CITY of BRISBANE

City Council Meeting Agenda

Thursday, July 18, 2024 at 7:30 PM ● Hybrid Meeting 50 Park Place, Brisbane, CA

The public may observe/participate in City Council meetings using remote public comment options or attending in person. City Council members shall attend in person unless remote participation is permitted by law. The City Council may take action on any item listed in the agenda.

TO ADDRESS THE COUNCIL

IN PERSON

Location: 50 Park Place, Brisbane, CA 94005, Community Meeting Room
Councilmember Lentz will participate by Teleconference at New Chitose Airport Business Service Facility Domestic 4F, Bibi, Chitose, Hokkaido Prefecture 066-0012

Masking is not required but according to the California Department of Public Health guidelines, people at higher risk for severe illness should consider masking. To help maintain public health and safety, we respectively request that people not attend in-person if they are experiencing symptoms associated with COVID-19 or are otherwise ill and likely contagious (e.g., respiratory illnesses).

To address the City Council on any item – whether on the posted agenda or not – please fill out a Request to Speak Form located in the Community Meeting Room Lobby and submit it to the City Clerk. Speakers are not required to submit their name or address.

REMOTE PARTICIPATION

Members of the public may participate in the City Council meeting by logging into the Zoom Webinar listed below. City Council meetings may also be viewed live and/or on-demand via the City's YouTube Channel, youtube.com/brisbaneca, or on Comcast Ch. 27. Archived videos may be replayed on the City's website, brisbaneca.org/meetings. Please be advised that if there are technological difficulties, the meeting will nevertheless continue if remote participation is available.

The agenda materials may be viewed online at brisbaneca.org at least 72 hours prior to a Regular Meeting, and at least 24 hours prior to a Special Meeting.

Remote Public Comments:
Remote meeting participants may address the City Council. We also encourage you to submit public comments in writing in advance of a meeting. Aside from commenting personally while in the Zoom Webinar, the following email and text line will be also monitored during the meeting and public comments received will be noted for the record during Oral Communications 1 and 2 or during an agenda item.

Email: ipadilla@brisbaneca.org or **Text:** (628) 219-2922
Join Zoom Webinar: zoom.us (please use the latest version: zoom.us/download)
brisbaneca.org/cc-zoom

Webinar ID: 991 9362 8666
Call In Number: 1 (669) 900-9128
Note: Callers dial *9 to "raise hand" and dial *6 to mute/unmute.

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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.

WRITINGS THAT ARE RECEIVED AFTER THE AGENDA HAS BEEN POSTED

Any writings that are received after the agenda has been posted but before 4pm of the day of the meeting will be available for public inspection at the front lobby in City Hall and on the internet (brisbaneca.org/meetings). Any writings that are received after 4pm of the day of the meeting will be available on the internet at the start of the meeting (brisbaneca.org/meetings), at which time the materials will be distributed to the Council.

7:30 P.M. CALL TO ORDER – PLEDGE OF ALLEGIANCE

ROLL CALL

A. Consider any request of a City Councilmember to attend the meeting remotely under the "Emergency Circumstances" of AB 2449

ADOPTION OF AGENDA

AWARDS AND PRESENTATIONS

B. Designating July as Parks and Recreation Month

C. Presenting Brisbane Marina Harbormaster Rehberg and Public Works Maintenance Worker Redfield with Lifesaving Commendation Award

ORAL COMMUNICATIONS NO. 1

CONSENT CALENDAR

D. Approve Minutes of City Council Closed Session Meeting of June 20, 2024

E. Approve Minutes of City Council Meeting of June 20, 2024

F. Accept Investment Report as of May 2024

G. Approve Annual Military Equipment Report per AB 481

H. Adopt a Resolution "Adopting the Countywide and City of Brisbane Local Roadway Safety Plan and accompanying Vision Zero Goal"

(This Resolution is exempt from CEQA because it is not a project (CCR Title 14 §15378 (b) (2))

I. Adoption of Urgency Ordinance amending the Brisbane Municipal Code sections concerning Electrical Vehicle Infrastructure and adding a new Chapter 15.83 Energy Performance Reach Code

(This Ordinance is categorically exempt from environmental review under CEQA Guidelines Section 15308, Actions by Regulatory Agencies for Protection of the Environment.)

J. Authorize City Manager to Solicit Proposal and Negotiate Sole-Source Contract from Good City Co. for 70 Old County Road Community Engagement and Planning Project

K. Authorize the City Manager to sign the Construction Agreement for Alvarado to San Benito Stairway Project

(This work is categorically exempt from CEQA per CCR Title 14 §15301.)

PUBLIC HEARING

L. City of Brisbane Local Stormwater Program Fees
1. Open the Public Hearing and take public comment. Close the Public Hearing, and if appropriate, overrule any objections to the imposition of fees related to the National Pollutant Discharge Elimination System (NPDES)

2. Consider adoption of a Resolution, "A Resolution of the City Council of the City of Brisbane Imposing Charges for Funding the Local Brisbane Stormwater Program, Authorizing Placement of Said Charges on the 2024-2025 County Tax Roll and Authorizing the County Tax Collector to Collect Such Charges."

M. Sierra Point Landscaping and Lighting District
1. Hear Statement of Engineer of Record, Read Mayor's Statement, Hear City Clerk Statement, Open Public Hearing to hear any testimony, Close Public Hearing

2. Consider adoption of Resolution overruling protests and ordering the improvements and confirming the diagram and assessments for Fiscal Year 24/25

CONTINUED PUBLIC HEARING

N. Consider Introducing an Ordinance Approving a Zoning Text and Map Amendment 2024-RZ-1, Overlay to R-1 Residential District and the R-BA Brisbane Acres Residential District in Entirety

(It is being recommended to introduce an ordinance approving a zoning text and map amendment 2024-RZ-1 amending regulations within Title 16 and 17 of the Brisbane Municipal Code to add the R-TUO residential two unit overlay district as new chapter 17.05 and related amendments; and finding that this project is exempt from

environmental review under CEQA Guidelines Sections 15061(b)(1) & (3), Section 15183. This item was continued from the City Council Meeting of June 6, 2024.)

O. Consider Introducing an Ordinance Approving a Zoning Text Amendment 2024-RZ-2, City-wide

(It is being recommended to introduce an ordinance approving omnibus zoning amendments to modify the development standards for multifamily and residential mixed use zoning districts consistent with California Senate Bill SB 478 ("housing opportunity act") and as provided in the 2023-2031 Housing Element; and finding that this project is exempt from environmental review under CEQA Guidelines Sections 15061(b)(3), Section 15183. This item was continued from the City Council Meeting of June 6, 2024.)

OLD BUSINESS

P. Consider Adoption of Resolution Approving an Agreement for the Purchase and Sale of Vacant City Property in Crocker Park (28,000 square feet +/-) and Authorizing the City Manager to Sign the Agreement and All Other Documents Necessary to Carry Out the Sale

(This action is not subject to further environmental review as it is not a project under the California Environmental Quality Act. CEQA Guidelines, Section 15378 (b) (4).)

Q. Election Issues
   i. Consider Adoption of a Resolution to Place on the November 5, 2024 Ballot an Ordinance To Establish Term Limits For City Council Members
   ii. Discuss whether to place on the November 5, 2024 Ballot an ordinance by which City Council will appoint the Mayor and the Mayor Pro Tempore

STAFF REPORTS

R. City Manager's Report on Upcoming Activities

MAYOR/COUNCIL MATTERS

S. Countywide Assignments and Subcommittee Reports

T. Written Communications

ORAL COMMUNICATIONS NO. 2

ADJOURNMENT

File Attachments for Item:

D. Approve Minutes of City Council Closed Session Meeting of June 20, 2024

BRISBANE CITY COUNCIL

ACTION MINUTES

BRISBANE CITY COUNCIL CLOSED SESSION MEETING

THURSDAY, JUNE 20, 2024

HYBRID MEETING, 50 PARK PLACE LARGE CONFERENCE ROOM, BRISBANE, CA

7:00 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 Towle and Towle, pursuant to Government Code, section 54956.95

E. CONFERENCE WITH LEGAL COUNSEL—PENDING LITIGATION
Government Code, Section 54956.9 (d) (1). Number of Cases: One
• City of Brisbane v. CA High-Speed Rail Authority (Superior Court of Sacramento County, Case No. 80004010)

Mayor O'Connell called the meeting to order at 7:03 P.M. Councilmember Davis made a motion, seconded by Councilmember Mackin, to approve the Closed Session Meeting agenda as it stands. The motion passed unanimously by all present.
Ayes: Councilmembers Davis, Lentz, Mackin, and Mayor O'Connell.
Noes: None
Absent: Councilmember Cunningham
Abstain: None

There was no public comment. Mayor O'Connell adjourned the meeting into Closed Session.

REPORT OUT OF CLOSED SESSION

Interim City Manager Holstine reported that Councilmembers took action on Liability Claim D. Councilmembers were also provided an update on the Pending Litigation Item E and direction was provided to staff.

ADJOURNMENT

The meeting was adjourned at 7:25 P.M.

_____
Ingrid Padilla, City Clerk

File Attachments for Item:

E. Approve Minutes of City Council Meeting of June 20, 2024

BRISBANE CITY COUNCIL

ACTION MINUTES

CITY COUNCIL MEETING AGENDA
THURSDAY, JUNE 20, 2024

HYBRID MEETING, 50 PARK PLACE, BRISBANE, CA 94005

7:30 P.M. CALL TO ORDER – PLEDGE OF ALLEGIANCE

Mayor O'Connell called the meeting to order at 7:44 P.M. and led the Pledge of Allegiance.

ROLL CALL

A. Consider any request of a City Councilmember to attend the meeting remotely under the "Emergency Circumstances" of AB 2449

No Councilmembers made a request under the Emergency Circumstances of AB 2449.

Councilmembers present: Councilmembers Davis, Lentz, Mackin, and Mayor O'Connell
Councilmembers absent: Councilmember Cunningham

Staff Present: Interim City Manager Holstine, City Clerk Padilla, City Attorney McMorrow, Finance Director Yuen, City Engineer Breault, Human Resources Director Partin, Assistant to the City Manager Cheung, Economic Development Director Bull, Police Commander Garcia, Police Chief Macias and Administrative Management Analyst Ibarra

REPORT OUT OF CLOSED SESSION

Interim City Manager Holstine reported that Councilmembers took action on Liability Claim D. Councilmembers were also provided an update on the Pending Litigation Item E and direction was provided to staff.

ADOPTION OF AGENDA

Councilmember Mackin made a motion, seconded by Councilmember Lentz, to adopt the agenda as it stands. The motion passed unanimously by all present.

Ayes: Councilmembers present: Councilmembers Davis, Lentz, Mackin, and Mayor O'Connell
Noes: None

Absent: Councilmember Cunningham
Abstain: None

AWARDS AND PRESENTATIONS

B. Recognize City Manager Clay Holstine for More than 25 Years of Service to the City of Brisbane

Mayor O'Connell and Councilmembers Cunningham (via her proxy Emmett Cunningham), Davis, Lentz, and Mackin read a City Proclamation recognizing Clay Holstine on his retirement from the City of Brisbane after nearly 26 years of service as City Manager.

After a brief break for reception and technical difficulties. The following members of the public recognized Clay Holstine for his service and leadership:

- Saúl Miranda, representing California State Senator Becker's Office and California State Assemblymember Papan's Office
- San Mateo County Supervisor David Canepa
- Stephanie Shakofsky, Baylands Development Inc.
- Michele Salmon
- Clarke Conway
- Sherry Smith
- Lee Panza
- Mitch Bull
- Prem Lall
- Ingrid Padilla

Councilmembers praised outgoing City Manager Holstine for his dedication to the City of Brisbane. Outgoing City Manager Holstine thanked his family, his mentors, City Staff, and all the Councilmembers he served under for their support.

ORAL COMMUNICATIONS NO. 1

Dana Dillworth commented on the need for more public information and outreach on the continued public hearing items from the City Council Meeting of June 6, 2024.

CONSENT CALENDAR

C. Approve Minutes of City Council Meeting of June 6, 2024

D. Approve Minutes of City Council Closed Session Meeting of June 6, 2024

E. Approve a Resolution Authorizing the Office of the Controller of the County of San Mateo to Place National Pollutant Discharge Elimination System Compliance Fees on Commercial Properties Within an Identified Study Area on the Property Tax Rolls

F. Adopt Resolution Calling a General Municipal Election to Be Held on Tuesday, November 5, 2024 and Adopting Procedures Pertaining to the Conduct and Administration Of Such Election Including Requesting the San Mateo County Clerk-Recorder to Provide Specified Election Services

G. Adopt an Ordinance, Waiving Second Reading, Amending Section 8.44.180 of the Brisbane Municipal Code Requiring That Tobacco Retailers Be Inspected At Least Twice Every 12 Months to Ensure They Are Complying with the Tobacco Retailer Permit Ordinance

Councilmember Mackin made a motion, seconded by Councilmember Lentz, to approve Consent Calendar Items C-G. The motion passed unanimously by all present.
Ayes: Councilmembers present: Councilmembers Davis, Lentz, Mackin, and Mayor O'Connell
Noes: None
Absent: Councilmember Cunningham
Abstain: None

NEW BUSINESS

H. Best Practices Ad Hoc Subcommittee Update

Interim City Manager Holstine reported that the Council appointed a subcommittee to work to draft a Best Practices Guideline. The subcommittee suggests that a resolution be drafted to memorialize a protocol regarding Councilmember best practices in interacting with land use and/or zoning applicants and that each council member be requested to sign the resolution to acknowledge and agree to these guidelines.

After Council questions, Michele Salmon made a comment on the need to have a true code of conduct between councilmembers and citizens and future developers.

During Council discussion, staff was directed to hold a future City Council workshop for best practices, research examples of Codes of Conduct for City Councilmembers from cities in San Mateo County and the Institute of Local Government and incorporate the Ethics Training as the foundation of Brisbane's Code of Conduct for City Councilmembers.

OLD BUSINESS

I. Election Issues Update

Interim City Manager reported the subcommittee, as an alternative to a directly elected Mayor, drafted language regarding Mayoral rotation. He added that the Council may adopt this language by resolution and/or refer it to the voters for ratification. The former could be amended by the City Council at any time through a revised resolution. The latter would require voter approval to change.

Secondly, he reported that the subcommittee met and is recommending that terms limits be submitted to the voters for approval. Term limits would be for 3 terms or 12 years maximum. If a Councilmember assumed a term that was not full, they would still be limited to 3 terms (which may be less than 12 years).
Once the 12-year, 3 term limit is met, a Councilmember will be required to have a 2-year break, at which

time they could run again and be limited to the 12 years, 3 term limit. By function of law the commencement of the 12 years, 3 term limit comes into effect after voter approval of term limits. Any terms prior to that time do not count against the limit.

After Council questions, the following members of the public made comments:
Nancy Lacsamana commented on the need for citizens to weigh in on the important issues of term limits and elections by district.
Paul Bouscal commented that the voters should have a say on term limits.
Michele Salmon advocated for no elected mayor and no districts.
CMF was concerned that the electorate is not involved.
Sher Gianini (sent via text and read by City Clerk Padilla) commented that district based elections is not needed in our small town.
Dana Dillworth agreed with the term limits, but not to district based elections. She also commented that mayor rotation should be tied to code of ethics.

Councilmember Davis made a motion, seconded by Councilmember Lentz, to extend the meeting until 11:00 p.m. The motion passed unanimously by all present.

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

During Council discussion, City Staff members were directed to bring back to a Council Meeting an amended language for the Ballot Measure for Term Limits. Councilmembers wanted to change the language from 3 terms or 12 years maximum to full three-year terms. Councilmembers also directed staff to bring back the Mayoral rotation issue to a future meeting but in the context of being tied to the code of ethics.

Lastly, Interim City Manager reported that the subcommittee met with our demographer Douglas Johnson of NDC on June 6th for his report. This issue will be a lengthier process. Some of the key findings included the following:
• 37% of total population is Asian/Pacific Islander.
• 18% of total population is Hispanic/Latino.
• Asian-American and Pacific Islander population is concentrated in the west side of the city, off West Hill Drive. Locally we refer to this area as the Northeast Ridge.
• There are no large geographic concentrations of Latino.

After council questions, the following members made public comment:

Nancy Lacsamana commented that it is important that we continue this process.
Michele Salmon wanted to know the criteria of the demographer and commented that district-based elections is divisive.

STAFF REPORTS

J. City Manager's Report on Upcoming Activities

Interim City Manager reported on the latest City news and events.

MAYOR/COUNCIL MATTERS

K. Countywide Assignments and Subcommittee Reports

Councilmembers reported on their countywide assignments and subcommittee meetings.

L. Written Communications

Councilmembers received the following written communication between June 7 through June 20, 2024:

Molina (06-13-2024) District
SMCGOV (06-13-2024) Tobacco Prevention Program
Dillworth (06-20-2024) Election Issue

ORAL COMMUNICATIONS NO. 2

No member of the public wished to make public comment.

ADJOURNMENT

Mayor O'Connell adjourned the meeting at10:55 p.m.

_____
Ingrid Padilla
City Clerk

File Attachments for Item:

F. Accept Investment Report as of May 2024

CITY OF BRISBANE
CASH BALANCES & INVESTMENTS
SOURCE OF FUNDING
May 31, 2024

NAME OF DEPOSITORY	INVESTMENT TYPE	DATE OF INVESTMENT	FACE VALUE OF INVESTMENT	CARRY VALUE OF INVESTMENT	MARKET VALUE OF INVESTMENT	COUPON INTEREST RATE %	MATURITY DATE	RATING/ COLLATERAL
WELLS FARGO	Checking A/C		$ 3,208,069	$ 3,208,069	$ 3,945,095	0.000		110% collateral
STATE FUND (LAIF)	Deposit on call	continuous	$ 1,580,260	$ 1,580,260	$ 1,580,260	4.300	on call	no rating
Other Investments								
	FHLB	7/26/2022	$ 1,000,000	$ 1,000,000	$ 996,950	3.350	07/26/2024	
	Wells Fargo Bank	9/23/2022	$ 250,000	$ 250,000	$ 248,641	3.750	09/23/2024	
	American Express	9/21/2022	$ 250,000	$ 250,000	$ 248,608	3.750	09/24/2024	
	FHLB	12/31/2021	$ 1,000,000	$ 1,000,000	$ 985,510	1.000	09/30/2024	
	FHLM	12/13/2022	$ 1,000,000	$ 1,000,000	$ 997,970	5.140	12/13/2024	
	FHLB	3/24/2022	$ 1,000,000	$ 1,000,000	$ 974,310	2.000	03/24/2025	
	FHLB	4/22/2022	$ 1,000,000	$ 1,000,000	$ 977,560	2.750	04/22/2025	
	FHLB	7/28/2022	$ 1,000,000	$ 1,000,000	$ 988,710	4.050	07/28/2025	
	FHLB	12/31/2021	$ 1,000,000	$ 1,000,000	$ 952,190	1.300	09/30/2025	
	FHLB	10/27/2022	$ 1,000,000	$ 1,000,000	$ 997,720	4.750	10/27/2025	
	FFCB	9/12/2022	$ 1,000,000	$ 1,000,000	$ 983,740	4.125	12/12/2025	
	FHLM	9/29/2022	$ 1,000,000	$ 1,000,000	$ 980,390	4.150	09/29/2026	
	FHLM	10/30/2023	$ 1,000,000	$ 1,000,000	$ 999,030	5.550	10/30/2026	
	FFCB	12/1/2023	$ 1,000,000	$ 1,000,000	$ 998,310	5.060	12/01/2026	
	FHLB	3/25/2022	$ 1,000,000	$ 1,000,000	$ 940,670	2.600	03/25/2027	
	FHLB	5/26/2022	$ 1,000,000	$ 1,000,000	$ 984,460	4.000	05/26/2027	
	FHLB	5/26/2022	$ 1,000,000	$ 1,000,000	$ 968,860	3.750	05/26/2027	
	FHLB	9/30/2022	$ 1,000,000	$ 1,000,000	$ 993,660	5.000	09/30/2027	
BNY Mellon	Treasury Obligations	continuous	$ 8,886,856	$ 8,886,856	$ 8,886,856	5.230	on call	110% collateral
Sub-total			$ 25,386,856	$ 25,386,856	$ 25,104,144			
U.S. Bank	2014 BGPGA Bond (330)	Improvements	Fed Treas Obl	$ -	*10031*			
		Reserve Fund	Fed Treas Obl	$ 1	*10032*			
		Revenue Fund	Fed Treas Obl	$ 1	*10034*			
		Expense Fund	Fed Treas Obl	$ -	*10035*			
		Principal	Fed Treas Obl	$ 1	*10036*			
		Interest Fund	Fed Treas Obl	$ 0	*10037*			
U.S. Bank	2015 Utility Capital (545)	Improvements	Fed Treas Obl	$ -	*10031*			
		Reserve	Fed Treas Obl	$ 105	*10032*			
		Expense Fund	Fed Treas Obl	$ -	*10035*			
BNY Mellon	2023 BGVMIDFA Bond (328)	Improvements	Fed Treas Obl	$ 33	*10031*			
		Reserve / Project	Fed Treas Obl	$ 4,174,770	*10032*			
		Expense Fund	Fed Treas Obl	$ -	*10035*			
		Principal	Fed Treas Obl	$ -	*10036*			
		Interest Fund	Fed Treas Obl	$ -	*10037*			
PARS	OPEB Trust	Trust Cash	Investments	$ 4,104,010	*13050*			
PARS	Retirement Trust	Trust Cash	Investments	$ 1,595,942	*13050*			
Sub-total	Cash with Fiscal Agents			**$ 9,874,862**				
Total other investments			$ 35,261,718	**$ 35,261,718**	$ 25,104,144			
TOTAL INVESTMENTS & CASH BALANCES			$ 40,050,047	$ 40,050,047	$ 30,629,499			

Outstanding Loans to Department Heads

	Date of loan	Amount	Amount Remaining	Interest Rate
Stuart Schillinger	**4/1/2002**	**318,750**	**$ 318,750**	**Variable, LAIF + 1%**

FFCB - Federal Farm Credit Bank
FHLB - Federal Home Loan Bank
FHLM - Federal Home Loan Mortage Corporation
FNMA -Federal National Mortgage Association

Two year Treasury	4.89%	
Weighted Interest	3.77%	
Weighted maturity	1.14	Years

TREASURER'S CERTIFICATE

These are all the securities in which the city funds, including all trust funds and oversight agencies funds, are invested and that (excluding approved deferred compensation plans) all these investments are in securities as permitted by adopted city policy.

It is also certified that enough liquid resources (including maturities and anticipated revenues) are available to meet the next six months' cash flow.

Carolina Yuen

CITY TREASURER

File Attachments for Item:

G. Approve Annual Military Equipment Report per AB 481

CITY COUNCIL AGENDA REPORT

Meeting Date: July 18, 2024

From: Lisa Macias, Police Chief

Subject: Approve the Annual Military Equipment Report per California Assembly Bill 481

Recommendation:
City Council approve the Annual Military Equipment Report per California Assembly Bill 481.

Background:
On September 30, 2021, Assembly Bill 481 (AB481) was codified in Government Code Sections 7070-7075, requiring the governing body of law enforcement to adopt a "Military Equipment Use:" policy. The Brisbane Police Department presented a policy to the City Council, which was adopted by ordinance on March 3, 2022.

AB481 also requires law enforcement agencies to prepare an annual report containing information for the preceding year. Staff has prepared a Military Equipment Annual Report (Attachment 1) which summarizes the required information including a description of the purpose of the equipment and how it was used; any complaint received; the results of any internal audits; the cost of the equipment possessed, and if the agency intends to acquire additional equipment in the next year.

Discussion:
To meet the requirements of the Report pursuant to AB 481, a review was conducted of the Brisbane Police Department's military equipment policy. The Brisbane Police Department does not possess any tactical equipment that it has obtained from the military, nor does it possess any equipment that was designed for military use.

During the calendar year of 2023, no complaints related to military equipment were received by the Police Department. The Department conducted an internal audit and determined that there were no violations of the military equipment use policy. No new items of military equipment were acquired in the last year.

Fiscal Impact:
There is no fiscal impact associated with this action.

Attachments:
Military Equipment Report

Lisa Macias

Lisa Macias, Chief of Police

Jeremy Dennis, City Manager

Attachment 1

MILITARY EQUIPMENT INVENTORY 2023

Qualifying Equipment / Owned by the Brisbane Police Department:

Equipment Name: Remington 870 Police Less Lethal Launchers and Kinetic Energy Munitions - CA Gov't Code §7070(c)(14)	
Quantity Owned/Sought: 1 owned	**Lifespan:** Approximately 15 years
Equipment Capabilities: The Less Lethal Remington 870 launcher is capable of firing 12 GA drag stabilized Impact Munitions, which are made a cotton material blend.	
Manufacturer Product Description: The Remington 870 is a single shot pump action shot gun that has the capability of deploying a 12 ga cotton blend impact projectile. The Remington 870 less lethal has been fitted with an orange stock to distinguish it to be a less lethal tool.	
Purpose/Authorized Uses: The Remington 870 Impact Munition are intended for use as a less lethal use of force option.	
Fiscal Impacts: The initial cost of this equipment was approximately $500.00. The ongoing costs for munitions will vary and maintenance is conducted by departmental staff.	
Legal/Procedural Rules Governing Use: All applicable State, Federal and Local laws governing police use of force. Various Brisbane Police Department Policies on Use of Force and Crowd Control.	
Training Required: Officers must complete a department certified less lethal course as well as regular training and qualifications as required by law and policy.	
Other Notes: None.	

Qualifying Equipment known to be owned and/or utilized by law enforcement units with which the Brisbane Police Department collaborates and/or participates for law enforcement purposes

Equipment Name: Wheeled vehicles that have a breaching apparatus attached - CA Gov't Code §7070(c)(3)	
Quantity Owned/Sought: None (outside owned)	**Lifespan:** Unknown.
Equipment Capabilities: Capable of breaching doors, gates, and other points of entry.	
Manufacturer Product Description: Unavailable.	
Purpose/Authorized Uses: Breaching doors, gates, and other points of entry.	
Fiscal Impacts: None. Equipment owned, maintained, and operated by another agency.	
Legal/Procedural Rules Governing Use: Breaching vehicles can be deployed any time tactical operators determine that it is necessary to complete a lawful breaching. For a breaching to be lawful, it will generally need to be supported by a search or arrest warrant, or exigent circumstances.	
Training Required: The North County Regional SWAT Team provides internal training for staff members prior to allowing them to drive breaching vehicles.	
Other Notes: The Brisbane Police Department participates in the North County Regional SWAT Team (NCR SWAT). This equipment is owned and operated by NCR SWAT through the San Mateo Police Department. While the Brisbane Police Department does not own or operate this equipment, it could be used in Brisbane by NCR SWAT if they are deployed to an incident within city limits.	

Equipment Name: Battering rams, slugs, and breaching apparatus that are explosive in nature - CA Gov't Code §7070(c)(7)	
Quantity Owned/Sought: None (outside owned)	**Lifespan:** Unknown.
Equipment Capabilities: Capable of breaching doors, gates, windows, and other points of entry.	
Manufacturer Product Description: Unavailable.	
Purpose/Authorized Uses: Breaching doors, gates, windows, and other points of entry.	
Fiscal Impacts: None. Equipment owned, maintained, and operated by another agency.	
Legal/Procedural Rules Governing Use: Breaching apparatus that are explosive in nature can be deployed any time tactical operators determine that it is necessary to complete a lawful breaching, and non-explosive breaching methods are not tactically practicable. For a breaching to be lawful, it will generally need to be supported by a search or arrest warrant, or exigent circumstances.	
Training Required: The North County Regional SWAT Team provides internal training for staff members prior to allowing them to use explosive breaching apparatus.	
Other Notes: The Brisbane Police Department participates in the North County Regional SWAT Team (NCR SWAT). This equipment is owned and operated by NCR SWAT through the San Mateo Police Department. While the Brisbane Police Department does not own or operate this equipment, it could be used in Brisbane by NCR SWAT if they are deployed to an incident within city limits.	

Equipment Name: Flashbang grenades, explosive breaching tools, tear gas and pepper balls - CA Gov't Code §7070(c)(12)
Quantity Owned/Sought: None (outside owned) | **Lifespan:** Unknown.
Equipment Capabilities: Capable of breaching doors, gates, windows, and other points of entry, creating explosive distractions, and/or deploying tear gas or pepper chemical.
Manufacturer Product Description: Unavailable.
Purpose/Authorized Uses: breaching doors, gates, windows, and other points of entry, creating explosive distractions, and/or deploying tear gas or pepper chemicals.
Fiscal Impacts: None. Equipment owned, maintained, and operated by another agency.
Legal/Procedural Rules Governing Use: Breaching apparatus that are explosive in nature can be deployed any time tactical operators determine that it is necessary to complete a lawful breaching, and non-explosive breaching methods are not tactically practicable. For a breaching to be lawful, it will generally need to be supported by a search or arrest warrant, or exigent circumstances. Tear gas and pepper balls can only be deployed in accordance with all applicable State, Federal and Local laws governing police use of force, crowd control, etc.
Training Required: The North County Regional SWAT Team provides internal training for staff members prior to allowing them to use any of these items.
Other Notes: The Brisbane Police Department participates in the North County Regional SWAT Team (NCR SWAT). This equipment is owned and operated by NCR SWAT through the San Mateo Police Department. While the Brisbane Police Department does not own or operate this equipment, it could be used in Brisbane by NCR SWAT if they are deployed to an incident within city limits.

Equipment Name: Long Range Acoustic Device (LRAD) - CA Gov't Code §7070(c)(13)
Quantity Owned/Sought: None (outside owned). | **Lifespan:** Unknown.
Equipment Capabilities: LRAD systems are a type of Acoustic Hailing Device (AHD) used to send messages over long distances. LRAD systems produce much higher sound levels (volume) than normal loudspeakers or megaphones. Over shorter distances, LRAD signals are loud enough to cause pain in the ears of people in their path.
Manufacturer Product Description: LRAD systems are a type of Acoustic Hailing Device (AHD) used to send messages over long distances. LRAD systems produce much higher sound levels (volume) than normal loudspeakers or megaphones. Over shorter distances, LRAD signals are loud enough to cause pain in the ears of people in their path.
Purpose/Authorized Uses: Can be used to disperse unlawful crowds and/or to disrupt the activities of person(s) who represent an immediate threat to others.
Fiscal Impacts: None. Equipment owned, maintained, and operated by another agency.
Legal/Procedural Rules Governing Use: LRADs can only be deployed in accordance with all applicable State, Federal and Local laws governing police use of force, crowd control, etc.
Training Required: The North County Regional SWAT Team provides internal training for staff members prior to allowing them to use any of these items.
Other Notes: The Brisbane Police Department participates in the North County Regional SWAT Team (NCR SWAT). This equipment is owned and operated by NCR SWAT through the San Mateo Police Department. While the Brisbane Police Department does not own or operate this equipment, it could be used in Brisbane by NCR SWAT if they are deployed to an incident within city limits.

File Attachments for Item:

H. Adopt a Resolution “Adopting the Countywide and City of Brisbane Local Roadway Safety Plan and accompanying Vision Zero Goal”

(This Resolution is exempt from CEQA because it is not a project (CCR Title 14 §15378 (b) (2))

CITY COUNCIL AGENDA REPORT

Meeting Date: July 18, 2024

From: Karen Kinser, Deputy Director of Public Works

Subject: Resolution to Adopt a Local Roadway Safety Plan and accompanying Vision Zero Goal

This Resolution is exempt from CEQA because it is not a project (CCR Title 14 §15378 (b) (2)).

Community Goal/Result

Safe Community

Purpose

To align with San Mateo City/County Association of Governments (C/CAG) in adopting a Local Roadway Safety Plan and accompanying Vision Zero Goal; this action is consistent with the community's goal that residents and visitors experience a sense of safety.

Recommendation

Adopt a resolution "Adopting the Countywide and City of Brisbane Local Roadway Safety Plan and accompanying Vision Zero Goal".

Background

A Local Roadway Safety Plan (LRSP) identifies and systematically analyzes roadway safety needs and develops a prioritized list of safety countermeasures. An LRSP offers a proactive approach to addressing safety needs and demonstrates an agency's responsiveness to safety challenges through local agency partnerships and collaboration. The completion and adoption of the countywide LRSP renders jurisdictions in the County eligible for grant funding from the Metropolitan Transportation Commission (MTC) OBAG 3 County & Local Program, and future funding for the Federal Highway Administration (FHWA) Highway Safety Improvement Program and US Department of Transportation Safe Streets for All (SS4A).

C/CAG has recommended, upon their adoption on June 13th, that local jurisdictions adopt the attached local resolution cosigning the Countywide LRSP, noting agreement with the vision/goals, countywide High Injury Network, prioritization method, and relevant proposed actions that pertain to local agencies. This serves as an interim measure to meet grant requirements.

Discussion

Together, C/CAG, its 21 local jurisdictions, and partner agencies will work to:

- Identify safety improvements, strategies, and programs using the Safe System Approach to eliminate fatalities and severe injuries on local roads.

• Enhance the existing roadway network in a cost-effective manner that promotes traffic safety and social equity, meets the needs of the community, and enriches the lives of residents.

• Promote a culture across agencies and communities that puts roadway safety first in all actions.

C/CAG will lead, coordinate, and support each of its 21 local jurisdictions in achieving their respective vision and goals to reduce or eliminate fatalities and severe injury crashes across all public roadways.

Fiscal Impact

There is no fiscal impact at this time. Minor recommended improvements can be implemented using the city's operating budget. Any larger capital improvements requiring direct funding or grant match funds will be brought back to Council for approval.

Measure of Success

Adoption of a Local Roadway Safety Plan

Environmental Review

Adoption of this resolution does not need further environmental review under the California Environmental Quality Act (CEQA) as it is general policy and procedure making not applied to a specific instance and therefore it is not a "project"(California Code of Regulations, Title 14, Division 6, Chapter 3, Article 20, §15378 (b) (2)).

