proposed single-family dwelling.

2. A junior accessory dwelling unit may be permitted on a lot with an accessory dwelling unit, provided the following criteria are met:

a. The accessory dwelling unit is fully detached and the junior accessory dwelling unit is within an existing or proposed single-family dwelling; and

b. The detached accessory dwelling unit does not exceed a total floor area of more than eight hundred (800) square feet and a height limitation of sixteen (16) feet.

E. Floor Area Requirements.

1. Junior accessory dwelling unit shall not exceed five hundred (500) square feet in floor area and shall be constructed within the existing walls of the main dwelling. The floor area of the junior accessory dwelling unit shall be included in calculating the floor area ratio for the lot on which the junior accessory dwelling unit is located and subject to the maximum floor area ratio established in the underlying zoning district.

a. Exemption: A junior accessory dwelling unit may expand the main dwelling by not more than one hundred fifty (150) square feet beyond the physical dimensions of the main dwelling, provided that the expansion of the main dwelling shall be limited to accommodating ingress and egress for the junior accessory dwelling unit. The setbacks of the expansion shall comply with the setback standards of the underlying zoning district and shall be compliant with building, health, and fire codes.

F. Unit Access.

1. As required by Section 17.01.060, the lot on which the junior accessory dwelling unit is located shall have a legal means of access to the public right of way that complies with the street standards set forth in Section 12.24.010.

2. A separate exterior entry from the main entrance to the main dwelling shall be provided to serve the junior accessory dwelling unit only. Interior entry access between the junior accessory dwelling unit and the main dwelling is permitted, provided that the interior entry is located off a common living area of the main dwelling, such as a living room, family room, dining room, kitchen, or an interior hallway leading to these common living areas.

G. Required Facilities. A junior accessory dwelling unit shall include all of the following facilities:

1. At a minimum, an efficiency kitchen.

2. Sanitation facilities, but such facilities may be separated from or shared with the main dwelling.

H. Owner Occupancy. Either the main dwelling or the junior accessory dwelling unit shall be occupied by the record owner of the property as the owner's principal place of residence. In the case of ownership by a corporation, limited liability company, partnership, trust or association, either the main dwelling or the junior accessory dwelling unit shall be the principal place of residence of an officer, director, shareholder, or member of the company, a partner in the partnership, a trustor or beneficiary of the trust, a member of the association, or an employee of any such organization. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

I. Recordation of Declaration of Restrictions.

1. A Declaration of Restrictions shall be recorded to run with the land that indicates the following:

a. Only one unit may be occupied solely by persons other than the owner or owners of record;

b. If a junior accessory dwelling unit is rented, the unit shall not be rented for a period of less than 30 consecutive calendar days;

c. Sale of the junior accessory dwelling unit separately from the main dwelling is prohibited; and

d. The approved size and attributes of the junior accessory dwelling unit.

2. A copy of this Declaration of Restrictions must be given to each prospective purchaser or occupant.

J. Parking. Parking spaces for the main dwelling and junior accessory dwelling unit shall be provided in accordance with the requirements set forth in Chapter 17.34 of this title.

K. Utilities. The lot shall be served by adequate water, sewer, and storm drain facilities which comply with city standards as established per Title 13 of this Code. A junior accessory dwelling

unit shall not be considered a new residential use for the purposes of calculating connection fees or capacity charges for water and sewer service provided by the City.

L. Compliance with Codes. The junior accessory dwelling unit and all new construction on the lot that will be performed in connection therewith shall comply with all applicable provisions of this title and all applicable building, health, and fire codes.

    1. Junior accessory dwelling units shall not be required to provide fire sprinklers except when fire sprinklers are required for the main dwelling, as determined by the building official consistent with Chapter 15.10.

17.43.070 - Prohibition on sale and limitation on rental.

A. Accessory dwelling units and junior accessory dwelling units shall not be sold separately from the main dwelling(s).

B. If an accessory dwelling unit or junior accessory dwelling unit is rented, the unit shall not be rented for a period of less than 30 consecutive calendar days.

17.43.080 – Delay of enforcement of building standards.

A. Prior to January 1, 2030, the owner of an accessory dwelling unit that was built before January 1, 2020, may submit an application to the building official requesting that correction of any violation of building standards be delayed for five years. For the purposes of this section, "building standards" refer to those standards enforced by local agencies under the authority of Section 17960 and following of the California Health and Safety Code.

B. The building official shall grant any application submitted under subsection A of this Section if the building official determines that enforcement of the building standard is not necessary to protect health and safety. In making this determination, the building official shall consult with the fire marshal.

C. No applications submitted pursuant to this section shall be approved on or after January 1, 2030; provided, however, any delay to correct a violation that was approved by the building official before January 1, 2030, shall be valid for the full term of the delay that the building official approved at the time the building official approved the application.

D. Until January 1, 2030, any notice to correct a violation of building standard that is issued to the owner of an accessory dwelling unit built before January 1, 2020 shall include a statement that the owner has a right to request a delay in enforcement of the building standard for an accessory dwelling unit pursuant to this section.

E. This section shall remain in effect until January 1, 2035, and as of that date is repealed.

17.43.090 - Appeals.

Any decision or determination by the director of community development or building official pursuant to this chapter may be appealed in accordance with the procedure set forth in Chapter 17.52 of this title.

SECTION 33: Where a use permit, design permit or variance approval has been issued through final action by the City prior to the effective date of this Ordinance, or where such planning permit approval is not required and a complete building permit application has been submitted prior to the effective date of this

Ordinance, the holder of such use permit, design permit or variance approval or complete building permit application may proceed to construct the improvements or establish the use authorized by such permit or approval and the same shall be exempted from any conflicting regulations that may be contained in this Ordinance.

SECTION 34: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

SECTION 35: This Ordinance shall be in full force and effect thirty days after its passage and adoption.

* * *

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the seventeenth day of September 2020, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Terry O'Connell, Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

ATTACHMENT 3

PLANNING COMMISSION AGENDA REPORT

City of Brisbane
Planning Commission Agenda Report

TO: Planning Commission For the Meeting of 5/14/2020

SUBJECT: Zoning Text Amendment RZ-1-20; Zoning Text Amendments to update the City's existing Accessory Dwelling Unit (ADU) regulations and increase the Floor Area Ratio (FAR) exemption for covered parking on small lots to 400 square feet; City of Brisbane, applicant; Citywide.

REQUEST: Recommend City Council adoption of proposed zoning text amendments to:
(1) Increase the FAR exemption for covered parking for lots 3,700 square feet or smaller in size in the R-1, R-2, and R-3 Residential zoning districts; and
(2) Update the existing ADU regulations in Title 17 to comply with State law.

RECOMMENDATION: Recommend City Council adoption of Zoning Text Amendment RZ-1-20 via adoption of Resolution RZ-1-20.

ENVIRONMENTAL DETERMINATION: The project is statutorily exempt from the requirements of California Environmental Quality Act (CEQA) pursuant to Section 15282(h) of the CEQA Guidelines, which exempts adoption of an ordinance regarding ADUs in single-family and multifamily residential zones. In addition to being statutorily exempt from CEQA, the project falls within a class of projects which are consistent with existing zoning or general plan policies for which an EIR was certified and shall therefore not require further review. The exception to this exemption does not apply.

APPLICABLE CODE SECTIONS:

- General provisions (BMC Chapter 17.01)
- "Dwelling" defined in Chapter 17.02
- R-1 Residential District (BMC Chapter 17.06)
- R-2 Residential District (BMC Chapter 17.08)
- R-3 Residential District (BMC Chapter 17.10)
- R-BA Residential District (BMC Chapter 17.12)
- Downtown Brisbane Neighborhood Commercial District (BMC Chapter 17.14)
- Southwest Bayshore Commercial District (BMC Chapter 17.16)
- Parkside Overlay District (BMC Chapter 17.27)
- Planned Development District (BMC Chapter 17.28).
- Setback exceptions (BMC Chapter 17.32)
- Off-street parking (BMC Chapter 17.34)
- Nonconforming uses and structures (BMC Chapter 17.38)
- Accessory Dwelling Units (BMC Chapter 17.43)

ANALYSIS AND FINDINGS:

1. *Floor Area Ratio Parking Exemption*

Background

Lots 3,700 square feet or less in the R-1, R-2, and R-3 Residential Districts with a single-family dwelling are currently granted a 200 square foot exemption for covered parking (equivalent to one parking space) when calculating the floor area ratio (FAR) for the property. The origin and timeline of the FAR exemption for covered parking on small lots is described in Attachment F.

On July 17, 2019, the City Council Planning Issues Subcommittee met to discuss amending the FAR exemption for garages on small lots and on September 5, 2019 the City Council initiated a zoning text amendment to increase the FAR exemption for garages on small lots as a means to increasing the supply of available off-street parking in residential areas.

Draft Ordinance

The draft ordinance would increase the FAR exemption for covered parking to 400 square feet, or the equivalent of two parking spaces, for single-family dwellings in the R-1, R-2, and R-3 Residential zoning districts, matching the original 400 square foot exemption passed in 2002. No change is made towards its limitation to lots 3,700 square feet or less.

2. Accessory Dwelling Units

Background

In 2019, the California State Legislature passed a flurry of bills pertaining to Accessory Dwelling Units (ADUs) (see Attachments C, D, and E) that became effective January 1, 2020. The City's current ADU regulations (BMC Chapter 17.43) were last updated in May 2018 (Ordinance 626) and must be updated to comply with current State law.

These new State laws require local agencies to:

- Permit ADUs in any zoning district zoned for single or multifamily dwellings (including mixed use zones);
- Allow ADUs in multifamily buildings;
- Permit ADUs in a planned developments regardless of any existing covenant, condition, or restriction(CC&Rs);
- Exempt ADUs meeting certain size, height, and setback limitations from FAR and lot coverage limits;
- Allow conversion or demolition of a garage, carport, or covered parking structure in conjunction with the construction of an ADU without replacement off-street parking;
- Permit a junior ADU (JADU) in addition to an ADU on single family lots;
- Allow conversion of legal nonconforming accessory structures into ADUs;
- Require that rentals of ADUs must be for a term longer than 30 consecutive days;

- Eliminate owner-occupancy requirements for ADUs; and
- Require owner-occupancy for JADUs.

The primary goal of the State when passing this new legislation was to increase affordable housing by easing regulations on ADUs.

Draft Ordinance

The draft ordinance proposes a complete overhaul of the existing Chapter 17.43, Accessory Dwelling Units of the BMC and a number of minor amendments to other sections of the BMC to comply with the new State regulations. Below is a list of the major amendments the draft ordinance addresses.

- **Zoning Districts**

State Legislation:	▪ ADUs must be permitted in all residential and mixed-use zones, with limited exceptions. ▪ CC&Rs that prohibit or restrict ADUs and JADUs for single family dwellings are null and void.
Existing BMC:	▪ ADUs allowed in R-1, R-2, R-3, R-BA, and SCRO-1 zoning districts only.
Draft Ordinance:	▪ ADUs allowed in any zone that permits residential uses either by right or conditionally (R-1, R-2, R-3, R-BA, NCRO-2, SCRO-1, PAOZ-1, PAOZ-2 and PD zoning districts) with an existing or proposed single-family or multiple-family dwelling.

- **Unrestricted ADUs**

State Legislation:	▪ Must allow an "unrestricted ADU" up to 800 square feet that is at least 16 feet in height with 4 foot side and rear yard setbacks on any residential lot.
Existing BMC:	▪ ADUs may be limited or restricted by lot coverage, FAR, and development standards.
Draft Ordinance:	▪ "Unrestricted ADUs" less than 16 feet tall and 800 square feet or less in size are exempt from lot coverage, FAR, and other development standards. ▪ Any ADU greater than 800 square feet and/or 16 feet tall shall be included in the calculation of floor area, lot coverage, and open space requirements.