Attachments

1. Proposed Resolution
2. C/CAG Local Roadway Safety plan (linked)
3. City of Brisbane Appendix to County LRSP

Karen Kinser, Deputy Director of Public Works

Randy Breault, Director of Public Works

Jeremy Dennis, City Manager

RESOLUTION NO. 2024 - xx

RESOLUTION ADOPTING THE COUNTYWIDE AND CITY OF BRISBANE LOCAL ROADWAY SAFETY PLAN AND ACCOMPANYING VISION ZERO GOAL

WHEREAS, according to data from the California Strategic Highway Safety Plan, 17,317 people have been killed in traffic collisions in California from 2013 through 2017, for an average of 9.5 people per day; and

WHEREAS, from 2018 to 2022, a reported 12 crashes resulted in severe, life-changing injuries on non-freeway roadways in the City of Brisbane, an average of 2 per year; and

WHEREAS, vehicle collisions can be significantly reduced through roadway safety planning, and the City of Brisbane is dedicated to strategies that aim to reduce and eliminate deaths and serious injuries on streets in all jurisdictions countywide; and

WHEREAS, seniors, children, people of color, people with disabilities, people in low-income communities, people walking, and people bicycling face a disproportionate risk of traffic injuries and fatalities; and

WHEREAS, the City of Brisbane Local Roadway Safety Plan (LRSP) identifies pedestrian and bicyclist safety, nighttime/low light safety, unsignalized intersections on arterial/collector roadways, safety for youth and aging populations, speed-related roadway crashes, roadways with posted speeds of 35 mph or higher, and impaired driving as emphasis areas for safety improvement; and

WHEREAS, Vision Zero is a public health-based traffic safety strategy to reduce and eventually eliminate traffic deaths and serious injuries using a data-driven, multi- disciplinary, and Safe System approach that also increases safe, healthy, equitable mobility for all; and

WHEREAS, the Safe System Approach recognizes that while human error will always occur, a system of redundant engineering and non-engineering solutions can reduce crashes and can prevent crashes from causing death or severe injuries; and

WHEREAS, the Federal Highway Administration has made a commitment to eliminating fatalities and serious injuries on the nation's roadways using a Safe System approach to achieve the goals of Vision Zero; and

WHEREAS, the Federal Highway Administration and the State Department of Transportation (Caltrans) grant funding for improving safety requires the preparation and implementation of a systematic approach to improve safety as presented in the Countywide and City of Brisbane LRSP (Exhibit A); and

WHEREAS, Caltrans has adopted the goal of moving “toward zero deaths” by incorporating the Safe System Approach and using proven effective strategies and countermeasures; and

WHEREAS, the Metropolitan Transportation Commission (MTC) passed a Vision Zero policy in 2020 that identified actions to support agencies like the City of Brisbane; and

NOW, THEREFORE, BE IT RESOLVED, that the City of Brisbane adopts Vision Zero as its guiding principle for transportation planning, in conjunction with the City/County Association of Governments of San Mateo County ("C/CAG") adopting this vision at the County level; and

BE IT FURTHER RESOLVED, that the City of Brisbane shall pursue the recommended near-and long-term policy, program, and guidelines recommendations identified in the LRSP, with the overriding goal of eliminating traffic-related fatalities and serious injuries; and

BE IT FURTHER RESOLVED, that the City of Brisbane shall refer to the prioritized locations in the Countywide and the City of Brisbane LRSP sections when considering safety improvements, which locations were prioritized including considerations of social equity; and

BE IT FURTHER RESOLVED, that the City of Brisbane shall participate in an inter-jurisdictional Transportation Safety Advisory Committee (TSAC) led by C/CAG, to include staff from constituent jurisdictions along with partner agencies identified in the LRSP; and which will be used to implement the LRSP and integrate the Safe System approach into all aspects of transportation planning and engineering; and

BE IT FURTHER RESOLVED, that the City of Brisbane adopts the Countywide Local Roadway Safety Plan and the City of Brisbane Local Roadway Safety Plan Appendix thereto that summarizes specific recommendations and action items to be taken by the City of Brisbane and partner agencies that will address the listed emphasis areas; and

BE IT FURTHER RESOLVED, that the LRSP will be implemented in an equitable manner, accounting for historic inequities in transportation and safety investments across the county; and

BE IT FURTHER RESOLVED, that the City of Brisbane shall develop an annual update and a 3-5 year report on progress toward the Vision Zero goals, tracking process and outcome metrics, and shall present these updates to the City Council.

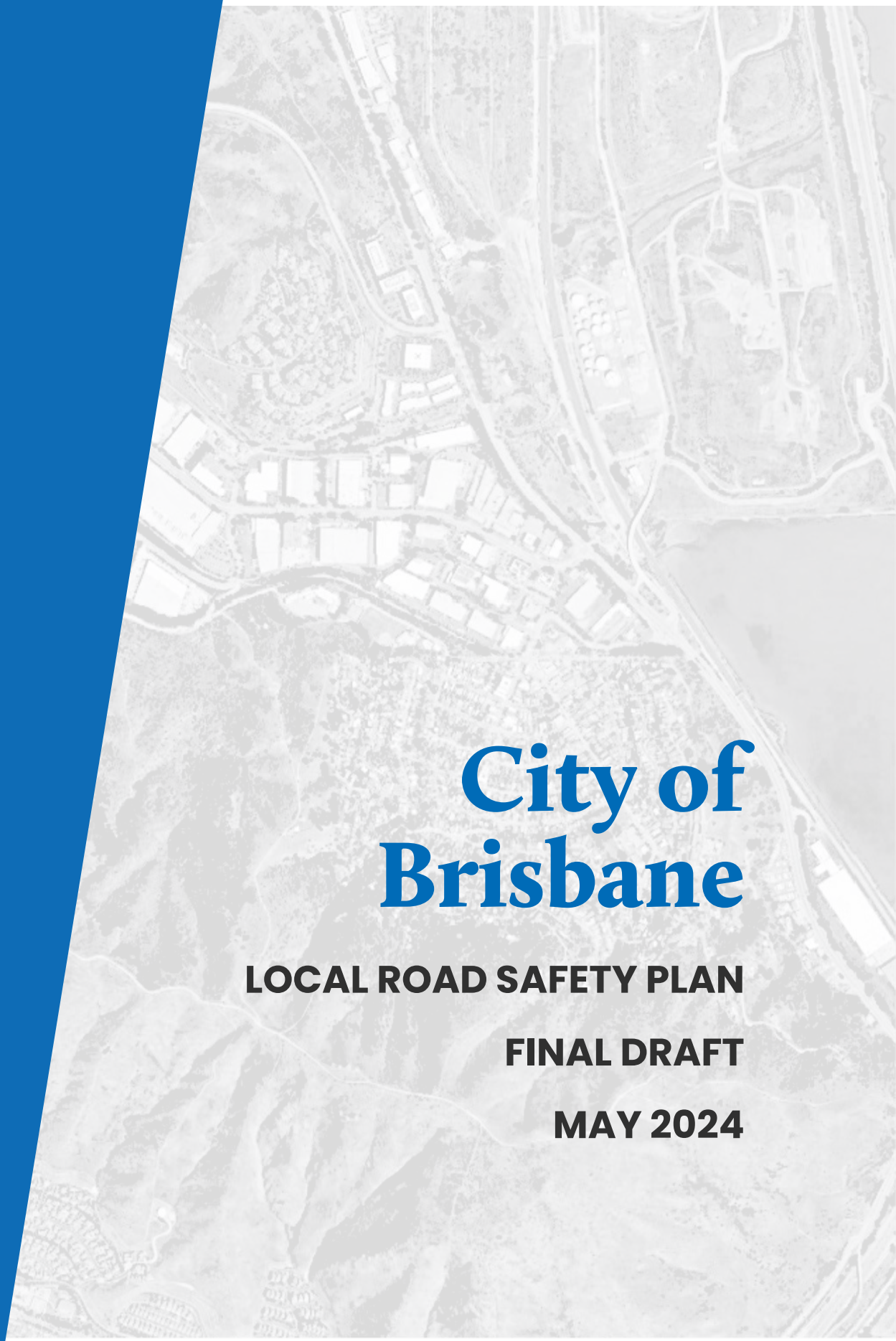
_____
Terry O'Connell, Mayor
City of Brisbane

* * * *

I, the undersigned, hereby certify that the foregoing Resolution No. 2024-xx was adopted at a regular meeting of the City Council of the City of Brisbane on the 18th day of July, 2024 by the following vote:

AYES:
NOES:
ABSENT:

_____
Ingrid Padilla, City Clerk
City of Brisbane



City of Brisbane

LOCAL ROAD SAFETY PLAN

FINAL DRAFT

MAY 2024

ACKNOWLEDGMENTS

C/CAG Project Management Team

Jeff Lacap

Eva Gaye

Advisory Group Members

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Tracy Scramaglia, City of Belmont

Karen Kinser, City of Brisbane

Tomas Santoyo, City of Brisbane

Andrew Wong, City of Burlingame

Abdulkader Hashem, Town of Colma

Richard Chiu, Jr.; City of Daly City

Irene Chiu, City of East Palo Alto

Humza Javed, City of East Palo Alto

Anwar Mirza, City of East Palo Alto

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Francine Magno, City of Foster City

Amy Zhou, City of Foster City

Maz Bozorginia, City of Half Moon Bay

Jonathan Woo, City of Half Moon Bay

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Matthew Hui, City of Menlo Park

Sam Bautista, City of Millbrae

Lisa Peterson, City of Pacifica

Howard Young, Town of Portola Valley

Malahat Owrang, City of Redwood City

Hae Won, City of San Bruno

Harry Yip, City of San Bruno

Hanieh Houshmandi, City of San Carlos

Steven Machida, City of San Carlos

Bethany Lopez, City of San Mateo

Azalea Mitch, City of San Mateo

Jeff Chou, City of South San Francisco

Matthew Ruble, City of South San Francisco

Yazdan Emrani, Town of Woodside

Sindhi Mekala, Town of Woodside

Diana Shu, County of San Mateo

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Mackenzie Crouch, California Highway Patrol

Greg Currey, Caltrans

Joel Slavit, County of San Mateo Sustainability Department

Bryan Redmond, Metropolitan Transportation Commission

Jessica Manzi, SamTrans

Theresa Vallez-Kelly, San Mateo County Office of Education

Liz Sanchez, San Mateo County Health

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Rebecca Sanders

Brian Almdale

CIRCLEPOINT

Stacey Miller

Ivy Morrison

GLOSSARY OF TERMS

Countermeasures are engineering infrastructure improvements that can be implemented to reduce the risk of collisions.

Emphasis Areas represent types of roadway users, locations, or collisions with safety issues identified based on local trends that merit special focus in the City's approach to reducing fatal and severe injury collisions.

Local Roadway Safety Plans, or LRSPs, are documents that provide local-level assessments of roadway safety and identify locations and strategies to improve safety on local roadways.

Crash Severity is defined by the guidelines established by the Model Minimum Uniform Crash Criteria (MMUCC, Fifth Edition) and is a functional measure of the injury severity for any person involved in the crash.

- **Fatal Collision [K]** is death because of an injury sustained in a collision or an injury resulting in death within 30 days of the collision.
- **Severe Injury [A]** is an injury other than a fatal injury which results in broken bones, dislocated or distorted limbs, severe lacerations, or unconsciousness at or when taken from the collision scene. It does not include minor laceration.
- **Other Visible Injury [B]** includes bruises (discolored or swollen); places where the body has received a blow (black eyes and bloody noses); and abrasions (areas of the skin where the surface is roughened or blotchy by scratching or rubbing which includes skinned shins, knuckles, knees, and elbows).
- **Complaint of Pain [C]** classification could contain authentic internal or other non-visible injuries and fraudulent claims of injury. This includes: 1. Persons who seem dazed, confused, or incoherent (unless such behavior can be attributed to intoxication, extreme age, illness, or mental infirmities). 2. Persons who are limping but do not have visible injuries; 3. Any person who is known to have been unconscious because of the collision, although it appears he/she has recovered; 4. People who say they want to be listed as injured do not appear to be so.
- **Property Damage Only [O]** Collision is a noninjury motor vehicle traffic collision which results in property damage.

Highway Safety Improvement Program (HSIP) is one of the nation's core federal-aid programs. Caltrans administers HSIP funds in the state of California and splits the state share of HSIP funds between State HSIP (for state highways) and local HSIP (for local roads). The latter is administered through a call for projects biennially.

Primary Collision Factors (PCFs) convey the violation or underlying causal factor for a collision. Although there are often multiple causal factors, a reporting officer at the scene of a collision indicates a single relevant PCF related to a California Vehicle Code violation.

Safe Streets for All (SS4A) is a federal discretionary grant program created by the 2021 Bipartisan Infrastructure Law with $5 billion in appropriated funds for 2022 through 2026.

Safe System Approach is a layered method for roadway safety promoted by the FHWA. This approach uses redundancies to anticipate mistakes and minimize injury. For more, visit https://safety.fhwa.dot.gov/zerodeaths/docs/FHWA_SafeSystem_Brochure_V9_508_200717.pdf.

Safety Partners are agencies, government bodies, businesses, and community groups that the City can work with to plan, promote, and implement safety projects.

Strategies are non-engineering tools that can help address road user behavior, improve emergency services, and build a culture of safety.

Systemic safety defines an analysis and improvement approach based on roadway and environmental factors correlated with crash risk (rather than targeting locations solely on documented crash history). The approach takes a broad view to evaluate risk across an entire roadway system.

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INTRODUCTION

This chapter serves as a standalone local roadway safety plan (LRSP) for the City of Brisbane. It was developed concurrently with the Countywide LRSP; therefore, some discussion will refer back to the Countywide LRSP to avoid redundancy.

However, because every community has unique safety challenges, this LRSP includes individually tailored emphasis areas, crash trends, prioritized project lists, project scope recommendations, Safe System-aligned recommendations, and implementation/monitoring recommendations. A living document, this LRSP is designed to be flexible and responsive to evolving community needs. The City will revisit and update this LRSP at least every five years.

The City of Brisbane has a 2023 population of 4,648 per California Department of Finance. The city has 26 total centerline miles per Caltrans 2022 California Public Road Data. From 2018 through 2022, there were 69 reported crashes on surface streets in the City and 12 fatal/severe injury crashes. In that time period, pedestrians were involved in 12 percent of all reported crashes and 50 percent of fatal/severe injury crashes. Bicyclists were involved in 7 percent of all reported crashes and 17 percent of fatal/severe injury crashes. The LRSP provides Safe System-aligned strategies tailored to Brisbane's crash history and local priorities, as well as performance measures to evaluate progress.

This LRSP was informed by technical analysis as well as from input from key stakeholders and the general public. The following sections describe the plan development and recommendations.

Contents

This LRSP provides the following:

- A vision and associated goals
- Crash data and trends
- Engagement and coordination activities
- Prioritized projects and social equity considerations
- Policies, plans, guidelines and standards
- Safe System – aligned recommendations
- Implementation and tracking

Upon Council adoption and affirmation of the plan's vision and goals in 2024, this plan will be posted online by the City for public viewing.

VISION & GOALS

The City of Brisbane's vision for roadway safety is:

- Reduce fatal and severe injury crashes to zero by 2040.
- Promote a culture of roadway safety in Brisbane's departments, businesses, and residents.

To support this vision, the City has established the following goals:

1. Work with Brisbane Police Department to review crash history and community needs on a semi-annual basis to identify and prioritize opportunities to reduce crash risk for roadway users of all ages and abilities.
2. Utilize existing plans, such as the Brisbane Bicycle and Pedestrian Master Plan, to implement safety countermeasures systemically and as part of all projects to target emphasis areas and underserved communities
3. Provide opportunities for community engagement to identify issues and inform safety solutions across the community.
4. Embrace the Safe System approach to promote engineering and non-engineering strategies in the community.
5. Identify opportunities to incorporate social equity into safety improvements.
6. Monitor implementation of the Brisbane LRSP to track progress towards goals.

PLAN DEVELOPMENT

Existing Safety Efforts

This LRSP relies on Brisbane's solid foundation of plans, policies, and programs that support safe, equitable mobility in the city. For a list of the City of Brisbane's existing initiatives and ongoing efforts to build a Safe System, see Table 1:

Table 1. City of Brisbane Safety Policies, Plans, Guidelines, Standards, and Programs

Program Name	Program Description	Safe System Elements
San Mateo C/CAG Safe Routes to School (SR2S) Program Guide	The SR2S program works to make it easier and safer for students to walk and bike to school. C/CAG partners with the County Office of Education to increase biking and walking and safe travel to school. Annual reports summarize schools' participation.	Safe Roads Safe Speeds Safe Road Users
2017 Bicycle Pedestrian Master Plan	The key goals of the plan are to support efforts to increase the rate of walking and bicycling, as well as to support adopted policies that are aimed at providing complete streets.	Safe Roads, Safe Speeds, Safe Road Users

Program Name	Program Description	Safe System Elements
Complete Streets Safety Committee	This citizen council advises the City Council on issues of roadway safety and Complete Streets development.	Safe Roads, Safe Speeds, Safe Road Users, Safe Vehicles
Complete Streets Policy	The City's commitment to creating and maintaining Complete Streets that provide safe, comfortable, and convenient travel for all users.	Safe Roads, Safe Road Users, Safe Speeds, Post-Crash Care, Safe Vehicles
SafeTREC Complete Streets Safety Assessment	The Complete Streets Safety Assessment, offered through the National Highway Traffic Safety Administration, saw a team of safety experts conduct a study for roadway safety in the City. The assessment included a phone consultation and field study, and concluded with a summary of findings and suggestions for roadway focus areas.	Safe Roads, Safe Road Users, Safe Speeds, Post-Crash Care, Safe Vehicles

Safety Partners

A variety of agency staff and community partners were involved throughout the development of this LRSP and played an integral role in identifying priorities, providing local context, and reviewing the existing conditions analysis. Many of the strategies identified in this plan will require coordination with these partners and their support of the City of Brisbane's effort to create a culture of roadway safety. While additional partners may be identified in the future, those involved in development of the LRSP include:

- City/County Association of Governments of San Mateo County (C/CAG)
- County Public Health
- Sustainability Department
- San Mateo County Office of Education (SMCOE)
- San Mateo County Transportation Authority (SMCTA)
- California Highway Patrol
- Metropolitan Transportation Commission (MTC)
- Silicon Valley Bicycle Coalition
- Caltrans
- Brisbane Police Department

Figure 1. A pop-up event held at the Brisbane Farmers' Market

Community Engagement and Input

This LRSP includes community members' experiences and concerns gathered from project team hosted pop-up events and an interactive webmap.

ENGAGEMENT TIMELINE AND EVENTS

The project team hosted a series of public engagement events countywide to support the concurrent development of the Countywide LRSP and of the City's plan. These events focus on jurisdiction-specific issues and on countywide concerns. The table below lists the events, organized by themed engagement phases, and is followed by the community input themes we heard.

Table 2. C/CAG Public Engagement Events

Date	Event	Location
August 10, 2023	**Countywide Virtual Kickoff Meeting:** Shared the purpose and timing of the plan	Virtual meeting (recorded and posted to plan website)
August 16, 2023		East Palo Alto

Date	Event	Location
August 19, 2023	**Phase 1 Pop-up/Tabling Event:** Shared crash data analysis; received input on locations and safety concerns	Half Moon Bay Farmers Market
August 20, 2023		Foster City Summer Days
August 27, 2023		San Carlos Block Party
August – September, 2023	**Phase 1 Concurrent Online Input**	Online webmap (countywide input)
December 17, 2023	**Phase 2 Pop-up/Tabling Event:** Shared draft prioritized locations and types of engineering recommendations; received comments on locations and votes/input on types of treatments and desired locations	Belmont Farmers' Market
December 20, 2023		Woodside Public Library
January 9, 2024		Colma BART Station
January 16, 2024		Atherton Library
January 18, 2024		Brisbane Farmers' Market
February 7, 2024		Portola Valley Bicycle, Pedestrian, & Traffic Safety Committee
March – April 2024	**Phase 3 Draft Plan** Share the draft plan publicly on the project website, through electronic distribution channels, and with presentations to C/CAG Committees and the Board.	Various

ONLINE MAP SURVEY

The project team made an online countywide webmap tool and survey available during August and September 2023 for the public to provide comments and respond to questions to guide the plan's development (see Figure 2). Respondents were able to record location-specific feedback, associate a travel mode, and leave a detailed comment pertaining to a safety concern.

Countywide, there were a total of 528 comments recorded by 352 respondents. There were 14 comments made within the City of Brisbane. The comments included the following:

Biking Concerns/Requests

- Add new bike infrastructure such as protected bike lanes and separated bike lanes.
- Provide a more connected bike network: continuous bike lanes (especially through intersections) and the Bay Trail.
- Concerns regarding conflicts with motor vehicles including high traffic volumes and congestion, vehicle speeds, right of way issues, parking, and turning conflicts at intersections.
- Requests to install leading bicycle intervals at signalized intersections.

Pedestrian Concerns/Requests

- Add new pedestrian infrastructure or upgrade existing infrastructure such as building new sidewalks, widening existing sidewalks, and high visibility crosswalks.
- Concerns regarding conflicts with motor vehicles including high traffic volumes and congestion, speeding, and running STOP signs.

Traffic Enforcement Concerns

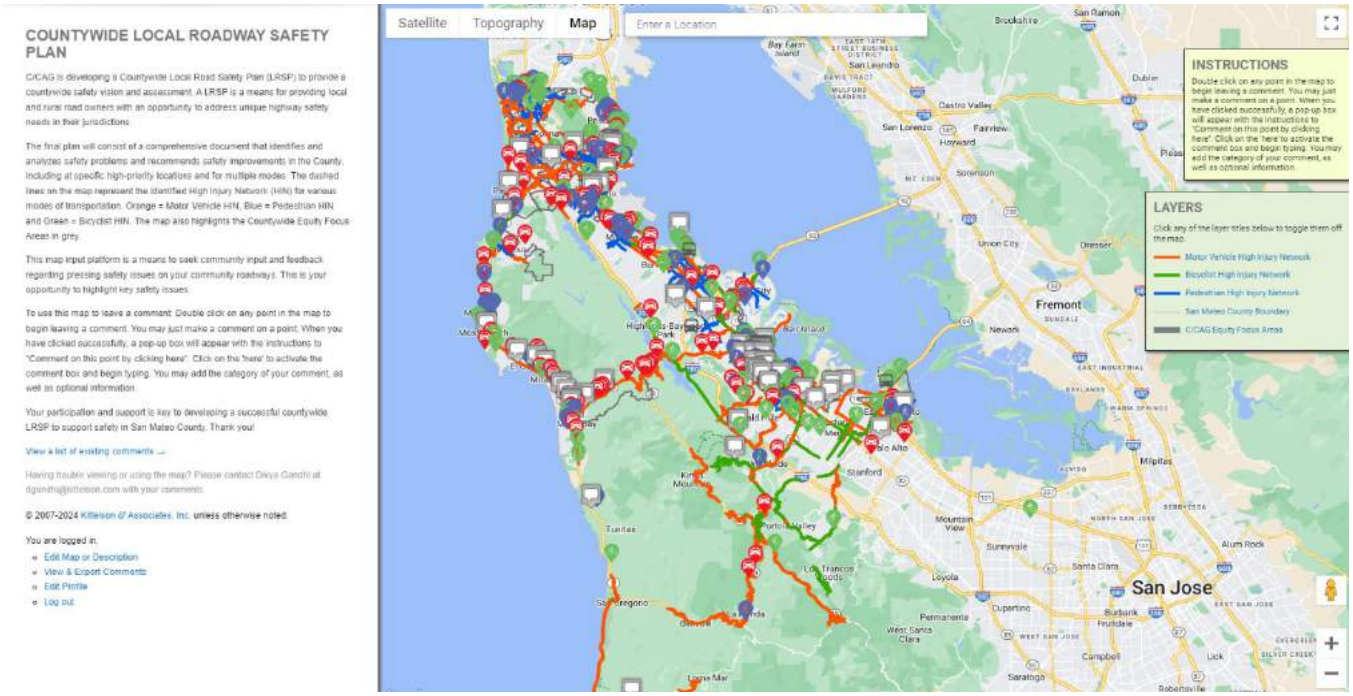
- Multiple concerns regarding running STOP signs and red lights.
- Concerns regarding speeding observed especially on Bayshore Boulevard.

Roadway Infrastructure/ Traffic Operations Concerns

- Clear sight triangles to improve visibility on intersection approaches.
- Requests to design roadway infrastructure for large vehicles (safe turning places at intersections).

The location and modal emphasis of comments in Brisbane is presented in Figure 3. The comments received are provided in Appendix A. The project team also identified common themes in the responses made countywide which may be relevant to the City. Those are presented in the Community Engagement section of the Countywide LRSP.

Figure 2. Online Map Survey Tool



PHASE 2 COMMUNITY ENGAGEMENT FEEDBACK

The project team held an event at the Brisbane's Farmers' Market in January as part of Phase 2, which provided the project team with input on specific location concerns, general traffic safety/behavioral concerns, and opinions on specific engineering treatments or strategies. The comments received are provided in Appendix B. The following themes were identified:

Pedestrian Comments

- Desire for sidewalks, especially in school zones
- Desire for larger or additional signage to mark pedestrian crossings, especially in school zones

- Concerns that areas are not pedestrian friendly due to drivers speeding and running stop signs, specifically on San Benito Road, San Bruno Avenue, Sierra Point Road, Kings Road, Bayshore Boulevard, and the intersections of San Bruno Avenue / Mendocino Street, Humboldt Road / Placer Way, and Visitacion Avenue / Monterey Street

Bicycle Comments

- Desire for separated bicycle facilities throughout the City, especially on Bayshore Boulevard, Valley Drive, and Tunnel Road

Motor Vehicle Comments

- Desire to lower speed limits on narrow roads, especially in the hills
- Desire for traffic calming treatments, such as speed bumps and stop signs, to encourage slower speeds, especially along Glen Park Way and Alvarado Street
- Desire for additional lighting to increase visibility along roadways and at intersections, specially at Valley Drive, Bayshore Boulevard, the Sierra Point Road / San Benito Road intersection, and the Old Country Road / San Francisco Avenue / Visitacion Avenue / San Bruno Avenue intersection
- Concerns about sign visibility and site distance issues due to tree cover, parked cars, and curved roadways, specifically along US-101, San Bruno Avenue, Tunnel Road, and the Old Country Road / San Francisco Avenue / Visitacion Avenue / San Bruno Avenue intersection
- Concerns that curb bulbouts make turning difficult, specifically along Visitacion Avenue and Mariposa Street

Countermeasure Comments

- Desire for signs that encourage slower speeds on roadways
- Desire for additional stop signs
- Desire for additional lighting / flashing lights at intersections, especially for pedestrian crossings
- No desire for curb extensions or pedestrian refuge islands, especially on narrow roads

Figure 3. Webmap Comments in Brisbane

CRASH DATA & TRENDS

This section provides an overview of the five years of crash data used for this analysis. The data were downloaded from the Transportation Injury Mapping System[1] (TIMS) Crash database representing the full years 2018 through 2022. TIMS is a commonly used data source for safety plans. This analysis includes only crashes for which some level of injury is reported and excludes property damage only (PDO) crashes. We removed crashes along grade-separated freeways from the dataset, but we retained crashes that occur along at-grade State Highway facilities and those that occurred within the influence area of freeway ramp terminal intersections.

The crash records used provide the best available data for analysis but do not account for crashes that go unreported or for near-miss events. This plan includes recommendations that would improve jurisdictions' ability to capture one or both of those elements and enhance future crash analyses.

The discussion that follows provides a high-level overview of crash trends that informed the plan recommendations. For a more complete description of trends and findings, refer to Appendix C.

Emphasis Areas

The project team analyzed crash data in Brisbane and compared countywide trends to establish emphasis areas. Emphasis areas are crash dynamic, behavioral, or road user characteristics that the City can focus on to maximize fatal and severe injury reduction on local roads.

A review of crash data and input led to the development of the following emphasis areas for the City of Brisbane:

1. **Pedestrian and bicyclist safety.** Countywide, pedestrians were involved in 13 percent of injury crashes but 23 percent of fatal/severe injury crashes, showing a disproportionate involvement in the most severe outcomes. Similarly, bicyclists were involved in 13 percent of injury crashes but 20 percent of fatal/severe injury crashes. In Brisbane, pedestrians and bicyclists were involved in 50 percent and 17 percent of the 12 reported F/SI—higher than their overall share of all injury crashes (12 percent and 7 percent, total).
2. **Nighttime/low light safety.** Countywide, crashes occurring in dark conditions—especially in dark, unlit conditions--are more severe than those that occur in daylight. Motor vehicle crashes in dark, unlit conditions have about double the average severity when they occur compared to crashes in daylight. In Brisbane, four of the six fatal/severe injury pedestrian crashes (67 percent) and two of the four fatal/severe injury motor vehicle crashes (50 percent) occurred in dark conditions.
3. **Unsignalized intersections on arterials/collectors.** Countywide, crashes for all modes most frequently occurred at the intersection of higher order and lower order roadways – most commonly along arterial and collector roadways. Pedestrian and bicyclist crashes most frequently occur at unsignalized intersections.
4. **Vulnerable age groups (youth and aging).** Countywide across all modes, crash victims between the 15 to 34 years old are more likely to be injured including F/SI as a result of traffic safety than other groups. Victims between the ages 50 – 69 and 75 to 84 are also more likely to be severely injured than other groups. In Brisbane, 3 or 4 percent of all reported injury crashes involve at fault drivers who are under 30 years old.
5. **Motor vehicle speed related roadway segment crashes.** Countywide, motor vehicle crashes were more severe along roadway segments than at any other location type; unsafe speed was the most commonly

[1] Transportation Injury Mapping System, http://tims.berkeley.edu

cited primary crash factor (27 percent of injury crashes and 23 percent of fatal/severe injury crashes). In Brisbane, "Too fast for conditions" was the top-cited violation among motor vehicle crashes (in 20 percent of injury crashes).

6. **High speed roadways (35+mph).** Countywide, crashes on roadways with posted speeds 40mph or higher had an average crash severity per mile 13 times higher than along roadways with posted speeds of 25 mph or less.
7. **Alcohol involvement.** Countywide, one in ten (10 percent) of motor vehicle injury crashes and one in five F/SI motor vehicle crashes (19 percent) involved alcohol. In Brisbane, 14 percent of all reported injury crashes involve impaired driving.

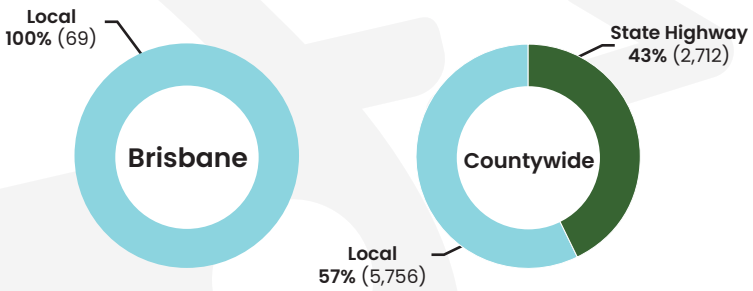
The next pages present summary findings from a crash data review that compares the City of Brisbane to countywide trends in these emphasis areas. It includes summary statistics related to the above-cited emphasis areas but also shows:

- The share of local crashes that occurred on or at a State Highway facility compared to Countywide levels.
- The most frequently reported local crash types compared to Countywide levels.
- The share of bicyclist and motor vehicle crashes among all injury crashes and among F/SI crashes. Countywide and locally, bicyclist crashes account for a higher share of F/SI crashes than among all injury levels.
- The share of local and Countywide crashes occurring in dark conditions for crashes of all injury levels and for F/SI crashes (organized by mode).
- Reported pedestrian and bicyclist crashes summarized by the most common preceding movements countywide, with a comparison of those movements' share of local crashes to Countywide shares.
- The local and Countywide share of crashes involving drugs or alcohol and involving drivers under the age of 30.

Brisbane—Crash History

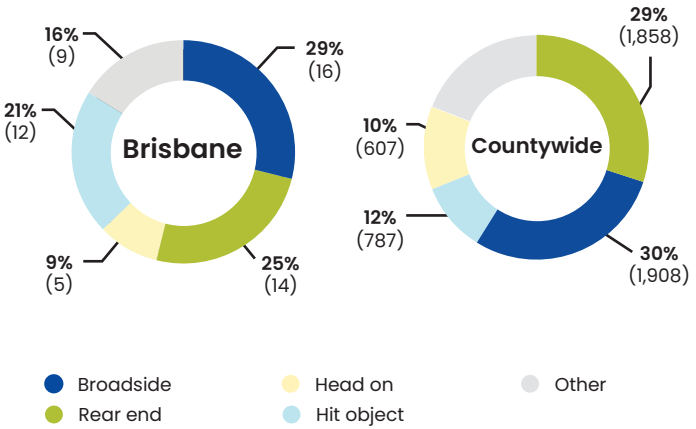
Total Crashes

In Brisbane, 69 fatal and injury crashes were reported on at-grade facilities between 2018 – 2022, where:



Most Frequent Collision Types

Broadside, rear-end, head-on, and hit-object crashes were the most common crash types in the region. Here is how Brisbane compares:



Mode Involvement

Pedestrian Crashes (8)

	Fatal/all injury crashes	Fatal/severe injury crashes
Brisbane	12% (8)	50% (6)
Countywide	13% (1,073)	23% (208)

Bicycle Crashes (5)

	Fatal/all injury crashes	Fatal/severe injury crashes
Brisbane	7% (5)	17% (2)
Countywide	13% (1,067)	20% (176)

Motor Vehicle[1] Crashes (56)

	Fatal/all injury crashes	Fatal/severe injury crashes
Brisbane	81% (56)	33% (4)
Countywide	75% (6,324)	57% (515)

14% (10)

of reported collisions in Brisbane involved drugs or alcohol

8% (625) Compared to the countywide total, where 8% (625) of reported collisions involved drugs or alcohol

4% (3)

of reported collisions in Brisbane involved young drivers[1]

5% (472) Compared to the countywide total, where 5% (472) of reported collisions involved young drivers[2]

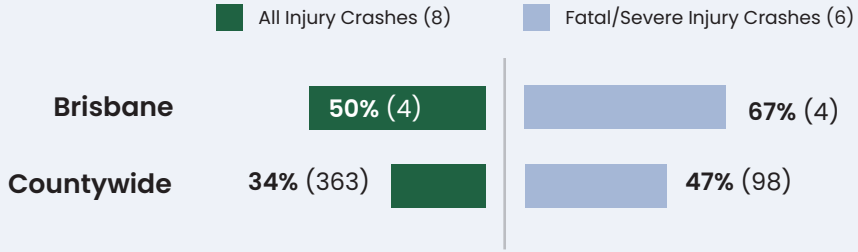
1. Motor crashes include motor vehicles and motorcyclists.
2. Young driver crashes are crashes that involve at fault drivers who are under 30 years old.

Brisbane—Crash History

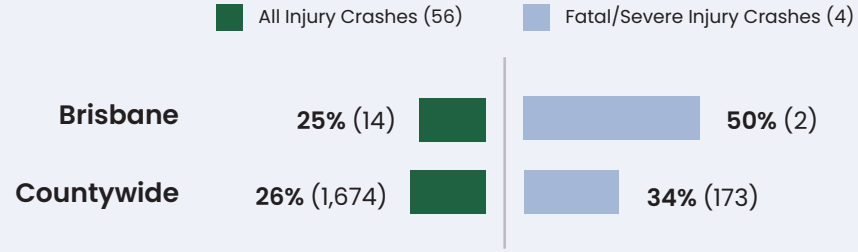
Dark Conditions

Crashes reported in nighttime conditions were found to be more severe—especially in dark, unlit conditions. Here is how Brisbane compares to Countywide crashes:

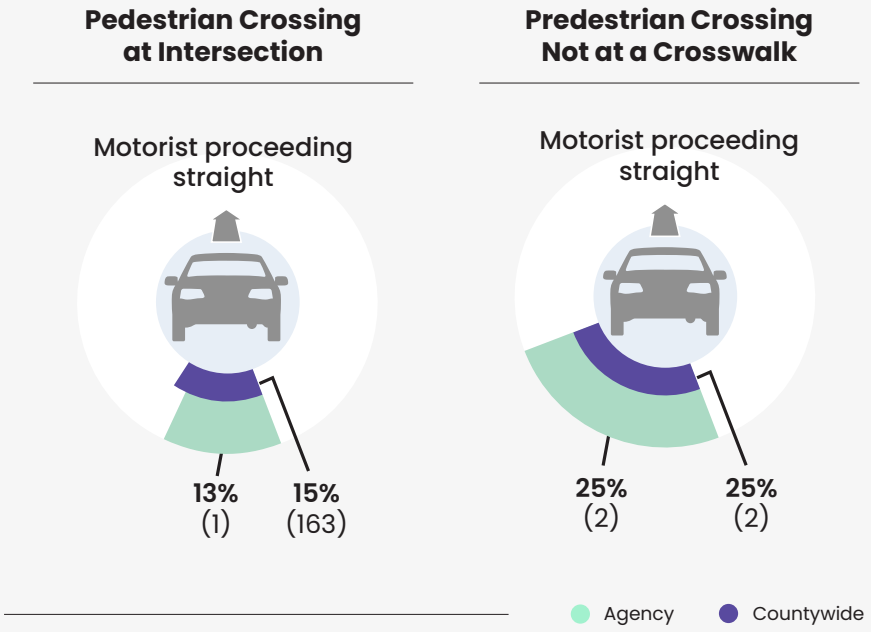
Share of Pedestrian Crashes in Dark Conditions (4)



Share of Motor Vehicle Crashes in Dark Conditions (14)



Reported Pedestrian Crashes (8)



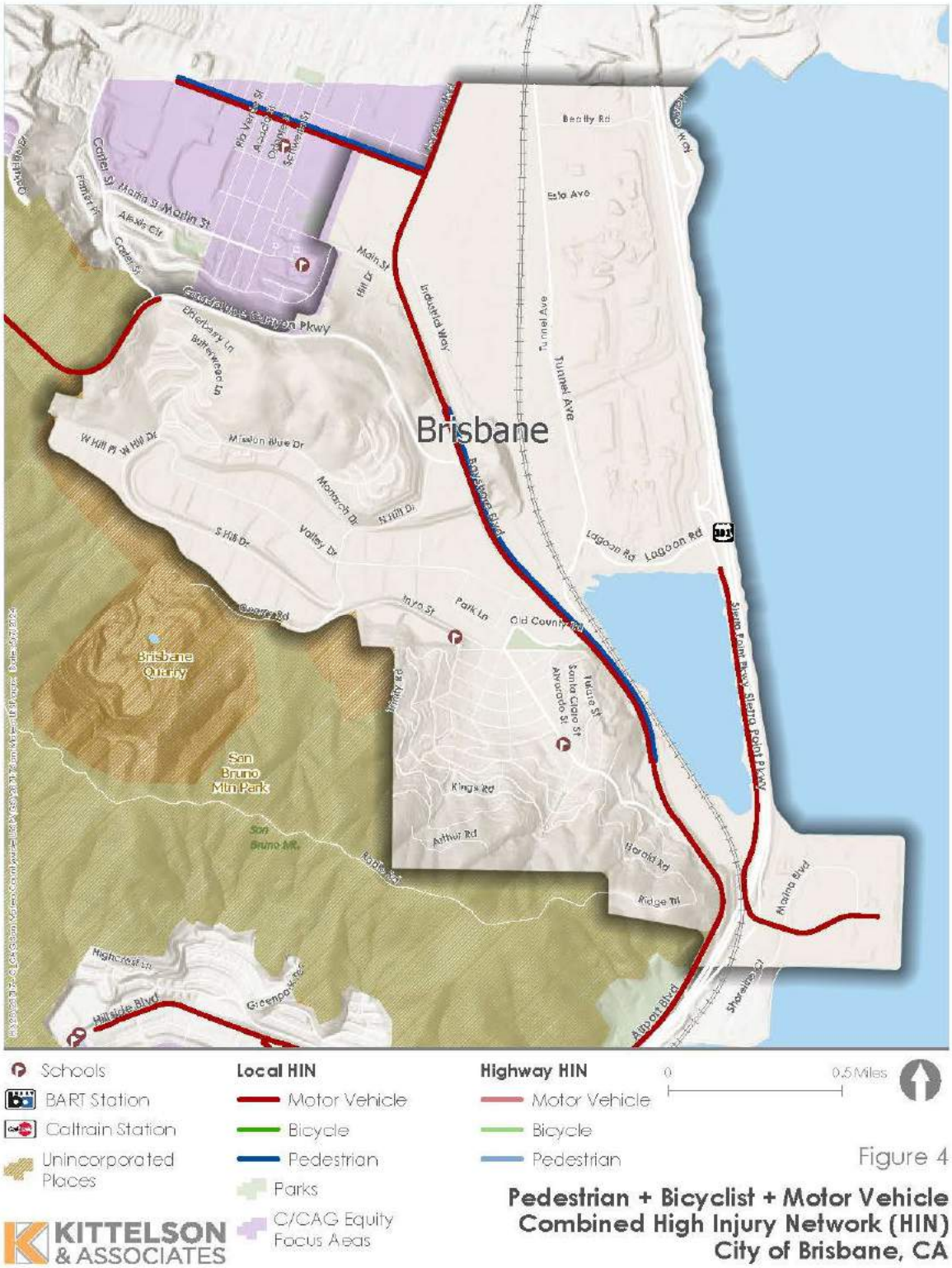
Countywide High Injury Network

In addition to the systemic analysis findings, the analysis included countywide spatial analysis to identify a countywide high injury network for each travel mode (pedestrians, bicyclists, and motor vehicles). The countywide HIN results were folded into the subsequent regional and local prioritization (described in the next section). Additionally, the characteristics of the HIN and crashes along them were identified as risk factors and incorporated into emphasis areas and into a systemic portion of the prioritization process. Table 3 and Figure 4 show the HIN segments identified within the City.

Table 3. Countywide HIN Segments in Brisbane

Roadway name	All County Jurisdiction(s) including this HIN Roadway	Total Length, all jurisdictions included (mi)	Motor Vehicle HIN	Bicyclist HIN	Pedestrian HIN
Sierra Point Pkwy	Brisbane	1.4	X		
Guadalupe Canyon Pkwy	Daly City, Brisbane, Unincorporated	2.5	X		
Bayshore Blvd	South San Francisco, Daly City, Brisbane	2.9	X		X

Figure 4. Countywide HIN within the City of Brisbane



PROJECT IDENTIFICATION & PRIORITIZATION

Methodology

Using the results of the crash data analysis and adding a focus on social equity, the project team identified priority locations for the City to target for future safety improvements. The prioritization used three equally weighted factors to prioritize locations for safety projects:

- **Crash history** – used to identify the locations with the highest reported five-year crash frequency and severity.
- **Social equity** – used to identify locations where projects would benefit disadvantaged populations and align with future grant funding opportunities that emphasize social equity.
- **Systemic factors** – used to identify locations that have roadway and land use characteristics associated with crash frequency and severity. Using systemic factors emphasizes a proactive rather than purely reactive approach. Each factor was weighted relative to the other factors based on the average severity of relevant crashes (for example, if pedestrian crashes on arterials/collectors were overall twice as severe as pedestrian crashes at unsignalized intersections overall, then the former would be weighted twice the latter).

Each factor is comprised of multiple criteria and overlaid on jurisdictions' roadway data to identify locations for future safety projects. The prioritization process was conducted three times, one for each travel mode. The weighting scheme for each mode is presented in the three figures below (Figure 5, Figure 6, and Figure 7).

Figure 5. Pedestrian Prioritization Factor/Criteria Weighting (Sum to 100 Percent)

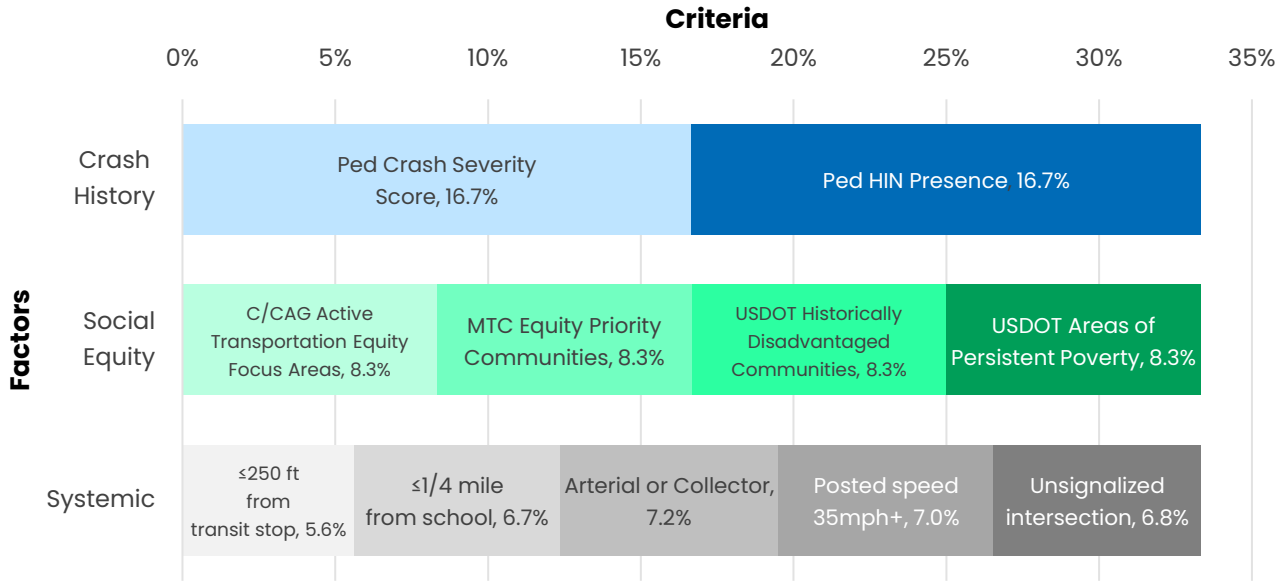


Figure 6. Bicycle Prioritization Factor/Criteria Weighting (Sum to 100 Percent)

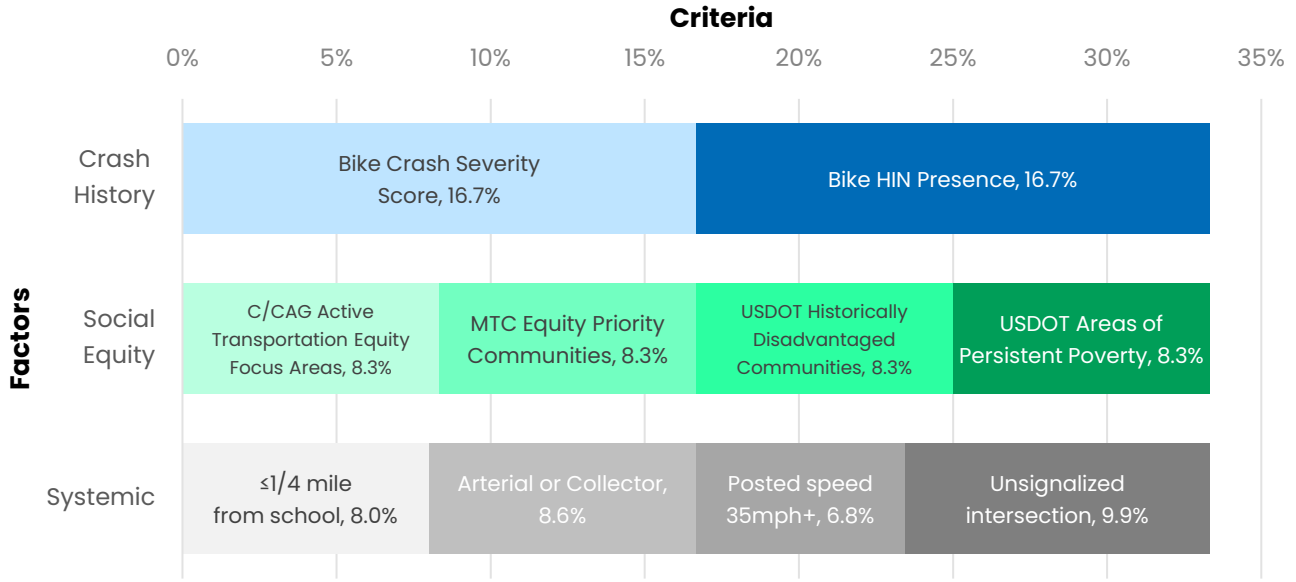
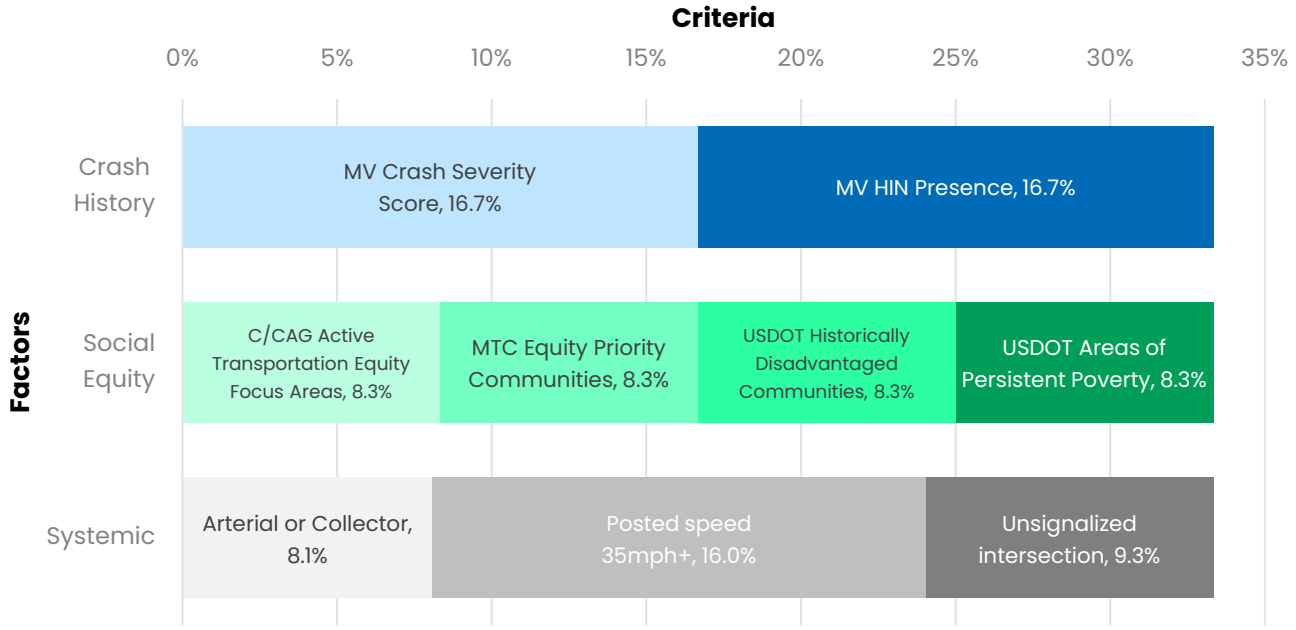


Figure 7. Motor Vehicle Prioritization Factor/Criteria Weighting (Sum to 100 Percent)



Social Equity

Social equity is a critical factor for project prioritization, and emphasizing social equity within a project prioritization process helps to promote infrastructure spending and improvements in disadvantaged and/or disinvested neighborhoods. We considered and included multiple local, regional, and national datasets for social equity prioritization to reflect different measures available and because available funding opportunities use different indicators. The prioritization included measures accounting for all of the following indicators:

- C/CAG Active Transportation Equity Focus Areas
- MTC Equity Priority Communities
- USDOT Historically Disadvantaged Communities
- USDOT Areas of Persistent Poverty

Layering in these four indicators allows the prioritization to identify more locations that may meet the criteria for just one of these indicators while still elevating locations that show up in multiple or all indicators. The raw scoring data also equips the City to understand which locations meet which measures.

Results

The prioritization resulted in the following top locations. For more details (including the scores of each location), consult Appendix D. Figure 8 also shows the locations.

Table 4. Priority Locations

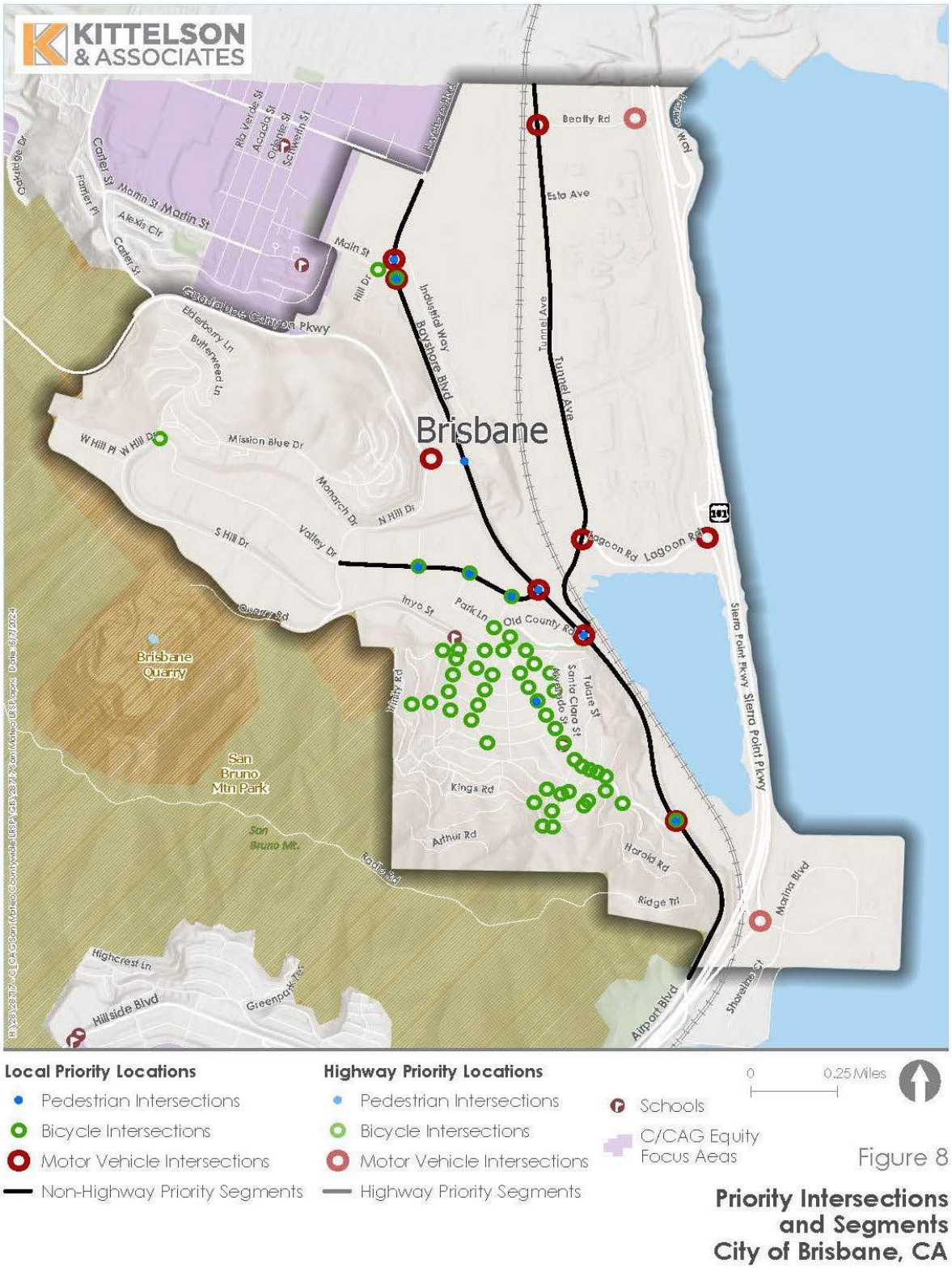
ID	Location	Corridor/ Intersection	State Highway?	Motor Vehicle Emphasis	Bicycle Emphasis	Pedestrian Emphasis
1	Bayshore Blvd and Main St	Intersection	No	**X**	**X**	**X**
2	Bayshore Blvd and San Bruno Ave	Intersection	No	**X**	**XX**	**X**
3	Bayshore Blvd and Tunnel Ave	Intersection	No	**X**		**X**
4	Sierra Point Pkwy and Lagoon Rd	Intersection	No	**X**		
5	Beatty Rd and Tunnel Ave	Intersection	No	**X**		
6	Alana Way and Beatty Rd	Intersection	Yes	**X**		
7	Sierra Point Pkwy 101 NB Hwy and NB 101 Sierra Point Pkwy Hwy	Intersection	Yes	**X**		
8	Tunnel Ave and Lagoon Rd	Intersection	No	**X**		
9	Bayshore Blvd and Valley Dr	Intersection	No	**X**		**X**

ID	Location	Corridor/ Intersection	State Highway?	Motor Vehicle Emphasis	Bicycle Emphasis	Pedestrian Emphasis
10	Guadalupe Canyon Pkwy and Hill Dr	Intersection	No	**X**		
11	Bayshore Blvd and Industrial Way	Intersection	No	**X**		**X**
12	Guadalupe Canyon Pkwy and Bayshore Blvd	Intersection	No			**X**
13	Valley Dr and Park Ln	Intersection	No		**X**	**X**
14	Park Pl and Valley Dr	Intersection	No		**X**	**X**
15	San Bruno Ave and Mendocino St	Intersection	No		**X**	**X**
16	Cypress Ln and Valley Dr	Intersection	No		**X**	**X**
17	Hill Dr and Silverspot Dr	Intersection	No		**X**	
18	San Francisco Ave and Old County Rd	Intersection	No		**X**	
19	San Bruno Ave and Mariposa St	Intersection	No		**X**	
20	Old County Rd and Park Ln	Intersection	No		**X**	
21	Klamath St and Visitacion Ave	Intersection	No		**X**	
22	Santa Clara St and San Bruno Ave	Intersection	No		**X**	
23	San Bruno Ave and Alvarado St	Intersection	No		**X**	
24	Glen Pkwy and San Bruno Ave	Intersection	No		**X**	
25	Lake St and San Bruno Ave	Intersection	No		**X**	
26	San Bruno Ave and Tulare St	Intersection	No		**X**	
27	Monterey St and San Bruno Ave	Intersection	No		**X**	
28	Ross Way and Glen Pkwy	Intersection	No		**X**	
29	San Francisco Ave and Plumas St	Intersection	No		**X**	

ID	Location	Corridor/ Intersection	State Highway?	Motor Vehicle Emphasis	Bicycle Emphasis	Pedestrian Emphasis
30	Park Pl and Park Ln	Intersection	No		**X**	
31	San Francisco Ave and Inyo St	Intersection	No		**X**	
32	Mariposa St and Visitacion Ave	Intersection	No		**X**	
33	Visitacion Ave and Monterey St	Intersection	No		**X**	
34	Mariposa St and Inyo St	Intersection	No		**X**	
35	Sierra Point Rd and Humboldt Rd	Intersection	No		**X**	
36	Solano St and Mendocino St	Intersection	No		**X**	
37	Solano St and San Francisco Ave	Intersection	No		**X**	
38	Mariposa St and Solano St	Intersection	No		**X**	
39	Sierra Point Rd and Lassen St	Intersection	No		**X**	
40	Mono St and Klamath St	Intersection	No		**X**	
41	Visitacion Ave and Mendocino St	Intersection	No		**X**	
42	Humboldt Rd and Lassen St	Intersection	No		**X**	
43	Humboldt Rd and Lake St	Intersection	No		**X**	
44	Solano St and Humboldt Rd	Intersection	No		**X**	
45	Main St and Hill Dr	Intersection	No		**X**	
46	Gladys Ave and San Bruno Ave	Intersection	No		**X**	
47	Klamath St and San Bruno Ave	Intersection	No		**X**	
48	San Bruno Ave and Thomas Ave	Intersection	No		**X**	
49	Sierra Point Rd and Ross Way	Intersection	No		**X**	

ID	Location	Corridor/ Intersection	State Highway?	Motor Vehicle Emphasis	Bicycle Emphasis	Pedestrian Emphasis
50	Humboldt Rd and Glen Pkwy	Intersection	No		**X**	
51	Sierra Point Rd and Glen Pkwy	Intersection	No		**X**	
52	Humboldt Rd and Kings Rd	Intersection	No		**X**	
53	Humboldt Rd and Sierra Point Rd	Intersection	No		**X**	
54	Humboldt Rd and San Diego Ct	Intersection	No		**X**	
55	Mariposa St and Plumas St	Intersection	No		**X**	
56	Alvarado St and Visitacion Ave	Intersection	No		**X**	
57	Alvarado St and Monterey St	Intersection	No		**X**	
58	Alvarado St and Mendocino St	Intersection	No		**X**	
59	William Ave and San Bruno Ave	Intersection	No		**X**	
60	Humboldt Rd and Annis Rd	Intersection	No		**X**	
61	Lake St and Glen Park Way	Intersection	No		**X**	
62	Bayshore Blvd, Geneva Ave to S city limits	Corridor	No	**X**	**X**	**X**
63	Valley Dr, Bayshore Blvd to Hills Dr	Corridor	No	**X**	**X**	**X**
64	Tunnel, N city limit to Bayshore Blvd	Corridor	No	**X**		**X**

Figure 8: Brisbane Priority Locations



IMPROVEMENTS – ENGINEERING, POLICY & PROGRAMS

This section presents Safe System-aligned recommendations that can create levels of redundancy for traffic safety in the City of Brisbane. First is a table of engineering countermeasures proven to reduce fatal and severe injury crashes. The countermeasures align to the crash types as listed in the table. Complementing those countermeasures is a holistic set of policy and programmatic recommendations that will help align City departments and partners in pursuit of the plan's vision and goals.

Project Scopes

With the development of this plan the project team worked with the City to identify two project locations or two groups of project locations to apply safety treatments. We worked from the list of priority project locations and used potential benefit-to-cost ratio to identify a suite of treatments the City could consider at these locations. The City can move forward with further project development and community engagement to advance solutions at these locations. They may also consider bundling some of the treatments identified with the same treatments at other, similar locations identified in this plan, for a systemic approach.

The project scopes were developed exclusively from a list of City-approved engineering countermeasures, which are presented as an engineering toolbox in the next section. The team prepared a suite of treatments to reduce crashes at the project locations. For each treatment, the list presents a planning-level cost of the treatments as recommended and the crash reduction benefit.

The scoped project locations include:

- Bayshore Blvd to Guadalupe Canyon Pkwy. Recommended improvements include:
    - Improvements to signal hardware (lenses, backplates with retroreflective borders, mounting, size, and number)

  - Installation of advance stop bar before crosswalk (bicycle box)
  - Modified signal phasing with a leading pedestrian interval
- Bayshore Blvd and Main St. Recommended improvements include:
  - Installation and/or upgrading of larger stop signs and other intersection warning or regulatory signs
  - Pavement markings
  - Dynamic/variable speed warning signs

For more information on the location, cost, and crash diagnostics of these project scopes, see Appendix E.

Engineering Countermeasure Toolbox

Table 5. City of Brisbane Countermeasure Toolbox

Countermeasure Name	Applicable Location(s)[1]	Crash Types Applicable	Crash Reduction Factor (If Available)	Cost (if available)[2]	Systemic Opportunity?
Lighting*	All	Nighttime	0.4		Medium
Improve signal hardware: lenses, back plates with retroreflective borders, mounting, size, and number*	SI	Signalized local/arterial intersections	0.15	$	Very High
Install left-turn lane and add turn phase*	SI	Signalized local/arterial intersections	0.55	$-$$$	Low
Convert signal to mast arm (from pedestal mounted)*	SI	Signalized local/arterial intersections	0.3	$-$$$	Medium
Install raised median on approaches*	SI	Signalized local/arterial intersections	0.25	$-$$$	Medium
Create directional median openings to allow (and restrict left turns and U-turns (signalized intersection)*	SI	Signalized local/arterial intersections	0.5	$-$$	Medium
Install raised pavement markers and striping*	SI	Wet, night, all	0.1	$	High

Countermeasure Name	Applicable Location(s)[1]	Crash Types Applicable	Crash Reduction Factor (If Available)	Cost (if available)[2]	Systemic Opportunity?
Install flashing beacons as advance warning (SI)*	SI	Rear end, broadside	0.3	$-$$	Medium
Centerline hardening or continuous raised median	SI	All crashes	0.46	$	Medium
Install pedestrian countdown signal heads*	SI	Pedestrian crashes, signalized local/arterial intersections	0.25	$	High
Install pedestrian crossing*	SI	Pedestrian crashes, signalized local/arterial intersections	0.25	$	High
Install advance stop bar before crosswalk (bicycle box)*	SI	Pedestrian crashes, signalized local/arterial intersections	0.15	$	High
Modify signal phasing to implement a Leading Pedestrian Interval (LPI)	SI	Pedestrian crashes, signalized local/arterial intersections	0.6	$	High
Install painted safety zone	SI	Pedestrian crashes, signalized local/arterial intersections	N/A	$	High
Install Protected Intersection Elements	SI	Pedestrian crashes, signalized local/arterial intersections	N/A	$-$$$	Low

Countermeasure Name	Applicable Location(s)[1]	Crash Types Applicable	Crash Reduction Factor (If Available)	Cost (if available)[2]	Systemic Opportunity?
Convert to all-way STOP control (from two-way or Yield control)*	UI	All crashes	0.5	$	Low
Install signals*	UI	All crashes	0.3	$$$	Low
Convert intersection to roundabout (from all-way stop)*	UI	All crashes	Varies	$$$	Low
Convert intersection to roundabout (from stop or yield control on minor road)*	UI	All crashes	Varies	$$$	Low
Covert intersection to mini-roundabout*	UI	All crashes	0.3	$$	Low
Create directional median openings to allow (and restrict) left turns and U-turns (unsignalized intersections)*	UI	All crashes	0.5	$-$$	Medium
Install raised medians (refuge islands)*	UI	Pedestrians and bicycle	0.45	$	Medium
Install pedestrian crossings (signs and markings only)*	UI	Pedestrians and bicycle	0.25	$-$$$	High
Install pedestrian crossings (with enhanced safety features)*	UI	Pedestrians and bicycle	0.35	$-$$$	Medium
Install/upgrade larger or additional STOP signs or other intersection warning or regulatory signs*	UI	Turning crashes related to lack of driver awareness	0.15	$	High

Countermeasure Name	Applicable Location(s)[1]	Crash Types Applicable	Crash Reduction Factor (If Available)	Cost (if available)[2]	Systemic Opportunity?
Upgrade intersection pavement markings*	UI	Turning crashes related to lack of driver awareness	0.25	$	High
Install flashing beacons at stop-controlled intersection*	UI	Broadside, rear end	0.15	$$$	High
Install pedestrian signal or pedestrian hybrid beacon*	UI	Pedestrian and bicycle	0.3	$$$	High
Install splitter islands on the minor road approaches*	UI	All crashes	0.4	$	Medium
Road diet (Reduce travel lanes from four to three, and add a two-way, left-turn lane and bike lanes)*	R	All crashes	0.35	$	Medium
Install edge line rumble strips/stripes*	R	All crashes	0.15	$-$$$	High
Install separated bike lanes*	R	Pedestrian and bicycle	0.45	$-$$	High
Install/upgrade pedestrian crossing (with enhanced safety features)*	R	Pedestrian and bicycle	0.35	$$-$$$	Medium
Install raised pedestrian crossing*	R	Pedestrian and bicycle	0.35	$	Medium
Remove or relocate fixed objects outside of clear recovery zone*	R	Hit object	035	$-$$	High
Install delineators, reflectors, and/or object marker*	R	All crashes	0.15	$	High

Countermeasure Name	Applicable Location(s)[1]	Crash Types Applicable	Crash Reduction Factor (If Available)	Cost (if available)[2]	Systemic Opportunity?
Install/upgrade signs with new fluorescent sheeting (regulatory or warning)*	R	All crashes	0.15	$	High
Install dynamic/variable speed warning signs*	R	Driver behavior	0.3	$	High
Extend pedestrian crossing time	SI	Pedestrian	N/A	$	High
Pedestrian phase recall	SI	Pedestrian	N/A	$	High
Extend green time for bikes	SI	Bicycle	N/A	$	High
Extend yellow and all-red time	SI	All crashes	N/A	$	High
Lane narrowing	R	All crashes	N/A	$-$$	Low
Bicycle crossing (solid green paint)	UI	Bicycle	N/A	$	Medium
Bicycle signal/exclusive bike phase	SI	Bicycle	N/A	$-$$	Low
Curb extensions	UI	All crashes	N/A	$-$$	Low
ADA-compliant directional curb ramps and audible push buttons	SI	Pedestrian	N/A	$-$$	Low
Splitter islands	UI, SI	All crashes	N/A	$$	Medium
Roadside design features	All	All crashes	N/A	$-$$$	Low

*Indicates countermeasure is eligible for California HSIP funding as of the most recent funding cycle

1: UI = Unsignalized Intersection; SI = Signalized Intersection; R = Roadway segments; All = All of the above
2: $ = ≤$50,000; $$ = $50,000 - $200,000; $$$ = > $200,000

Proposed Policy, Program, and Guidelines Recommendations

POLICY CATEGORIES

In addition to the engineering countermeasures and projects recommended above, the City aims to promote policies, programs, and standards that foster a culture of safety. The table below defines several policy and program recommendations organized into thematic categories. Implemented in cooperation with partners, these recommendations will deepen the dedication to safety shared throughout the community and round out the City's Safe System Approach.

Table 5. City of Brisbane Policy and Program Recommendations

Category	Near-Term Recommendations	Long-Term or Ongoing Recommendations
Local Culture Shift (LCS)	LCS1: Transportation Safety Advisory Committee participation	LCS2: High-Visibility Media Campaign LCS3: Communication Protocol LCS4: Implement Car-Free Zones
Local Enforcement Coordination (LEC)		LEC2: Speed Monitoring Awareness Radar Trailer
Local Funding (LF)		LF2: Equitable Investment LF3: Prioritize Investments
Local Education / Outreach (LEO)		LEO1: Roadway Safety Education in Schools LEO2: Engagement Accessibility LEO3: Educational Materials for New Facilities LEO4: Transportation Safety Campaign LEO5: Safe City Fleets
Local Planning/ Evaluation (LPE)		LPE1: Annual Update LPE2: Plan Update LPE3: Safety and Equity Impacts Evaluation LPE4: Safe Routes to School

NEAR-TERM ACTIONS

LCS1: Transportation Safety Advisory Committee Participation

Actively participate in the newly-formed County Transportation Safety Advisory Committee (TSAC). Bring agenda items as relevant, including but not limited to:

- Safety project updates with every step along the project development process (studies initiated / under way /complete, funding identified, design phases initiated / under way / complete)
- Annual updates to the TSAC regarding implementation progress that may be relevant for C/CAG annual monitoring reporting (e.g., projects on identified priority locations and/or the regional High Injury Network, community engagement efforts and summaries, safety funding applied for / received)
- Opportunities for cross-jurisdiction coordination (e.g., roadways or intersections shared with adjacent jurisdictions or Caltrans)

- Requests for trainings / best practices that could be provided through the TSAC

Lead agency: City of Brisbane Public Works

LONG-TERM OR ONGOING ACTIONS

LCS2: High-Visibility Media Campaign

Coordinate with County Public Health and the Brisbane Police Department to implement a local high-visibility media campaign pertaining to one or more emphasis areas identified in this plan. Dedicated law enforcement with media supporting the enforcement activity to ensure public awareness. Potential communication tools:

- Bus ads
- Social media
- Text messages

Lead agency: County Public Health
Coordinating partners: County Sheriff's Office, California Highway Patrol, Sustainability Department, SMCOE, City of Brisbane Police Department, City of Brisbane Public WorksLCS3: Communication

LCS3: Communication Protocol

Adopt and develop safety-related communication protocols in coordination with the TSAC. The protocols will promote consistent public communication regarding language usage and statements related to transportation safety. Encourage language in line with Vision Zero and Safe System principles that acknowledges mistakes are inevitable but death and severe injury are preventable. For example, promote use of the word crash rather than accident.
Lead agency: C/CAG
Coordinating partners: City of Brisbane Public Works

LCS4: Implement Car-Free Zones

More effectively target resources to pedestrian crash problems in a limited geographic area. Realizing these zones requires upfront analysis and planning, countermeasure development, and implementation. Implementation can focus on addressing particular problems or on increasing general safety in specific areas during windows of peak pedestrian activity. (For example: Friday nights in commercial districts, Sundays on recreational routes/areas, etc.)
Lead agency: City of Brisbane Public Works

LEC2: Speed Monitoring Awareness Radar Trailer

Coordinate with Brisbane PD to deploy a trailer to monitor speeds on streets and to raise awareness of speeding. It can be deployed long term along HIN and other arterials, or short term in neighborhoods. Use the priority locations and data in this plan to identify locations and schedule for deployment.
Lead agency: City of Brisbane Police Department
Coordinating partners: City of Brisbane Public Works

LF2: Equitable Investment

Prioritize citywide safety investments in disadvantaged communities. Use the presence of disadvantaged communities (as identified with C/CAG Equity Focus Areas, MTC Equity Priority Communities, USDOT Historically Disadvantaged Communities, and/or USDOT Areas of Persistent Poverty) as a factor to elevate funding for certain projects or other safety-related programs.
Lead agency: City of Brisbane Public Works

LF3: Prioritize Investments

Use the priority locations identified in this plan to determine safety project opportunities to advance for further project development and to identify funding. Identify pathways for improvement for the locations on the list. Continue to engage the community to refine the priorities within the list of identified sites.