- **Junior Accessory Dwelling Units**

State Legislation:	▪ JADUs must be allowed in any zone that allow single-family dwellings; ▪ JADUs shall be contained within existing walls of main dwelling, owner occupied, and no more than 500 square feet. ▪ Single-family dwellings may have one detached ADU up to 800 square feet and less than 16 feet tall and a JADU.
Existing BMC:	▪ JADUs not permitted.

Draft Ordinance:	▪ Defines JADU as a dwelling unit no more than 500 square feet in size contained entirely within a single-family dwelling. A JADU may share sanitation facilities with the single-family dwelling and are distinguished from ADUs in that they: (1) must include the conversion of existing, legally permitted floor area within an existing single-family dwelling; and (2) must be owner occupied, or the main dwelling be owner occupied; and (3) are subject to unique standards that are not applicable to ADUs. ▪ JADUs permitted only in conjunction with an existing or proposed single-family dwelling; may have a detached ADU and JADU.

➢ **Accessory Dwelling Units in Multiple-Family Dwellings**

State Legislation:	▪ ADUs permitted in multiple-family dwellings. ▪ At least one attached ADU shall be allowed; the total number of attached ADUs permitted is limited to 25% of the total number of existing dwelling units. ▪ Attached ADUs shall be allowed within existing portions of multiple-family dwellings that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages; attached ADUs shall not be created within any portion of the habitable area of an existing dwelling unit in a multiple-family dwelling. ▪ No more than two additional detached ADUs may be permitted; each detached ADU shall be limited to a height of 16 feet, a total floor area of 800 square feet, and a minimum side and rear setback of 4 feet.
Existing BMC:	▪ ADUs not permitted in multiple-family dwellings.
Draft Ordinance:	▪ ADUs are permitted in multiple-family dwellings in any zone that allows residential uses either by right or conditionally. ▪ Complies with new state laws regulating quantity, location, and size of ADUs in multiple-family dwellings.

➢ **Setbacks and Height**

State Legislation:	▪ Setbacks: 4-foot side and rear setbacks; rebuilds or conversions may maintain nonconforming setbacks.
Existing BMC:	▪ Setbacks: Front: Per district regulations; Side: 5-3 feet based on lot width; Rear: 10 feet; Converted structures may retain existing nonconforming setbacks. ▪ Height: established by underlying zone.
Draft Ordinance:	▪ Setbacks: Front: no change; Side: 3-4 feet based on lot width; rebuilds or converted structures may maintain nonconforming setbacks. ▪ Height: established by underlying zone; two-story limit; “unrestricted ADUs” limited to 16 feet.

➢ **Parking**

State Legislation:	▪ One parking space for ADUs except no parking required when located within one-half mile of transit. ▪ When a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an ADU, any parking spaces that were provided by such garage, carport, or covered parking structure are not required to be replaced. ▪ No parking required for JADU.
Existing BMC:	▪ No off-street parking required for ADUs.
Draft Ordinance:	▪ No off-street parking required for ADUs except in the R-BA or PD zoning districts; one parking space required in R-BA and PD except no parking is required when located within one-half mile of transit. ▪ Complies with new state laws regulating parking facility conversions to ADUs and parking requirements for JADUs.

➢ **Owner Occupancy and Short-Term Rentals**

State Legislation:	▪ Cannot require owner occupancy for ADUs; JADUs shall require owner occupancy restrictions. ▪ ADUs and JADUs cannot be rented for less than 30 consecutive days.
Existing BMC:	▪ Owner occupancy required for all ADUs. ▪ Short term rentals (STR) currently banned in City; RZ-2-19 would permit STR in ADUs legally established before April 1, 2017.
Draft Ordinance:	▪ Complies with new state laws regulating owner occupancy restrictions and STR for ADUs and JADUs. ▪ RZ-2-19 would permit STR in ADUs legally established before April 1, 2017.

ATTACHMENTS:

A. Draft Resolution RZ-1-20 (including draft ordinance) (Resolution only)
B. ~~Redline copy of proposed zoning text amendments~~ (Not provided)
C. Department of Housing and Community Development Memorandum addressing California Law regarding ADUs and JADUs
D. Government Code Sections 65852.2 and 6585.22, relating to ADUs
E. Summary of new State legislation
F. ~~History of FAR covered parking exception~~ (Not provided)
G. May 14, 2020 Planning Commission Draft Meeting Minutes

Jeremiah Robbins, Associate Planner

John Swiecki, Community Development Director

ATTACHMENT 3.A

RESOLUTION RZ-1-20

RESOLUTION NO. RZ-1-20

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BRISBANE RECOMMENDING CITY COUNCIL APPROVAL OF ZONING TEXT AMENDMENT RZ-1-20 AMENDING REGULATIONS CONCERNING ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS TO COMPLY WITH STATE LAW AND REVISING THE FLOOR AREA RATIO EXEMPTION FOR COVERED PARKING ON SMALL LOTS

WHEREAS, the City Council adopted the Housing Element for the 2015-2022 cycle on April 2, 2015 via Resolution No. 2015-08; and

WHEREAS, Housing Element Goal H.B establishes the community's aspiration to maintain a diverse housing stock in Brisbane; and

WHEREAS, Housing Element Policy H.B.1 encourages the construction of a balance of housing types, sizes, and tenure, and the inclusion of affordable dwelling units in multiple-family developments; and

WHEREAS, Housing Element Policy H.I.1 encourages reducing regulatory constraints on the development of new housing, especially infill housing and housing that adds to the mix of types, size, tenure and affordability of the local housing stock; and

WHEREAS, effective January 1, 2020, Senate Bill 13, Assembly Bill 68, and Assembly Bill 881 amended Sections 65852.2 and 65852.22 of the Government Code and changed the requirements for local governments relating to accessory dwelling units (ADUs) and junior ADUs (JADUs); and

WHEREAS, the City's current ordinance regarding ADUs must be updated to comply with current State law; and

WHEREAS, on September 5, 2019, the City Council initiated a zoning text amendment to increase the floor area ratio exemption for covered parking on lots equal to or less than 3,700 square feet in area; and

WHEREAS, the draft ordinance attached as Exhibit A to this resolution proposes amendments to Title 17 (Zoning) of the Brisbane Municipal Code in order to comply with current State law regarding ADUs and JADUs; and

WHEREAS, the draft ordinance attached as Exhibit A to this resolution proposes amendments to Title 17 (Zoning), specifically existing Chapters 17.06 (R-1 Residential District), 17.08 (R-2 Residential District), and 17.10 (R-3 Residential District), to increase the floor area ratio exemption for covered parking on lots equal to or less than 3,700 square feet in area; and

WHEREAS, on May 14, 2020, the Planning Commission conducted a hearing of the draft ordinance concerning ADUs and JADUs and revisions to the floor area ratio covered parking exemption for small lots, publicly noticed in compliance with Brisbane Municipal Code Chapters 1.12 and 17.54, at which time any person interested in the matter was given an opportunity to be heard; and

WHEREAS, the draft ordinance is statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) per Section 15282(h) of the CEQA Guidelines and categorically exempt from CEQA per Section 15183(a) of the CEQA Guidelines, and the exceptions to the categorical exemption are inapplicable.

NOW, THEREFORE, based upon the evidence presented, both written and oral, the Planning Commission of the City of Brisbane hereby RECOMMENDS that the City Council adopt the attached ordinance.

ADOPTED this 14th of May 2020 by the following vote:

AYES: Gomez, Gooding, Mackin, Patel, and Sayasane
NOES: None
ABSENT: None

Pamala Sayasane
PAMALA SAYASANE
Chairperson

ATTEST:

John Swiecki
JOHN SWIECKI, Community Development Director

ATTACHMENT 3.C

ADU MEMO FROM HCD

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov

MEMORANDUM

DATE: January 10, 2020

TO: Planning Directors and Interested Parties

FROM: Zachary Olmstead, Deputy Director
Division of Housing Policy Development

SUBJECT: **Local Agency Accessory Dwelling Units**
Chapter 653, Statutes of 2019 (Senate Bill 13)
Chapter 655, Statutes of 2019 (Assembly Bill 68)
Chapter 657, Statutes of 2019 (Assembly Bill 587)
Chapter 178, Statutes of 2019 (Assembly Bill 670)
Chapter 658, Statutes of 2019 (Assembly Bill 671)
Chapter 659, Statutes of 2019 (Assembly Bill 881)

This memorandum is to inform you of the amendments to California law, effective January 1, 2020, regarding the creation of accessory dwelling units (ADU) and junior accessory dwelling units (JADU). Chapter 653, Statutes of 2019 (Senate Bill 13, Section 3), Chapter 655, Statutes of 2019 (Assembly Bill 68, Section 2) and Chapter 659 (Assembly Bill 881, Section 1.5 and 2.5) build upon recent changes to ADU and JADU law (Government Code Section 65852.2, 65852.22 and Health & Safety Code Section 17980.12) and further address barriers to the development of ADUs and JADUs. (Attachment A includes the combined ADU statute updates from SB 13, AB 68 and AB 881).

This recent legislation, among other changes, addresses the following:

- Development standards shall not include requirements on minimum lot size (Section (a)(1)(B)(i)).
- Clarifies areas designated for ADUs may be based on water and sewer and impacts on traffic flow and public safety.
- Eliminates owner-occupancy requirements by local agencies (Section (a)(6) & (e)(1)) until January 1, 2025.
- Prohibits a local agency from establishing a maximum size of an ADU of less than 850 square feet, or 1000 square feet if the ADU contains more than one bedroom (Section (c)(2)(B)).
- Clarifies that when ADUs are created through the conversion of a garage, carport or covered parking structure, replacement offstreet parking spaces cannot be required by the local agency (Section (a)(1)(D)(xi)).

- Reduces the maximum ADU and JADU application review time from 120 days to 60 days (Section (a)(3) and (b)).
- Clarifies "public transit" to include various means of transportation that charge set fees, run on fixed routes and are available to the public (Section (j)(10)).
- Establishes impact fee exemptions or limitations based on the size of the ADU. ADUs up to 750 square feet are exempt from impact fees and impact fees for an ADU of 750 square feet or larger shall be proportional to the relationship of the ADU to the primary dwelling unit (Section (f)(3)).
- Defines an "accessory structure" to mean a structure that is accessory or incidental to a dwelling on the same lot as the ADU (Section (j)(2)).
- Authorizes HCD to notify the local agency if the department finds that their ADU ordinance is not in compliance with state law (Section (h)(2)).
- Clarifies that a local agency may identify an ADU or JADU as an adequate site to satisfy RHNA housing needs as specified in Gov. Code Section 65583.1(a) and 65852.2(m).
- Permits JADUs without an ordinance adoption by a local agency (Section (a)(3), (b) and (e)).
- Allows a permitted JADU to be constructed within the walls of the proposed or existing single-family residence and eliminates the required inclusion of an existing bedroom or an interior entry into the single-family residence (Gov. Code Section 65852.22).
- Allows upon application and approval, an owner of a substandard ADU 5 years to correct the violation, if the violation is not a health and safety issue, as determined by the enforcement agency (Section (n).
- Creates a narrow exemption to the prohibition for ADUs to be sold or otherwise conveyed separate from the primary dwelling by allowing deed-restricted sales to occur. To qualify, the primary dwelling and the ADU are to be built by a qualified non-profit corporation whose mission is to provide units to low-income households (Gov. Code Section 65852.26).
- Removes covenants, conditions and restrictions (CC&Rs) that either effectively prohibit or unreasonably restrict the construction or use of an ADU or JADU on a lot zoned for single-family residential use are void and unenforceable (Civil Code Section 4751).
- Requires local agency housing elements to include a plan that incentivizes and promotes the creation of ADUs that can offer affordable rents for very low, low-, or moderate-income households and requires HCD to develop a list of state grants and financial incentives in connection with the planning, construction and operation of affordable ADUs (Gov. Code Section 65583 and Health and Safety Code Section 50504.5) (Attachment D).