Lead agency: City of Brisbane Public Works

LEO1: Roadway Safety Education in Schools

Continue School Travel Fellowship Program to provide the following:

- Technical assistance to schools and planners to implement demonstration projects
- ATP Project Specialist to work with educators to provide technical assistance (bike rodeos, parent engagement workshops and resources, walk and bike audits, and additional support for walk/bike to school encouragement events) to schools in EPCs

Lead agency: SMCOE

Coordinating partners: County Public Health, Sustainability Department, SVBC

LEO2: Engagement Accessibility

Plan community engagement efforts to be tailored for vulnerable road users and all travel modes. Make outreach materials available in accessible formats and multiple languages.

Lead agency: City of Brisbane Public Works

LEO3: Educational Materials for New Facilities

Develop and distribute educational materials and/or videos demonstrating how to navigate and interact with newer active transportation facilities (e.g., bike boxes, Pedestrian Hybrid Beacons, separated bike lanes, etc.) Include information about the purpose and goals of this infrastructure.

Lead agency: City of Brisbane Public Works

LEO4: Transportation Safety Campaign

Run education campaigns and outreach to foster community awareness of a shared responsibility for road safety. Use the emphasis areas highlighted in this plan as focus areas and target groups for a campaign.

Lead agency: City of Brisbane

Coordinating partners: C/CAG, County Public Health

LEO5: Safe City Fleets

Provide educational materials for City staff who drive City vehicles and integrate safety awareness training into contracting process with vendors who provide City services. Other measures include installing safety features (such as pedestrian/obstacle detection and speed tracking) on City vehicles and reporting on correction plans against unsafe driving.

Lead agency: City of Brisbane Public Works

LPE1: Annual Review

Provide an annual review of plan implementation progress. This review includes an update and presentation to City Council as well as a written update to the TSAC so that C/CAG may compile county plan implementation status.

Lead agency: City of Brisbane Public Works

LPE2: Plan Update

Update the plan within five years of publication. The plan update will revise actions to reflect current crash trends and will integrate technological advancements and changes in best practices as needed.

Lead agency: City of Brisbane Public Works

LPE3: Safety and Equity Impacts Evaluation

Fund a study to address traffic injury and enforcement inequities to inform policies, projects, programs, and needed data quality improvements. Solicit feedback on the report's equity analysis from groups representing equity priority communities. Topics for the study may include injury related to homelessness, race/ethnicity, language, income, and immigration status, citations by demographics, citation type, and location.
Alternately, coordinate with the TSAC to participate in a countywide version of the same that can include the City as part of its scope.
Lead agency: C/CAG

LPE4: Safe Routes to School

Continue to participate in school safety assessments at all public and private schools, develop implementation plans for improvements up to one quarter mile from the schools.
Develop a plan and timeline to include all schools in the City.
Lead agency: SMCOE
Coordinating partners: City of Brisbane Public Works

IMPLEMENTATION & MONITORING

A key part of achieving Brisbane's vision is consistently evaluating roadway safety performance and tracking progress towards the goals. The City of Brisbane will develop a process to regularly collect data and information around the performance measures that can be used to assess changes city-wide and at the top priority locations.

Implementation actions are organized by plan goals and grouped by time: near-term actions, which Brisbane can initiate immediately, and longer-term actions, which may require coordination and additional staff time.

This section identifies recommendations for Brisbane and other county-level safety partners to implement the plan. These are aligned with the Safe System Approach and include a framework to measure plan progress over time.

Table 6. City of Brisbane Goals and Measures of Success

GOAL	MEASURE OF SUCCESS
1. Work with Brisbane Police Department to review crash history and community needs on a semi-annual basis to identify and prioritize opportunities to reduce crash risk for roadway users of all ages and abilities. 2. Utilize existing plans, such as the Brisbane Bicycle and Pedestrian Master Plan, to implement safety countermeasures systemically and as part of all projects to target emphasis areas and underserved communities	• Number of LRSP project locations advanced through project development, reported at the agency level • Annual and three-year total reported crashes, fatal/severe injury crashes, crashes by mode, and crashes by emphasis areas identified
3. Identify opportunities to incorporate social equity into safety improvements. 4. Provide opportunities for community engagement in roadway capital improvement projects to identify safety solutions.	• Community engagement included as part of all C/CAG-funded safety project development activities • Number of engagement touchpoints and number of community member interactions citywide for safety plans or projects. • Report-backs to the City Council and TSAC regarding community engagement, including information about outreach to disadvantaged communities where applicable • Distribution at the jurisdiction level for safety projects within equity focus areas (C/CAG EFAs or MTC EPCs) versus outside these areas • Expansion of SRTS and Roadway Safety Education in Schools programs to more schools within the City • Implementation of a high-visibility media campaign

GOAL	MEASURE OF SUCCESS
5. Embrace the Safe System Approach to promote engineering and non-engineering strategies in the community.	• Percent of school district participation in SRTS and roadway safety education opportunities • Number of trainings city staff have participated in regarding Safe System elements, available tools, or practices • Improved data availability or maintenance to enhance safety analysis and practice
6. Monitor implementation of the Brisbane LRSP to track progress towards goals.	• See above in this table

City of Brisbane

San Mateo C/CAG Countywide LRSP

File Attachments for Item:

I. Adoption of Urgency Ordinance amending the Brisbane Municipal Code sections concerning Electrical Vehicle Infrastructure and adding a new Chapter 15.83 Energy Performance Reach Code

(This Ordinance is categorically exempt from environmental review under CEQA Guidelines Section 15308, Actions by Regulatory Agencies for Protection of the Environment.)

CITY COUNCIL AGENDA REPORT

Meeting Date: July 18, 2024

From: John Swiecki, Community Development Director

Subject: Urgency Ordinance amending the Brisbane Municipal Code sections concerning Electrical Vehicle Infrastructure and adding a new Chapter 15.83 Energy Performance Reach Code and finding that this Ordinance categorically exempt from environmental review under CEQA Guidelines Section 15308, Actions by Regulatory Agencies for Protection of the Environment.

Community Goal/Result

Ecological Sustainability - Brisbane will be a leader in setting policies and practicing service delivery innovations that promote ecological sustainability.

Purpose

To amend the electric vehicle (EV) charging infrastructure requirements to align with state minimum standards which became effective on July 1, 2024, and add Energy Performance requirements for new buildings to replace unenforceable all-electric requirements.

Recommendation

Adopt the attached draft ordinance on an urgency basis.

Background

Every three years a new set of construction codes is published by the State. Local adoption of these codes allows the City to enforce them under the authority of the Brisbane Municipal Code (BMC). In addition, the State may adopt “intervening codes”, which recently occurred with Electric Vehicle Infrastructure requirements which became effective on July 1, 2024.

Public Resources Code Section 25402.1(h)(2) and Section 10-106 of the Building Energy Efficiency Standards establish a process that allows local adoption of energy standards that are more stringent than the statewide standards, known as “reach codes.” Under this process, the California Energy Commission (CEC) requires any local amendments to the California Energy Code that affect energy use in regulated buildings to be cost effective and use less energy than the standard requirements contained in Title 24, Part 6. In addition to the required submission of cost-effectiveness studies to the CEC, these studies can demonstrate to the public that amendments to the code are financially responsible and do not represent an unreasonable burden to the residential and nonresidential building owners and occupants.

The last Code adoption cycle was in November 2022 when the City amended Chapter 15.04 of the BMC to adopt the 2022 Edition of the California Building Standards Code. At the same time, the City amended other chapters within Title 15 of the BMC to adopt local reach codes pertaining to fire protection, on-site energy generation, all-electric new buildings, and electric

vehicle (EV) charging infrastructure. Minor amendments to the City's EV charging infrastructure code were made in June 2023.

The City of Berkeley adopted regulations in 2019, similar to Brisbane's, requiring electric appliances in new construction, which regulations were challenged by the California Restaurant Association in federal district court. Although the federal district court upheld the Berkeley regulations, in April 2023, the United States Court of Appeals for the Ninth Circuit reversed the district court's decision and held that the federal Energy Policy and Conservation Act (EPCA) preempted the City of Berkeley's all-electric ordinance. In January 2024, the Ninth Circuit denied Berkeley's petition for rehearing and issued a modified opinion affirming that Berkeley's regulations are preempted by federal law. Berkeley announced it would not pursue further review by the United States Supreme Court; the Ninth Circuit's ruling is now final. As a result, Brisbane's existing all-electric ordinance, first passed in 2019 and amended in 2022, is unenforceable. Additional details on the legal landscape are provided in Attachment 2.

Discussion

The proposed Ordinance affects only new construction (not existing buildings) and includes several parts:

1. Repeal of the existing All Electric requirements for new buildings (BMC 15.04.043 Sections J through L) due to legal proceedings noted above and detailed in Attachment 2.
2. Addition of Chapter 15.83 – New Building Energy Performance Reach Code to continue to encourage highly efficient and/or all-electric buildings
    a. Sets a performance standard which requires new buildings to be more efficient than the State's minimum code while maintaining cost-effectiveness
    b. Requires electric readiness for new buildings with natural gas appliances
3. Amendment of Electric Vehicle Infrastructure requirements to meet or exceed the new state intervening code, ensuring applicants aren't required to interpret two overlapping requirements

<u>Energy Performance Standard</u>

The proposed reach code would increase the required score of specific energy metrics which are calculated for every new building under the energy code, resulting in a decrease in energy use and emissions from newly constructed buildings. The enhanced performance requirements would apply equally to mixed-fuel (i.e. natural gas and electric) and all-electric buildings and are cost-effectively achievable through the energy code's performance pathway without requiring appliances that exceed federal efficiency standards. Attachment 2 provides detail on the energy metrics, performance thresholds for different building types (Table 2), the practical effect of the reach codes on building design, available resources for lower-cost all electric buildings, and a summary of the performance and benefit-to-cost ratio for different building types (Table 4).

<u>Electric Ready Requirements</u>

The proposed reach code would add to the current 2022 California Energy Code requirements for "electric ready" components in buildings, including electric outlets near natural gas

appliances, appropriate ventilation for future heat pump appliances, and reserved and labelled breakers in the electrical panel for future electric appliances. A summary of changes is detailed in Table 3 of Attachment 2.

EV Infrastructure Requirements

The proposed EV infrastructure requirements include new definitions, and requirements that EV charging infrastructure in multi-family developments shall be connected to the unit's electrical panel, with certain exceptions. In addition, slight increases in the number or level of charging infrastructure are included, with the following resulting requirements:

Building Type	EV Requirements
New single-family residences, duplexes, townhouses, and new garages at existing	At least one Level 2 EV Ready Circuit and one Level 1 EV Ready circuit, except where only one parking space is required, carports without electrical service, or where infeasible
New multifamily dwellings	• Minimum of 1 Level 2 EV Ready Circuit Parking Space per unit ○ Minimum of 10% w/ Level 2 EVSE • Minimum 50% guest parking spaces EVCS • Overall minimum 40% parking EV Ready or EVSE
New Non-Residential Building Uses with Lower Parking Turnover Rates (longer dwell times, i.e. offices, hotels)	10 or more parking spaces - 50% EV: • 15% Level 2 EVCS • 35% at least Low Power Level 2 EV Ready Circuits 9 or fewer parking spaces: at least one Level 2 EV Ready Circuit Parking Space or EVCS
New Non-Residential Building Uses with Higher Parking Turnover Rates (shorter dwell times, i.e. restaurants, retail)	10 or more parking spaces - 25% EV: • 15% Level 2 EVCS • 10% at least Low Power Level 2 EV Ready Circuits 9 or fewer parking spaces: at least one Level 2 EV Ready Circuit Parking Space or EVCS

Cost Effectiveness

The CEC requires any local amendments to the California Energy Code that affect energy use in regulated buildings (e.g., reach codes) to be cost effective and to use less energy than the standard requirements. The CEC requires the local agency to adopt a determination that the energy standards are cost effective at a public meeting, and the determination subsequently be submitted for CEC approval.

In support of reach code development, the California Energy Codes and Standards Statewide Utility Program, which includes the State's Investor-Owned Utilities (PG&E, SDG&E, and SCE, under the auspices of the California Public Utilities Commission) developed and published the following studies:

- 2022 Cost-Effectiveness Study: Single Family New Construction Study and the associated cost-effectiveness data;

- 2022 Cost-Effectiveness Study: Multifamily New Construction Study and the associated cost-effectiveness data; and
- 2022 Cost-Effectiveness Study: Non-residential New Construction Reach Code Cost-effectiveness Study and the associated cost-effectiveness data.

Based on these studies, staff finds the proposed local amendments to the 2022 California Energy Code to be cost-effective and consume less energy than otherwise permitted by Title 24, Part 6. In short, the proposed amendments save more than they cost to implement. Additional detail is included in Table 4 of Attachment 2.

Express Findings Required for Local Amendments

Section 17958 of the California Health and Safety Code provides that a local jurisdiction may make changes to the provisions within the State's uniform codes that are published in the California Building Standards Code. Sections 17958.5 and 17958.7 of the Health and Safety Code require that for each proposed local change to those provisions in the uniform codes and published in the California Building Standards Code which regulate buildings used for human habitation, the City Council must make findings supporting its determination that each such local change is reasonably necessary because of local climatic, geological, topographical, or environmental conditions.

1. Brisbane, like the Bay Area and the state of California, is already suffering impacts of climate change in the form of droughts, air pollution, extreme heat, lowland flooding, wildfires and stagnating smoke, and these impacts will grow more severe if global greenhouse gas emissions are not significantly reduced.
2. Failure to address and significantly reduce greenhouse gas (GHG) emissions could result in rises in sea level, including in San Francisco Bay, that could put at risk City homes and businesses, public facilities, and Highway 101 (Bayshore Freeway), particularly the mapped Flood Hazard areas of the City.
3. The burning of fossil fuels in gas appliances within buildings contributes to climate change and GHG emissions as well as poor air quality. All-electric new buildings benefit the health, safety, and welfare of Brisbane residents. Encouraging all-electric construction will reduce the amount of GHG emissions produced in Brisbane.
4. The combustion of gas inside homes produces harmful indoor air pollution, specifically nitrogen dioxide, carbon monoxide, nitric oxide, formaldehyde, acetaldehyde, and ultrafine particles. These odorless and undetectable gas combustion pollutants can cause respiratory diseases, including increased risk of childhood asthma.
5. Use of fossil fuel vehicles is a primary contributor to transportation emissions and availability of EV charging infrastructure is a critical component to EV adoption over the continued use of fossil fuel reliant vehicles. Additionally, provision of EV charging infrastructure is most cost effective as part of new development projects versus existing building/site retrofit projects.
6. Electricity supplied by Peninsula Clean Energy is exceedingly clean and will become cleaner over time as the broader grid meets more stringent Renewable Portfolio

Standard requirements and translate the clean energy benefits to electric vehicles and all-electric buildings.

7. Construction of energy efficient buildings and installation of renewable energy systems protects the public health and welfare by reducing air pollution, greenhouse gas emissions, average and peak energy demand, and adverse impacts from power outages.
8. The City is located near the San Andreas Fault and is subject to seismic activity that could potentially result in ground shaking and damage to structures, via shaking, slope failure, and liquefaction and potentially ignite fires throughout the City. The reduction of natural gas infrastructure would reduce fire hazards in buildings near highly combustible wildland areas and hazards associated with gas leaks during seismic events.

Ordinance to be Adopted on an Urgency Basis

This Ordinance is proposed for adoption on an urgency basis because the intervening cycle of the California Building Code went into effect Statewide on July 1, 2024 and it is in the community interest of public health, safety and welfare for the City's reach code provisions to be in full force and effect as close as possible to the provisions of the state code. If the Ordinance were not adopted on an urgency basis, the local amendments would not be in effect until mid-October due to the City Council's meeting schedule, leading to a conflict between the State adopted provisions and the local provisions. Furthermore, the repeal of All Electric requirements is necessary due to recent legal proceedings; they are replaced with Energy Performance requirements to implement the City's Climate Action Plan and Climate Emergency Declaration and intended to reduce carbon emissions from fossil fuels to limit climate change. A four-fifths vote of the City Council is needed to adopt the Ordinance on an urgency basis.

CEQA Determination

Adoption of the Ordinance is not subject environmental review under the California Environmental Quality Act (CEQA) in that it is categorically exempt under the CEQA Guidelines, Section 15308, Actions by Regulatory Agencies to Protect the Environment.

Fiscal Impact

None

Measure of Success

Application of updated standards to meet minimum requirements of State law and implementation of measures to help meet the City's climate goals.

Attachments

1. Draft Urgency Ordinance - Energy Performance and EV Infrastructure Reach Code
2. Additional Context on Energy Performance Reach Code

John Swiecki, Community Development Director

Jeremy Dennis, City Manager

ORDINANCE NO.

AN URGENCY ORDINACE OF THE CITY OF BRISBANE TO TAKE EFFECT IMMEDIATELY UPON ITS ADOPTION AMENDING SECTION 15.04.043 OF THE BRISBANE MUNICIPAL CODE, ADDING TO THE BRISBANE MUNICIPAL CODE A NEW CHAPTER 15.83 (ENERGY PERFORMANCE REACH CODE), AND AMENDING SECTIONS 15.84.050, 15.84.060, 15.84.070, AND 15.84.070 OF THE BRISBANE MUNICIPAL CODE CONCERNING ELECTRICAL VEHICLE INFRASTRUCTURE

WHEREAS, California Health and Safety Code section 17958 requires that cities adopt building regulations that are substantially the same as those adopted by the California Building Standards Commission and contained in the California Building Standards; and

WHEREAS, the California Energy Code is a part of the California Building Standards which implements minimum energy efficiency standards in building through mandatory requirements, prescriptive standards, and performance standards; and

WHEREAS, California Health and Safety Code Sections 17922, 17958, 17958.5, 17958.7, and 18941.5 provide that the City may make changes or modifications to the building standards contained in the California Building Standards based upon express finding that such changes or modifications are reasonably necessary because of local climatic, geological or topographical conditions; and

WHEREAS, the City Council of Brisbane finds and determines that the 2022 City of Brisbane Electric Vehicle Infrastructure Ordinance, as amended to coordinate with the intervening code, exceeds the EV infrastructure provisions required by the 2022 California Building Standards Code and are reasonably necessary by reason of the express findings noted Exhibit A; and

WHEREAS, the City Council of the Brisbane finds that each of the amendment, additions, and deletions to the California Energy Code contained in this ordinance are reasonably necessary because of the local climatic, geological, topographical, or environmental conditions summarized in Exhibit A; and

WHEREAS, Public Resources Code Section 25402.1(h)2 and Section 10-106 of the Building Energy Efficiency Standards (Standards) establish a process which allows local adoption of energy standards that are more stringent than the statewide Standards, provided that such local standards are cost effective and the California Energy Commission finds that the standards will require building to be designed to consume no more energy than permitted by the California Energy Code; and

WHEREAS, on or about September 20, 2016, the State of California enacted Senate Bill (SB) 32, which added Health and Safety Code Section 38566 to require greenhouse gas emissions to be reduced to 40 percent below 1990 levels by no later than December 31, 2030; and

WHEREAS, on September 17, 2015, the Brisbane City Council adopted the City's Climate Action Plan (CAP) which included the goal of reducing carbon emissions from fossil fuels to help curb global warming; and

WHEREAS, consistent with the CAP, the local amendments to the 2022 California Building Codes, including the California Green Building Code, establish requirements for single-family (e.g., townhomes), multifamily, and nonresidential structures which will reduce demands for local energy and resources, reduce regional pollution, and promote a lower contribution to greenhouse gases emissions; and

WHEREAS, staff has reviewed the cost effectiveness studies prepared by the California Statewide Codes and Standards Reach Code Program and associated study data and find them sufficient to illustrate compliance with the requirements set forth under California Administrative Code Chapter 10-106; and

WHEREAS, the modifications will result in building designs that consume less energy than they would under the 2022 State Energy Code, as demonstrated in the California Statewide Codes and Standards Reach Code Program's cost effectiveness analyses; such analyses are required by the California Energy Commission for the local amendments to the California Energy Code contained in this ordinance, and which analyses are hereby incorporated by reference; and

WHEREAS, based upon these analyses, the City Council of the City of Brisbane finds that the local amendments to the California Energy Code contained in this Ordinance have at least one cost effective pathway and will require buildings to be designed to consume no more energy than permitted by the California Energy Code; and

WHEREAS, scientific evidence has established that natural gas combustion, procurement and transportation produce significant greenhouse gas emissions that contribute to global warming and climate change; and

WHEREAS, this Ordinance is also reasonably necessary because of health and safety concerns as City residents suffer from asthma and other health conditions associated with poor indoor and outdoor air quality exacerbated by the combustion of natural gas; and

WHEREAS, using electric heating and cooling infrastructure in new buildings fueled by less greenhouse gas intensive electricity is linked to significantly lower greenhouse gas emissions and is cost competitive because of the cost savings associated with all-electric designs that avoid new gas infrastructure; and

WHEREAS, the most cost-effective time to integrate electrical infrastructure is in the design phase of a building project because building systems and spaces may be designed to optimize the performance of electrical systems and the project can take full advantage of avoided costs

and space requirements from the elimination of natural gas piping and venting for combustion air safety; and

WHEREAS, it is the intent of the City Council to eliminate natural gas emissions in new buildings where all electric infrastructure may be most practicably integrated, thereby reducing the environmental and health hazards produced by the consumption and transportation of natural gas.

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

SECTION 1: Section 15.04.043 of the Brisbane Municipal Code is amended as follows:

Section 15.04.043 Amendments to the California Building Standards Code

The 2022 California Building Code (CBC) California Residential Code (CRC) and the California Green Standards Code (CALGreen) are hereby amended as follows:

(Subsections A through I, no change.)

Subsections J through L are deleted in their entirety.

SECTION 2: Chapter 15.83 of the Brisbane Municipal Code is added to read as follows:

"Chapter 15.83 – New Building Energy Performance Reach Code

15.83.010 – Adoption of Energy Performance Reach Code

Brisbane adopts California Building Energy Efficiency Standards, 2022 Edition, Title 24, Part 6 of the California Code of Regulations in its full form with the local amendments contained in this Chapter 15.83.

15.83.020 – Section 100.1(b) amended—Definitions and Rules of Construction.

Section 100.1(b) is amended to add the following:

> **ELECTRIC HEATING APPLIANCE.** A device that produces heat energy to create a warm environment by the application of electric power to resistance elements, refrigerant compressors, or dissimilar material junctions, as defined in the California Mechanical Code.
>
> **NET FREE AREA (NFA)** is the total unobstructed area of the air gaps between louver and grille slats in a vent through which air can pass. The narrowest distance between two slats, perpendicular to the surface of both slats is the air gap height. The narrowest width of the gap is the air gap width. The NFA is the air gap height multiplied by the air gap width multiplied by the total number of air gaps between slats in the vent.

15.83.030 – Section 120.2 amended – Required Controls for Space-Conditioning Systems

Subchapter 3 is amended to add Section 120.2(l) to read as follows:

(a) – (k): Subsections 120.2(a) – (k) are adopted without modification.

(l) HVAC Hot Water Temperature. Zones that use hot water for space heating shall be designed for a hot water supply temperature of no greater than 130 °F.

15.83.040 – Subchapter 3 amended by adding subsection (k) to Section 120.6 – Mandatory Requirements for Covered Processes

Subchapter 3 is amended to add Section 120.6(k) to read as follows:

(a) – (j): Subsections 120.6(a) – (j) are adopted without modification.

(k) Mandatory requirements for commercial kitchens. Electric Readiness for Newly Constructed Commercial Kitchens shall meet the following requirements:

1. Quick-service commercial kitchens and institutional commercial kitchens shall meet all of the following requirements:

a. Include a dedicated branch circuit wiring and outlet that would be accessible to cookline appliances.

b. The branch circuit conductors shall be rated at 50 amps minimum.

c. The electrical service shall have a capacity not less than 800 amps.

2. Main electrical service panel shall be sized to accommodate at least two additional 50 amp breakers.

15.83.050 – Subchapter 4, Section 130.0 amended—Lighting Systems and Equipment, and Electrical Power Distribution Systems—General

Subchapter 4 Section 130.0 is amended to read as follows:

a. The design and installation of all lighting systems and equipment in nonresidential and hotel/motel buildings, outdoor lighting, and electrical power distribution systems within the scope of Section 100.0(a), shall comply with the applicable provisions of Sections 130.0 through 130.6.

NOTE: The requirements of Sections 130.0 through 130.6 apply to newly constructed buildings. Section 141.0 specifies which requirements of Sections 130.0 through 130.6 also apply to additions and alterations to existing buildings.

15.83.060 – Subchapter 4 amended by adding Section 130.6 —Electric Readiness Requirements for Systems Using Gas or Propane

Subchapter 4 is amended to add Section 130.6 to read as follows:

130.6 Electric Readiness Requirements for Systems Using Gas or Propane

Where nonresidential systems using gas or propane are installed, the construction drawings shall indicate electrical infrastructure and physical space accommodating the future installation of an electric heating appliance in the following ways, as certified by a registered design professional or licensed electrical contractor.

a. Branch circuit wiring, electrically isolated and designed to serve all electric heating appliances in accordance with manufacturer requirements and the California Electrical Code, including the appropriate voltage, phase, minimum amperage, and an electrical receptacle or junction box within five feet of the appliance that is accessible with no obstructions. Appropriately sized conduit may be installed in lieu of conductors; and
b. Labeling of both ends of the unused conductors or conduit shall be with "For Future Electrical Appliance"; and
c. Reserved circuit breakers in the electrical panel for each branch circuit, appropriately labeled (e.g. "Reserved for Future Electric Range"), and positioned on the opposite end of the panel supply conductor connection; and
d. Connected subpanels, panelboards, switchboards, busbars, and transformers shall be sized to serve the future electric heating appliances. The electrical capacity requirements shall be adjusted for demand factors in accordance with the California Electric Code; and
e. Physical space for future electric heating appliances, including equipment footprint, and if needed a pathway reserved for routing of ductwork to heat pump evaporator(s), shall be depicted on the construction drawings. The footprint necessary for future electric heating appliances may overlap with non-structural partitions and with the location of currently designed combustion equipment.

15.83.070 – Subchapter 5, Section 140.0 amended—Performance and Prescriptive Compliance Approaches

Subchapter 5 Section 140.0 is amended to read as follows:

Nonresidential and hotel/motel buildings shall comply with all of the following:

a. The requirements of Sections 100.0 through 110.12 applicable to the building project (mandatory measures for all buildings).
b. The requirements of Sections 120.0 through 130.6 (mandatory measures for nonresidential and high-rise residential and hotel/motel buildings).
c. Either the performance compliance approach (energy budgets) specified in Section 140.1 or the prescriptive compliance approach specified in Section 140.2 for Climate Zone 3.
d. NOTE to Section 140.0(c): The Commission periodically updates, publishes and makes available to interested persons and local enforcement agencies precise descriptions of

the Climate Zones, which is available by zip code boundaries depicted in the Reference Joint Appendices along with a list of the communities in each zone.

NOTE to Section 140.0: The requirements of Sections 140.1 through 140.9 apply to newly constructed buildings. Section 141.0 specifies which requirements of Section 140.1 through 140.9 also apply to additions or alterations to existing buildings.

15.83.080 – Section 140.1 amended—Non-Residential Performance Approach: Energy Budgets

Section 140.1 is amended to read as follows:

A building complies with the performance approach provided that:

1. The time-dependent valuation (TDV) energy budget calculated for the Proposed Design Building under Subsection (b) is no greater than the TDV energy budget calculated for the Standard Design Building under Subsection (a), and
2. The source energy budget calculated for the proposed design building under Subsection (b) has a source energy compliance margin, relative to the energy budget calculated for the standard design building under Subsection (a), of at least seven (7) percent for all nonresidential occupancies.

EXCEPTION 1 to 140.1 item 2: A source energy compliance margin of 0 percent or greater is required when nonresidential occupancies are designed with single zone space-conditioning systems complying with Section 140.4(a)2.

EXCEPTION 2 to 140.1 Item 2. Due to conditions specific to the project, it is technically infeasible to achieve compliance, the Building Official may reduce the compliance margin for a newly constructed building.

(a) – (c): Subsections 140.1 (a) – (c) are adopted without modification.

15.83.090 – Subchapter 7, Section 150.0 amended—Single-Family Residential Buildings—Mandatory Features and Devices

Subchapter 7 Section 150.0 is amended as follows:

Single-family residential buildings shall comply with the applicable requirements of Sections 150(a) through 150.0(v).

NOTE: The requirements of Sections 150.0 (a) through (r<u>v</u>) apply to newly constructed buildings. Sections 150.2(a) and 150.2(b) specify which requirements of Sections 150.0(a) through 150.0(r) also apply to additions or alterations. The amendments to sections 150.0 (t) do not apply to additions or alterations.

(a) – (s): Subsections 150.0(a) – (s) are adopted without modification.

(t) Heat pump space heater ready. Systems using gas or propane furnace to serve individual dwelling units shall include the following:

1. A dedicated 240 volt branch circuit wiring shall be installed within 3 feet from the furnace and accessible to the furnace with no obstructions. The branch circuit conductors shall be rated at 30 amps minimum. The blank cover shall be identified as "240V ready." All electrical components shall be installed in accordance with the California Electrical Code.

2. The main electrical service panel shall have a reserved space to allow for the installation of a double pole circuit breaker for a future heat pump space heater installation. The reserved space shall be permanently marked as "For Future 240V use."

3. A designated exterior location for a future heat pump compressor unit with either a drain or natural drainage for condensate.

(u) – (v): Subsections 150.0(u) – (v) are adopted without modification.

15.83.100 – Section 150.1 amended—Performance and Prescriptive Compliance Approaches for Single Family Residential Buildings

Section 150.1 is amended to read as follows:

(a) Section (a) is adopted without modification

(b) Performance Standards. A building complies with the performance standards if the energy consumption calculated for the proposed design building is no greater than the energy budget calculated for the standard design building using Commission-certified compliance software as specified by the Alternative Calculation Methods Approval Manual, as specified in sub-sections 1, 2 and 3 below.

1. Newly Constructed Buildings. The Energy Budget for newly constructed buildings is expressed in terms of the Energy Design Ratings, which are based on source energy and time-dependent valuation (TDV) energy. The Energy Design Rating 1 (EDR1) is based on source energy. The Energy Design Rating 2 (EDR2) is based on TDV energy and has two components, the Energy Efficiency Design Rating, and the Solar Electric Generation and Demand Flexibility Design Rating. The total Energy Design Rating shall account for both the Energy Efficiency Design Rating and the Solar Electric Generation and Demand Flexibility Design Rating. The proposed building shall separately comply with the Source Energy Design Rating, Energy Efficiency Design Rating and the Total Energy Design Rating.

   A building complies with the performance approach if the TDV energy budget calculated for the proposed design building is no greater than the TDV energy budget calculated for the Standard Design Building AND Source Energy

compliance margin of at least 9, relative to the Source Energy Design Rating 1 calculated for the Standard Design building.

EXCEPTION 1 to Section 150.1(b)1. A community shared solar electric generation system, or other renewable electric generation system, and/or community shared battery storage system, which provides dedicated power, utility energy reduction credits, or payments for energy bill reductions, to the permitted building and is approved by the Energy Commission as specified in Title 24, Part 1, Section 10-115, may offset part or all of the solar electric generation system Energy Design Rating required to comply with the Standards, as calculated according to methods established by the Commission in the Residential ACM Reference Manual.

EXCEPTION 2 to Section 150.1(b)1. A newly constructed building with a conditioned floor area less than 1,500 square feet shall achieve a Source Energy compliance margin of 4 or greater, relative to the Source Energy Design Rating 1 calculated for the Standard Design building.

EXCEPTION 3 to Section 150.1(b)1. If a newly constructed building with a conditioned floor area less than 625 square feet demonstrates that due to conditions specific to the project it is technically infeasible to achieve compliance, the Building Official may reduce the compliance margin for a newly constructed building.

2. Additions and Alterations to Existing Buildings. The Energy Budget for additions and alterations is expressed in terms of TDV energy.

3. Section (b)(3) is adopted without modification.

(c) Section (c) is adopted without modification.

15.83.110 – Subchapter 10, Section 160.4(a) removed—Mandatory Requirements for Water Heating Systems

Subchapter 10 Multifamily Buildings-Mandatory Requirements is amended to remove subsection (a) of Section 160.4 Mandatory Requirements for Water Heating Systems. Sections (b) to (f) are adopted without amendments.

15.83.120 – Section 160.9(d) – (f) added—Mandatory Requirements for Electric Ready Buildings

Section 160.9 Sections (a) to (c) are adopted without amendments. Sections (d) through (f) are added as follows:

(d) Individual Heat Pump Water Heater Ready. Systems using gas or propane water heaters to serve individual dwelling units shall include the following components and shall meet the requirements of Section 160.9(f):

1. A dedicated 125 volt, 20 amp electrical receptacle that is connected to the electric panel with a 120/240 volt 3 conductor, copper branch circuit rated to 30 amps, within 3 feet from the water heater and accessible to the water heater with no obstructions. In addition, all of the following:
    A. Both ends of the unused conductor shall be labeled with the word “spare” and be electrically isolated; and
    B. A reserved single pole circuit breaker space in the electrical panel adjacent to the circuit breaker for the branch circuit in A above and labeled with the words “Future 240V Use”.
2. A condensate drain that is no more than 2 inches higher than the base of the installed water heater, and allows natural draining without pump assistance.
3. The construction drawings shall indicate the location of the future heat pump water heater. The reserved location shall have minimum interior dimensions of 39”x39”x96”.
4. A ventilation method meeting one of the following:
    A. The location reserved for the future heat pump water heater shall have a minimum volume of 700 cu. ft.
    B. The location reserved for the future heat pump water heater shall vent to a communicating space in the same pressure boundary via permanent openings with a minimum total net free area of 250 sq. in., so that the total combined volume connected via permanent openings is 700 cu. ft. or larger. The permanent openings shall be:
        i. Fully louvered doors with fixed louvers consisting of a single layer of fixed flat slats; or
        ii. Two permanent fixed openings, consisting of a single layer of fixed flat slat louvers or grilles, one commencing within 12 inches from the top of the enclosure and one commencing within 12 inches from the bottom of the enclosure.
    C. The location reserved for the future heat pump water heater shall include two 8” capped ducts, venting to the building exterior.
        i. All ducts connections and building penetrations shall be sealed.
        ii. Exhaust air ducts and all ducts which cross pressure boundaries shall be insulated to a minimum insulation level of R-6.
        iii. Airflow from termination points shall be diverted away from each other.

(e) Central Heat Pump Water Heater Electric Ready. Central water heating systems using gas or propane to serve multiple dwelling units shall include the following:

1. The system input capacity of the gas or propane water heating system shall be determined as the sum of the input gas or propane capacity of all water heating devices associated with each gas or propane water heating system.
2. Space reserved shall include:
   A. Heat Pump. The minimum space reserved shall include space for service clearances, and air flow clearances, and shall meet one of the following:
      i. If the system input capacity of the gas water heating system is less than 200,000 BTU/HR, the minimum space reserved for the heat pump shall be 2.0 square feet per input 10,000 Btu/ HR of the gas or propane water heating system, and the minimum linear dimension of the space reserved shall be 48 linear inches.
      ii. If the system input capacity of the gas water heating system is greater than or equal to 200,000 BTU/HR, the minimum space reserved for the heat pump shall be 3.6 square feet per input 10,000 Btu/ HR of the gas or propane water heating system, and the minimum linear dimension of the space reserved shall be 84 linear inches.
      iii. The space reserved shall be the space required for a heat pump water heater system that meets the total building hot water demand as calculated and documented by the responsible person associated with the project.
   B. Tanks. The minimum space reserved shall include space for service clearances and shall meet one of the following:
      i. If the system input capacity of the gas water heating system is less than 200,000 BTU/HR, the minimum space reserved for the storage and temperature maintenance tanks shall be 4.4 square feet per input 10,000 BTU/HR. of the gas or propane water heating system.
      ii. If the system input capacity of the gas water heating system is greater than or equal to 200,000 BTU/HR, the minimum physical space reserved for the storage and temperature maintenance tanks shall be 3.1 square feet per input 10,000 BTU/HR. of the gas or propane water heating system.
      iii. The space reserved shall be the space required for a heat pump water heater system that meets the total building hot water demand as calculated and documented by the responsible person associated with the project.
3. Ventilation shall be provided by meeting one of the following:
   A. Physical space reserved for the heat pump shall be located outside, or
   B. A pathway shall be reserved for future routing of supply and exhaust air via ductwork from the reserved heat pump location to an appropriate outdoor location. Penetrations through the building envelope for louvers and ducts shall be planned and identified for future use. The reserved pathway and penetrations through the building envelope shall be sized to meet one of the following:
      i. If the system input capacity of the gas water heating system is less than

200,000 BTU/HR, the minimum air flow rate shall be 70 CFM per input 10,000 BTU/HR of the gas or propane water heating system and the total external static pressure drop of ductwork and louvers shall not exceed 0.17 inches when the future heat pump water heater is installed.

ii. If the system input capacity of the gas water heating system is greater than or equal to 200,000 BTU/HR, the minimum air flow rate shall be 420 CFM per input 10,000 BTU/HR of the gas or propane water heating system and the total external static pressure drop of ductwork and louvers shall not exceed 0.17" when the future heat pump water heater is installed.

iii. The reserved pathway and penetrations shall be sized to serve a heat pump water heater system that meets the total building hot water demand as calculated and documented by the responsible person associated with the project.

4. Condensate drainage piping. An approved receptacle that is sized in accordance with the California Plumbing Code to receive the condensate drainage shall be installed within 3 feet of the reserved heat pump location, or piping shall be installed from within 3 feet of the reserved heat pump location to an approved discharge location that is sized in accordance with the California Plumbing Code, and meets one of the following:

   A. If the system input capacity of the gas water heating system is less than 200,000 BTU/HR, condensate drainage shall be sized for 0.2 tons of refrigeration capacity per input 10,000 BTU/HR

   B. If the system input capacity of the gas water heating system is greater than or equal to 200,000 BTU/HR, condensate drainage shall be sized for 0.7 tons of refrigeration capacity per input 10,000 BTU/HR

   C. Condensate drainage shall be sized to serve a heat pump water heater system that meets the total building hot water demand as calculated and documented by the responsible person associated with the project.

5. Electrical.

   A. Physical space shall be reserved on the bus system of the main switchboard or on the bus system of a distribution board to serve the future heat pump water heater system including the heat pump and temperature maintenance tanks. In addition, the physical space reserved shall be capable of providing adequate power to the future heat pump water heater as follows:

      i. Heat Pump. For the Heat Pump, the physical space reserved shall comply with one of the following:

         A. If the system input capacity of the gas water heating system is less than 200,000 BTU/HR, provide 0.1 kVA per input 10,000 BTU/HR

         B. If the system input capacity of the gas water heating system is greater

than or equal to 200,000 BTU/HR, provide 1.1 kVA per input 10,000 Btu/HR

C. The physical space reserved supplies sufficient electrical power required to power a heat pump water heater system that meets the total building hot water demand as calculated and documented by the responsible person associated with the project.

ii. Temperature Maintenance Tank. For the Temperature Maintenance Tank, the physical space reserved shall comply with one of the following:

A. If the system input capacity of the gas water heating system is less than 200,000 BTU/HR, provide 1.0 kVA per input 10,000 BTU/HR

B. If the system input capacity of the gas water heating system is greater than or equal to 200,000 BTU/HR, provide 0.6 kVA per input 10,000 BTU/HR

C. The physical space reserved supplies sufficient electrical power required to power a heat pump water heater system that meets the total building hot water demand as calculated and documented by the responsible person associated with the project.

(f) The building electrical system shall be sized to meet the future electric requirements of the electric ready equipment specified in sections 160.9 a – e. To meet this requirement the building main service conduit, the electrical system to the point specified in each subsection, and any on-site distribution transformers shall have sufficient capacity to supply full rated amperage at each electric ready appliance in accordance with the California Electric Code.

15.83.130 – Subchapter 11, Section 170.1 amended—Multifamily Buildings—Performance Approach

Subchapter 11 Section 170.1 is adopted with amendments as follows:

A building complies with the performance approach if the TDV energy budget calculated for the proposed design building under Subsection (b) is no greater than the TDV energy budget calculated for
the Standard Design Building under Subsection (a). Additionally:

A. The energy budget, expressed in terms of source energy, of a newly constructed low-rise multifamily building (less than four habitable stories) shall be at least ten percent (10%) lower than that of the Standard Design Building.

EXCEPTION 1 to Section 170.1.1. Due to conditions specific to the project, it is technically infeasible to achieve compliance, the Building Official may reduce the compliance margin for a newly constructed building.

B. Newly Constructed high-rise multifamily buildings (greater than four habitable stories) shall be at least four percent (4%) lower than that of the Standard Design Building.

EXCEPTION 1 to Section 170.1.2. Due to conditions specific to the project, it is technically infeasible to achieve compliance, the Building Official may reduce the compliance margin for a newly constructed building.

Sub-sections (a) to (d) are adopted without amendments."

Section 3. Sections 15.84.050, 15.84.060, 15.84.070, and 15.85.070 of the Brisbane Municipal Code are amended to read as follows:

"**15.84.050 – Coordination with state codes**

This chapter does not replace the most recent edition of the California Building Code, Title 24, as adopted by the City in Chapter 15.04 of this code. This chapter 15.84 amends the state code, to place additional requirements on new residential and nonresidential development projects. To the extent the provisions of this chapter conflict with any current or subsequently adopted state code provisions, then the most stringent provisions shall supersede and control.

15.84.060 - Definitions:

For the purposes of this chapter, the following definitions shall apply:

(Current subsections A and B, no change.)

C. **Low Power Level 2 EV Parking Space**. "Low Power Level 2 EV Ready Parking Space" means a parking space served by a complete electric circuit with two hundred eight/two hundred forty (208/240) volt, twenty-ampere capacity including electrical panel capacity, overprotection device. The following shall be addressed in designating a Low Power Level 2 EV Ready Parking Space.

1. It is to be a minimum one inch diameter raceway that may include multiple circuits as allowed by the California Electrical Code.
2. Wiring shall be included and either:
    a. A Receptacle labeled "Electric Vehicle Outlet" with at least a one-half inch font adjacent to the parking space; or
    b. Electric vehicle supply equipment (EVSE) with a minimum output of fifteen (15) amperes.

(Current Subsections C and D no change but re-letter to subsections D and E.)

F. Electric vehicle supply equipment (EVSE): "Electric Vehicle Supply Equipment (EVSE)" means the conductors, including the ungrounded, grounded and equipment grounding conductors and the electric vehicle connectors, attachment plugs, personnel protection system, and all other fittings, devices, power outlets or apparatus installed specifically for the purpose of transferring energy between the premises wiring and the electric vehicle.

(Current subsections E and F no change but re-letter to subsections G and H.)

I. Unassigned or Common Use Parking: "Unassigned or Common Use Parking" means parking spaces in a residential parking facility that are not reserved for or assigned to a specific living unit within the building or residence, including guest, staff, or other non-resident parking.

15.84.070 Residential Requirements

New residential construction shall comply with the following:

A. New single-family residences, duplexes, townhouses, and new garages at existing single-family residences, duplexes, and townhouses.

1. Electric Vehicle (EV) Standards:

    a. For each dwelling unit where two (2) or more parking spaces are required, at least one Level 2 EV Ready Circuit and one Level 1 EV Ready circuit is to be installed.

    b. Where only one parking space is required per dwelling unit as provided in Chapter 17.34, only one Level 2 EV Ready circuit shall be required to be installed.

2. Exceptions: The following exceptions apply, subject to building official approval:

    a. Carports without electrical service.

    b. A reduction in the EV standards may be allowed if requested in writing by the applicant based on demonstration that the provisions of this section would render the development project infeasible due to associated utility costs. Documentation is to take into account short term and long term cost analysis to the satisfaction of the building official.

B. New multifamily dwellings. The following shall apply to multifamily developments whether parking spaces are assigned or unassigned to individual units:

1. EV Standards:

    a. A minimum of one (1) Level 2 EV Ready Circuit Parking Space per unit shall be provided; and

b. A minimum of ten percent (10%) of the spaces required in paragraph a above shall be equipped with Level 2 EVSE; and

c. A minimum of fifty percent (50%) of required guest parking spaces shall be EVCS parking spaces.

d. In no case shall less than forty percent (40%) of the total parking spaces provided be EV Ready or EVSE.

2. Receptacle power source. EV charging receptacles and EVSE in multifamily facilities shall be provided with a dedicated branch circuit connected to the dwelling unit's electrical panel, unless determined as infeasible by the project builder or designer and subject to concurrence of the local enforcing agency.

    a. Exceptions: Unassigned or guest parking spaces and areas of parking facilities served by lifts, including but not limited to automated mechanical-access open parking garages as defined by the California Building Code; or parking facilities otherwise incapable of supporting electric vehicle charging.

3. Rounding. Calculations for the required minimum number of spaces equipped with Level 2 EVSE and EVCS parking spaces shall all be rounded up to the nearest whole number.

4. Exceptions: The following exceptions apply, subject to building official approval:

    a. Where less than one parking space per unit is required as provided in Chapter 17.34, the Level 2 EV Ready Circuit parking space requirements shall apply only to the parking required as provided in Chapter 17.34. This subparagraph does not alter the required minimum number of parking spaces as provided in Chapter 17.34.

    b. When more than twenty (20) multifamily dwelling units are constructed, load balancing systems may be installed. In such cases, the panel capacity must average a minimum of sixteen (16) amperes per EV space. Load balancing systems may be installed to increase the number of EV chargers or the amperage or voltage beyond the minimum required.

    c. A reduction in the EV standards may be allowed, if requested in writing by the applicant based on demonstration that the provisions of subsection B would render the development project infeasible due to associated utility costs. However, the maximum feasible amount of EV infrastructure shall be provided. Documentation is to take into account short term and long term cost analysis to the satisfaction of the building official.

15.84.080 Non-Residential Requirements

New nonresidential construction shall comply with the following provisions:

A. Building Uses with Lower Parking Turnover Rates: For buildings designed for primarily low parking turnover uses, such as administrative office, R&D, industrial, hotels and school uses, the following provisions apply to construction of new buildings, as determined by the building official. These building uses typically have longer average parking durations as compared to those included in Section 17.84.080.B.

1. EV Standards:

a. When ten (10) or more parking spaces are required, a total of 50% of the parking spaces required per Chapter 17.34 shall be EV, as follows:
   i. Fifteen percent (15%) of the required parking spaces on site shall be equipped with Level 2 EVCS;
   ii. An additional thirty-five percent (35%) of the required parking spaces on site shall be provided with at least Low Power Level 2 EV Ready Circuits.

b. When nine (9) or fewer parking spaces are required, at least one Level 2 EV Ready Circuit Parking Space or EVCS must be provided.

c. Rounding: Calculations for the required minimum number of spaces equipped with Level 2 EVCS and Low Power Level 2 EV Ready spaces shall all be rounded up to the nearest whole number.

2. Exceptions: No change

B. Building Uses with Higher Parking Turnover Rates: The following provisions apply to construction of new buildings designed for the primary uses of restaurant, retail, meeting halls, gyms, commercial recreation, professional office and similar, as determined by the Building Official. These building uses typically have shorter average parking durations as compared to those included in Section 17.84.080.A.

1. EV Standards:

a. When ten (10) or more parking spaces are required, a total of twenty-five percent (25%) of the parking spaces required per Chapter 17.34 shall be EV, as follows:

   i. Fifteen percent (15%) of the required parking spaces on site shall be equipped with Level 2 EVCS;
   ii. An additional ten percent (10%) shall be at least Level 2 EV Ready.

b. When nine (9) or less parking spaces are required, at least one Level 2 EV Ready Circuit Parking Space or EVCS must be provided.

c. Rounding: Calculations for the required minimum number of spaces equipped with Level 2 EVCS and Level 2 EV Ready spaces shall be rounded up to the nearest whole number.

2. Exceptions: No change."

Section 4. Adoption of this Ordinance is not subject to further environmental review under the California Environmental Quality Act (CEQA) in that it is general policy and procedure making activity that will not result in direct or indirect physical changes to the environment. CEQA Guidelines, Section 15378 (b)(3) and (b)(5).

Section 5. Effective Date. This Ordinance is adopted on an urgency basis, to take effect immediately upon its adoption and the reasons for adopting it on an urgency basis are several fold. Concerning electrical vehicle infrastructure amendments, the intervening cycle of the California Building Code went into effect State wide on July 1, 2024 and it is in the community interest of public health, safety and welfare for the City's reach code provisions to be in full force and effect as close as possible to the provisions of the California Building Code; if the Ordinance were not adopted on an urgency basis, the local amendments would not be in effect until mid-October due to the City Council's meeting schedule, leading to a conflict between the State adopted provisions and the local provisions. Concerning the new electrical reach codes, those amendments are necessary in order to implement the City's Climate Action Plan and the City's Declaration of a Climate Emergency Declaration, the intent of which is reduce carbon emissions from fossil fuels to help curb global warming; one critical method to accomplish that is by limiting the installation of new fossil fuel infrastructure and appliances.

The above Ordinance was adopted on an urgency basis (a 4/5 vote) at a regular meeting of the City Council of the City of Brisbane held on July 18, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor of the City of Brisbane

ATTEST:

Ingrid Padilla, City Clerk

APPROVED AS TO FORM:

Thomas R. McMorrow, City Attorney

Exhibit A

Findings Supporting the City of Brisbane Electric Vehicle Infrastructure Ordinance

By reason of the express findings noted in A and C below, it is necessary to amend the provisions of Brisbane's Electric Vehicle Infrastructure Ordinance.

Findings Supporting Local Amendments to Title 24 of the California Code of Regulations, 2022 Edition of the California Building Standards Code

Section 17958 of the California Health and Safety Code provides that the City may make changes to the provisions in the uniform codes that are published in the California Building Standards Code. Sections 17958.5 and 17958.7 of the Health and Safety Code require that for each proposed local change to those provisions in the uniform codes and published in the California Building Standards Code which regulate buildings used for human habitation, the City Council must make findings supporting its determination that each such local change is reasonably necessary because of local climatic, geological, or topographical conditions. Similar findings must be made to adopt model code appendices. Amendments to provisions not regulating buildings used for human habitation, including amendments made only for administrative consistency, do not require findings.

Code: California Energy Code					
Section(s)	**Title**	**Add**	**Delete**	**Amended**	**Justification (see Key)**
100.1(b)	Electric Heating Appliance			X	A, B, C
102.2(l)	Required Controls for Space-Conditioning Systems	X			A, B, C
102.6(k)	Mandatory Requirements for Covered Processes	X			A, B, C
130.0	Lighting Systems and Equipment, and Electrical Power Distribution Systems—General			X	A, B, C
130.6	Electric Readiness Requirements for Systems Using Gas or Propane	X			A, B, C
140.0	Performance and Prescriptive Compliance Approaches			X	A, B, C
140.1	Non-Residential Performance Approach: Energy Budgets			X	A, B, C
150.0	Single-Family Residential Buildings—Mandatory Features and Devices			X	A, B, C

Section(s)	Title	Add	Delete	Amended	Justification (see Key)
150.1	Performance and Prescriptive Compliance Approaches for Single Family Residential Buildings			X	A, B, C
160.4(a)	Mandatory Requirements for Water Heating Systems		X		A, B, C
160.9(d) – (f)	Mandatory Requirements for Electric Ready Buildings	X			A, B, C
170.1	Multifamily Buildings—Performance Approach			X	A, B, C

Key:

A. Climatic

The local amendments are justified on the basis of a local climatic conditions in Brisbane. Failure to address and significantly reduce greenhouse gas (GHG) emissions could result in rises in sea level, including in San Francisco Bay, that could put at risk City homes and businesses, public facilities, and Highway 101 (Bayshore Freeway), particularly the mapped Flood Hazard areas of the City. Electric vehicle (EV) charging infrastructure and elimination of the burning of fossil fuels used in gas appliances for the heating of buildings are key components in reducing GHG emissions.

EV charging installations can help the City of Brisbane reduce its share of the GHG emissions that contribute to climate change and contribute to the reduction of GHG emissions by supporting the demand for EVs and the associated charging infrastructure. Provision of EV charging infrastructure is most cost effective as part of new development projects versus existing building/site retrofit projects. Furthermore, electricity will become cleaner over time as utilities achieve more stringent Renewable Portfolio Standard requirements and translate the clean energy benefits to electric vehicles.

Natural gas combustion and gas appliances emit a wide range of air pollutants, such as carbon monoxide (CO), nitrogen oxides (NOx, including NO2), particulate matter (PM), and formaldehyde, which according to a UCLA study, have been linked to various acute and chronic health effects, and additionally exceed levels set by national and California-based ambient air quality standards. The burning of fossil fuels used in gas appliances for the heating of buildings contributes to climate change and GHG emissions. All-electric new buildings benefit the health, safety, and welfare of Brisbane residents. Requiring all-electric construction and limiting gas infrastructure in new construction will reduce the amount of GHG emissions produced in Brisbane.

B. Topographical

The local amendments are justified on the basis of local topographic conditions in Brisbane. The City of Brisbane is located at the western edge of the San Francisco Bay and along the eastern flanks of San Bruno Mountain. The City has vacant development sites in flood prone areas as well as areas that may be subject to slope movement in steep areas of the City.

The City's topography and location, adjacent to the San Francisco Bay and San Bruno Mountain, present a number of hazards that include, but is not limited to flooding and slope stability. The reduction of natural gas infrastructure in new buildings and the transition to electric appliances in buildings would reduce fire hazards in buildings in hazards areas.

C. Environmental

The local amendments improve the public health and welfare by promoting the environmental and economic health of the City through the design, construction, maintenance, operation and deconstruction of buildings and sites by incorporating green practices into all development. The local amendments are consistent with the goals of the Green Building Code and help achieve the following goals:

- Reduce the use of natural gas in buildings which improves indoor environmental quality and health;
- Reduce the use of natural gas which will reduce the natural gas infrastructure and fire risk over time;
- Promote the health and productivity of residents, workers, and visitors to the city; and
- Increase electric vehicle charging infrastructure to encourage electric vehicle adoption which in turn reduces greenhouse gas emissions and improves air quality.

Attachment 2: Additional Context on Energy Performance Reach Code

Legal Landscape

The City of Berkeley had adopted regulations requiring electric appliances in 2019, which was subject to an unsuccessful challenge from the California Restaurant Association in federal district court that the federal Energy Policy and Conservation Act (EPCA) preempted Berkeley's all-electric ordinance. However, on April 17, 2023, the United States Court of Appeals for the Ninth Circuit ("Ninth Circuit") reversed a district court's decision and ruled that the EPCA preempted the City of Berkeley's all-electric ordinance. The EPCA (42 U.S.C. § 6297(c)) states that "no State [or local] regulation concerning the energy efficiency, energy use, or water use, of [a] covered product shall be effective with respect to such covered product." In response to the Ninth Circuit's ruling, Brisbane temporarily suspended implementation of the all-electric requirement for new buildings.

On January 2, 2024, the Ninth Circuit denied the City of Berkeley's petition for rehearing and issued a modified opinion affirming that Berkeley's regulation is preempted by federal law. The City of Berkeley subsequently announced that it would not pursue an appeal of the Ninth Circuit ruling, effectively solidifying the Ninth Circuit's ruling on April 17, 2023 as final law.

The California Restaurant Association v. City of Berkeley ruling limits how the City can reduce emissions from new buildings and adds new context for what constitutes as a preemption to federal appliance regulations. Staff have identified increased building energy performance requirements via local amendments to the California Energy Code (i.e. "reach codes") as the preferred alternative approach that will not conflict with EPCA under the most recent ruling.

The California Energy Code establishes whole-building efficiency requirements, which account for a building's water heater, HVAC (heating, ventilation, and air conditioning) system, solar generating system, and insulation, among other design elements. The California Energy Code includes both a prescriptive option and performance option per building type. The proposed reach code primarily amends the performance pathway of the California Energy Code and does not regulate cooking equipment, laundry dryers, or other energy uses not addressed by the performance path of the California Energy Code.

EPCA has a specific exemption, referred to as the 7-factor test, which allows policies to require energy efficiency without pre-empting EPCA. The CEC has used this exemption for several code cycles, most recently through the use of the Energy Design Rating in the current Energy Code. Table 1 below references several of the factors from the 7-factor test and explains the technical aspects of the Energy Performance Approach in reference to the factor.

Table 1. 7-Factor Test for Pre-Emption Compared to the Energy Performance Approach

EPCA Requirements	Energy Performance Approach
Permit a builder to […] select items whose combined energy efficiency meet an overall building energy target.	Instead of regulating appliance fuel infrastructure, the Energy Performance Approach sets a target energy score using the EDR1/Source Energy margin (used in the California Energy Code performance option).
Not specifically require any EPCA-covered appliance to exceed federal standards.	This approach sets the Source Energy target energy score assuming federally required minimum equipment efficiencies.
Offer options for compliance, on a 1-for-1 equivalent energy use or equivalent cost basis.	This approach sets a common Source Energy target energy margin for both mixed-fuel and all-electric buildings.

Energy Performance

The California Energy Code provides different metrics for different types of buildings:

1. Single-Family Residential: A new single-family residential building must meet or exceed all "Energy Design Ratings" (EDR). There are three EDR categories:
    - EDR1 (Source Energy) – EDR1 is a score representing a building's energy efficiency expressed in terms that serve as a proxy for greenhouse gas emissions.
    - EDR2 (Efficiency) – EDR2 is a score representing a building's energy efficiency expressed in terms of the value and cost of energy consumed at different times of the day and year.
    - EDR Total (Total Energy Design Rating) is a score representing the building's total energy expressed in terms of the value and cost of energy consumed at different times of the day and year while factoring in solar and energy demand flexibility.
2. Multi-Family Residential: A new multi-family residential building must meet or exceed a standard that combines the value and cost of energy consumed at different times of the day and year (referred to as Time Dependent Valuation of energy, or TDV), and the emissions from the building's energy source. The 2022 Source Energy metric is new and was added to support decarbonization and electrification policy goals.
3. Non-Residential: A new non-residential building must also meet or exceed a standard that uses TDV energy and Source Energy emissions scores.

The proposed Reach Code would increase the required EDR1 score for single family residential buildings and the required Source Energy scores for all other buildings. Source Energy acts as a proxy for carbon emissions. By increasing these requirements, the result is a decrease in energy use and emissions from newly constructed buildings. Table 2 below shows the performance requirement for different building types.

Table 2. Proposed Improved Energy Performance Standards

Building Type	Performance Requirement
Single Family Residential Buildings	Exceed the standard EDR1 requirement by at least 9
Multi-Family Residential (Low-rise, ≤ 3 stories)	Exceed the standard Source Energy requirement by 10%
Multi-Family Residential (High-rise, ≥ 4 stories)	Exceed the standard Source Energy requirement by 4%
Non-Residential	Exceed the standard Source Energy requirement by 7%

Because of how the EDR1 and Source Energy scores are calculated in the 2022 California Energy Code, the higher standards proposed in the Reach Code would allow new buildings to include electric appliances and/or mechanical systems, or allow the use of mixed-fuel appliances and systems which would include additional energy efficiency measures, PV systems, and/or a battery. The enhanced performance requirements would apply equally to mixed-fuel and all-electric buildings and are cost-effectively achievable through the energy code's performance pathway without requiring appliances that exceed federal efficiency standards.

Electric Ready Requirements

Table 3 represents the current 2022 California Energy Code requirements and those proposed to be added in the reach code.

Table 3. Electric Ready Infrastructure

Building Type	Current Energy Code	Proposed Reach Code
Single-Family Residential	○ Gas-fueled furnaces ○ Gas-fueled water heaters ○ Gas-fueled clothes dryers ○ Gas-fueled cooktops	○ No additions
Multifamily Residential	○ Gas-fueled furnaces ○ Gas-fueled water heaters (Excludes central water-heating systems) ○ Gas-fueled clothes dryers ○ Gas-fueled cooktops	○ Gas-fueled water heaters (Includes central water-heating systems)
Nonresidential	○ No current requirements	○ Commercial kitchens ○ Control for HVAC hot water temperature ○ Any other systems using gas or propane

Practical Effect of the Energy Performance Reach Code

Because the City is working within the confines of the California Energy Code, the description of the proposed approach above is inherently technical. This section illustrates the practical effect of the proposed approach by providing a simplified example of how a single-family home designer would comply with the proposed Reach Code.

Under the current California Energy Code, a building designer working on a single-family home built to the code minimum would likely include high efficiency LED lighting, rooftop solar, an electric heat pump hot water heater, a natural gas furnace, insulated walls, an insulated attic, and efficient windows, among other design elements that are similar to the prescriptive pathway in the California Energy Code. The designer would input the proposed building design into a computer building simulation model and estimate its energy performance. The energy modeling software would provide standard reporting metrics, including an EDR1. The designer would then calculate the compliance margin by subtracting the standard design building's EDR1 rating from the proposed designed building's EDR1. In this case, the proposed designed building's EDR1 score would be equal to the standard design building's EDR1 score, resulting in a compliance margin of 0, which meets the compliance requirement for that part of the California Energy Code.

With the proposed reach code in place, the designer would now need to achieve a compliance margin of 9. That means that the EDR1 of the proposed designed building needs to be 9 or more points better than the standard design building. If this building designer replaced the gas furnace with a commonly available heat pump HVAC system, the building would achieve a score that is 9 EDR1 points better than the code minimum standard design and would be consistent with the proposed Reach Code requirements. Alternatively, the building designer could keep the gas furnace and install a battery storage system, which would also result in an increase of more than 9 EDR1 points. The building designer also has the option to develop a package of efficiency and solar measures; so long as the measures lead to an increase of 9 or more EDR1 points better than the code minimum standard design, it is consistent with the reach code.

This illustrative example for single family homes is similar for the other building types where the proposed compliance margins reflect the designer selection of either installing electric heat pump equipment or gas equipment alongside some package of additional solar capacity, battery storage systems, and efficiency measures.

Available Resources for Lower Cost All-Electric Buildings

For projects that chose to go all-electric, the state of California and regional entities are providing technical assistance, substantial rebates, and incentives for all-electric new buildings. Current programs include:

- *California Electric Homes* is provided by the CEC and provides base incentives for all-electric new market rate residential buildings including $3,000 for single-family homes, $1,750 per multi-family residential unit, $1,750 per accessory dwelling unit, and $6,000 per modular or manufactured home. Program participation is capped at $1.5 million per builder and includes additional incentives for items like induction cooktop and beyond code efficiency measures.

- *The Building Initiative for Low-Emissions Development (BUILD) Program* is provided by the CEC and includes technical support and incentives for all-electric new affordable housing including approximately $3,399 per multifamily unit and $5,500 per single-family home.
- *Peninsula Clean Energy's EV Ready Program* provides incentives for the installation of Electric Vehicle charging. While the program is primarily for existing buildings, new multi-family developments are eligible for $1000-$2500 per port/outlet depending on type with higher incentives for affordable housing.

Cost Effectiveness

Table 4. Summary of Cost-Effectiveness

Building Type	Performance Requirement	All Electric Building w/ Efficiency Measures		Mixed-Fuel w/ Efficiency Measures, Additional Solar & Battery System	
		Performance Achieved	Benefit-to-Cost Ratio[1]	Performance Achieved	Benefit-to-Cost Ratio[1]
Single Family Residential	EDR1 margin 9+	11	>1	12.8	1.1
Low-rise Multi-Family	Source Energy savings 10+%	10%	9.8	17%	1.5
High-rise Multi-Family	Source Energy savings 4+%	7%	2.4	4%	3.5
Non-Residential[2]	Source Energy savings 7+%	7+%	>1	7+%	>1

[1] A benefit-cost value of "1" or greater illustrates that the measures save more than they cost and are therefore "cost effective."
[2] varies by building type, some non-residential building prototypes are exempt

File Attachments for Item:

J. Authorize City Manager to Solicit Proposal and Negotiate Sole-Source Contract from Good City Co. for 70 Old County Road Community Engagement and Planning Project

CITY COUNCIL AGENDA REPORT

Meeting Date: July 18, 2024

From: John Swiecki, Community Development Director

Subject: Authorize City Manager to Solicit Proposal and Negotiate Sole-Source Contract from Good City Co. for 70 Old County Road Community Engagement and Planning Project

Community Goal/Result

Community Building – Brisbane will honor the rich diversity of our city (residents, organizations, businesses) through community engagement and participation

Fiscally Prudent - Brisbane's fiscal vitality will reflect sound decisions which also speak to the values of the community

Purpose

To commence the community engagement and planning process for the 70 Old County Road (former Bank of America) City-owned property by negotiating a sole-source contract with Good City Co.

Recommendation

Authorize the City Manager to solicit a proposal and negotiate a scope of work and budget with Good City Co., urban planning consultants, with the final contract subject to City Council approval in the fall.

Background

On May 2, 2024 the City Council directed staff to move forward with a community engagement and planning effort to establish a land use program for the City owned site at 70 Old County Road. The City Council specified that the planning effort should focus on 70 Old County Road and allow for it be developed on a standalone basis. The Council further noted that consideration also be given to establishing a future vision for the potential redevelopment of the adjacent shopping center site to promote long-term compatibility between adjacent properties.

The Economic Development Subcommittee (Mayor Pro-tem Cunningham, Councilmember Lentz) met on May 30, 2024 to review a preliminary scope of work prepared by staff and provide direction on how to move forward with consulting services for the project. A revised preliminary scope of work is attached (Attachment 1). The Economic Development subcommittee staff report is also attached to this report as Attachment 2.

Discussion

The Economic Development subcommittee supported the staff recommendation that the City pursue a sole-source contract with Good City Co., an urban planning consulting firm that the City currently contracts with for several current planning projects and previously completed the community engagement and implementing zoning for the Objective Design and Development Standards (ODDS) project. A sole-source contract negotiation would expedite the launch of community engagement for the revisioning project starting in the fall of 2024, compared to a competitive Request for Proposals (RFP) process which would likely delay commencement until early 2025.

Fiscal Impact

The City Council's adopted FY 24-25 budget included a placeholder budget for this effort of $150,000. This amount was not based on a final scope of work and the agreement to be presented in the fall will include actual cost subject to Council approval.

Measure of Success

A robust community engagement and planning program for 70 Old County Road that identifies the community's vision for this key site and establishes planning direction to implement the community's vision.

Attachments

1. Preliminary scope of work
2. May 30, 2024 Economic Development Subcommittee Meeting Agenda Report

John Swiecki

John Swiecki, Community Development Director

Jeremy Dennis, City Manager

ATTACHMENT 1

Draft

City of Brisbane
70 Old County Road Planning Program
Work Scope

Background and Purpose

In 2022, the City of Brisbane purchased an approximately 1.27 acre property at 70 Old County Road, Brisbane, the site of a former Bank of America branch ("subject property"). The subject property is located in the primary gateway to the City at the northwestern corner of the intersection of Bayshore Boulevard with Old County and Tunnel Roads. This strategic purchase allows the community to control and proactively plan for redevelopment of this site at a key entrance to Brisbane. The City Council intends to undertake a robust community dialogue to determine the appropriate community serving use(s) of this site and establish a site development plan based upon this vision. Housing, commercial and/or public uses have preliminarily been identified for consideration as potential land uses for this site.

Relevant Planning Considerations

The subject property is zoned Neighborhood Commercial- Brisbane Village (NCRO-2) and is located within the 25-acre Parkside at Brisbane Village Precise Plan ("Parkside Plan") area. The Parkside Plan was adopted in 2017, at which time the subject property was owned by Bank of America and operated as a bank branch out of an approximately 40-year old portable trailer. The Parkside Plan envisioned the subject property being redeveloped with two adjacent properties (the Brisbane Village Shopping Center and 125 Valley Drive; together the "Commercial Vision Area") as a connected retail center and park/plaza. This vision serves as an aspirational illustration, it was not codified through the adoption of land use policies and/or zoning regulations.

Other planning efforts in the vicinity include the Brisbane Baylands Specific Plan easterly of Bayshore Boulevard, which is undergoing environmental review. The City is also considering a redesign of Bayshore Boulevard to incorporate traffic calming measures. Additionally, a Light Maintenance Facility for the CA High Speed Rail project is proposed within the Baylands subarea and contemplates reconfiguring the four-way Bayshore/Old County/Tunnel Ave intersection fronted by the subject property into a three-way intersection (eliminating the easterly leg of the Tunnel Avenue/Bayshore Boulevard intersection). All these potential projects should be considered to the extent they would impact site access, visibility, and land use alternatives on the subject property.

Objectives

The City Council's objectives in the 70 Old County Road planning effort are:

Community Engagement

- Engage in a meaningful and robust community engagement process to obtain community input in developing a land use program (or alternative programs) that the City should pursue, as well as important design features /components to be incorporated into subsequent site development plans.

Planning

- Based on the community input, develop schematic development plan or plans for the site. All development alternatives for the site must be capable of being implemented on a standalone basis recognizing the physical limitations established by surrounding existing private development.
- A secondary objective of the planning effort is to establish a vision for the future redevelopment of the adjacent shopping center that promotes compatible development across multiple sites. This planning effort shall ultimately result in the establishment of final site and development plans for the 70 Old County site.