For assistance, please see the amended statutes in Attachments A, B, C and D. HCD continues to be available to provide preliminary reviews of draft ADU ordinances to assist local agencies in meeting statutory requirements. In addition, pursuant to Gov. Code Section 65852.2(h), adopted ADU ordinances shall be submitted to HCD within 60 days of adoption. For more information and updates, please contact HCD's ADU team at adu@hcd.ca.gov.

ATTACHMENT 3.D

HYPELINKS TO GOVERNMENT CODE REGARDING ADUs

Government Code Section 65852.2 and 65852.22

ATTACHMENT 3.E

SUMMARY OF NEW STATE LEGISLATION

AB 68 (Ting) & AB 881 (Bloom) – Allows ADUs in any zone that permits dwelling units; no conformance rezoning as condition of approval.

Requires local agencies to approve or deny an ADU project on existing SF/MF units within 60 days.

Prohibits local agencies from adopting ADU ordinances that: impose minimum lot size requirements for ADUs; impose lot coverage standards; require replacement off-street parking when a "garage, carport or covered parking structure" is demolished or converted to construct the ADU.

Allows for an ADU as well as a "junior" ADUs in SF units.

Junior ADU must be within existing structure, must be owner occupied or primary unit must be owner occupied, and cannot exceed 500 sq ft; may share sanitary facilities and must have efficiency kitchen.

ADU max size is 1200 sq ft; minimum allowed 800 sq ft/16' height/ 4' rear & side setback; must have permanent cooking and sanitary facilities.

Allows ADUs in multifamily buildings including ministerial approval of ADUs in existing non-livable areas such as storage rooms, boiler rooms, etc.

No impact fees for ADUs less than 750 sq ft; no connection/capacity fees for ADUs unless in conjunction with a new SF residence.

Rental of ADUs must be for a term longer than 30 days.

SB 13 (Wieckowski) – until January 1, 2025, prohibit a local agency from imposing an owner-occupant requirement as a condition of issuing a permit.

Authorize the owner of an accessory dwelling unit built before January 1, 2020, or built on or after January 1, 2020, under specified circumstances, that receives a notice to correct violations or abate nuisances to request that the enforcement of the violation be delayed for 5 years if correcting the violation is not necessary to protect health and safety, as determined by the enforcement agency, subject to specified requirements.

AB 587 (Friedman) – local agencies **may** now allow ADUs to be sold or conveyed separately from a primary residence if certain conditions are met.

AB 670 (Friedman) – prevents homeowners' associations from barring ADUs; makes void and unenforceable any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a planned development, and any provision of a governing document, that effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use.

AB 671 (Friedman) – requires local governments to include a plan to incentivize and promote the creation of ADUs that can be offered at affordable rent for, "very low, low, **or** moderate-income households" in their General Plan Housing Element.

Require the Department of Housing and Community Development to develop and post on its website, by Dec. 31, 2020, a list of state grants and financial incentives for ADU development.

ATTACHMENT 3.G

PLANNING COMMISSION MEETING MINUTES

The Planning Commission discussed with staff their concerns with their purview of authority when reviewing grading permits, particularly with potential impact to site hydrology.

At the request of staff, the meeting was recessed for 5 minutes to address technical issues associated with the call-in public access to the meeting.

Chairperson Sayasane brought the meeting back to order and the recognized members of the public wishing to address the Commission.

Prem Lall, Brisbane resident, spoke against the project.

There were no other members of the public wishing to address the Commission.

After some discussion, Commissioner Mackin made a motion to deny the applicant's request for reconsideration and adopt findings of denial for the project, but later withdrew the motion.

Following further discussion, Commissioner Patel moved to grant the applicant's request to reconsider the application at a future public hearing. Commissioner Gooding seconded the motion and the motion was approved 5-0.

NEW BUSINESS

D. Zoning Text Amendment RZ-1-20; Various zoning districts; Zoning text amendments to update the existing accessory dwelling unit (ADU) regulations in the zoning ordinance to comply with updated State regulations, and to increase the existing floor area ratio (FAR) exception of 200 square feet to 400 square feet for covered parking on substandard lots; City of Brisbane, applicant.

Associate Planner Robbins gave the staff presentation.

The Planning Commission identified concerns about potential implications of increasing the FAR covered parking exception in conjunction with the required, limitations on ADU parking requirements in State legislation.

Chairperson Sayasane opened the public hearing.

With no one coming forward to address the Commission, Commissioner Gooding moved to close the public hearing. Commissioner Gomez seconded the motion and it was approved 5-0.

Following deliberation, Commissioner Mackin moved to recommend City Council adoption of the draft ordinance by adopting Resolution RZ-1-20. Commissioner Gooding seconded the motion and the motion was approved 5-0.

Chairperson Sayasane read the appeals process of Planning Commission actions.

ITEMS INITIATED BY STAFF

File Attachments for Item:

H. Consider Introduction of Ordinance No. 657 Brisbane amending sections 17.06.040, 17.08.040, and 17.10.040 of the Brisbane municipal code concerning the floor area ratio exemption for garages on small lots.

CITY COUNCIL AGENDA REPORT

Meeting Date: September 17, 2020

From: John Swiecki, Community Development Director

Subject: Proposed Ordinance No. 657 (Zoning Text Amendment RZ-1-20); Zoning amendments to amend existing floor area ratio exemption for garages on substandard lots in residential zoning districts

Community Goal/Result
Community Building

Purpose

To amend the Brisbane Municipal Code (BMC) to increase the Floor Area Ratio (FAR) exemption from 200 sq ft to 400 sq ft for garages on lots 3,700 sq ft or smaller in size in the R-1, R-2, and R-3 Residential zoning districts.

Recommendation

That the City Council introduce Ordinance No. 657.

Background

On September 5, 2019, the City Council initiated a zoning text amendment to increase the FAR exemption for garages on small lots in the R-1, R-2, and R-3 Residential districts to increase the potential supply of off-street parking in those districts. Attachment 3.F has a detailed history of the origin and evolution of the current FAR covered parking exemption.

On May 14, 2020, the Planning Commission unanimously adopted Resolution RZ-1-20 recommending that the current FAR exemption be increased to 400 sq ft, or the equivalent of a two-car garage, as provided in the attached draft Ordinance 657 (Attachment 1). (Note: RZ-1-20 also contained zoning amendments to the City's accessory dwelling unit regulations, which will be presented separately to the Council as Ordinance No. 653.) The Planning Commission agenda report, draft meeting minutes, and adopted resolution are attached for reference and include a detailed description of the proposed zoning amendments. (See Attachment 3.)

Discussion

Current zoning regulations establish an allowance whereby 200 square foot of garage area is excluded from the floor area ratio (FAR) calculation for lots 3,700 square feet in size or less developed with a single-family dwelling in the R-1, R-2, and R-3 Residential zoning districts. The proposed ordinance would increase the exemption to 400 square feet, the equivalent of a two-car garage per the City's garage design standards.

The intent of the ordinance is to promote/encourage the provision of off-street parking, while as a practical matter it would also increase the functional FAR and allow for larger homes on these lots. Lot coverage would still limit the overall footprint of the single-family dwelling.

The Council should note that draft Ordinance 653 would codify current State law which allows garages to be converted to accessory dwelling units without the provision of replacement off-street parking. This is in contrast with existing provisions in Chapter 17.34 that mandate that garages not be converted to any other use that would impair their basic use as storage for motor vehicles, a provision has traditionally presented a challenge to enforce on lots of all sizes.

Fiscal Impact

None.

Measure of Success

Adoption of zoning regulations that incentivize the development of additional off-street parking in the City's residential neighborhoods.

Attachments

1. Draft Ordinance No. 657
2. Redline Copy of proposed Zoning Text Amendments
3. May 14, 2020 Planning Commission Resolution RZ-1-20 (Excerpt), Minutes, and Agenda Report
4. City Council meeting minutes of September 5, 2019 (Excerpt)

John Swiecki, Community Development Director

Clay Holstine, City Manager

ATTACHMENT 1

DRAFT ORDINANCE NO. 657

draft
ORDINANCE NO. 657

AN ORDINANCE OF THE CITY OF BRISBANE AMENDING SECTIONS 17.06.040, 17.08.040, AND 17.10.040 OF THE BRISBANE MUNICIPAL CODE CONCERNING THE FLOOR AREA RATIO EXEMPTION FOR GARAGES ON SMALL LOTS

The City Council of the City of Brisbane hereby ordains as follows:

SECTION 1: Section 17.06.040 – Development regulations of Chapter 17.06 of the Zoning Ordinance is amended to read as follows:

17.06.040 - Development regulations.

The following development regulations shall apply to any lot in the R-1 district:

(Subsections A-E, no change.)

F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72. Where the size of the lot is three thousand seven hundred (3,700) square feet or less, no more than two covered parking spaces designed to accommodate full-size automobiles shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of four hundred (400) square feet.

(Subsections G-K, no change.)

SECTION 2: Section 17.08.040 – Development regulations of Chapter 17.08 of the Zoning Ordinance is amended to read as follows:

17.08.040 - Development regulations.

The following development regulations shall apply to any lot in the R-2 district:

(Subsections A-E, no change.)

F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72, subject to the following exclusions:

a. In the case of single-family dwellings, where the size of the lot is three thousand seven hundred (3,700) square feet or less, no more than two covered parking spaces designed to accommodate full-size automobiles shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of four hundred (400) square feet.

(Paragraph 2, no change.)

(Subsections G-K, no change.)

SECTION 3: Section 17.10.040 – Development regulations of Chapter 17.10 of the Zoning Ordinance is amended to read as follows:

17.10.040 - Development regulations.

The following development regulations shall apply to any lot in the R-3 district:

(Subsections A-E, no change.)

F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72, subject to the following exclusions:

a. In the case of single-family dwellings, where the size of the lot is three thousand seven hundred (3,700) square feet or less, no more than two covered parking spaces designed to accommodate full-size automobiles shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of four hundred (400) square feet.

(Paragraph 2, no change.)

(Subsections G-K, no change.)

SECTION 4: Where a use permit, design permit or variance approval has been issued through final action by the City prior to the effective date of this Ordinance, or where such planning permit approval is not required and a complete building permit application has been submitted prior to the effective date of this Ordinance, the holder of such use permit, design permit or variance approval or complete building permit application may proceed to construct the improvements or establish the use authorized by such permit or approval and the same shall be exempted from any conflicting regulations that may be contained in this Ordinance.

SECTION 5: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

SECTION 6: This Ordinance shall be in full force and effect thirty days after its passage and adoption.

* * *

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the seventeenth day of September 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____

Terry O'Connell, Mayor

ATTEST:

_____

City Clerk

APPROVED AS TO FORM:

_____

City Attorney

ATTACHMENT 2

REDLINE COPY OF PROPOSED AMENDMENTS

Proposed Zoning Text Amendments: RZ-1-20 FAR Parking Exception

17.06.040 - Development regulations.

The following development regulations shall apply to any lot in the R-1 district:

A. Lot Area.

1. The minimum area of any lot shall be five thousand (5,000) square feet.

2. A single-family dwelling may be constructed on a lot of record with an area of less than five thousand (5,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.32.100.