Work Scope

1. Community Visioning
    a. Robust community education, engagement and brainstorming using creative and varied means to collect public feedback and ideas. A combination of on-site engagement activities, surveys, "pop-up" events should be proposed. The City recently contracted with Go Vocal (formerly CitizenLab), which should be leveraged throughout the engagement process to collect, evaluate, and analyze community feedback. The educational component should ensure the community process is informed by market, economic, technical, design and other considerations that will influence the feasibility of future site development and long term viability
    b. Evaluating ideas against the market and other considerations at a high level to test feasibility, including interviews with developers, commercial landlords and leasing agents, and/or others sources with knowledge of market feasibility.
    c. Identify primary vision (or suite of alternatives) for community review and City Council consideration
2. Planning
    a. Develop a schematic concept plan (or alternatives) reflecting the community vision for City Council consideration.
    b. Based on City Council direction refine the schematic concept plan into a development plan for the site that is refined to a level sufficient to allow for completion of project level environmental re
    c. view
    d. Update the Parkside Plan as needed to reflect the development plan for 70 Old County Road
    e. Update the Parkside Plan as needed to include the preferred vision for the adjacent shopping center should land use changes at the shopping center factor into the preferred vision
    f. Obtain project-level CEQA clearance for the Parkside Plan revisions as applicable.
    g. Establish a Roadmap/strategy for 70 Old County Road project implementation
3. Post-Adoption Support

a. TBD depending on vision (e.g., assistance with preparing a Request for Proposals for site development, assistance with Surplus Lands Act requirements should the City opt to transfer fee title to another entity)

ATTACHMENT 2

MEMORANDUM

DATE: 30 May 2024

TO: City Council Economic Development Subcommittee

FROM: John Swiecki
Community Development Director

SUBJECT: 70 Old County Road Planning Update

BACKGROUND

On May 2, 2024 the City Council directed staff to move forward with a community engagement and planning effort to establish a land use program for the City owned site at 70 Old County Road. The City Council further specified that the planning effort should focus on 70 Old County Road and allow for it be developed on a standalone basis. The Council further noted that consideration also be given to establishing a future vision for the potential redevelopment of the adjacent shopping center site to promote long term compatibility between adjacent properties.

DISCUSSION

Staff has prepared the attached preliminary draft scope of work for the subcommittee's review and comment. The scope of work will be incorporated into a Request for Proposal (RFP) to solicit a proposal from a qualified planning consultant to assist in the City's planning efforts. It would be staff's preference to sole source the RFP to Good City, a local planning consulting firm that is currently under contract with the City to provide EIR management for several City EIRs now under preparation. City staff has a good working relationship with Good City and believes they have a solid understanding of land use issues in Brisbane and the technical ability to provide the necessary services in a timely way. Moving forward with Good City is predicated on their response to the RFP being responsive to the City's needs in a financially responsible manner. Any agreement with Good City would be subject to the approval of the full City Council. As an alternative the City would send the RFP to a more extensive list of qualified planning consultants and go through a more formal and consultant selection process.

ATTACHMENT

Preliminary Draft Scope of Work -70 Old County Road Planning Program

Preliminary Draft

City of Brisbane
70 Old County Road Planning Program
Work Scope

Background and Purpose

In 2022, the City of Brisbane purchased an approximately 1.27 acre property at 70 Old County Road, Brisbane, the site of a former Bank of America branch ("subject property"). The subject property is located in the primary gateway to the City at the northwestern corner of the intersection of Bayshore Boulevard with Old County and Tunnel Roads. This strategic purchase allows the community to control and proactively plan for redevelopment of this site at a key entrance to Brisbane. The City Council intends to undertake a robust community dialogue to determine the appropriate community serving use(s) of this site and establish a site development plan based upon this vision. Housing, commercial and/or public uses have preliminarily been identified for consideration as potential land uses for this site.

Relevant Planning Considerations

The subject property is zoned Neighborhood Commercial- Brisbane Village (NCRO-2) and is located within the 25-acre Parkside at Brisbane Village Precise Plan ("Parkside Plan") area. The Parkside Plan was adopted in 2017, at which time the subject property was owned by Bank of America and operated as a bank branch out of an approximately 40-year old portable trailer. The Parkside Plan's envsioned the subject property being redeveloped with two adjacent properties (the Brisbane Village Shopping Center and 125 Valley Drive; together the "Commercial Vision Area") as a connected retail center and park/plaza. This vision serves as an aspirational illustration, it was not codified through the adoption of land use policies and/or zoning regulations.

Other planning efforts in the vicinity include the Brisbane Baylands Specific Plan easterly of Bayshore Boulevard , which is undergoing environmental review. The CIty is also considering a redesign of Bayshore Boulevard to incorporate traffic calming measures. Additionally, a Light Maintenance Facility for the CA High Speed Rail project is proposed within the Baylands subarea and contemplates reconfiguring the four-way Bayshore/Old County/Tunnel Ave intersection fronted by the subject property into a three-way intersection (eliminating the easterly leg of the Tunnel Avenue/Bayshore Boulevard intersection). All these potential projects should be considered to the extent they would impact site access, visibility, and land use alternatives on the subject property.

Objectives

The City Council's objectives in the 70 Old County Road planning effort are:

Community Engagement

- Engage in a meaningful and robust community engagement process to obtain community input in developing a land use program (or alternative programs) that the City should

pursue, as well as important design features /components to be incorporated into subsequent site development plans.

- **Planning**
- Based on the community input develop schematic development plan or plans for the site. All development alternatives for the site must be capable of being implemented on a standalone basis recognizing the physical limitations established by surrounding existing private development . A secondary objective of the planning effort is to establish a vision for the future redevelopment of the adjacent shopping center that promotes compatible development across multiple sites. This planning effort shall ultimately result in the establishment of final site and development plans for the 70 Old County site.
-

Work Scope

1. Community Visioning
    a. Robust community education, engagement and brainstorming using creative and varied means to collect public feedback and ideas. A combination of on-site engagement activities, surveys, “pop-up” events should be proposed. The City recently contracted with CitizenLab, which should be leveraged throughout the engagement process to collect, evaluate, and analyze community feedback. The educational component should ensure the community process is informed by market, economic , technical, design and other considerations that will influence the feasibility of future site development and long term viability
    b. Evaluating ideas against the market and other considerations at a high level to test feasibility .
    c. Identify primary vision (or suite of alternatives) for community review and City Council consideration
2. Planning
    a. Develop a schematic concept plan (or alternatives) reflecting the community vision for CIty council consideration.
    b. Based on CIty Council direction refine the schematic concept plan into a development plan for the site that is refined to a level sufficient to allow for completion of project level environmental review
    c. Update the Parkside Plan as needed to reflect the development plan for 70 Old County Road and vision for the adjacent shopping centershdhould land use changes at the shopping center factor into the preferred vision, updates to the Parkside Plan and project-level CEQA clearance would be required.
    d. Establish a Roadmap/strategy for 70 Old County Roadc project implementation
3. Post-Adoption Support
    a. TBD depending on vision (e.g., assistance with preparing a Request for Proposals for site development, assistance with Surplus Lands Act requirements should the City opt to transfer fee title to another entity)

File Attachments for Item:

K. Authorize the City Manager to sign the Construction Agreement for Alvarado to San Benito Stairway Project

(This work is categorically exempt from CEQA per CCR Title 14 §15301.)

CITY COUNCIL AGENDA REPORT

Meeting Date: July 18, 2024

From: Karen Kinser, Deputy Director of Public Works

Subject: Authorize the City Manager to sign the Construction Agreement for Alvarado to San Benito Stairway Project

This work is categorically exempt from CEQA per CCR Title 14 §15301.

Community Goal/Result: Safe Community

Purpose

Enhance safety for pedestrians, including the schoolchildren and the elderly in Brisbane.

Recommendation

Authorize the City Manager to sign the construction Agreement with the low, responsive and responsible bidder on the city's behalf, subject to the City Attorney's review and approval of entering into the contract.

Background

The Alvarado to San Benito Stairway project will utilize a 12' wide city property to extend the improved Central Brisbane alleyway/stairways from Alvarado Street at the lower end to San Benito Avenue at the upper end. Council, the Complete Streets Safety Committee, staff and the public have identified this unimproved steep property as a priority to install a stairway with handrail and bollard lighting.

Staff applied for Transportation Development Act Article 3 grant funds, which are administered by C/CAG, in 2017, 2019, and again in 2021 for the project. With the third application in 2021, the city was successful in obtaining this state grant funding for construction. Funded improvements will include concrete steps as well as a prefabricated steel stair section where required at the top, drainage, handrail and bollard lighting.

There will be minimal traffic impacts, except that the unimproved walkway/easement will be closed to the public during the length of construction, including overnight and on weekends during non-work hours, for safety reasons. Working hours will be between 8 a.m. and 5 p.m.

Discussion:

In late 2022, Staff received the grant award letter and worked with CSG Consultants to complete the design of the stairway. A condition precedent to installation of the stairway is the protective lining of the existing water main, which will have restricted access when the stairway is complete. The water main preservation work is underway, and bidding of the stairway

project has been timed to allow construction once the water main effort is complete. Final receipt and review of contractors' bids will occur in the summer period during Council's recess. Staff has therefore requested that Council authorize the City Manager to sign the construction agreement. Assuming the contract is executed during summer recess, the matter will be brought back to Council in the fall for ratification.

Fiscal Impact

Funds are programmed as follows for this project:

Transportation Development Act Article 3 grant funds	$240,000
Local Match (General Fund)	$60,000
Total	$300,000

The engineer's estimate for this project is $294,147, including contingencies.

Measure of Success

Opening of the project to competitive bids that will enable the City to select a qualified contractor for the construction work.

Environmental Review

This work is categorically exempt from provisions of CEQA in that the proposal is to alter an existing facility without expanding existing uses (California Code of Regulations, Title 14, Division 6, Chapter 3, Article 19, §15301 "Class 1 – Existing Facilities"). A Notice of Exemption was prepared for this work on July 8, 2024

Attachments

Karen Kinser, Deputy Director of Public Works

Randy Breault, Director of Public Works/City Engineer

Jeremy Dennis, City Manager

File Attachments for Item:

L. City of Brisbane Local Stormwater Program Fees

1. Open the Public Hearing and take public comment. Close the Public Hearing, and if appropriate, overrule any objections to the imposition of fees related to the National Pollutant Discharge Elimination System (NPDES)

2. Consider adoption of a Resolution, "A Resolution of the City Council of the City of Brisbane Imposing Charges for Funding the Local Brisbane Stormwater Program, Authorizing Placement of Said Charges on the 2024-2025 County Tax Roll and Authorizing the County Tax Collector to Collect Such Charges."

CITY COUNCIL AGENDA REPORT

Meeting Date: July 18, 2024

From: Dolan Shoblo, Regional Compliance Program Manager

Subject: City of Brisbane Local Stormwater Program Fees

This Resolution is exempt from CEQA because it is not a project (CCR Title 14 §15378 (b) (2)).

Community Goal/Result: Ecological Sustainability

Purpose

To provide a public hearing and consider imposition of annual tax roll charges that fund Brisbane's Local Stormwater Program, which minimizes discharge of pollutants to San Francisco Bay in accordance with federally mandated permit requirements.

Recommendation

1. Open the Public Hearing and take public comment. Close the Public Hearing, and if appropriate, address any objections to the imposition of fees related to the Local Stormwater Program.

2. Adopt a resolution, "Imposing Charges for Funding the Local Brisbane Stormwater Program, Authorizing Placement of Said Charges on the 2024-2025 County Tax Roll, and Authorizing the County Tax Collector to Collect Such Charges."

Background

In 1987, the Environmental Protection Agency, under amendments to the 1972 Clean Water Act, imposed regulations that mandate control and reduction of pollutants in stormwater runoff through the National Pollutant Discharge Elimination System (NPDES) permitting program. In the Bay Area, under the authority of the Porter-Cologne Water Quality Control Act, the San Francisco Bay Regional Water Quality Control Board (Water Board) issues and enforces municipal stormwater NPDES permits.

A revised Municipal Regional Stormwater Permit (MRP 3.0) that applies to all municipalities throughout San Mateo, Santa Clara, Alameda, and Contra Costa counties, as well as the cities of Fairfield, Suisun City, and Vallejo, was approved by the Water Board in late 2022. This permit mandates specific actions, implementation levels, and reporting requirements that each municipality must meet. Failure by municipalities to comply with these new permit requirements may result in significant enforcement action by the Water Board.

Discussion

There are two programs that fund stormwater management locally; the City of Brisbane's **Local Stormwater Program** and the **Countywide Stormwater General Program** (which assesses Basic Fees and Additional Fees) overseen by the City/County Association of Governments of San Mateo County (C/CAG).

The recommended Resolution imposes charges only for the City of Brisbane Local Stormwater Program, and authorizes the County Tax Collector to place such charges on the property tax roll. The total fee assessment (charges) per the 2024 Engineer's Report is approximately $52,000. The annual charge per parcel is not changed from previous years.

The Basic Fees of the Countywide Stormwater General Program are collected from the property tax rolls by the San Mateo county flood Control District, pursuant to authorization by City Council Resolution 2005-29

The Additional Fees of the Countywide Stormwater General Program are paid by the city to C/CAG. (Since its inception, the Additional Fee amount increases annually based on the Consumer Price Index; this year's amount is expected to be approximately $11,884)

For detailed information on both of these overall programs, including the calculation of charges, please see the 2024 Engineer's Report, included as Attachment 2. Note that this report is calculated based on draft data and minor corrections may be made by staff after adoption of the resolution if final county assessor data received differs from draft data.

Fiscal Impact

The city's recommended local NPDES program budget for 2024-2025 is:	$597,683
The 2024 Engineer's Report for Stormwater Management Fees estimated a previous years' actual property tax revenue for the City's Local Stormwater Program of approximately:	$52,000
Revenues from solid waste franchise fees (designated for trash capture activities, both increased street cleaning and sweeping and maintenance of trash capture devices)	$100,000
Anticipated revenues from Measure M ($10 vehicle registration fee)	$22,000
New Commercial Fee adopted by Council on June 20, 2024	$244,000
The budget shortfall for this program is therefore:	$179,683

The City's costs to maintain compliance with the various NPDES clean water requirements have increased significantly since the Water Board's 2022 issuance of the Municipal Regional Permit (MRP 3.0). The following general description reveals the large number of city employees who

participate both in daily/weekly activities to comply with the MRP, and who also attend regular meetings with C/CAG to address permit requirements:

- Director of Public Works/City Engineer – overall permit compliance, illicit discharge control, construction controls, serves as Chairperson of C/CAG Stormwater Committee
- Regional Compliance/Maintenance Program Manager – facilities inspections, trash capture program, corporation yard site controls, and new MRP 3.0 requirements such as PCB and mercury regulations, green infrastructure requirements, unsheltered populations and additional cost and asset management reporting.
- Senior Planner – new development controls, copper controls, PCB controls
- Deputy Director of Public Works (Utilities) – monitoring potable water discharges, storm drain maintenance
- Deputy Director of Public Works – street sweeping
- Team Leader (Buildings & Grounds) – pesticides toxicity control
- Team Leader (Utilities) – trash capture device cleaning, potable water discharge monitoring
- Public Works Inspector – construction controls
- Administrative Assistant – assists with overall permit compliance, public information and outreach, compiles annual report

Measure of Success

Approval of the Engineer's Report will allow for the ongoing compliance with the San Francisco Bay Regional Water Quality Control Board's Municipal Regional Permit.

Environmental Review

Approval of this resolution does not need further environmental review under the California Environmental Quality Act (CEQA) as it is general policy and procedure making not applied to a specific instance and therefore it is not a "project"(California Code of Regulations, Title 14, Division 6, Chapter 3, Article 20, §15378 (b) (2)).

Attachments

1. Resolution No. 2024-XX
2. 2024 Engineer's Report for Stormwater Program Management Fees

Dolan Shoblo, Regional Compliance Program Manager

R.L. Breault

Randy Breault, Director of Public Works/City Engineer

Jeremy Dennis, City Manager

RESOLUTION NO. 2024-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE IMPOSING CHARGES FOR FUNDING THE LOCAL BRISBANE STORMWATER PROGRAM, AUTHORIZING PLACEMENT OF SAID CHARGES ON THE 2024-2025 COUNTY TAX ROLL, AND AUTHORIZING THE COUNTY TAX COLLECTOR TO COLLECT SUCH CHARGES

WHEREAS, the Environmental Protection Agency, under the 1987 amendments to the Federal Clean Water Act, imposed regulations that mandate local governments to control and reduce the amount of storm water pollutant runoff into receiving waters; and

WHEREAS, under the authority of the California Porter-Cologne Water Quality Control Act, the State Water Resources Control Board has delegated authority to its Regional Water Quality Control Boards to invoke permitting requirements upon counties and cities; and

WHEREAS, in 1993 and 1999, the San Francisco Bay Regional Water Quality Control Board issued countywide National Pollutant Discharge Elimination System (NPDES) stormwater permits to all municipalities within San Mateo County; and

WHEREAS, in fall of 2022, the San Francisco Bay Regional Water Quality Control Board issued a new NPDES stormwater permit, the Municipal Regional Stormwater Permit MRP 3.0 that applies to all municipalities within San Mateo County and other portions of the Bay Area; and

WHEREAS, the efforts for the control of stormwater pollution under the Municipal Regional Stormwater Permit require a Local Brisbane Stormwater Program; and

WHEREAS, Section 5471 of the California Health and Safety Code and Section 13.06.060 of the City's Storm Water Ordinance authorize imposition of charges for a Local Brisbane Stormwater Program; and

WHEREAS, said Local Brisbane Stormwater Program has been submitted to the City Council pursuant to the 2024 Engineer's Report for Stormwater Management Fees, which includes mandated tasks and associated costs, and an estimated amount to be collected of $52,000; and

WHEREAS, the City held a public hearing to consider imposition of annual tax roll charges that fund the Local Brisbane Stormwater Program; and

WHEREAS, the San Mateo County Tax Collector has agreed to place such charges on the 2024-2025 County Tax Roll.

NOW, THEREFORE, BE IT RESOLVED THAT

1. The City Council of the City of Brisbane hereby adopts the 2024 Engineer's Report for Stormwater Management Fees as filed with the City Clerk and overrules any objections or protests to the Engineer's estimate of costs and user fee structure, or to the implementation of the stormwater management program described therein.

2. The County Controller is hereby authorized to place the City of Brisbane Local Stormwater Management Fees on the fiscal year 2024-2025 County Tax Roll, and that the County Tax Collector be and hereby is authorized to collect such charges in the same

manner, by the same person, and at the same time as, together with and not separately from, the general taxes applicable to real property in the City of Brisbane, as follows:

Single Family (R-1&2)	$9.48
Multi Family (R-3)	$21.64
Commercial/Industrial (1)	$19.94
Commercial/Industrial (2)	$254.20
Vacant Land (3)	$18.34
Vacant Land (4)	$55.16
Vacant Land (5)	$212.18
Vacant Land (6)	$927.80

(1) Land use designation generally within Central Brisbane and Southwest Bayshore.
(2) Land use designation generally within all other areas except areas included in (1).
(3) Vacant land with an area less than 1 acre.
(4) Vacant land with an area greater than 1 acre but less than 5 acres.
(5) Vacant land with an area greater than 5 acres but less than 20 acres.
(6) Vacant land with an area greater than 20 acres.

3. The cost for such service, $1.35 per parcel, is hereby authorized to be retained by the County from such collections, the balance of which is to be remitted to the City of Brisbane.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to forward a copy of this Resolution to the San Mateo County Board of Supervisors.

_____
Terry O'Connell, Mayor

* * * *

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Brisbane held on the eighteenth day of July, 2024, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

_____
Ingrid Padilla, City Clerk

ATTACHMENT 2

2024 ENGINEER'S REPORT
for
STORMWATER PROGRAM MANAGEMENT FEES

Purpose

The purpose of this report is to define the City of Brisbane stormwater management program and the method utilized in determining the user fee structure to be applied by Assessor's Parcel Number (APN) and to appear on the County Tax Roll for Fiscal Year 2024-2025.

History

The Environmental Protection Agency, under the 1987 amendments to Section 402(p) of the Clean Water Act, imposed regulations mandating local governments manage stormwater discharges as a means of reducing pollution in public bodies of water. The California State Water Resources Control Board delegated enforcement authority to the Regional Water Quality Control Boards (RWQCB) to ensure compliance with the Clean Water Act. The San Francisco Bay RWQCB, under Section 13370 *et seq* of the California Water Code, requires the City of Brisbane and all other municipal stormwater dischargers in San Mateo, Santa Clara, Alameda, and Contra Costa counties, as well as the cities of Fairfield, Vallejo, and Suisun City to control significant sources of stormwater pollution as co-permittees under a Municipal Regional Stormwater Permit 3.0, referenced as Order R2-2015-0049 and National Pollutant Discharge Elimination System (NPDES) Permit No. CAS612008.

As a condition of the Municipal Regional Stormwater Permit, the City of Brisbane and other municipal stormwater dischargers are required to meet specific requirements in a variety of program areas that address the multiple potential pollutant sources that can impact a municipal storm drain system. Compliance efforts in San Mateo County are implemented in two ways: those that have countywide benefit or significance are implemented by the City/County Association of Governments of San Mateo County (C/CAG) through its San Mateo Countywide Water Pollution Prevention Program (Countywide Program), and those that are specific to a local jurisdiction are implemented through municipality-specific programs. Administration of Brisbane's local program is primarily managed by the City's Public Works Department.

STORMWATER MANAGEMENT PROGRAM

Background Information

The process of urbanization increases rainwater runoff. As trees and grass are cleared, pervious ground cover is frequently replaced by impervious concrete, asphalt, or brick. Rainwater can no longer seep into the ground. If this stormwater is not properly managed, flooding may result. Often, municipal drainage systems are designed for flows resulting from pre-development runoff, and become undersized when impervious area is increased by building structures, driveways, and parking lots. Further, increased stormwater runoff makes areas not covered by

impervious materials more susceptible to erosion, and as a result, sediment may discharge to the storm drain system.

Stormwater runoff flowing over man-made surfaces such as roads and parking lots can also contribute to water quality degradation. The natural purification that occurs when water flows through the subsurface is lost. As rainwater flows over impervious surfaces, it can pick up pollutants such as engine oils, pesticides, fertilizers, and trace metals like lead, copper, or zinc. These contaminants are frequently toxic to humans and aquatic life.

Stormwater pollution can come from point and non-point sources. Point sources are attributable to a distinct point of discharge, such as a pipe into a water body. Point source pollution can include illegal storm drain connections at industrial facilities or cross connections between sanitary and storm sewer systems. Non-point source pollution, such as overland flow or sheet runoff, is not attributable to a distinct point of discharge, and is a major contributor to water quality degradation in California. Problems that magnify non-point source pollution include channel erosion, sedimentation due to construction and land development, hydrologic modification, physical habitat alteration, excessive or poorly timed application of pesticides and fertilizers, natural or engineered agricultural subsurface drainage, septic systems, livestock grazing, and urban runoff. Oil and grease from parking lots and driveways, nutrients, littering, animal waste, accidental spills, soil erosion and air pollution all contribute to non-point source discharges in urban areas. Urban runoff is the focus of stormwater pollution prevention regulations in Brisbane.

Program Structure

The Municipal Regional Permit requirements implemented at both the Countywide Program and municipality-specific levels fall into seven main program areas, the central focus of each being summarized as follows:

1. Municipal Government Maintenance Activities - Ensure development and implementation of appropriate Best Management Practices by all municipalities to control and reduce non-stormwater discharges and polluted stormwater to storm drains and watercourses during operation, inspection, and routine repair and maintenance activities of municipal facilities and infrastructure.

2. New Development and Construction Controls – Use planning authorities to include appropriate source control, site design, and stormwater treatment measures in new development and redevelopment projects to address both soluble and insoluble stormwater runoff pollutant discharges and prevent increases in runoff flows from new development and redevelopment projects. This goal is to be accomplished primarily through the implementation of low impact development techniques. Municipalities also implement a construction site inspection and control program at all construction sites, with follow-up and enforcement consistent with an enforcement response plan, to prevent construction site discharges of pollutants and impacts on beneficial uses of receiving waters.

3. Industrial, Commercial, and Illicit Discharge Controls

A. Industrial and Commercial Site Controls – Implement an industrial and commercial site control program at all sites which could reasonably be considered to cause or contribute to pollution of stormwater runoff, with inspections and effective follow-up and enforcement to abate actual or potential pollution sources consistent with an enforcement response plan to prevent discharge of pollutants and impacts on beneficial uses of receiving waters.

B. Illicit Discharge Detection and Elimination – Implement illicit discharge prohibitions and ensure illicit discharges are detected and controlled. Municipalities shall develop and implement an illicit discharge program that includes an active surveillance component and a centralized complaint collection and follow-up component to target illicit discharge and non-stormwater sources.

4. Public Information and Outreach – Increase the knowledge of the target audiences regarding the impacts of stormwater pollution on receiving water and potential solutions to mitigate the problems caused, change the waste disposal and runoff pollution generation behavior of the target audiences by encouraging implementation of appropriate solutions, and involve various citizens in mitigating the impacts of stormwater pollution.

5. Water Quality Monitoring – Perform water quality monitoring activities to address specific management questions related to the health of San Francisco Bay and local receiving waters, including status and trends monitoring and pollutants of concern/long-term trends monitoring. Additional specific monitoring projects are required, including projects addressing water quality stressor/source identification, Best Management Practices effectiveness evaluations for stormwater treatment or hydrograph modification control, and geomorphic analyses to identify how and where creeks can be restored or protected to cost-effectively reduce the impacts of pollutants, increased flow rates, and increased durations of urban runoff.

6. Pollutants of Concern

A. Pesticides Toxicity Control – Implement control programs to prevent the impairment of urban streams by pesticide-related toxicity. The control programs addresses municipalities' and others' use of pesticides within municipal jurisdictions that pose a threat to water quality and have the potential to enter the municipal storm drain system. Pesticides of concern include organophosphorus pesticides, pyrethroids, carbamates, and fipronil.

B. Trash Load Reduction – Implement control measures and other actions to reduce trash loads from municipal storm sewers by 100% trash load reduction or no adverse impacts to receiving waters from trash by 2025. This includes developing and implementing Short and Long Term Trash Load Reduction Plans, which includes installation and maintenance of trash capture devices within the storm drain system, enhanced street sweeping and targeted On-Land Cleanups and cleanup and abatement progress on trash hot spots.

C. Mercury and Polychlorinated Biphenyls (PCBs) – Initiate control programs for mercury and PCBs to implement the urban runoff requirements of the San Francisco Bay mercury and PCBs Total Maximum Daily Loads (TMDLs) and reduce mercury and PCB loads to make substantial progress toward achieving the urban runoff load allocations established in the mercury and PCBs TMDLs. These programs include pilot projects to investigate and abate mercury and PCB sources in drainages, including public rights-of-way, and stormwater conveyances with accumulated sediment that contain elevated mercury and PCB concentrations, to evaluate and enhance municipal sediment removal and management practices, to evaluate on-site stormwater treatment via retrofit, and diversion of dry weather and first flush flows to publicly owned treatment works.

D. Copper Controls – Implement control measures identified in the Regional Water Quality Control Board's Basin Plan to support approved copper site-specific objectives for San Francisco Bay. Control measures include managing waste generated from cleaning and treating copper architectural features, managing discharges from pools, spas, and fountains that contain copper-based chemicals, engage in efforts to reduce copper discharged from automobile brake pads to surface waters via urban runoff, and ensuring proper management of copper by industrial sources.

E. Polybrominated Diphenyl Ethers (PBDEs), Legacy Pesticides, and Selenium – Implement programs to gather concentration and loading information for PBDEs, legacy pesticides, and selenium to identify, assess, and manage controllable sources of these pollutants in urban runoff, if any.

7. Exempted and Conditionally Exempted Discharges – Implement programs to ensure discharges to the storm drain system with minimal pollutant concern, such as uncontaminated groundwater, diverted stream flows, and pumped groundwater from foundation drains are properly managed and monitored to eliminate adverse impacts to receiving waters.

COUNTYWIDE PROGRAM

The Countywide Program centrally manages the efforts that provide overall benefits to the County and all cities and towns within the county involved with implementation of the Municipal Regional Permit requirements. The seven permit components described above delineate work tasks to be undertaken and completed during the 2024-2025 fiscal year.

The 2024-2025 NPDES Countywide Program Budget was adopted by C/CAG in June, 2024 in the amount of $3,944,693. The City of Brisbane is required to contribute proportionate funding to the Countywide Program. This per-parcel funding is divided into two categories, the Basic and the Additional Fees. The Basic Fee was established to fund the original Countywide Program activities when the NPDES permit was first adopted. The Additional Fees were established to fund additional Countywide Program activities required by the Regional Board subsequent to establishment of the Basic Fees.

The Basic and Additional Fees are calculated as follows:

Basic Annual Charges:

- Single Family Residence: $3.44/parcel
- Miscellaneous, Agriculture, Vacant and Condominium: $1.72/parcel
- All Other Land Uses: $3.44/parcel for the first 11,000 square feet plus $0.32 per 1,000 additional square feet of parcel area

Additional Annual Charge (Adjusted Annually by Consumer Price Index):

- Single Family Resident: $4.16/parcel
- Miscellaneous, Agriculture, Vacant and Condominium: $2.08/parcel
- All Other Land Uses: $4.16/parcel for the first 11,000 square feet plus $0.38 per 1,000 additional square feet of parcel area

The Countywide Program's Basic and Additional Fees for 2024-2025 that will be charged to the City of Brisbane are estimated at approximately $9,400 and $12,302.72, respectively. The City of Brisbane has historically authorized the Countywide Program to assess and collect the Basic Fees directly through separate property tax assessments, whereas the Additional Fees are paid to C/CAG out of the City's General Fund. This approach prevents the Additional Fees from being billed to property owners.

CITY OF BRISBANE LOCAL STORMWATER PROGRAM

City Facilities

The City of Brisbane is responsible for all public drainage facilities within its jurisdiction that collect stormwater and convey it to San Francisco Bay. Brisbane's facilities include the City's streets, curbs and gutters, catch basins, pipelines, culverts, and open channels.

Stormwater is collected from private property and public streets in two open channels; the Guadalupe Valley Municipal Improvement District (GVMID) Basin Channel and the Bayshore Storm Drain Basin Channel. This stormwater is generally conveyed through these channels to underground box culverts which ultimately outfall to the Bay. The GVMID Basin Channel outfall delivers stormwater via the Lagoon box culvert. This outfall receives water from most of Central Brisbane as well as the Guadalupe Valley and discharges this water into the Lagoon. Stormwater that enters the Lagoon eventually flows to the Bay through two box culverts under US 101. The Bayshore Storm Drain Basin Channel receives stormwater mainly from the undeveloped land in northern Brisbane as well as portions of Daly City and discharges this water to the Bay through a single box culvert under US 101. Stormwater from Sierra Point generally outfalls to the Bay through multiple culverts located along the perimeter of the Sierra Point Peninsula.

During normal rainfall, flooding potential in Brisbane is low. During heavy rains, however, localized flooding can and has occurred in some areas. Some trunk lines, drain pipes, catch basins and other structures are undersized, and additional catch basins are needed. The City's

2003 Storm Drainage Master Plan proposed Capital Improvement Projects to address these issues.

Local Program Elements

The following is a description of City-specific actions that will be implemented to meet the Municipal Regional Stormwater Permit requirements that were generally described previously in this report. These descriptions detail the City-specific efforts that will be performed to address these requirements. Following this description is a summary of the City's stormwater budget for 2024-2025.

1. Municipal Government Maintenance Activities - This program is intended to prevent pollution of stormwater runoff through improvements in municipal government maintenance activities and associated programs. This program focuses on preventing non-stormwater discharges or polluted stormwater associated with street and road repair and maintenance activities, sidewalk/plaza maintenance and pavement washing, bridge and structure maintenance and graffiti removal, and implementing management measures at the City corporation yard. This program includes contractual street sweeping services, development and implementation of a Stormwater Pollution Prevention Plan for the corporation yard, management of the City's maintenance contractors, and participation in Countywide Program subcommittees and activities related to municipal maintenance.

2. New Development and Construction Controls – This program focuses on controlling stormwater pollution from construction sites, new developments, and redevelopment areas. Tasks include developing and implementing planning, inspection, and enforcement procedures, developing and implementing requirements for post-construction controls, inspecting stormwater treatment measures to ensure proper operation and maintenance, and providing education and training to construction site operators. The Municipal Regional Stormwater Permit require municipalities to ensure applicable new and redevelopment projects manage stormwater runoff using Low Impact Development techniques, primarily focused on harvesting and use, evapotranspiration, and infiltration to groundwater. This program includes implementation of planning procedures to ensure all applicable projects incorporate appropriate site design, source control, and stormwater treatment measures.

3. Industrial, Commercial, and Illicit Discharge Controls

    a. Industrial and Commercial Site Controls – This element of the program is designed to control pollutants discharged to municipal storm drains from commercial and industrial facilities. Specific focus is placed upon facility inspection, providing information and assistance to facility managers about reducing pollutants in stormwater from these facilities, and implementing escalating enforcement responses for instances of non-compliance. This program includes staff participation in Countywide Program subcommittees and compliance with the requirements to develop and implement an

information/inspection program, in coordination with existing County Health department commercial/industrial inspection programs.

b. Illicit Discharge Detection and Elimination – This program element focuses on identifying and eliminating illicit discharges to the storm drain system by identifying major outfalls, conducting inspections of the storm drain system, identifying and eliminating illicit connections, inspecting for evidence of illegal dumping and tracking illicit discharges to their sources, providing information to the public about proper disposal alternatives, and implementing an effective enforcement response plan. This program includes staff participation in Countywide Program activities, City staff monitoring of illicit discharges in coordination with County Hazardous Waste Inspectors, and compliance with inspection procedures and enforcement activities.

4. Public Information and Outreach – This program is intended to inform the public about sources of stormwater pollution, how it reaches local waterways, types of common activities that contribute to stormwater pollution, its effects on receiving waters, and to encourage public involvement in reducing the amount of pollutants entering the City's storm drain system. The public information component of this program overlaps with other program elements described below. This program includes participation in Countywide Program activities, dissemination of educational materials, including the preparation of periodic notices to be placed in the local media, and the planning and implementation of local community volunteer activities.

5. Water Quality Monitoring – This element of the program on the City level is to support Countywide Program staff in performing required monitoring activities as part of a Regional Monitoring Collaborative with other Bay Area stormwater permittees. This program element includes participation in Countywide Program activities and providing input to Countywide Program staff on proposed monitoring activities and programs.

6. Pollutants of Concern

   a. Pesticides Toxicity Control – This element of the program includes implementation of the City's adopted Integrated Pest Management resolution and ensuring less toxic methods of pest control in all City operations, including activities performed through contractors. City staff also provides outreach materials on less-toxic methods of pest control to the public. This program element includes participation in Countywide Program activities and supporting the Our Water Our World program implementation in local retailers selling pest control materials.

   b. Trash Load Reduction – This element of the program includes developing and implementing Short and Long-Term Trash Load Reduction plans, identification and annual cleanup/assessment of one trash hot spot, and implementation of various control measures to reduce trash loadings in the City's storm drain system.

This program also includes participation in Countywide Program's trash control subcommittee.

c. Mercury and Polychlorinated Biphenyls (PCBs) – This program element includes providing support to Countywide Program staff on implementation of the required programs and pilot projects for addressing mercury and PCBs. These program elements are primarily managed at the Countywide Program level; however, this program element includes funding for City staff participation in relevant Pollutant of Concern subcommittees and activities. The City will investigate opportunities for Green Infrastructure installations to meet our portion of San Mateo County's mercury reduction goals.

d. Copper Controls – This program element includes participation and support of Countywide Program efforts directed at regional copper management issues, such as the statewide Brake Pad Partnership, and implementation of local planning, inspection, education, and enforcement efforts to address stormwater discharges from any permitted architectural copper installations or pool, spa, and fountain discharges containing copper algaecides. This program includes City participation in Countywide Program subcommittees and activities related to copper controls.

e. Polybrominated Diphenyl Ethers (PBDEs), Legacy Pesticides, and Selenium – This program is primarily managed at the Countywide Program level and includes City staff participation in relevant Countywide Program subcommittees and activities.

7. Exempted and Conditionally Exempted Discharges – This program element includes management and oversight of exempted and conditionally exempted discharges to the City's storm drain system to ensure compliance with permit conditions. This includes City staff implementing management measures for potable water discharges to the storm drain system and ensuring appropriate conditions of approval on new and redevelopment projects to properly manage any exempted or conditionally exempted discharges. This program includes City participation in Countywide Program subcommittees and activities related to exempted and conditionally exempted discharges.

8. Establish Program and Collect Fees – Implementation of the program requires the City's Finance Department to manage the NPDES Fund and the County Flood Control District to collect the City's Local Program fee in the same manner as the Countywide Program fee. This program includes the Additional Annual Fee collected by C/CAG and funded from the City's General Fund.

Summary of Budget Department 6140 (NPDES)

1. Salaries and Benefits	$ 363,386
2. Services and Supplies (excluding anticipated Additional Fees)	$ 86,198
3. Annual C/CAG NPDES Additional Fees (from General Fund)	$ 12,303

4. Indirect Costs	$ 135,796
TOTAL	$ 597,683

USER FEE FORMULA

Method

The City of Brisbane developed a formula for calculating stormwater fees that remains unchanged since it was first utilized after stormwater fees were authorized by the Council in July 1994. The user fee formula is based on two distinct concepts: (1) an administrative fee should be shared equally by all parcels to cover program administration costs; and (2) an assessment fee should be charged in proportion to the storm drainage service utilized and the amount of pollutants or sediment generated by each type of parcel. Average parcel square footage and assumptions explained below regarding the types of land uses for each zone were used to develop an equitable assessment fee structure.

Generally speaking, residential properties contribute equal amounts of water to the storm drain system. For this reason, the formula charges single-family residential properties a uniform user fee based on estimated runoff from an average single-family property. This practice is common in other cities and is equitable because these properties benefit equally from City-wide services such as public streets, sidewalks and parking.

On average, 50% impervious cover per parcel is generally accepted as the typical impervious area for a single-family residential dwelling. Using an average single-family parcel area of 4,823 square feet and 50% impervious cover, a standard impervious area of 2,411 square feet was defined as an Equivalent Single-family Unit (ESU). In determining the assessment portion of the stormwater user fee for the various parcels in the City, the following formula is used:

User Fee = Single Family Fee x (Number of ESUs)

The impervious area for non-residential properties and vacant land was devised by use of runoff area and general land characteristics and use. As shown on Exhibit A, entitled “Storm Drain Program Rate Analysis,” small commercial and industrial land uses are estimated to have approximately 100% runoff area, large commercial and industrial land uses are estimated to have approximately 80% runoff area, and vacant land is estimated to have 20-50% runoff area, as opposed to single family residential properties, which are estimated to have approximately 50% impervious area. These estimates, along with the other land use runoff area estimates on the attachment, are all consistent with the general runoff coefficients used in standard engineering practices.

For the storm drain user fee formula, current land use classifications are generally consolidated into the following four categories and further broken down to group commercial/industrial and vacant land by average lot size:

1. Single-Family Residential (R-1 and R-2) - This classification is based upon 50% impervious area which equate to a runoff coefficient of 0.5.

2. Multi-Family High Density (R-3) - All the remaining residential classifications are based upon the assumption that the higher density properties, which generally consist of the apartments along San Bruno and Visitacion Avenues and the trailer park, have approximately 100% impervious surface area, as opposed to 50% for single-family properties. This 100% impervious surface area equates to a runoff coefficient of 1.0.

3. Commercial/Industrial (1) & (2) - These classifications are based upon the assumption that most small commercial/industrial land uses in Brisbane (Commercial (1)) have a 100% impervious surface area and larger commercial/industrial land uses, (Commercial (2)) have an 80% impervious surface area, as opposed to 50% for single-family properties. These impervious surface areas equate to runoff coefficients of 1.0 for Commercial (1) and 0.8 for Commercial (2).

4. Vacant Land (3), (4), (5) & (6) - Vacant Land (3) accounts for smaller lots with an area less than 1 acre and with increased runoff coefficients. Vacant Land (4) accounts for mid-sized lots with an area greater than 1 acre but less than 5 acres. Vacant Land (5) accounts for larger lots with an area greater than 5 acres but less than 20 acres. Vacant Land (6) accounts for larger lots with an area greater than 20 acres. These classifications are based upon the assumptions that the smaller parcels have higher runoff coefficients based upon their size and proximity and the larger parcels have little or no impervious surfaces and a typical runoff coefficient of 0.2 to 0.5, as opposed to 0.5 for single-family properties.

In developing the total ESUs, the following uses were designated exempt from fee collection: City Government Activities, Federal and State Government Activities, and Unclassified.

As previously indicated, the City's user fee formula remains unchanged from inception. The charges per parcel include an administrative fee of $4.50 and the additional fee per ESU of $4.98. The following table details the total annual charges per parcel based on land use type, which remain unchanged from previous years:

	ESU	Annual Charge Per Parcel**
Single Family Residential	1.00	$9.48
Multi-Family High Density Residential	3.44	$21.64
Commercial/Industrial (1)	3.10	$19.94
Commercial/Industrial (2)	50.14	$254.20
Vacant Land (3)*	2.78	$18.34
Vacant Land (4)*	10.17	$55.16
Vacant Land (5)*	41.70	$212.18
Vacant Land (6)*	185.40	$927.80

(1) Land use designation generally within Central Brisbane and Southwest Bayshore
(2) Land use designation generally within all other areas except areas included in (1)
(3) Vacant land with an area less than 1 acre.
(4) Vacant land with an area greater than 1 acre but less than 5 acres.
(5) Vacant land with an area greater than 5 acres but less than 20 acres.

(6) Vacant land with an area greater than 20 acres.

* Additional vacant land designations were added to equally distribute charges based upon land area and runoff generated. The vacant land areas were divided into groups so that the average parcel size more closely reflected the parcel area and distribution within that designation. This was done by creating new limits as identified in notes 3 through 6 inclusive so that a parcel in the “Acres” was not charged the same as a parcel in the Baylands or in Northwest Bayshore sub-areas.

** Annual charge includes an administrative fee of $4.50 per parcel.

Please note annual charges have been rounded by $0.01 in some cases to allow fees to be evenly divided into semi-annual tax bills received by property owners.

Fee Summary

Exhibit A, entitled "User Classification Fee Summary," presents the anticipated fees to be collected for fiscal year 2024-2025. These fees remain unchanged from previous years. As shown, the anticipated income from special assessments is $51,660.86.

EXHIBIT A to 2024 ENGINEER'S REPORT FOR STORMWATER MANAGEMENT FEES
USER CLASSIFICATION FEE SUMMARY

CATEGORY	# OF PARCELS	TOT. AREA (ACRES)	AVG. AREA (SF)	RUNOFF COEFF.	RUNOFF AREA (SF)	ESU PER CATEGORY
SINGLE FAMILY RESIDENTIAL (R-1)	1,562	109.15	3,044	0.5	1,522	1.00
MULTI-FAMILY RESIDENTIAL (R-3)	45	6.48	6,273	1.0	6,273	3.44
COMMERCIAL/ INDUSTRIAL (1)	172	23.46	5,941	1.0	5,941	3.10
COMMERCIAL/ INDUSTRIAL (2)	72	238.45	144,262	0.8	115,410	50.14
VACANT LAND (3)	108	24.29	9,797	0.5	4,898	2.78
VACANT LAND (4)	36	37.76	45,690	0.4	18,276	10.17
VACANT LAND (5)	13	71.73	240,351	0.3	72,105	41.70
VACANT LAND (6)	8	277.95	1,513,438	0.2	302,688	185.40
TOTALS	**2,016**	**789.27**				

(1) LAND USE DESIGNATION GENERALLY WITHIN CENTRAL BRISBANE, AND SOUTHWEST BAYSHORE
(2) LAND USE DESIGNATION GENERALLY WITHIN ALL OTHER AREAS EXCEPT AREAS INCLUDED IN (1)
(3) VACANT LAND WITH AN AREA LESS THAN 1 ACRE
(4) VACANT LAND WITH AN AREA GREATER THAN 1 ACRE BUT LESS THAN 5 ACRES
(5) VACANT LAND WITH AN AREA GREATER THAN 5 ACRES BUT LESS THAN 20 ACRES
(6) VACANT LAND WITH AN AREA GREATER THAN 20 ACRES

CATEGORY	# OF PARCELS	ADMIN. FEE	ESU	TOTAL ESUs	ASSMT/ PARCEL	ASSMT. FEE TOT.	TOT. FEE/ PARCEL	TOTAL FEES
SINGLE FAMILY RESIDENTIAL (R-1)	1,562	$7,029.00	1.00	1562.00	$4.98	$7,778.76	$9.48	$14,807.76
MULTI-FAMILY RESIDENTIAL (R-3)	45	$202.50	3.44	154.80	$17.14	$771.30	$21.64	$973.80
COMMERCIAL/ INDUSTRIAL (1)	172	$774.00	3.10	533.20	$15.44	$2,655.68	$19.94	$3,429.68
COMMERCIAL/ INDUSTRIAL (2)	72	$324.00	50.14	3610.08	$249.70	$17,978.40	$254.20	$18,302.40
VACANT LAND (3)	108	$486.00	2.78	300.24	$13.84	$1,494.72	$18.34	$1,980.72
VACANT LAND (4)	36	$162.00	10.17	366.12	$50.66	$1,823.76	$55.16	$1,985.76
VACANT LAND (5)	13	$58.50	41.70	542.10	$207.68	$2,699.84	$212.18	$2,758.34
VACANT LAND (6)	8	$36.00	185.40	1483.20	$923.30	$7,386.40	$927.80	$7,422.40
TOTALS	**2,016**	**$9,072.00**				**$42,588.86**		**$51,660.86**

TOTAL FEES =	$51,660.86
CARRY OVER (estimated) =	$0.00

ADMIN. FEE / PARCEL =	$4.50
ASSMT. FEE / ESU =	$4.98

File Attachments for Item:

M. Sierra Point Landscaping and Lighting District

1. Hear Statement of Engineer of Record, Read Mayor's Statement, Hear City Clerk Statement, Open Public Hearing to hear any testimony, Close Public Hearing

2. Consider adoption of Resolution overruling protests and ordering the improvements and confirming the diagram and assessments for Fiscal Year 24/25

M.

CITY COUNCIL AGENDA REPORT

Meeting Date: July 18, 2024

From: Karen Kinser, Deputy Director of Public Works

Subject: Public Hearing on Imposition of Fiscal Year 2024-2025 Tax Roll Charges for the Sierra Point Landscaping and Lighting District

Community Goal/Result - Economic Development

Purpose - To complete the process via a public hearing for the imposition of annual tax roll charges that fund Sierra Point's Landscape and Lighting Assessment District, which provides for maintenance of the landscaping, irrigation and lighting installed in 1989.

Recommendation - The following procedures and actions are recommended:

1. Statement of the Engineer of Record as to the nature of the project.

2. Mayor's statement and declaration that the Public Hearing is open (see Attachment 1).

3. Statement by the City Clerk verifying that the Certificate of Posting and the Resolution of Intention is on file (see Attachment 2), followed by the reading of any written protests by the City Clerk.

4. Hearing of oral testimony and comments.

5. Closure of Public Hearing.

6. By motion, adoption of the proposed Resolution Addressing Objections and Ordering the Improvements and Confirming the Diagrams and Assessment for Fiscal Year 2024-2025 for the Sierra Point Landscaping and Lighting District.

Background

At its June 6th meeting, the City Council adopted Resolution No. 2024-16, a Resolution of Preliminary Approval of Engineer's Report, and Resolution No. 2024-17, a Resolution of Intention to Order the Levy and Collection of Assessments Pursuant to the Landscaping and Lighting Act of 1972, pertaining to the Sierra Point Landscaping and Lighting District, Fiscal Year 2024-2025. The fiscal year 2024–2025 Engineer's Report maintains the previous year's total assessment amount.

In accordance with state law, joint notice of both the public meeting and the public hearing was mailed to all affected property owners and was posted at City Hall, Brisbane Community

Center, Brisbane Public Library and Mission Blue Center. The preliminarily approved Engineer's Report is attached. As of July 9, 2024, no written protests had been received.

Discussion

In addition to the routine maintenance provided within the district, the revenue funds non-annual projects such as deep root watering trees in drought years. In the coming fiscal year, aging and rusting street light poles will continue to be replaced and/or repaired.

Minor corrections to the Engineer's Report may be made by staff after adoption of the resolution if final county assessor data received after this action differs from draft data.

Fiscal Impact

This is an annually occurring process that provides the funding mechanism for the work completed within the landscaping and lighting district. If the Council declines to order and levy the collection of assessments, there will be no identified revenue source for the work scheduled in this District. The FY 24-25 budget adopted by Council for Department 6035 (Sierra Point Landscaping and Lighting District) is in the amount of $519,719, and the assessments to be collected via the recommended action are also $591,719.

Measure of Success

Continuing acceptable maintenance levels in the Sierra Point Landscape and Lighting District.

Attachments

1. Opening Statement by the Mayor of the City of Brisbane
2. Clerk's Statement
3. Proposed Resolution Addressing Objections, Ordering the Improvements and Confirming the Diagrams and Assessment for Fiscal Year 2024-25
4. Engineer's Report, including Zone 1 and Zone 2 Assessment Diagrams

Karen Kinser, Deputy Director of Public Works

Randy Breault, Director of Public Works

Jeremy Dennis, City Manager

OPENING STATEMENT BY THE MAYOR
OF THE CITY OF BRISBANE

JULY 18, 2024

SIERRA POINT LANDSCAPING AND LIGHTING DISTRICT

This is the time and place set for hearing on the Engineer's Report and the levy and collection of the proposed assessment for Fiscal Year 2024-2025 for the Sierra Point Landscaping and Lighting District. These proceedings were undertaken pursuant to the Landscaping and Lighting Act of 1972.

The Engineer's Report prepared by the Engineer of Work consists of the proposed improvements, the boundaries of the Assessment District and any zones therein, the proposed diagram, the estimate of cost thereof and the proposed assessments upon assessable lots and parcels of land within the District. Any one of these items may be the subject of protests or endorsements.

You are asked to clearly identify yourself and the property owned by you so that your statements may be correctly recorded.

The hearing is declared open and I will ask the City Clerk to report on the various notices given in connection with the hearing.

CLERK'S STATEMENT

JULY 18, 2024

SIERRA POINT
LANDSCAPING AND LIGHTING DISTRICT

Notices have been mailed and posted as required by the Landscaping and Lighting Act of 1972. Proofs of mailing and posting are on file in my office. A copy of the Engineer's Report prepared by the Engineer of Work was filed in my office on May 28, 2024 and has been open to public inspection since that time.

RESOLUTION NO. 2024-XX

A RESOLUTION OVERRULING PROTESTS AND ORDERING THE IMPROVEMENTS AND CONFIRMING THE DIAGRAM AND ASSESSMENTS

FISCAL YEAR 2024-2025

SIERRA POINT
LANDSCAPING AND LIGHTING DISTRICT

RESOLVED, by the City Council of the City of Brisbane, California, as follows:

WHEREAS, the Engineer's Report for Fiscal Year 2024-2025 for the Sierra Point Landscaping and Lighting District Pursuant to the Landscaping and Lighting Act of 1972 was duly made and filed with the Clerk of said City, whereupon said Clerk presented it to the City Council for its consideration;

WHEREAS, said Council thereupon duly considered said report and each and every part thereof and found that it contained all the matters and things called for by the provisions of said Act, including (1) plans and specifications of the existing improvements and the proposed new improvements; (2) estimate of costs; (3) diagram of the District; and (4) an assessment according to benefits; all of which were done in the form and manner required by said Act;

WHEREAS, said Council found that said report and each and every part thereof was sufficient in every particular detail and determined that it should stand as the report for all subsequent proceedings under said Act, and thereby Preliminarily Approved said report via Resolution 2024-16; whereupon said Council, pursuant to the requirements of said Act, appointed Thursday, the 18th day of July, 2024, at the hour of 7:30 p.m. of said day in the Brisbane Community Meeting Room, 50 Park Place, Brisbane, California, 94005 as the time and place for hearing protests in relation to the levy and collection of the proposed assessments for said improvements, including the maintenance or servicing, or both, thereof, for Fiscal Year 2024-2025 and directing said Clerk to give notice of said hearing as required by said Act;

WHEREAS, it appears that notices of said hearing were duly and regularly mailed, published and posted in the time, form and manner required by said Act, as evidenced by the Affidavits and Certificates on file with said Clerk, whereupon said hearing was duly and regularly held at the time and place stated in said notice;

WHEREAS, persons interested, objecting to said improvements, including the maintenance or servicing, or both, thereof, or to the extent of the assessment district, or any zones therein, or to the proposed assessment or diagram or to the Engineer's estimate of costs thereof, filed written protests with the Clerk of said City at or before the conclusion of said hearing, and all persons interested desiring to be heard were given an opportunity to be heard, and all matters and things were pertaining to the levy and

collection of the assessments for said improvements, including the maintenance or servicing, or both, thereof, were fully heard and considered by said Council; and

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED and ORDERED, as follows:

1. That protests against said improvements, including the maintenance or servicing, or both, thereof, or to the extent of the assessment district or any zones therein, or to the proposed assessment or diagram, or to the Engineer's estimate of costs thereof, for Fiscal Year 2024-2025 be, and each of them are, hereby overruled.

2. That the public interest, convenience and necessity require and said Council does hereby order the levy and collection of assessments pursuant to said Act, for the construction or installation of the improvements, including the maintenance or servicing, or both, thereof, more particularly described in said Engineer's Report and made a part hereof by reference thereto.

3. That the Sierra Point Landscaping and Lighting District and the boundaries thereof benefited and to be assessed for said costs for the construction or installation of the improvements, including the maintenance or servicing, or both, thereof, are more particularly described by reference to a map thereof on file in the Office of the Clerk of said City. Said map indicates by a boundary line the extent of the territory included in said district and of any zone thereof and the general location of said District.

4. That the plans and specifications for the existing improvements and for the proposed improvements to be made within the assessment district or within any zone thereof contained in said report, be, and they are, hereby finally adopted and approved.

5. That the Engineer's estimate of the itemized and total costs and expenses of said improvements, maintenance and servicing thereof, and of the incidental expenses in connection therewith, contained in said report, be, and it is hereby, finally adopted and approved.

6. That the public interest and convenience require, and said Council does hereby order, the improvements to be made as described in and in accordance with said Engineer's Report, reference to which is hereby made for a more particular description of said improvements.

7. That the diagram showing the exterior boundaries of the assessment district referred to and described in said Resolution No. 2024-17, and also the boundaries of any zones therein and the lines and dimensions of each lot or parcel of land within said District as such lot or parcel of land is shown on the County Assessor's maps for the fiscal year to which it applies, each of which lot or parcel of land has been given a separate number upon said diagram, as contained in said report, be, and it is hereby, finally approved and confirmed.

8. That the assessment of the total amount of the costs and expenses of the said improvements upon the several lots or parcels of land in said District in proportion to the estimated benefits to be received by such lots or parcels, respectively, from said improvements, and the maintenance or servicing, or both, thereof and of the expenses incidental thereto contained in said report be, and the same is hereby, finally approved and confirmed.

9. That said Engineer's Report for Fiscal Year 2024-2025 be, and the same is, hereby finally adopted and approved as a whole.

10. That the City Clerk shall forthwith file with the Auditor of San Mateo County the said assessment, together with said diagram thereto attached and made a part thereof, as confirmed by the City Council, with the certificate of such confirmation thereto attached and of the date thereof.

11. That the order for the levy and collection of assessment for the improvements and the final adoption and approval of the Engineer's Report as a whole, and of the plans and specifications, estimate of the costs and expenses, the diagram and the assessment, as contained in said Report, as modified, as hereinabove determined and ordered, is intended to and shall refer and apply to said Report, or any portion thereof, as amended, modified, revised or corrected by, or pursuant to and in accordance with any resolution or order, if any, heretofore duly adopted or made by this Council.

12. That the San Mateo County Controller and the San Mateo County Tax Collector apply the Sierra Point Landscaping and Lighting District assessments to the tax roll and have the San Mateo County Tax Collector collect said assessments in the manner and form as with all other such assessments collected by the San Mateo County Tax Collector.

_____
Terry O'Connell, Mayor
City of Brisbane

* * * *

I, the undersigned, hereby certify that the foregoing Resolution No. 2024-xx was adopted at a regular meeting of the City Council of the City of Brisbane on the 18th day of July, 2024 by the following vote:

AYES:
NOES:
ABSENT:

_____
Ingrid Padilla, City Clerk
City of Brisbane

CITY OF BRISBANE

SIERRA POINT

LANDSCAPING AND LIGHTING DISTRICT

ENGINEER'S REPORT

on the
Levy of an Assessment
for the
2024 - 2025 Fiscal Year

Prepared by

Karen Kinser, P.E.
Deputy Director of Public Works

July 9, 2024

I. BACKGROUND

In 1983, the Brisbane City Council determined to undertake proceedings under the provisions of Division 15, Part 2, of the California Streets and Highways Code, entitled "Landscaping and Lighting Act of 1972", for the formation of an assessment district for the purpose of constructing, installing, maintaining and servicing the following facilities within said district:

a) Public landscaping, including trees, shrubs, grass, other vegetation, and irrigation facilities.

b) Public lighting facilities, including standards, poles, and electric current or energy.

The proposed district was designated the "Sierra Point Landscaping and Lighting District".

This report was prepared as part of an annually occurring process to detail the assessment charges and district expenses covering the 2024 - 2025 fiscal year.

II. PLANS AND SPECIFICATIONS

The original plans and specifications for this assessment district have been separately bound but are incorporated herein by this reference thereto.

III. ESTIMATE OF COSTS

The costs of this assessment district for the 2024 - 2025 fiscal year are estimated to be as follows:

ZONE l & 2 CONSTRUCTION & MAINTENANCE COSTS

		FY 23/24
	Employee costs	123,189
	Supplies and services	377,150
	Administrative costs	91,380
	TOTAL ZONE 1 & 2	**$591,719**

Supplies and services includes safety clothing, maintenance of vehicles and equipment, small tools and supplies, landscape and irrigation maintenance including materials, electricity, and water.

Administrative charges are indirect, overhead costs to manage the district.

A detailed breakdown of these costs is available to assessees upon request.

Costs associated with this assessment district for the 2024 - 2025 fiscal year are to be paid as follows:

ZONE l & 2 FUNDING SOURCES

		FY 24/25
	Assessment charges	591,719
	TOTAL ZONE 1 & 2	**$591,719**

IV. DIAGRAM

The assessment diagrams for Zones 1 and 2 are attached hereto and are a part of this report.

V. ASSESSMENT

The assessments to be made against the assessable lots and parcels of land within this assessment district are attached hereto and are a part of this report.

Respectfully submitted,

Dated 6/25/24

Karen Kinser, P.E.
Deputy Director of Public Works

Filed in the office of the City Clerk of the City of Brisbane, San Mateo County, California, this _____ day of _____, 2024.

_____
Ingrid Padilla
City Clerk

Filed in the office of the County Controller-Auditor of the County of San Mateo, California, this _____ day of _____, 2024.

_____
Juan Raigoza
County Controller

ASSESSMENT ROLL

ASSESSMENT NUMBER	ASSESSOR'S PARCEL NUMBER	PARCEL AREA, AC.	ASSESSMENT
ZONE 1			
A 1	007—165—210	4.41	$24,570
A 2	007—165—230	8.97	49,976
A 3	007—165—110	3.44	19,166
A 4	007—165—050	6.13	34,153
A 5	007—164—020	5.66	31,534
A 6	007—164—010	10.20	56,828
A 7	007—165—130	9.78	54,488
A 8	007—165—140	7.13	39,724
A 9	007—165—150	5.93	33,038
A 10	007—163—030	3.52	19,619
A 11	007—163—040	3.08	17,160
A 12	007—165—120	4.56	25,406
C 1	015—011—090	Note[1]	0
C 2	015—011—100	6.92	38,554
C 3	015—011—130	8.57	47,747
C 4	015—011—120	8.56	47,691
C 5	015—011—140	2.41	13,427
	Subtotal Zone 1	99.28	$553,074

[1] Although previously assessed, this parcel is owned by California State Lands Commission, which is exempt from local assessments.

ZONE 2

B	1	None (placeholder only)		-0-
B	2	005—162—430 (Ptn)	15.2	7,190
B	3	005—162—300	66.5	31,455
B	4	005—162—400 (Ptn)	Note[2]	-0-
B	5	005—162—410 (Ptn)	0.2[3]	-0-
B	6	005—162—390	Note[4]	-0-
B	7	005—162—420 (Ptn)	Note[4]	-0-
		Subtotal Zone 2	81.7	$ 38,645
		Total	180.99	$591,719

METHOD OF ASSESSMENT SPREAD

The amounts to be assessed against the parcels of property to pay the costs and expenses of the work and improvements shall be based on the estimated benefits to be derived by the various properties within the assessment district.

Construction and maintenance costs shall be segregated by zone, and then spread to the parcels within each zone in proportion to the area of the benefited parcels within the zone.

Incidental expenses shall be spread proportional to the area of benefited parcels within the assessment district.

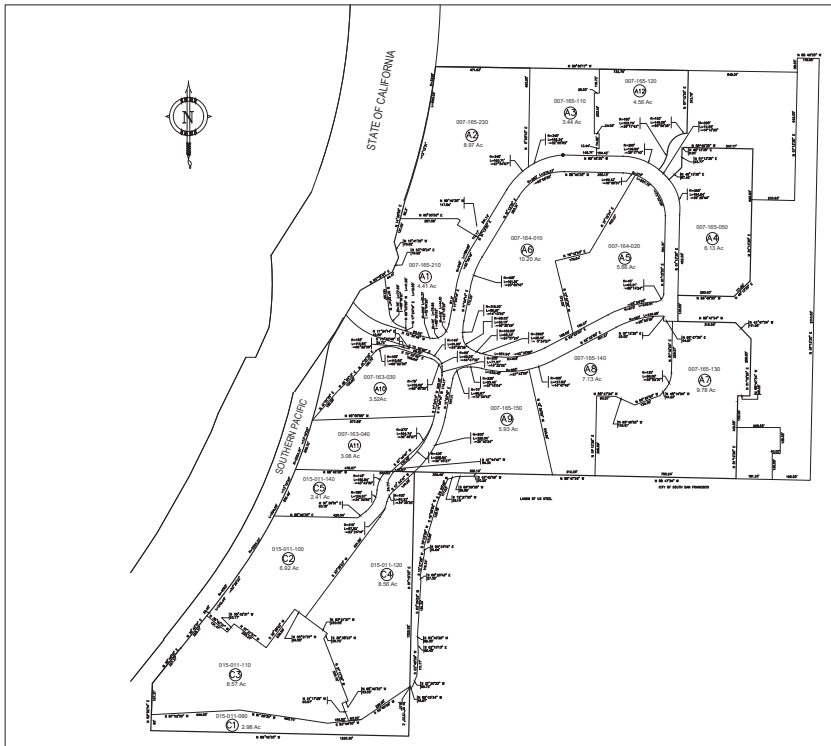
Due to the County Auditor's requirement that individual parcel assessments be rounded to the nearest even cent, the total of said individual assessments may not exactly equal the total estimate of costs.

[2] This portion of this parcel is private land over which the public has been granted access for use as the street, Tunnel Avenue.
[3] No assessment has been imposed for a value less than $100.
[4] B6 and B7 are publicly owned portions of Tunnel Avenue.

NAMES AND ADDRESSES OF OWNERS

ASSESSMENT NUMBER	APN NUMBER	ASSESSEE
A-1	007-165-210	BP3 SF4 1000 Marina LLC 4380 La Jolla Village Dr. Suite 230 San Diego, CA 92122
A-2	007-165-230	BP3 SF5 3000 3500 Marina LLC 4380 La Jolla Village Dr. Suite 230 San Diego, CA 92122
A-3	007-165-110	SNH Brisbane Ca LLC 255 Washington St Newton, MA 02458
A-4	007-165-050	Grand Sierra Properties, Inc. 150 Executive Park Blvd. #4000 San Francisco, CA 94134
A-5 A-6	007-164-020 007-164-010	HCP Life Science REIT, Inc. 1920 Main St, Suite 1200 Irvine, CA 92614
A-7 A-8 A-9	007-165-130 007-165-140 007-165-150	Slough Brisbane LLC 1920 Main St. Suite 1200 Irvine, CA 92614
A-10	007-163-030	Summit Hospitality 114 LLC 12600 Hill Country Blvd., #R-100 Austin, TX 78738
A-11	007-163-040	Bre Sh Brisbane Owner LLC PO Box A-3956 Chicago, IL 60690-3956
A-12	007-165-120	PPF OFF 7000 Marina Blvd LP C/O Morgan Stanley Real Estate Advisor 555 California St. 21st Floor San Francisco, CA 94101

B-2 B-3 B-4 B-5	005-162-430 005-162-300 005-162-400 005-162-410	Oyster Point Properties, Inc. 150 Executive Park Blvd. #4200 San Francisco, CA 94134-3332
B-6 B-7	005-162-390 005-162-420	City of Brisbane 50 Park Place Brisbane, CA 94005
C-1	015-011-090	State of California C/O State Lands Commission Attn: Title Unit 100 Howe Ave., Ste. 100 Sacramento, CA 95825
C-2	015-011-100	HCP Life Sciences REIT, Inc. 3000 Meridian Boulevard #200 Franklin, TN 37067
C-3	015-011-130	DW LSP 5000 Shoreline LLC C/O Divco West Real Estate Group Attn: Sam Hamilton PO Box 130667 Carlsbad, CA 92013
C-4	015-011-120	DW LSP 5000 Shoreline LLC C/O Divco West Real Estate Group Attn: Sam Hamilton PO Box 130667 Carlsbad, CA 92013
C-5	015-011-140	GNS Shoreline LP C/O Altusgroup USINC/Ventas #6904 PO Box 71970 Phoenix, AZ 85050



ZONE 1

ASSESSMENT DIAGRAM
MARINA PARCEL

CITY OF BRISBANE SAN MATEO COUNTY CALIFORNIA

FOR FISCAL YEAR 24-25

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF BRISBANE, CALIFORNIA, THIS _____ DAY OF _____ OF 2024.

_____
CITY CLERK, CITY OF BRISBANE

AN ASSESSMENT WAS LEVIED BY THE CITY COUNCIL OF THE CITY OF BRISBANE, CALIFORNIA, ON LOTS, PIECES AND PARCELS OF LAND SHOWN ON THIS DIAGRAM ON THE _____ DAY OF_____ OF 2024, BY ITS RESOLUTION NO. 2024 -____.

_____
CITY CLERK, CITY OF BRISBANE

LEGEND

____	DISTRICT BOUNDARY
____	PARCEL BOUNDARY
(A1)	ASSESSMENT NUMBER
007–165–010	ASSESSORS PARCEL NUMBER AS OF MAP DATE

SPECIFICATIONS

The construction or installation, including the maintenance or servicing, or both, of public landscaping trees, shrubs, grass or other vegetation.

The construction or installation, including the maintenance or servicing, or both, of public lighting facilities, including standards, poles and electric current or energy.

COUNTY RECORDER'S STATEMENT

Filed this ____ day of _____, 2024 at ___ a.m./p.m. in Book _____ of Assessment Maps, at page (s) _____, at the request of Ingrid Padilla, City Clerk of the City of Brisbane.

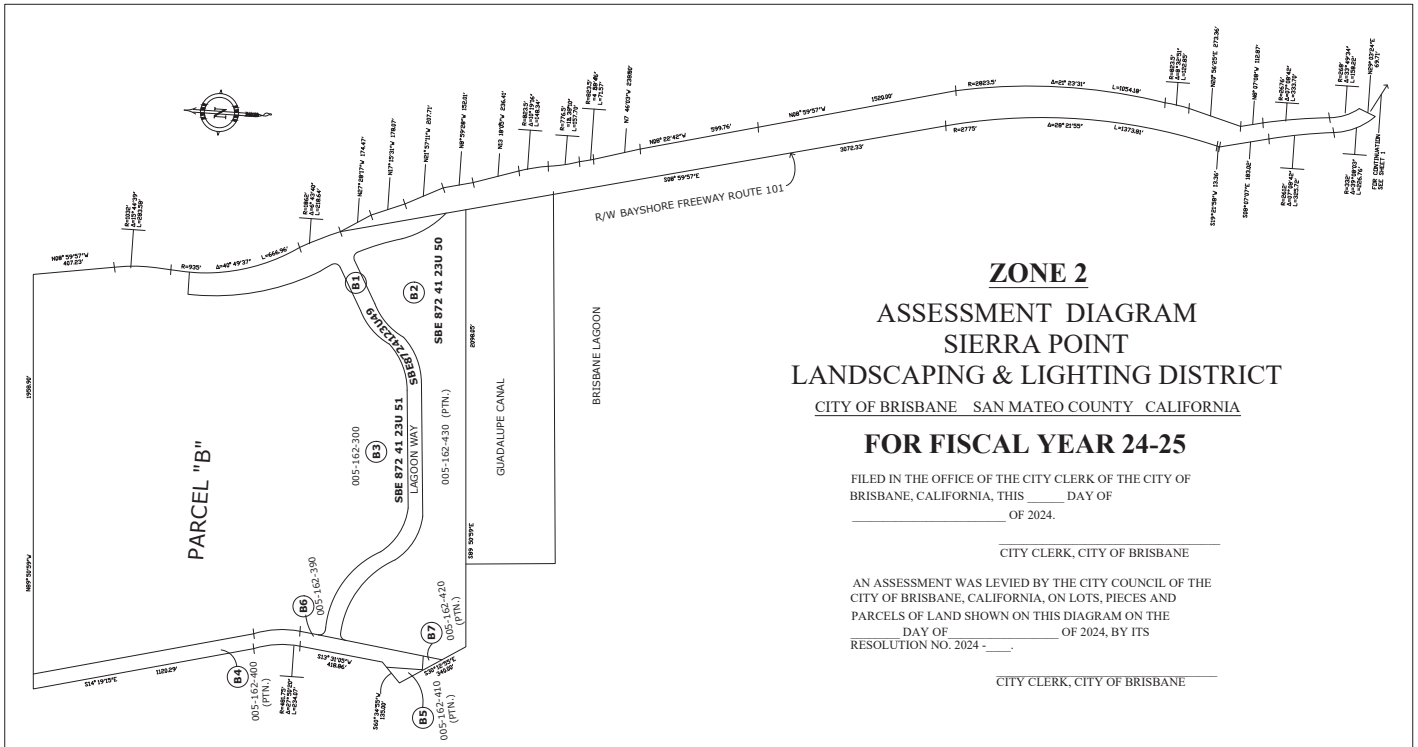
Mark Church, San Mateo County Recorder

File No.:_____ By: _____

Fee: _____ Deputy Recorder

Sheet 1 of 2

M.