B. Density of Development. Not more than one single-family dwelling shall be located on each lot in the R-1 district.

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
50 feet	100 feet

D. Setbacks. The minimum required setbacks for any lot, except as provided in Section 17.32.070, shall be as follows:

1. Front setback: Fifteen (15) feet, with the following exceptions:

a. Where the lot has a slope of fifteen percent (15%) or greater, the minimum front setback may be reduced to ten (10) feet.

b. Where fifty percent (50%) or more of the lots of record in a block have been improved with single-family dwellings, the minimum front setback may be the average distance of the front outside wall of the single-family structures from the front lot line, if less than fifteen (15) feet. Notwithstanding the foregoing, the minimum front setback for garages or carports shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

2. Side setback: five (5) feet, with the exception that a lot having a width of less than fifty (50) feet may have a side setback reduced to ten percent (10%) of the lot width, but in no event less than three (3) feet or the minimum setback required by the Uniform Building Code, whichever is greater. Notwithstanding the foregoing, the minimum side setback for garages or carports accessed from a street or alley along that side of the lot shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

3. Rear setback: Ten (10) feet.

E. Lot Coverage. The maximum coverage by all structures on any lot shall be forty percent (40%).

F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72. Where the size of the lot is three thousand seven hundred (3,700) square feet or less, ~~one~~ no more than two covered parking spaces designed to accommodate ~~a~~ full-size automobiles shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of ~~two~~ four hundred ~~(200)~~(400) square feet.

G. Height of Structures.

1. Except as otherwise provided in paragraph 2 of this subsection G and in Section 17.32.060, the maximum height of any structure shall be as follows:

    a. Twenty-eight (28) feet, for lots having a slope of less than twenty percent (20%); or

    b. Thirty (30) feet, for lots having a slope of twenty percent (20%) or more.

2. For a distance of fifteen (15) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however, garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street when permitted by Section 17.32.070 of this title. A garage or carport in compliance with this subsection may exceed a height of thirty (30) feet, but the height of any permitted living area underneath shall not exceed thirty (30) feet from finish grade.

H. Articulation Requirements. Unless exempted, outside walls that are greater in size than twenty (20) feet in width and twenty (20) feet in height shall have a cumulative area of articulation as follows:

1. Front outside wall: Thirty percent (30%) articulation.

2. Side outside walls:

    a. Interior side outside wall: No articulation requirement.

    b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No articulation shall be required for the exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.

3. Rear outside wall: Thirty percent (30%) articulation.

4. Exemptions: Single story two (2) car garages and accessory structures not exceeding a floor area of one hundred twenty (120) square feet shall be exempted from all articulation requirements.

I. Landscaping Requirements.

1. Front Setback. A minimum of fifteen percent (15%) of the front setback area shall be landscaped where the lot has a front lot line of thirty (30) feet or greater.

2. Downslope Lots. The rear of any newly constructed main structure on a downslope lot shall be screened with trees and shrubs in accordance with a landscape plan approved by the planning director.

3. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

J. Nonconforming Residential Structures and Uses. Nonconforming residential structures and nonconforming residential uses, as defined in Section 17.02.560, may be repaired, restored, reconstructed, enlarged or expanded in accordance with the provisions of Chapters 17.38 and 17.34 of this title.

K. Recycling Area Requirements. For new subdivisions containing an area where solid waste is collected and loaded in a location which serves five (5) or more living units, adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided to serve the needs of the living units which utilize the area. This requirement shall also apply to all institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

17.08.040 - Development regulations.

The following development regulations shall apply to any lot in the R-2 district:

A. Lot Area.

1. The minimum area of any lot shall be five thousand (5,000) square feet, except as otherwise provided in subsection B of this Section 17.08.040.

2. A single-family dwelling may be constructed on a lot of record with an area of less than five thousand (5,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.32.100.

B. Density of Development. The minimum lot area for each dwelling unit on the site shall be two thousand five hundred (2,500) square feet; provided, however, a lot having an area of four thousand nine hundred fifty (4,950) square feet or greater shall be considered conforming for a development density of two (2) units.

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
50 feet	100 feet

D. Setbacks. The minimum required setbacks for any lot, except as provided in Section 17.32.070, shall be as follows:

1. Front setback: Fifteen (15) feet, with the following exceptions:

a. Where the lot has a slope of fifteen percent (15%) or greater, the minimum front setback may be reduced to ten (10) feet.

b. Where fifty percent (50%) or more of the lots of record in a block have been improved with single-family dwellings, the minimum front setback may be the average distance of the front outside wall of the single-family structures from the front lot line, if less than fifteen (15) feet. Notwithstanding the foregoing, the minimum front setback for garages or carports shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

2. Side setback: five (5) feet, with the exception that a lot having a width of less than fifty (50) feet may have a side setback reduced to ten percent (10%) of the lot width, but in no event less than three (3) feet or the minimum setback required by the Uniform Building Code, whichever is greater. Notwithstanding the foregoing, the minimum side setback for garages, or carports accessed from a street or alley along that side of the lot shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

3. Rear setback: Ten (10) feet.

E. Lot Coverage. The maximum coverage by all structures on any lot shall be fifty percent (50%).

F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72, subject to the following exclusions:

1. In the case of single-family dwellings, where the size of the lot is three thousand seven hundred (3,700) square feet or less, ~~one~~ no more than two covered parking spaces designed to accommodate ~~a~~ full-size automobiles shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of ~~two~~ four hundred ~~(200)~~(400) square feet.

2. In the case of duplexes and multiple-family dwellings, the area of all covered parking spaces required to be provided for the site shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of four hundred (400) square feet per unit.

G. Height of Structures.

1. Except as otherwise provided in paragraph 2 of this subsection G and in Section 17.32.060, the maximum height of any structure shall be as follows:

    a. Twenty-eight (28) feet, for lots having a slope of less than twenty percent (20%); or

    b. Thirty (30) feet, for lots having a slope of twenty percent (20%) or more.

2. For a distance of fifteen (15) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however, garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street when permitted by Section 17.32.070 of this title. A garage or carport in compliance with this subsection may exceed a height of thirty (30) feet, but the height of any permitted living area underneath shall not exceed thirty (30) feet from finish grade.

H. Articulation Requirements. Unless exempted, outside walls that are greater in size than twenty (20) feet in width and twenty (20) feet in height shall have a cumulative area of articulation as follows:

1. Front outside wall: Thirty percent (30%) articulation.

2. Side outside walls:

    a. Interior side outside wall: No articulation requirement.

    b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No articulation shall be required for the exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.

3. Rear outside wall: Thirty percent (30%) articulation.

4. Exemptions: Single story two (2) car garages and accessory structures not exceeding a floor area of one hundred twenty (120) square feet shall be exempted from all articulation requirements.

I. Landscaping Requirements.

1. Front Setback. A minimum of fifteen percent (15%) of the front setback area shall be landscaped where the lot has a front lot line of thirty (30) feet or greater.

2. Downslope Lots. The rear of any newly constructed main structure on a downslope lot shall be screened with trees and shrubs in accordance with a landscape plan approved by the planning director.

3. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

J. Nonconforming Residential Structures and Uses. Nonconforming residential structures and nonconforming residential uses, as defined in Section 17.02.560, may be repaired, restored, reconstructed, enlarged or expanded in accordance with the provisions of Chapters 17.38 and 17.34 of this title.

K. Recycling Area Requirements:

1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

2. This requirement shall apply to all new residential buildings having five (5) or more living units, institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. This requirement shall also apply to such existing developments for which building permit applications are submitted within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of the development project.

17.10.040 - Development regulations.

The following development regulations shall apply to any lot in the R-3 district:

A. Lot Area.

1. The minimum area of any lot shall be five thousand (5,000) square feet, except as otherwise provided in subsection B of this section.

2. A single-family dwelling may be constructed on a lot of record with an area of less than five thousand (5,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.32.100.

B. Density of Development. The minimum lot area for each dwelling unit on the site shall be one thousand five hundred (1,500) square feet; provided, however, a lot having an area of four thousand nine hundred fifty (4,950) square feet or greater shall be considered conforming for a development density of three (3) units.

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
50 feet	100 feet

D. Setbacks. The minimum required setbacks for any lot, except as provided in Section 17.32.070, shall be as follows:

1. Front setback: Fifteen (15) feet, with the following exceptions:

a. Where the lot has a slope of fifteen percent (15%) or greater, the minimum front setback may be reduced to ten (10) feet.

b. Where fifty percent (50%) or more of the lots of record in a block have been improved with single-family dwellings, the minimum front setback may be the average distance of the front outside wall of the single-family structures from the front lot line, if less than fifteen (15) feet. Notwithstanding the foregoing, the minimum front setback for garages or carports shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

2. Side setback: five (5) feet, with the exception that a lot having a width of less than fifty (50) feet may have a side setback reduced to ten percent (10%) of the lot width, but in no event less than three (3) feet or the minimum setback required by the Uniform Building Code, whichever is greater. Notwithstanding the foregoing, the minimum side setback for garages, or carports accessed from a street or alley along that side of the lot shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

3. Rear setback: Ten (10) feet.

E. Lot Coverage. The maximum coverage by all structures on any lot shall be sixty percent (60%).

F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72, subject to the following exclusions:

1. In the case of single-family dwellings, where the size of the lot is three thousand seven hundred (3,700) square feet or less, ~~one~~ no more than two covered parking spaces designed to accommodate ~~a~~ full-size automobiles shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of ~~two~~ four hundred ~~(200)~~(400) square feet.

2. In the case of duplexes and multiple-family dwellings, the area of all covered parking spaces required to be provided for the site shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of four hundred (400) square feet per unit.

G. Height of Structures.

1. Except as otherwise provided in paragraph 2 of this subsection G and in Section 17.32.060, the maximum height of any structure shall be as follows:

    a. Twenty-eight (28) feet, for lots having a slope of less than twenty percent (20%); or

    b. Thirty (30) feet, for lots having a slope of twenty percent (20%) or more.

2. For a distance of fifteen (15) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however, garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street when permitted by Section 17.32.070 of this title. A garage or carport in compliance with this subsection may exceed a height of thirty (30) feet, but the height of any permitted living area underneath shall not exceed thirty (30) feet from finish grade.

H. Articulation Requirements. Unless exempted, outside walls that are greater in size than twenty (20) feet in width and twenty (20) feet in height shall have a cumulative area of articulation as follows:

1. Front outside wall: Thirty percent (30%) articulation.

2. Side outside walls:

    a. Interior side outside wall: No articulation requirement.

    b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No articulation shall be required for the exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.

3. Rear outside wall: Thirty percent (30%) articulation.

4. Exemptions: Single story two (2) car garages and accessory structures not exceeding a floor area of one hundred twenty (120) square feet shall be exempted from all articulation requirements.

I. Landscaping Requirements.

1. Front Setback. A minimum of fifteen percent (15%) of the front setback area shall be landscaped where the lot has a front lot line of thirty (30) feet or greater.

2. Downslope Lots. The rear of any newly constructed main structure on a downslope lot shall be screened with trees and shrubs in accordance with a landscape plan approved by the planning director.

3. Sites with Three (3) or More Units. Not less than ten percent (10%) of the lot area shall be improved with landscaping where three (3) or more dwelling units are located on the same site.

4. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

J. Nonconforming Residential Structures and Uses. Nonconforming residential structures and nonconforming residential uses, as defined in Section 17.02.560, may be repaired, restored, reconstructed, enlarged or expanded in accordance with the provisions of Chapters 17.38 and 17.34 of this title.

K. Recycling Area Requirements:

1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

2. This requirement shall apply to all new residential buildings having five (5) or more living units, institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. This requirement shall also apply to such existing developments for which building permit applications are submitted within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of the development project.

ATTACHMENT 3

PLANNING COMMISSION AGENDA REPORT

City of Brisbane
Planning Commission Agenda Report

TO: Planning Commission For the Meeting of 5/14/2020

SUBJECT: Zoning Text Amendment RZ-1-20; Zoning Text Amendments to update the City's existing Accessory Dwelling Unit (ADU) regulations and increase the Floor Area Ratio (FAR) exemption for covered parking on small lots to 400 square feet; City of Brisbane, applicant; Citywide.

REQUEST: Recommend City Council adoption of proposed zoning text amendments to:
(1) Increase the FAR exemption for covered parking for lots 3,700 square feet or smaller in size in the R-1, R-2, and R-3 Residential zoning districts; and
(2) Update the existing ADU regulations in Title 17 to comply with State law.

RECOMMENDATION: Recommend City Council adoption of Zoning Text Amendment RZ-1-20 via adoption of Resolution RZ-1-20.

ENVIRONMENTAL DETERMINATION: The project is statutorily exempt from the requirements of California Environmental Quality Act (CEQA) pursuant to Section 15282(h) of the CEQA Guidelines, which exempts adoption of an ordinance regarding ADUs in single-family and multifamily residential zones. In addition to being statutorily exempt from CEQA, the project falls within a class of projects which are consistent with existing zoning or general plan policies for which an EIR was certified and shall therefore not require further review. The exception to this exemption does not apply.

APPLICABLE CODE SECTIONS:

- General provisions (BMC Chapter 17.01)
- "Dwelling" defined in Chapter 17.02
- R-1 Residential District (BMC Chapter 17.06)
- R-2 Residential District (BMC Chapter 17.08)
- R-3 Residential District (BMC Chapter 17.10)
- R-BA Residential District (BMC Chapter 17.12)
- Downtown Brisbane Neighborhood Commercial District (BMC Chapter 17.14)
- Southwest Bayshore Commercial District (BMC Chapter 17.16)
- Parkside Overlay District (BMC Chapter 17.27)
- Planned Development District (BMC Chapter 17.28).
- Setback exceptions (BMC Chapter 17.32)
- Off-street parking (BMC Chapter 17.34)
- Nonconforming uses and structures (BMC Chapter 17.38)
- Accessory Dwelling Units (BMC Chapter 17.43)

ANALYSIS AND FINDINGS:

1. *Floor Area Ratio Parking Exemption*

Background

Lots 3,700 square feet or less in the R-1, R-2, and R-3 Residential Districts with a single-family dwelling are currently granted a 200 square foot exemption for covered parking (equivalent to one parking space) when calculating the floor area ratio (FAR) for the property. The origin and timeline of the FAR exemption for covered parking on small lots is described in Attachment F.

On July 17, 2019, the City Council Planning Issues Subcommittee met to discuss amending the FAR exemption for garages on small lots and on September 5, 2019 the City Council initiated a zoning text amendment to increase the FAR exemption for garages on small lots as a means to increasing the supply of available off-street parking in residential areas.

Draft Ordinance

The draft ordinance would increase the FAR exemption for covered parking to 400 square feet, or the equivalent of two parking spaces, for single-family dwellings in the R-1, R-2, and R-3 Residential zoning districts, matching the original 400 square foot exemption passed in 2002. No change is made towards its limitation to lots 3,700 square feet or less.

2. Accessory Dwelling Units

Background

In 2019, the California State Legislature passed a flurry of bills pertaining to Accessory Dwelling Units (ADUs) (see Attachments C, D, and E) that became effective January 1, 2020. The City's current ADU regulations (BMC Chapter 17.43) were last updated in May 2018 (Ordinance 626) and must be updated to comply with current State law.

These new State laws require local agencies to:

- Permit ADUs in any zoning district zoned for single or multifamily dwellings (including mixed use zones);
- Allow ADUs in multifamily buildings;
- Permit ADUs in a planned developments regardless of any existing covenant, condition, or restriction(CC&Rs);
- Exempt ADUs meeting certain size, height, and setback limitations from FAR and lot coverage limits;
- Allow conversion or demolition of a garage, carport, or covered parking structure in conjunction with the construction of an ADU without replacement off-street parking;
- Permit a junior ADU (JADU) in addition to an ADU on single family lots;
- Allow conversion of legal nonconforming accessory structures into ADUs;
- Require that rentals of ADUs must be for a term longer than 30 consecutive days;

- Eliminate owner-occupancy requirements for ADUs; and
- Require owner-occupancy for JADUs.

The primary goal of the State when passing this new legislation was to increase affordable housing by easing regulations on ADUs.

Draft Ordinance

The draft ordinance proposes a complete overhaul of the existing Chapter 17.43, Accessory Dwelling Units of the BMC and a number of minor amendments to other sections of the BMC to comply with the new State regulations. Below is a list of the major amendments the draft ordinance addresses.

- **Zoning Districts**

State Legislation:	▪ ADUs must be permitted in all residential and mixed-use zones, with limited exceptions. ▪ CC&Rs that prohibit or restrict ADUs and JADUs for single family dwellings are null and void.
Existing BMC:	▪ ADUs allowed in R-1, R-2, R-3, R-BA, and SCRO-1 zoning districts only.
Draft Ordinance:	▪ ADUs allowed in any zone that permits residential uses either by right or conditionally (R-1, R-2, R-3, R-BA, NCRO-2, SCRO-1, PAOZ-1, PAOZ-2 and PD zoning districts) with an existing or proposed single-family or multiple-family dwelling.

- **Unrestricted ADUs**

State Legislation:	▪ Must allow an "unrestricted ADU" up to 800 square feet that is at least 16 feet in height with 4 foot side and rear yard setbacks on any residential lot.
Existing BMC:	▪ ADUs may be limited or restricted by lot coverage, FAR, and development standards.
Draft Ordinance:	▪ "Unrestricted ADUs" less than 16 feet tall and 800 square feet or less in size are exempt from lot coverage, FAR, and other development standards. ▪ Any ADU greater than 800 square feet and/or 16 feet tall shall be included in the calculation of floor area, lot coverage, and open space requirements.

- **Junior Accessory Dwelling Units**

State Legislation:	▪ JADUs must be allowed in any zone that allow single-family dwellings; ▪ JADUs shall be contained within existing walls of main dwelling, owner occupied, and no more than 500 square feet. ▪ Single-family dwellings may have one detached ADU up to 800 square feet and less than 16 feet tall and a JADU.
Existing BMC:	▪ JADUs not permitted.

Draft Ordinance:	▪ Defines JADU as a dwelling unit no more than 500 square feet in size contained entirely within a single-family dwelling. A JADU may share sanitation facilities with the single-family dwelling and are distinguished from ADUs in that they: (1) must include the conversion of existing, legally permitted floor area within an existing single-family dwelling; and (2) must be owner occupied, or the main dwelling be owner occupied; and (3) are subject to unique standards that are not applicable to ADUs. ▪ JADUs permitted only in conjunction with an existing or proposed single-family dwelling; may have a detached ADU and JADU.

➢ **Accessory Dwelling Units in Multiple-Family Dwellings**

State Legislation:	▪ ADUs permitted in multiple-family dwellings. ▪ At least one attached ADU shall be allowed; the total number of attached ADUs permitted is limited to 25% of the total number of existing dwelling units. ▪ Attached ADUs shall be allowed within existing portions of multiple-family dwellings that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages; attached ADUs shall not be created within any portion of the habitable area of an existing dwelling unit in a multiple-family dwelling. ▪ No more than two additional detached ADUs may be permitted; each detached ADU shall be limited to a height of 16 feet, a total floor area of 800 square feet, and a minimum side and rear setback of 4 feet.
Existing BMC:	▪ ADUs not permitted in multiple-family dwellings.
Draft Ordinance:	▪ ADUs are permitted in multiple-family dwellings in any zone that allows residential uses either by right or conditionally. ▪ Complies with new state laws regulating quantity, location, and size of ADUs in multiple-family dwellings.

➢ **Setbacks and Height**

State Legislation:	▪ Setbacks: 4-foot side and rear setbacks; rebuilds or conversions may maintain nonconforming setbacks.
Existing BMC:	▪ Setbacks: Front: Per district regulations; Side: 5-3 feet based on lot width; Rear: 10 feet; Converted structures may retain existing nonconforming setbacks. ▪ Height: established by underlying zone.
Draft Ordinance:	▪ Setbacks: Front: no change; Side: 3-4 feet based on lot width; rebuilds or converted structures may maintain nonconforming setbacks. ▪ Height: established by underlying zone; two-story limit; “unrestricted ADUs” limited to 16 feet.

➢ **Parking**

State Legislation:	▪ One parking space for ADUs except no parking required when located within one-half mile of transit. ▪ When a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an ADU, any parking spaces that were provided by such garage, carport, or covered parking structure are not required to be replaced. ▪ No parking required for JADU.
Existing BMC:	▪ No off-street parking required for ADUs.
Draft Ordinance:	▪ No off-street parking required for ADUs except in the R-BA or PD zoning districts; one parking space required in R-BA and PD except no parking is required when located within one-half mile of transit. ▪ Complies with new state laws regulating parking facility conversions to ADUs and parking requirements for JADUs.

➢ **Owner Occupancy and Short-Term Rentals**

State Legislation:	▪ Cannot require owner occupancy for ADUs; JADUs shall require owner occupancy restrictions. ▪ ADUs and JADUs cannot be rented for less than 30 consecutive days.
Existing BMC:	▪ Owner occupancy required for all ADUs. ▪ Short term rentals (STR) currently banned in City; RZ-2-19 would permit STR in ADUs legally established before April 1, 2017.
Draft Ordinance:	▪ Complies with new state laws regulating owner occupancy restrictions and STR for ADUs and JADUs. ▪ RZ-2-19 would permit STR in ADUs legally established before April 1, 2017.

ATTACHMENTS:

A. Draft Resolution RZ-1-20 (including draft ordinance) (Resolution only)
B. Redline copy of proposed zoning text amendments (Not provided)
C. ~~Department of Housing and Community Development Memorandum addressing California Law regarding ADUs and JADUs~~
D. ~~Government Code Sections 65852.2 and 6585.22, relating to ADUs~~
E. ~~Summary of new State legislation~~
F. History of FAR covered parking exception
G. May 14, 2020 Planning Commission Draft Meeting Minutes

Jeremiah Robbins, Associate Planner

John Swiecki, Community Development Director

ATTACHMENT 3.A

RESOLUTION RZ-1-20

RESOLUTION NO. RZ-1-20

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BRISBANE RECOMMENDING CITY COUNCIL APPROVAL OF ZONING TEXT AMENDMENT RZ-1-20 AMENDING REGULATIONS CONCERNING ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS TO COMPLY WITH STATE LAW AND REVISING THE FLOOR AREA RATIO EXEMPTION FOR COVERED PARKING ON SMALL LOTS

WHEREAS, the City Council adopted the Housing Element for the 2015-2022 cycle on April 2, 2015 via Resolution No. 2015-08; and

WHEREAS, Housing Element Goal H.B establishes the community's aspiration to maintain a diverse housing stock in Brisbane; and

WHEREAS, Housing Element Policy H.B.1 encourages the construction of a balance of housing types, sizes, and tenure, and the inclusion of affordable dwelling units in multiple-family developments; and

WHEREAS, Housing Element Policy H.I.1 encourages reducing regulatory constraints on the development of new housing, especially infill housing and housing that adds to the mix of types, size, tenure and affordability of the local housing stock; and

WHEREAS, effective January 1, 2020, Senate Bill 13, Assembly Bill 68, and Assembly Bill 881 amended Sections 65852.2 and 65852.22 of the Government Code and changed the requirements for local governments relating to accessory dwelling units (ADUs) and junior ADUs (JADUs); and

WHEREAS, the City's current ordinance regarding ADUs must be updated to comply with current State law; and

WHEREAS, on September 5, 2019, the City Council initiated a zoning text amendment to increase the floor area ratio exemption for covered parking on lots equal to or less than 3,700 square feet in area; and

WHEREAS, the draft ordinance attached as Exhibit A to this resolution proposes amendments to Title 17 (Zoning) of the Brisbane Municipal Code in order to comply with current State law regarding ADUs and JADUs; and

WHEREAS, the draft ordinance attached as Exhibit A to this resolution proposes amendments to Title 17 (Zoning), specifically existing Chapters 17.06 (R-1 Residential District), 17.08 (R-2 Residential District), and 17.10 (R-3 Residential District), to increase the floor area ratio exemption for covered parking on lots equal to or less than 3,700 square feet in area; and

WHEREAS, on May 14, 2020, the Planning Commission conducted a hearing of the draft ordinance concerning ADUs and JADUs and revisions to the floor area ratio covered parking exemption for small lots, publicly noticed in compliance with Brisbane Municipal Code Chapters 1.12 and 17.54, at which time any person interested in the matter was given an opportunity to be heard; and

WHEREAS, the draft ordinance is statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) per Section 15282(h) of the CEQA Guidelines and categorically exempt from CEQA per Section 15183(a) of the CEQA Guidelines, and the exceptions to the categorical exemption are inapplicable.

NOW, THEREFORE, based upon the evidence presented, both written and oral, the Planning Commission of the City of Brisbane hereby RECOMMENDS that the City Council adopt the attached ordinance.

ADOPTED this 14th of May 2020 by the following vote:

AYES: Gomez, Gooding, Mackin, Patel, and Sayasane
NOES: None
ABSENT: None

Pamala Sayasane
PAMALA SAYASANE
Chairperson

ATTEST:

John Swiecki
JOHN SWIECKI, Community Development Director

ATTACHMENT 3.F

SUMMARY OF FAR COVERED PARKING EXCEPTION

Attachment F
Summary of FAR covered parking exception

ORD #463 (2002): Introduced FAR limit of .72 with a 400 sq ft exception for covered parking. The intent was to limit overbuilding – homes too large or too tall on too small of lots – pursuant to policies in the 1994 General Plan. The parking exception was to encourage the construction of garages in Central Brisbane.

ORD #485 (2004): Added a 3,700 sq ft lot size limit to the application of the parking exception for covered parking and reduced it from 400 sq ft to 200 sq ft for single family homes. (400 sq ft remained the exception for multifamily dwellings.) City Council concerned 400 sq ft exception still permitted homes that were inconsistent with the character of the community and 1994 General Plan policies. Since smaller lots only required one covered parking space the exception was reduced to 200 sq ft, or the area of one parking space.

ORD #562 (2011): Removed 200 sq ft covered parking exception in R-BA district. Remained in R-1/R-2/R-3 zoning districts. There were no lots that would meet the 3700 sq ft lot size limitation in Brisbane Acres.

ORD #576 (2016): Added text under Chapter 17.34 - Off-Street Parking of the BMC related to the covered parking exception. “The floor area of garages and carports shall not be included in measuring floor area to calculate the parking requirements, except for any floor area exceeding four hundred (400) square feet within a garage or carport exclusively for the use of a single residential unit.” No change was made to the application or limitations of the exception.

ORD #615 (2017): Slight modification to the wording of the text under Section 17.34.020.B of the BMC. No change was made to the application or limitations of the exception.

ATTACHMENT 3.G

PLANNING COMMISSION MEETING MINUTES

The Planning Commission discussed with staff their concerns with their purview of authority when reviewing grading permits, particularly with potential impact to site hydrology.

At the request of staff, the meeting was recessed for 5 minutes to address technical issues associated with the call-in public access to the meeting.

Chairperson Sayasane brought the meeting back to order and the recognized members of the public wishing to address the Commission.

Prem Lall, Brisbane resident, spoke against the project.

There were no other members of the public wishing to address the Commission.

After some discussion, Commissioner Mackin made a motion to deny the applicant's request for reconsideration and adopt findings of denial for the project, but later withdrew the motion.

Following further discussion, Commissioner Patel moved to grant the applicant's request to reconsider the application at a future public hearing. Commissioner Gooding seconded the motion and the motion was approved 5-0.

NEW BUSINESS

D. Zoning Text Amendment RZ-1-20; Various zoning districts; Zoning text amendments to update the existing accessory dwelling unit (ADU) regulations in the zoning ordinance to comply with updated State regulations, and to increase the existing floor area ratio (FAR) exception of 200 square feet to 400 square feet for covered parking on substandard lots; City of Brisbane, applicant.

Associate Planner Robbins gave the staff presentation.

The Planning Commission identified concerns about potential implications of increasing the FAR covered parking exception in conjunction with the required, limitations on ADU parking requirements in State legislation.

Chairperson Sayasane opened the public hearing.

With no one coming forward to address the Commission, Commissioner Gooding moved to close the public hearing. Commissioner Gomez seconded the motion and it was approved 5-0.

Following deliberation, Commissioner Mackin moved to recommend City Council adoption of the draft ordinance by adopting Resolution RZ-1-20. Commissioner Gooding seconded the motion and the motion was approved 5-0.

Chairperson Sayasane read the appeals process of Planning Commission actions.

ITEMS INITIATED BY STAFF

ATTACHMENT 4

CITY COUNCIL MEETING MINUTES
SEPTEMBER 5, 2019 (EXCERPT)

• Executive Management: The pay schedule will reflect a market adjustment of 3.5% for the City Clerk position and a 2% pay increase for all covered positions in the bargaining group.

CM Conway made a motion, seconded by CM Cunningham, to approve of Resolution No. 2019-56 to update the Master Pay Schedule. The motion was passed unanimously by all present.

Ayes: Councilmembers Conway, Cunningham, Lentz, O'Connell and Mayor Davis

Noes: None

Absent: None

NEW BUSINESS

A. Proposed Zoning Text Amendment-Floor Area Ratio Exemption for Garages on Small Lots

Community Development Director Swiecki reported that Zoning Ordinance (BMC Section 17.06.040) establishes a maximum floor area ratio of .72 in the R-1 residential zone. It further provides that when the lot size is 3,700 square feet or less, a covered parking space not exceeding 200 square feet is excluded from the floor area calculation.

He added that this issue of increasing the garage area that can be excluded from the floor area calculation on small lots is being considered as a means of increasing the supply of available off street parking in residential areas. He reported that the Planning Issues Subcommittee reviewed this item at a meeting on July 17, 2019. Both members were agreeable to referring the matter to the Planning Commission for additional study.

After some Council discussion, CM Conway made a motion, seconded by CM Cunningham, to authorize the Planning Commission to initiate a zoning text amendment increasing the floor area ratio exemption for garages on small lots. The motion was passed unanimously by all present.

Ayes: Councilmembers Conway, Cunningham, Lentz, O'Connell and Mayor Davis

Noes: None

Absent: None

STAFF REPORTS

A. City Manager's Report on upcoming activities

Administrative Services Director Schillinger reported on the upcoming activities throughout the City.

File Attachments for Item:

I. Consider Adoption of Resolution No. 2020-56 Imposing Assessments on Certain Specially Benefitted Property Owners in Sierra Point for Developing, Implementing and Maintaining a Utility Structure Monitoring Program

CITY COUNCIL AGENDA REPORT

Meeting Date: September 17, 2020

From: Clayton Holstine, City Manager

Subject: Resolution Imposing Assessments on Certain Specially Benefitted Property Owners in Sierra Point for Developing, Implementing and Maintaining a Utility Structure Monitoring Program

Community Goal/Result
Safe Community

Recommendation:

Following the public hearing, adopt the attached Resolution (Attachment 1) imposing assessments on certain property owners in Sierra Point for developing, implementing and maintaining a utility structure monitoring program that specially benefit their properties.

Background

In March 2018 the City of Brisbane received a letter from the Environmental Health Services Division of the San Mateo County Health System informing the City that a structure monitoring program is required for the utility structures situated on the closed Sierra Point Landfill site ("Landfill site") to prevent the accumulation of landfill decomposition gas and to protect public health and safety.

The structure monitoring program must comply with the requirements of Title 27 of the California Code of Regulations, sections 20921 et seq. The Regulations place the burden of submitting a monitoring program plan to the enforcement agency, implementing the program and continuously maintaining the program on the site operator. 27 CCR Sections 20921, 20931. For purposes of these Regulations, the site operator means "the landowner or other person who through a lease, franchise agreement or other arrangement with the landowner becomes legally responsible to the State for complying with all applicable federal, state and local requirements." 27 CCR, Section 20164.

Landowners of property that is benefitted by this structure monitoring program are "operators" responsible for the costs of developing, implementing and maintaining the structure monitoring program at the Landfill site. 27 CCR Sections 20923 (a)(1), 20931.

The City contacted a geotechnical engineering company that created a structure monitoring program at the Landfill site that complies with the requirements of 27 CCR Section 20931. The City will oversee the submission of program plans to the Environmental Health Services Division of the San Mateo County Health System (SMCEH) in its capacity as the local Cal Recycle enforcement agency. The City will also manage the implementation of the monitoring program at the Landfill site.

The utility structures on the Landfill site for which the structure monitoring program has been developed and, in the future, implemented and maintained, serve only a limited number of properties within the Sierra Point area. Accordingly, the cost to develop, implement, and maintain this program

falls only on those property owners who will specially benefit by this program. This list of such property owners is attached to the Resolution as Exhibit 1.

Because these charges are new assessments against these properties, in order to impose these assessment (the charges will be on the owners' respective water bills), the City must conduct a process under Proposition 218, providing notice to the affected property owners of the proposed assessments and providing the owners with an opportunity at a public hearing to protest imposing the assessments. If protests against the proposed assessments are presented by property owners who have a majority of the cost of the assessments, the assessments may not be imposed. Moreover, under Proposition 218, the costs for such a program must be allocated in a fair and reasonable way. The required notice under Proposition 218 was mailed to the affected property owners on July 29, 2020, more than 45 days prior to the date of the public hearing. In order to impose the assessments, the City Council must find that the affected property owners are specially benefitted.

Discussion

In order to impose these assessments, City Council must find that the property owners are specially benefitted by this program. For the following reasons they are:

Development over a closed municipal solid waste landfill requires special permits from multiple regulatory agencies; these permits typically require individualized construction and ongoing inspection that only benefits the properties overlying the closed landfill. In the case of this assessment, SMCEH requires the monitoring of buried utility structures in order to prevent the possible build-up and catastrophic ignition of explosive gases that might be generated from the underlying waste. No other utility vaults operated by the City of Brisbane are subject to this requirement; thus, the monitoring program at Sierra Point provides a unique and special benefit only to the identified property owners. In the absence of the developed properties at Sierra Point, there would be no utility structures and no structure monitoring program would be required.

The City's cost to develop the program was $20,991 and the annual program costs since March 2019 have been $41,717. Those costs have been allocated in a fair and reasonable way and in the same way that water capacity charges are calculated, i.e., based on the nominal size, service (e.g., potable or fire) and the number of water meters serving a parcel. For example, if a parcel were served by two 2" and 3" potable water meters and a 6" fire water meter, that parcel would have a 5% share. If the annual monitoring costs were $40,000, the property owner would be assessed $2000, 5% of $40,000.

Using this formula, City staff determined that each property owner's share is as shown on the attached list of property owners. Attachment 2. A more detailed spread sheet showing the owners and their allocated percentages and costs is attached as Attachment 3.

As stated above, in order to impose this assessment on these owners' properties—which assessment will be assessed on their water bills—the law required that the City provide the owners with a notice that (1) sets forth the amount of the assessment to be imposed on each property, (2) the basis upon which the assessment to each property has been calculated (described above), (3) the reason for the assessment (described above) and (4) the date, time and location of a public hearing on the proposed charge. Such notices were mailed to all the affected property owners on July 29. 2020, more than 45 days prior to the public hearing.

The property owners were notified that the City Council meeting and the public hearing would be conducted virtually and if written protests against the proposed assessment were presented by property owners who have a majority of the cost of the assessments, the assessments could not be imposed. As of the time this agenda report is being published, the City has received no protests.

Financial Impact

The Council's adoption of the attached Resolution will impose assessments for developing, implementing and maintaining a utility monitoring program in the Sierra Point area on those property owners who specially benefit by this program, rather than spreading the cost of this program on all water customers of the City. Because the City owns property in this area and will specially benefit by the program, its annual charge is estimated to be $2,811.53

Attachments

1. Resolution imposing a charge on certain property owners in the Sierra Point area for developing, implementing and maintaining a utility structure monitoring program
2. List of Property Owners and their respective share of the cost
3. Detailed Spread Sheet showing property owners and the allocation of costs

Clayton Holstine, City Manager

Randy Breault, City Engineer

Stuart Schillinger

Stuart Schillinger, Finance Director

Thomas McMorrow, Interim City Attorney

ATTACHMENT 1

RESOLUTION NO. 2020-56

A Resolution of the City Council of the City of Brisbane Imposing Assessments on Certain Specially Benefitted Property Owners in the Sierra Point Area to Develop, Implement and Maintain a Utility Structure Monitoring Program

Whereas, in March 2018 the City of Brisbane received a letter from the Environmental Health Services Division of the San Mateo County Health System informing the City that a structure monitoring program is required for the utility structures situated on the closed Sierra Point Landfill site ("Landfill site") to prevent the accumulation of landfill decomposition gas and to protect public health and safety; and

Whereas, the structure monitoring program must comply with the requirements of Title 27 of the California Code of Regulations, sections 20921 et seq.; the Regulations place the burden of submitting a monitoring program plan to the enforcement agency, implementing the program and continuously maintaining the program on the site operator (27 CCR Sections 20921, 20931); and for purposes of these Regulations, the site operator means "the landowner or other person who through a lease, franchise agreement or other arrangement with the landowner becomes legally responsible to the State for …complying with all applicable federal, state and local requirements." (27 CCR, Section 20164); and

Whereas, landowners of property that is benefitted by this structure monitoring program are "operators" responsible for the costs of developing, implementing and maintaining the structure monitoring program at the Landfill site (27 CCR Sections 20923 (a)(1), 20931); and

Whereas, the City contacted a geotechnical engineering company that created a structure monitoring program at the Landfill site that complies with the requirements of 27 CCR Section 20931; the City will oversee the submission of program plans to the Environmental Health Services Division of the San Mateo County Health System in its capacity as the local Cal Recycle enforcement agency; and the City will also manage the implementation of the monitoring program at the Landfill site; and

Whereas, the utility structures on the Landfill site for which the structure monitoring program has been developed and, in the future, implemented and maintained, serve only a limited number of properties within the Sierra Point area and therefore the cost to develop, implement, and maintain this program falls only on those property owners who will specially benefit by this program; and

Whereas, the list of the specially benefitted property owners is attached to this Resolution as Exhibit 1; and

Whereas, because these charges are new assessments, in order to impose these assessments (the assessments/charges will be on the owners' respective water bills), the City has conducted the legally required process under Proposition 218, i.e., providing notice to the affected property owners of the proposed assessments, demonstrating that the costs for the program is allocated in a fair and reasonable way, and providing the owners with an opportunity at a public hearing to protest imposing the assessments; and

Whereas, if protests against the proposed assessments are presented by property owners who have a majority of the cost of the assessments, the assessments may not be imposed; and

Whereas, the required notice under Proposition 218 was mailed to the affected property owners on July 29, 2020, more than 45 days prior to the date of the public hearing; and

Whereas, on September 17, 2020, the Brisbane City Council conducted a public hearing concerning the assessments to be imposed on these property owners; and

Whereas, property owners who have a majority of the cost of the cost of the assessments did not protest; and

Whereas, the City Council finds and determines that the property owners on Exhibit 1 are specially benefitted by the utility structure monitoring program and that the costs for developing, implementing and maintaining the utility structure monitoring program have been allocated in a fair and reasonable way, as set forth in the City Council agenda report concerning this matter, the staff presentation and other information received during the public hearing; and

Whereas, based thereon, the City also finds and determines that each specially benefitted property owner's respective share of the cost of the program is as set forth on Exhibit 1.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BRISBANE RESOLVES AS FOLLOWS:

Section 1. To the extent there are any protests to these assessments being imposed, the protests are overruled.

Section 2. The assessments to develop, implement, and maintain the utility structure monitoring program in the Sierra Point area are allocated to the specially benefitted property owners set forth on Exhibit 1 and their respective share of the costs is as set forth on Exhibit 1.

Section 3. This resolution shall take effect immediately upon its adoption.

_____

Terry O'Connell, Mayor

I hereby certify that the foregoing Resolution No. 2020-56 was duly and regularly adopted at a regular meeting of the Brisbane City Council on September 17, 2020 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Ingrid Padilla, City Clerk

ATTACHMENT 2

Structure Monitoring Property Owners

BSP3-SF4 1000 Marina LLC , P.O. Box 60037 Pasadena, CA 91116 re: 1000 Marina Boulevard, Brisbane CA 5%

BRE SH Brisbane Owner LLC c/o Homewood Suites, 2000 Shoreline Court, Brisbane, CA 94005 re: 2000 Shoreline Court, Brisbane, CA 7%

HCP LS Brisbane LLC, 150 California Street, Suite 400, San Francisco, CA94111 re: 2000 Sierra Point Parkway, Brisbane CA 7%

Sierra Point Yacht Club, 500 Sierra Point Parkway, Brisbane, CA 94005, re: 500 Sierra Point Parkway, Brisbane, CA 1%

Ultragenyx, 600 Leveroni Court, Novato, CA 94949 and SHN Medical Office Properties Trust, MS 15 PO Box 182588, Columbus, OH 43218 re: 1500 Marina Blvd., Brisbane, CA 5%

Summit Hotel LLC #114 c/o Ecova, Inc. P.O. box 2440 Spokane, WA 99210 re: 5000 Sierra Point Parkway, Brisbane, CA 8%

Sangiamo Therapeutics, 501 Canal Blvd., Suite A, Richmond, CA 94804 and Marina Boulevard Property LLC, c/o Avidxchange , P.O. Box 62280, Irvine, CA 92602 re: 7000 Marina Blvd., Brisbane, CA 5%

HCP LS Brisbane LLC, 150 California Street, Suite 400 San Francisco, CA 94111, re: 8000 Marina Blvd, Brisbane, CA 7%

HCP LS Brisbane, LLC, 150 California Street, Suite 400, San Francisco, CA 94111 re: 800-1800 Sierra Point Parkway, Brisbane, CA 45%

City of Brisbane, 50 Park Place, Brisbane, CA 94005, re: 400 Sierra Point Parkway, 400 Sierra Point Parkway Fire, Piers 1, 2, 3, 4, 5 and 6, North and South Bathrooms, Dock 3 Restroom, and East Shoreline LDSC 6%

City of Brisbane, 50 Park Place, Brisbane, CA 94005 re: North Shoreline LDSC 1%

City of Brisbane, 50 Park Place, Brisbane, Ca 94005 re: Fishing Pier Brisbane , Marina BLVD Shared Line, South Shoreline LDSC, Infrastructure Shoreline Court Landscape, Marina Landscape 3%

										ATT 3
A	SITUS_ADDR		ANNUAL	contact name	address1	address2	address3	mail city	mail state	mail zip
007165010	1000 Marina Blvd			BP3-SF4 1000 Marina LLC	PO BOX 60037			Pasadena	CA	91116
007165010	1000 Marina Blvd Irrigation			BP3-SF4 1000 Marina LLC	PO BOX 60037			Pasadena	CA	91116
007165010	1000 Marina Fire		$2,024.45	BP3-SF4 1000 Marina LLC	PO BOX 60037			Pasadena	CA	91116
007163040	2000 Shoreline Ct			BRE SH Brisbane Owner LLC	C/O Homewood Suites	2000 Shoreline Court		Brisbane	CA	94005
007163040	2000 Shoreline Ct Irrigation			BRE SH Brisbane Owner LLC	C/O Homewood Suites	2000 Shoreline Court		Brisbane	CA	94005
007163040	2000 Shoreline Ct Fire		$2,871.82	BRE SH Brisbane Owner LLC	C/O Homewood Suites	2000 Shoreline Court		Brisbane	CA	94005
007164010	2000 Sierra Point Pkwy			HCP INC	P.O. BOX 2440			SPOKANE	WA	99210
007164010	2000 Sierra Point Pkwy Irrigation			HCP INC	P.O. BOX 2440			SPOKANE	WA	99210
007164010	2000 Sierra Point Pkwy Fire		$2,887.06	HCP LS Brisbane LLC				SF	CA	94111
007165020	3000 Marina Blvd									
007165060	500 Sierra Point Pkwy			Sierra Point Yacht Club		500 Sierra Pt Pkwy		Brisbane	CA	94005
007165060	500 Sierra Point Pkwy Fire		$524.51	Sierra Point Yacht Club		500 Sierra Pt Pkwy		Brisbane	CA	94005
007165110	5000 Marina Blvd			ULTRAGENYX	60 Leveroni Court			Novato	CA	94949
007165110	5000 Marina Blvd Irrigation			SNH Medical Office Properties Trus	P.O. BOX 2440			SPOKANE	WA	99210
007165110	5000 Marina Blvd Fire		$1,898.99	ULTRAGENYX	60 Leveroni Court			Novato	CA	94949
007163030	5000 Sierra Point Pkwy			Summit Hotel LLC #114	c/o Ecova Inc	PO Box 2440		Spokane	WA	99210
007163030	5000 Sierra Point Pkwy			Summit Hotel LLC #114	c/o Ecova Inc	PO Box 2440		Spokane	WA	99210
007163030	5000 Sierra Point Pkwy Irrigation			Summit Hotel LLC #114	c/o Ecova Inc	PO Box 2440		Spokane	WA	99210
007163030	5000 Sierra Point Pkwy Fire		$3,519.24	Summit Hotel LLC #114	c/o Ecova Inc	PO Box 2440		Spokane	WA	99210
007165120	7000 Marina Blvd			Sangamo Therapeutics	501 Canal Blvd Suite A			Richmond	CA	94804
007165120	7000 Marina Blvd Irrigation			PPF OFF -7000 Marina Blvd LP	P.O. BOX 2096			WARREN	MI	48090
007165120	7000 Marina Blvd Fire		$2,024.45	Sangamo Therapeutics	501 Canal Blvd Suite A			Richmond	CA	94804
007164020	8000 Marina Blvd			HCP INC	P.O. BOX 2440			SPOKANE	WA	99210
007164020	8000 Marina Blvd Irrigation			HCP INC	P.O. BOX 2440			SPOKANE	WA	99210
007164020	8000 Marina Blvd Fire			HCP INC	P.O. BOX 2440			SPOKANE	WA	99210
007164020	8000 Marina Blvd Garage Fire		$3,113.93	HCP INC	P.O. BOX 2440			SPOKANE	WA	99210
007165050	9000 Marina Blvd			UPC - Hotel						
007165090	800-1800 Sierra Point Pkwy			HCP LS Brisbane LLC	150 California	Suite 400		SF	CA	94111
007165090	800-1800 Sierra Point Pkwy	Bldg. D		HCP LS Brisbane LLC	150 California	Suite 400		SF	CA	94111
007165090	800-1800 Sierra Point Pkwy	Bldg. D		HCP LS Brisbane LLC	150 California	Suite 400		SF	CA	94111
007165090	800-1800 Sierra Point Pkwy	Bldg. E		HCP LS Brisbane LLC	150 California	Suite 400		SF	CA	94111
007165090	800-1800 Sierra Point Pkwy	Bldg. E		HCP LS Brisbane LLC	150 California	Suite 400		SF	CA	94111
007165100	800-1800 Sierra Point Pkwy	Bldg. C		HCP LS Brisbane LLC	150 California	Suite 400		SF	CA	94111
007165100	800-1800 Sierra Point Pkwy	Bldg. C		HCP LS Brisbane LLC	150 California	Suite 400		SF	CA	94111
007165100	800-1800 Sierra Point Pkwy	Bldg. B		HCP LS Brisbane LLC	150 California	Suite 400		SF	CA	94111
007165100	800-1800 Sierra Point Pkwy	Bldg. B		HCP LS Brisbane LLC	150 California	Suite 400		SF	CA	94111
007165100	800-1800 Sierra Point Pkwy	Bldg. A		HCP LS Brisbane LLC	150 California	Suite 400		SF	CA	94111
007165100	800-1800 Sierra Point Pkwy	Bldg. A		HCP LS Brisbane LLC	150 California	Suite 400		SF	CA	94111
007165080			$18,746.28	HCP						
0[illegible]5040	Shared Use parking lot			City of Brisbane	50 Park Place			Brisbane	CA	94005

APN	SITUS_ADDR		ANNUAL	contact name	address1	address2	address3	mail city	mail state	mail zip
007165070	Shared Use parking lot			City of Brisbane	50 Park Place			Brisbane	CA	94005
007165060	400 Sierra Pt Pkwy			City of Brisbane	50 Park Place			Brisbane	CA	94005
007165060	400 Sierra Pt Pkwy Fire			City of Brisbane	50 Park Place			Brisbane	CA	94005
007165060	Pier #6			City of Brisbane	50 Park Place			Brisbane	CA	94005
007165060	No Bathroom Brisbane			City of Brisbane	50 Park Place			Brisbane	CA	94005
007165060	East Shoreline LDSC			EAST SHORELINE LANDSCAPE	50 Park Place			Brisbane	CA	94005
007165060	Pier #4 Brisbane			BRISBANE MARINA	50 Park Place			Brisbane	CA	94005
007165060	Pier #3 Brisbane			BRISBANE MARINA	50 Park Place			Brisbane	CA	94005
007165060	Dock 3 Restroom Brisbane			BRISBANE MARINA	50 Park Place			Brisbane	CA	94005
007165060	Pier #2 Brisbane			BRISBANE MARINA	50 Park Place			Brisbane	CA	94005
007165060	Pier #1 Brisbane			BRISBANE MARINA	50 Park Place			Brisbane	CA	94005
007165060	So Bathroom Brisbane			BRISBANE MARINA	50 Park Place			Brisbane	CA	94005
007165060	Pier #5 Brisbane			BRISBANE MARINA	50 Park Place			Brisbane	CA	94005
			$2,483.70							
007165040	North Shoreline LDSC			City of Brisbane	50 Park Place			Brisbane	CA	94005
			$287.54							
007172380	Fishing Pier Brisbane			BRISBANE MARINA	50 Park Place			Brisbane	CA	94005
			$40.29							
	Marina BLVD Shared Use			City of Brisbane	50 Park Place			Brisbane	CA	94005
	South Shoreline LDSC			BRISBANE MARINA	50 Park Place			Brisbane	CA	94005
	Intrsc Shoreline Court Landscape			City of Brisbane	50 Park Place			Brisbane	CA	94005
	Marina Landscale ISL			City of Brisbane	50 Park Place			Brisbane	CA	94005
			$1,294.84							
	Caltrans Marina Landscape (OFF)			No Account - February 2018	Off and Locked					
			$0.00							
			$41,717.09							

File Attachments for Item:

K. Dog Park Resurfacing

(Council will consider approving funding in the amount of $60,000 for resurfacing of the dog park as recommended by the Parks & Recreation Commission)

CITY COUNCIL AGENDA REPORT

Meeting Date: September 17th, 2020

From: Noreen Leek, Recreation Manager

Subject: Dog Park Resurfacing

Community Goal/Result
Community Building

Purpose
Maintain high-quality recreation facilities for community interaction.

Recommendation
Approve funding in the amount of $60,000 for resurfacing of the dog park as recommended by the Parks & Recreation Commission.

Background
On September 25th, 2019, the Recreation Facilities Subcommittee along with the City Council Parks & Recreation Liaisons met with stakeholders at the dog park. The purpose of this meeting was to engage the stakeholders and gather input regarding their overall preferences at the park. Although the majority of the meeting was spent discussing park amenities such as seating, water, shade, etc., several residents initiated conversations about park resurfacing.

In the past, dog park users have expressed a preference for grass, and have been vocal about their dissatisfaction regarding the overall condition of the grass. Given the nature of use on the grass at the dog park and that it is a highly concentrated area, it is important to note that the City's approach towards maintenance of the dog park will not result in the turf condition mirroring that of the Community Park. In recent years, there seems to be a shift towards support for alternate surfacing options such as artificial turf, gravel, or decomposed granite.

P&R staff reviewed 24 local dog parks and found only 3 facilities to have any real grass. In all 3 cases, the grass areas were significantly larger than that of Brisbane's (which means less concentrated use) and the condition of the grass at these locations was either similar to or worse than the condition of Brisbane's.

On January 8th, 2020 the Parks & Recreation Commission addressed this item, reviewed various alternative surfacing options and estimated costs, and discussed the pros and cons to each. The Commission voted unanimously to recommend to Council to proceed with resurfacing of the park including a majority of hardscape surface (i.e. decomposed granite) and some smaller patches of artificial turf.

Discussion

At this time, Council is being asked to consider the recommendation from the Parks & Recreation Commission and authorize funding to proceed with the project.

Fiscal Impact

The existing grass area of the dog park is approximately 5,225 square feet. The scope of work will include excavation/sub grading, and installation of base plus surfacing. The budget-level estimate generated by staff is approximately $60,000. Research conducted by the City's Public Works team suggests that the lifespan of this surfacing is 15-20 years and ongoing maintenance costs would be significantly reduced given that mowing, frequent watering, annual reseeding, and new sod would not be required. Ongoing maintenance would include minor watering of the artificial turf for sanitation purposes, occasional brushing of the turf, and top coating of the hardscape surfacing as needed. The City's Public Works team estimates that ongoing maintenance of the dog park would be reduced by about half of what it is today.

Attachments

1. Aerial map of dog park with resurfacing notations
2. Dog Park comparison reviewed by P&R Commission

Noreen Leek, Recreation Manager

Clay Holstine, City Manager

Aerial Map of Dog Park with Resurfacing Notations

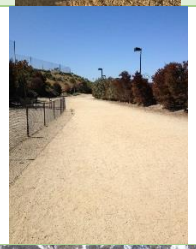
Decomposed Granite Example

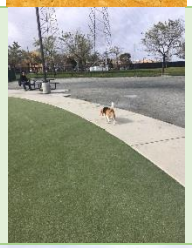
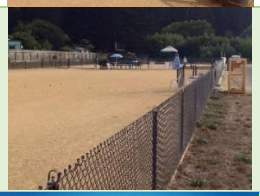
*The yellow frame in the photo above denotes the existing grass area that is proposed for resurfacing. The decomposed granite (DG) that would be installed here would compliment the existing DG areas that already exist at both ends of the park nearest the entrances.

Artificial Turf Pod Example

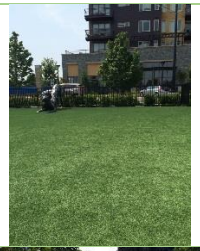
*The small red markings in the photo above denote proposed artificial turf pod locations. These small pods will require significantly less maintenance and will provide a secondary type of surfacing for dogs to enjoy.

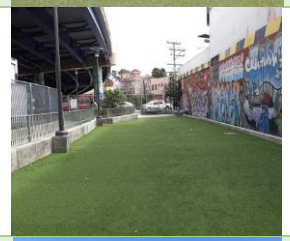
Dog Park Comparison

Park Name	Location	Surfacing	
Centennial Way Dog Park	South San Francisco	DG + Artificial Turf	
Commodore Park	San Bruno	Mixed, mostly dirt & weeds (not maintained grass)	 
Seal Point	San Mateo	Dirt/DG	
Burlingame Dog Exercise Park	Burlingame	Dirt/DG	
St. Mary's Dog Play Area	San Francisco (R&P)	Grass + Asphalt (comparable grass condition to Brisbane's however a much larger area and less concentrated use)	

San Carlos Dog Park	San Carlos	Dirt/DG	
Foster City Dog Park	Foster City	Artificial Turf + DG	
Cipriani Dog Park	Belmont	Dirt/DG	
Sanchez Dog Park	Pacifica	Dirt/DG	
Upper Douglas Dog Park	San Francisco	Grass + Dirt (comparable grass condition to Brisbane's however a much larger area and less concentrated use)	

Alemany Dog Park	San Francisco	Dirt/DG	
Main Street Dog Agility Park	Redwood City	Dirt/DG	
Smith Field Coastside Dog Park	Half Moon Bay	Wood Chips	
Mitchell Park Dog Park	Palo Alto	Dirt/DG	
Bair Island Dog Park	Redwood City	Artificial Turf	

Village Green Dog Park	Mountain View	Artificial Turf	
Willow Oaks Dog Park	Menlo Park	Grass + Dirt (grass is not maintained – worse condition)	
Golden Gate Park Dog Training Area	San Francisco	Dirt	
Rincon Hill Dog Park	San Francisco	DG	
Mission Bay Dog Park	San Francisco	DG + Artificial Turf	

Lafayette Park	San Francisco	Artificial Turf	
SoMa West Dog Park	San Francisco	Artificial Turf	
Moscone Dog Park	San Francisco	Artificial Turf	
Brotherhood Way Dog Park	San Francisco	DG	

TOTAL NUMBER OF PARKS ASSESSED: **24**

TOTAL NUMBER OF PARKS WITH ANY GRASS: **3**

File Attachments for Item:

L. Temporary shelter improvement for Lunch Truck at Park n Ride Site

CITY COUNCIL AGENDA REPORT

Meeting Date: September 17, 2020

From: City Manager

Subject: Brisbane Lunch Truck Patio Shelter

Community Goal/Result

Economic Development

Recommendation

Approve proposed temporary Shelter Patio addition at the Park N Ride site for Brisbane Lunch Truck.

Background

The City Council approved a lease with Kristi Yawata, Brisbane Lunch Truck, Inc. at the November 7, 2019 Council meeting.

Article 6.01 of the agreement requires pre-approval of site improvements by the Public Works Director. This request is for a temporary Patio Shelter over the area currently used for outdoor siting and dinning (COVID-19 conditioned).

The previous lessee placed a tent over this area that received mix reviews. This item is on Council agenda for review and approval In order to provide transparency. If the Council approves the structure will be subject to building department review and permit.

Financial Impact

There is no impact to the City by allowing for this structure. Earlier this year BLT was offered reduction of rent by 50% for 3 months (April, May and June). In June we renewed the reduction for the remainder of the calendar year. This was in direct response to COVID-19 impact on restaurant and food deliver business.

Attachment

1. Photograph of proposed temporary Shelter Patio addition

_____

Clay Holstine, City Manager

ATTACHMENT 1

Kristi
Brisbane Lunch Truck
415-660-6320
415-606-4602