ZONE 2

ASSESSMENT DIAGRAM
SIERRA POINT
LANDSCAPING & LIGHTING DISTRICT

CITY OF BRISBANE SAN MATEO COUNTY CALIFORNIA

FOR FISCAL YEAR 24-25

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF BRISBANE, CALIFORNIA, THIS _____ DAY OF _____ OF 2024.

_____
CITY CLERK, CITY OF BRISBANE

AN ASSESSMENT WAS LEVIED BY THE CITY COUNCIL OF THE CITY OF BRISBANE, CALIFORNIA, ON LOTS, PIECES AND PARCELS OF LAND SHOWN ON THIS DIAGRAM ON THE _____ DAY OF_____ OF 2024, BY ITS RESOLUTION NO. 2024 -____.

_____
CITY CLERK, CITY OF BRISBANE

LEGEND

——— DISTRICT BOUNDARY
——— PARCEL BOUNDARY
(A1) ASSESSMENT NUMBER
007-165-010 ASSESSORS PARCEL NUMBER AS OF MAP DATE

SPECIFICATIONS

The construction or installation, including the maintenance or servicing, or both, of public landscaping trees, shrubs, grass or other vegetation.

The construction or installation, including the maintenance or servicing, or both, of public lighting facilities, including standards, poles and electric current or energy.

COUNTY RECORDER'S STATEMENT

Filed this ____ day of _____, 2024 at ___ a.m./p.m. in Book _____ of Assessment Maps, at page (s) _____, at the request of Ingrid Padilla, City Clerk of the City of Brisbane.

File No.:_____
Fee: _____

Mark Church, San Mateo County Recorder
By: _____
Deputy Recorder

Sheet 2 of 2

File Attachments for Item:

N. Consider Introducing an Ordinance Approving a Zoning Text and Map Amendment 2024-RZ-1, Overlay to R-1 Residential District and the R-BA Brisbane Acres Residential District in Entirety

(It is being recommended to introduce an ordinance approving a zoning text and map amendment 2024-RZ-1 amending regulations within Title 16 and 17 of the Brisbane Municipal Code to add the R-TUO residential two unit overlay district as new chapter 17.05 and related amendments; and finding that this project is exempt from environmental review under CEQA Guidelines Sections 15061(b)(1) & (3), Section 15183. This item was continued from the City Council Meeting of June 6, 2024.)

CITY COUNCIL AGENDA REPORT

Meeting Date: July 18, 2024

From: John Swiecki, Community Development Director

Subject: Zoning Map and Text Amendment 2024-RZ-1 – zoning text and map amendment 2024-RZ-1 amending regulations within Title 16 and 17 of the Brisbane Municipal Code to add the R-TUO residential two unit overlay district as new chapter 17.05 and related amendments; and finding that this project is exempt from environmental review under CEQA Guidelines Sections 15061(b)(1) & (3), Section 15183; City of Brisbane, applicant.

SUPPLEMENTAL REPORT

COMMUNITY GOAL/RESULT

Safe Community - Residents and visitors will experience a sense of safety.

PURPOSE

To amend the zoning ordinance to establish regulations for urban lot splits and two-unit developments consistent with the requirements of Senate Bill SB 9.

RECOMMENDATION

Introduce the ordinance amending the zoning text and zoning map to establish the R-TUO Residential Two Unit Overlay district and related code amendments, as provided in Attachment 4.

BACKGROUND

On June 6, 2024, City Council continued the public hearing on this matter to allow for additional time for the public review. The City Council further directed staff to provide additional background information and explanation of the proposed amendment, and to increase the level of public awareness and engagement.

The June 6, 2024 agenda report and previous Planning Commission workshops and hearing reports are provided in Attachment 5 for reference and include detailed information regarding the proposed ordinance.

DISCUSSION:

As directed by City Council, staff has prepared informational webpages for SB 9, including graphics which illustrate buildout examples. The July Star included a front-page article summarizing the proposed amendment as well as a hyperlink to the new web pages. See the hyperlink to a new draft ordinances webpage, Draft Ordinances | City of Brisbane, CA (brisbaneca.org) , and the SB 9 specific webpage, 2024-RZ-1 | City of Brisbane, CA (brisbaneca.org)

Information regarding the proposed amendment was also included in the July 3 Brisbane Blast and on the City's social media platforms. As part of the Blast, the City included a link to a new community outreach platform "Engage Brisbane", which allows community members to provide responses to questions on the objective standards that are included in the ordinance. Also, although this item was continued to tonight's date specific, new public notices were posted on July 5th. The City's electronic sign boards at the Community Park and the Northeast Ridge have also been utilized to advertise tonight's public hearing. Since the June 6th public hearing to the time of this writing, no written comments have been received. If any comments are received prior to the July 18th meeting, they will be provided separately to City Council.

The new webpages include substantial information on a number of issues associated with the requirements and implications of SB 9 and answers some key questions that have been raised. These are addressed through frequently asked questions (FAQs) on the webpage referenced above. The FAQs also contain the graphic illustrations requested by Council. See weblink 2024-RZ-1 | City of Brisbane, CA (brisbaneca.org) for additional information.

Key considerations include:

- SB 9 became effective statewide in January 2022, including Brisbane. The City is obligated under state law to process applications that demonstrate compliance with SB 9, whether or not the City adopts an ordinance. Since SB 9 took effect in 2022, owners on a total of 4 lots within Brisbane have applied for SB 9 developments, although no development permits have been approved.

- Development under SB 9 allows for property owners to either add an additional unit on their lot (two-unit development) or subdivide their lot into 2 lots (urban lot split), subject to certain restrictions. This is applicable to the R-1 Residential District (R-1) and the R-BA Brisbane Acres Residential District (R-BA). Currently, without using SB 9, lots within these districts may be developed with a single family dwelling, an accessory dwelling unit (ADU) and a junior accessory dwelling unit (JADU), for a maximum of (3) units total. Although many variations on development under SB 9 can be achieved, it allows for no more than a total of four (4) units within the original lot area. This represents one more unit than

allowed under current zoning regulations. Attachments 1 and 2 illustrate several theoretical SB 9 development scenarios.

- Concerns have been raised about the applicability of SB 9 to the R-BA zoning district. While SB 9 theoretically applies to the R-BA district as a whole, there are several SB-9 eligibility criteria that could limit its applicability to any given lot within the district. Specifically, lots containing endangered butterfly habitat are not eligible for SB 9 development. Additionally, SB 9 allows that a public agency may deny a project that would have a specific adverse impact upon public health and safety that cannot be mitigated. Consistent with that provision, to promote public safety, Brisbane Municipal Code Section 17.01.060 does not allow for development of new dwelling units on lots that do not have public infrastructure. Therefore, lots within the R-BA district which lack access to public roadways and infrastructure would be ineligible for SB 9 development. As a result of these criteria, it is likely that many existing R-BA zoned lots would not be eligible for SB 9 development. Any lot in the R-BA zone applying for an SB 9 development would need to demonstrate that all criteria for SB 9 eligibility have been met. Lastly, many lots within the upper Acres have been acquired by the City for open space purposes (see Attachment 3), further reducing the number of lots in the R-BA District with development potential.

- Adoption of the proposed ordinance allows the City to impose objective standards on SB 9 developments. The draft ordinance includes objective standards restricting the height of buildings within the state's allowable setback areas and on R-BA ridgeline lots. The draft ordinance also requires that the minimum of one off-street parking space per primary unit be uncovered or within a carport, to help ensure these spaces are used for parking. Garage spaces may be provided in addition to the minimum uncovered or carport spaces. It also allows for shared driveways to help preserve on-street parking.

- If the draft ordinance is not approved, property owners will still have the right to proceed with SB 9 developments subject to state regulations. The City will be unable to apply any other development standards.

FISCAL IMPACT

None.

MEASURE OF SUCCESS

To provide clear provisions in the BMC in compliance with SB 9 (2021).

ATTACHMENTS

1. Webpage excerpts - Selected graphic illustrations and FAQs
2. Website hyperlinks (including additional illustrations):
    a) Draft Ordinances | City of Brisbane, CA (brisbaneca.org)
    b) 2024-RZ-1 | City of Brisbane, CA (brisbaneca.org)
3. R-BA City Ownership Map
4. Draft Ordinance - Text and Map Amendment
5. City Council Agenda Report, June 6, 2024
    (includes links to Planning Commission reports and minutes)

John Swiecki, Community Development Director

Jeremy Dennis, City Manager

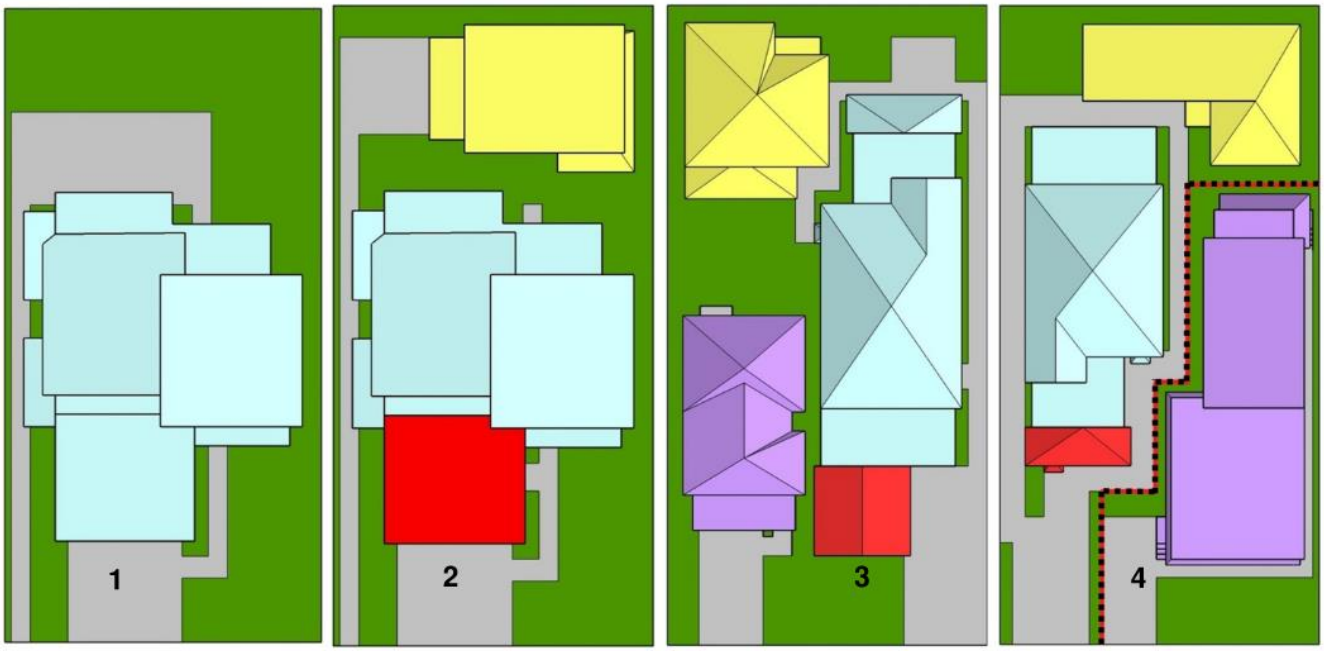
For FAQs and additional illustrations, see 2024-RZ-1 | City of Brisbane, CA (brisbaneca.org)

Selected R-1 Buildout Scenarios

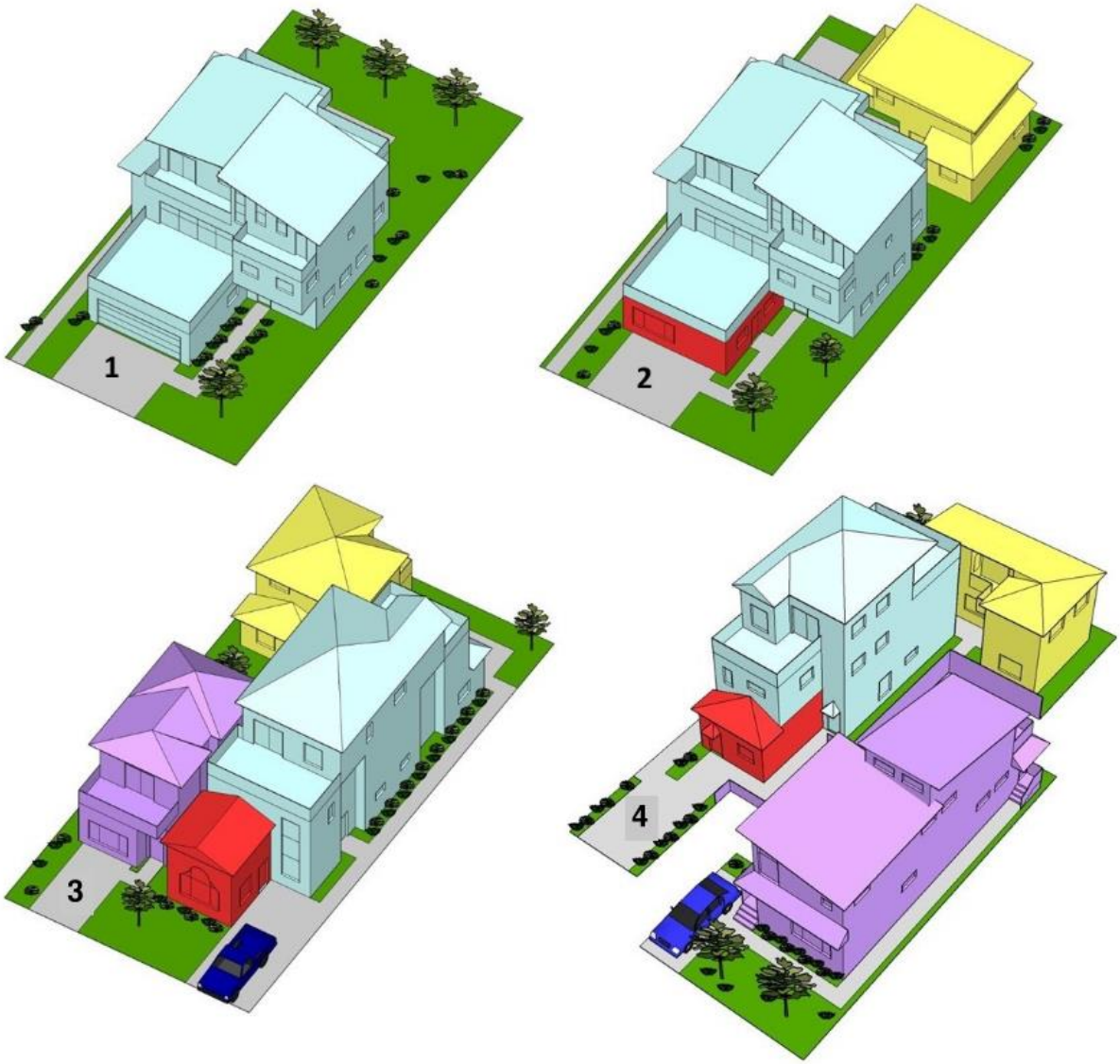
From left to right:

1. Single family dwelling (blue) on standard R-1 lot, per district regulations
2. Single family dwelling, accessory dwelling (yellow) and junior accessory dwelling (red), per district regulations.
3. SB 9 two unit development with second primary dwelling unit (purple)
4. SB 9 urban lot split with second primary dwelling unit (purple).

R-1 District Site Plan Views:



R-1 District Axonometric Views



Frequently Asked Questions

2024-RZ-1 | City of Brisbane, CA (brisbaneca.org)

Why should the City adopt a local ordinance to address SB 9?

In 2021 the Governor signed SB 9, which became effective for jurisdictions state-wide in January 2022 and the City is currently processing applications pursuant to SB 9.

Through adoption of a local ordinance the City may include objective development standards, as long as those standards wouldn't preclude development that would otherwise be compliant with the provisions of SB 9. Objective standards are including in the draft ordinance for 1) parking and 2) building heights within setbacks and on ridgeline lots, as further described below. A local ordinance would provide for clarity in the City's implementation of SB 9 provisions. The draft ordinance would also commit the City to providing an informational notice to the owners of neighboring properties upon approval of a development project under SB 9.

SB 9 refers to urban lot splits and two unit developments. What's the difference between the two?

"Two unit developments" generally refers to the development of two primary dwelling units on a an existing lot, or on a lot created through an urban lot split.

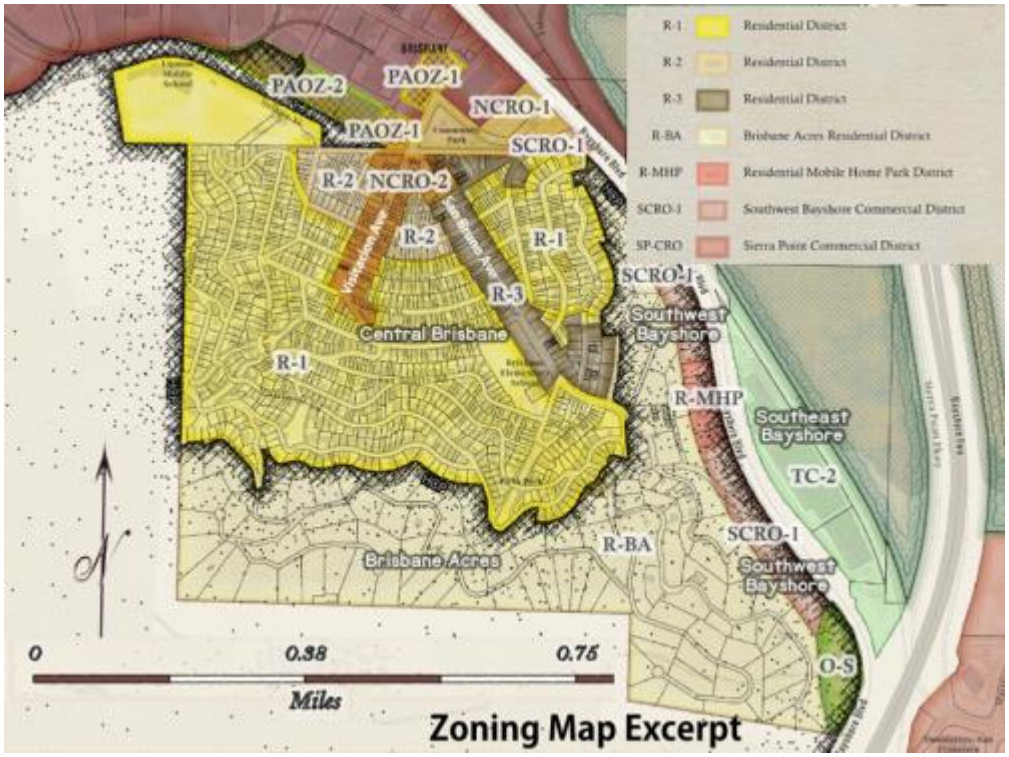
An "urban lot split" is a ministerial split of one single family residential lot into two lots pursuant to the provisions of SB 9. Each resultant lot may have a two unit development or a combination of primary dwelling units and JADUs or ADUs. In any case, the maximum development that may occur over the original lot area is 4 dwelling units. That's one more than may otherwise be permitted.

The draft ordinance is proposed as an overlay district. What does this mean?

An overlay district does not alter the underlying district standards. The overlay district (R-TUO Residential Two Unit zoning district) standards would only apply to those properties that apply for a permit pursuant to the provisions of SB 9 and are approved for development consistent with SB 9.

Which properties in Brisbane are subject to SB 9?

SB 9 only applies to single family zoning districts, which in Brisbane are the R-1 and R-BA zoning districts. These districts are shown in yellow on the zoning map excerpt (see also our Interactive Zoning Map):



What development is currently allowed within the R-1 zoning district and what does SB 9 allow?

The current lot size standard in the R-1 zone is 5,000 sq ft, although a number of smaller lots are recognized as legal lots, generally in the range of 2,500 sq ft to 5,000 sq ft based on older lot size standards. The R-1 zoning allows for one single family dwelling unit, one attached junior accessory dwelling unit (JADU) and one accessory dwelling unit (ADU) on a lot, irrespective of size, assuming the applicable development standards are met.

SB 9 allows for **one additional** dwelling unit on that same lot area, either following an "urban lot split" or as a "two unit development" on the existing lot, subject to a number of qualifying criteria and restrictions. An urban lot split is a ministerial division of one legal lot into two lots and a two unit development allows for two primary dwelling units, such as two single family dwellings or a duplex on a lot. Regardless of whether SB 9 is implemented by an urban lot split or by a two unit development on the existing lot, the total dwelling unit count for the original lot area may not exceed four units, including accessory dwelling units, versus three units under the current zoning for both districts. There are various potential buildout configurations and comparison examples for:

1. what may be developed under the R-1 zoning without SB 9;
2. a two unit development; and
3. an urban lot split.

These are theoretical examples based on a maximum buildout. Additional examples based on a maximum buildout are available at this link.

What development is currently permitted in the R-BA zone and what will SB 9 allow?

The lot size standard in the R-BA zone is 20,000 sq ft. The R-BA zoning currently allows for one single family dwelling unit, one attached junior accessory dwelling unit (JADU) and one accessory dwelling unit (ADUs) on a lot. SB 9 allows for one additional dwelling unit on that same lot area, either following an "urban lot split" or as a "two unit development" on the existing lot, subject to a number of qualifying criteria and restrictions.

One such qualifying criteria is that the lot may not have endangered species habitat. The R-BA district as a whole is within the San Bruno Mountain Habitat Conservation Plan area and a number of the properties, especially in the upper reaches of the district are likely to contain habitat for endangered butterfly species and would therefore be excluded. Another is that the lot must have infrastructure access for safety and utilities. Many of the lots do not currently have such access or utilities. Since this cost is borne by the property owner for development, this will likely continue to prove to be cost prohibitive, especially for those properties that are distant from existing infrastructure and on steep terrain.

Are there any other limitations on when SB 9 applies?

The endangered species and infrastructure restrictions are applicable to much of the R-BA district, but there are a number of other requirements and restrictions that may apply to either the R-1 and R-BA. Some of these are as follows:

- The lot does not contain wetlands;
- The lot may not be in a very high fire hazard severity zone;
- The lot may not contain habitat for protected species;
- The lot may not be on lands under a conservation easement;
- The lot has not previously been subdivided via urban lot split;
- For urban lot splits, prior to a lot split being recorded, the property owner(s) shall sign an affidavit stating that the owner, or a member or members of the owner's immediate family, intends to occupy one of the dwelling units as the person's principal residence for a minimum of three years; and
- Development may not result in demolition of a dwelling unit that has been occupied by a tenant in the last three years and other tenant displacement protections.

What is the net increase in the number of housing units that may be developed on a given lot using the SB 9 provisions versus what may currently be developed without using SB 9?

The net increase in dwelling units on a given lot is one (1) unit. Currently a lot of record in either the R-BA or the R-1 district maybe developed with a single family dwelling (SFD), an accessory dwelling unit (ADU) and a junior accessory dwelling unit (JADU) without invoking SB 9 provisions. SB 9 provides for one more unit as a primary dwelling unit. That may be as a detached unit (resulting in a two unit dwelling group) or as a duplex. If the lot is split, as an urban lot split under the SB 9, the mix of units between the two resultant lots may range from 1 to 3 units, but the total across both resultant lots may not exceed 4 units.

How many units might be developed city-wide as a result of SB 9?

This is unknown. Since SB 9 took effect in 2022, owners on a total of 4 lots have applied for SB 9 development via two unit development or an urban lot split, although no development permits have yet been approved. For reference, case studies on three of these projects as provided on the City's website. Also, while there are approximately 880 lots in the R-1 district, lot size, topography, existing construction and other constraints could make SB 9 developments impractical or infeasible. Access and habitat constraints would also likely reduce the feasibility of SB-9 development throughout the R-BA zone.

What permits would be required for a two unit development or urban lot split?

For a two unit development without a lot split, a property owner would need to obtain a building permit, which would include documentation on eligibility.

For an urban lot split, prior to obtaining the building a lot split would be required, via separate planning application.

As part of the above referenced permits, a deed restriction would be recorded on the property, identifying the property as being developed through SB 9 and subjecting it to certain development and use restrictions, as provided in the ordinance.

Whether the development under SB 9 is a two unit development on the existing lot, or the owner chooses to apply for an urban lot split, prior to submitting for a building permit, the applications require ministerial approval by the City, as long as they meet all of the requirements of SB 9.

Additional information related to the process in Brisbane for Urban Lot Splits & Two-Unit Developments is available on the City's website. Urban Lot Splits & Two-Unit Developments in Single-Family Zones | City of Brisbane, CA (brisbaneca.org)

In an urban lot split, do the two resultant lots need to be the same size?

No, but they must be close in size. Pursuant to state law, the allowable size ratio between two resultant lots must be in the range of 40:60 to 50:50. For a 5,000 SF lot, that would be resultant lots in the range of 2,000 SF and 3,000 SF, to 2,500 SF and 2,500 SF, respectively.

Is there a maximum size of the dwelling units that may be permitted under SB 9?

The underlying district floor area limits would apply. For the R-1 district that floor area ratio is 0.72, or 3,600 sq ft on a 5,000 sq ft lot, except that the City must allow for primary dwelling units of at least 800 sq ft. An owner may voluntarily develop a smaller unit subject to California Building Code requirements. For the R-BA district, the maximum FAR is also 0.72, except that the total floor area may not exceed 5,500 sq ft.

What development standards apply to units developed under SB 9 provisions?

SB 9 provides that a jurisdiction may not require more than a 4 foot building setback from the side or rear lot lines. Comparing this to the current R-1 district standards, the minimum side setbacks range from 3 to 5 feet, depending on the lot width, and the rear setback requirement is 10 feet. In the R-BA district, the minimum rear setback is also 10 feet and the side setbacks range from 5 to 15 feet, depending on the lot width.

Following the Planning Commission's workshops and public hearing on the draft ordinance, the Commission recommended an objective standard, that the area between the zoning district's standard setback area and the state's 4 foot allowance, the building height may not exceed 25 feet. The current standard in the R-1 district is 28 to 30 feet depending on the slope. Additionally, the 25 foot limit would apply to ridgeline lots within the R-BA district. The current height limit for buildings in the R-BA district is 35 feet. (Note, under the draft ordinance 2024-RZ-2 a height limit of 36 feet has been proposed for both the R-1 and R-BA districts.)

Also, per SB 9 provisions, the City may not require more than one parking space for each primary dwelling unit. Following the Planning Commission's workshops and public hearing on the draft ordinance, the Commission has recommended an objective standard, that the parking requirement may only be met by off-street uncovered parking or by parking covered by a carport. While garage spaces may be provided, as an owner's option, they would not count towards the minimum requirement. This proposed standard stemmed from a concern over the common practice of use of garages for storage other than parking.

It has also been proposed that shared driveways should be permitted. This would be to allow for fewer driveway curb-cuts, to help minimize impacts to existing street parking.

Note that, where the R-1 or R-BA zoning district standards are not specifically superseded by the standards provided through SB 9, the underlying zoning district standards would apply.

How are accessory dwelling units or junior accessory dwelling units affected by SB 9?

The development provisions for ADUs and JADUs are contained in BMC Chapter 17.43. These provisions would not be changed by the ordinance. That is with the exception that, the use of a property for an ADU or JADU might be superseded by development of a primary dwelling unit through SB 9, but where an ADU or JADU is allowed, the provisions of Chapter 17.43 would still apply.

Since there was a lawsuit over SB 9 in southern California, how will this affect Brisbane?

A recent ruling by a Los Angeles Superior Court judge's overturning SB 9 applied to five charter cities in Southern California. The City's Legal Counsel indicated that the decision has no effect on other trial courts or other cities. Also, the cities in question are charter cities, not general law cities, such as Brisbane, and the decision hinged on SB 9 conflicting with the land use authority of those cities under their charters. As such, the decision is not relevant to SB 9 as it applies to the City of Brisbane.

Are there some buildout examples?

Subject to certain restrictions, SB 9 allows for two-unit developments and urban lot splits in the R-1 Residential District and R-BA Brisbane Acres Residential District. No more than two primary units may be built on a single lot, whether before or after a lot split, and no more than 4 units (including ADUs and JADUs) may be built across the original lot area. Consistent with SB 9, the draft ordinance provides tables showing the possible scenarios. A few of the many possibilities have been illustrated on the City's website, based on a 5,000 sq ft lot in the R-1 district and a 20,000 sq ft lot in the R-BA district.

Click here for sample scenarios of Two Unit Developments and Urban Lot Splits and three Brisbane case studies.

ATTACHMENT 2

Website hyperlinks:

a) Draft Ordinances | City of Brisbane, CA (brisbaneca.org)

b) 2024-RZ-1 | City of Brisbane, CA (brisbaneca.org)

City Owned Parcels Acquired for Open Space Purposes in the R-BA District and Funding Sources

ATTACHMENT 3

N.

City Owned Properties & Funding Sources

- City Funded
- Water Tank Sites
- Coastal Conservancy Funded
- US Fish & Wildlife Funded
- Other Means - Donations, Lawsuit, Density Transfer

Zoning Layers

- R-1
- R-BA

Other Layers

- Priority Preservation Area 2023
- Parcels

07/09/2024

ATTACHMENT 4

DRAFT ORDINANCE NO.___
AN ORDINANCE OF THE CITY OF BRISBANE
AMENDING BRISBANE MUNICIPAL CODE TITLES 16 AND 17 – TO ADD CHAPTER 17.05 RESIDENTIAL OVERLAY TO PROVIDE FOR URBAN LOT SPLITS AND TWO-UNIT DEVELOPMENTS IN SINGLE FAMILY RESIDENTIAL ZONES AND TO AMEND SECTION 17.02.235 TO ADD A DEFINITION FOR "PRIMARY DWELLING UNIT" OR "MAIN DWELLING" AND TO MODIFY SECTIONS 17.02.120 AND 17.02.220 DEFINING CARPORTS AND DRIVEWAYS AND TO AMEND THE ZONING MAP TO ADD THE R-TUO RESIDENTIAL TWO UNIT OVERLAY DISTRICT

Now, the City Council of the City of Brisbane hereby ordains as follows:

SECTION 1. Section 16.12.040 - Tentative and final parcel map—Exceptions to requirements is amended as follows:

16.12.040 - Tentative and final parcel map- Exceptions to requirements

A tentative parcel map and final parcel map shall not be required in the following cases:

A. Where the subdivision is created by a short-term lease, terminable by either party on not more than thirty (30) days' written notice, of a portion of the operating right-of-way of a railroad corporation, as defined by Section 230 of the Public Utilities Code;

B. Where land is conveyed to or from a government agency, public entity or public utility, or to a subsidiary of a public utility for rights-of-way, unless a showing is made in individual cases that public policy necessitates a parcel map.

C. Where an urban lot split is proposed, see Chapter 17.05 of Title 17 of this Municipal Code.

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SECTION 4. Section 17.02.120 - Carport is amended, as follows:

17.02.120 - Carport. "Carport" means an accessory structure or a portion of a main structure designed for the storage of motor vehicles having a roof or other solid covering and enclosed on no more than two (2) sides.

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SECTION 5. Section 17.02.220 - Driveway is amended, as follows:

17.02.220 - Driveway. "Driveway" means a private roadway which provides access to off-street parking or loading spaces, and the use of which is limited to persons residing on the site, their invitees, or persons working on the site. A driveway may be shared, to serve two or more lots, by access easement across one or more of the affected lots. This does not include private streets as defined in Section 17.02.750.

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SECTION 2: Section 17.02.230 - Duplex is hereby deleted in its entirety.

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SECTION 3. Section 17.02.235 - Dwelling is amended to add a definition for "Duplex dwelling" and "Primary dwelling unit" or "Main Dwelling", 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 mobile homes, but excludes trailers, campers, tents, recreational vehicles, hotels, motels, boarding houses and temporary structures.

A. "Duplex dwelling" means a building containing two dwelling units totally separated from each other by a wall, floor or ceiling; provided, however, that a building containing a single-family dwelling and a lawful accessory dwelling unit or junior accessory dwelling unit shall not be deemed a duplex.
B. "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.
C. "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.
D. "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.
E. "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.
F. "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.
G. "Primary dwelling unit" or "Main Dwelling" means a dwelling unit that is not an accessory dwelling unit or a junior accessory dwelling unit.

H. "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-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.

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SECTION 6. Section 17.04.010 - Establishment of Districts is amended to add the "R-TUO Residential two unit overlay district" as follows:

The districts into which the city is divided are hereby established and designated as follows:

A. R-1 Residential district.
B. R-2 Residential district.
C. R-3 Residential district.
D. R-BA: Brisbane acres residential district.
E. R-TUO Residential two unit overlay district.
F. C-1: Commercial mixed use district.
G. NCRO: Central Brisbane commercial district.
H. HC: Beatty heavy commercial district.
I. SCRO-1: Southwest Bayshore commercial district.
J. SP-CRO: Sierra Point commercial district.
K. TC-1: Crocker Park trade commercial district.
L. TC-2: Southeast Bayshore trade commercial district.
M. MLB: Marsh Lagoon Bayfront district.
N. O-S: Open space district.
O. P-D: Planned development district.
P. PAOZ: Parkside overlay district.
Q. R-MHP: Residential mobile home park district.

*****

Section 7. Chapter 17.05 Residential Two Unit Overlay District is added to Title 17 as follows:

17.05 Residential Two Unit Development Overlay District.

17.05.010 Purpose. The purpose of this Chapter is to allow no more than two detached or attached primary dwelling units on one lot of record, establish objective standards for the District, and regulate certain subdivisions of a lot of record in single-family zoning districts, in accordance with State law. This Chapter shall be implemented and interpreted in conjunction with California Government Code Sections 65852.21 and 66411.7, as may be amended, and applicable objective standards and procedures set forth in Chapters 17.06, 17.12, 17.43, 16.12, 16.16, and 16.20 of the Brisbane Municipal Code.

17.05.020 Applicability and Relation to Other Sections. This Chapter is provided as an overlay district to the R-1 and R-BA residential districts, to comply with State law, and to carry out the purpose of Section 17.05.010, and, unless specifically addressed within this Chapter, the R-1 and R-BA district standards shall apply, as applicable. This Chapter also allows for ministerial approval of urban lot splits in conjunction with Chapter 16.16 and 16.20 of this Code.

This chapter shall not supersede the provisions of Section 17.01.060 - Requirement For Lot of Record and Infrastructure Improvements-- but applications shall be considered in concert with the provisions of that Section.

This chapter may be applied to a substandard lot, as further described in Section 17.47.030- Exceptions – Lot Area, Lot Dimensions and Lot Lines, if the substandard lot is a lot of record, as defined in Section 17.02.490.

17.05.030 Definitions

For the purposes of this Chapter, the following definitions apply. Terms not defined herein shall be based upon the definitions in Chapter 17.02.

A. "Access Corridor" means an access easement or the "pole" of a flag lot that provides vehicular access to the public right-of-way, that is free of features that obstruct ingress/egress to a lot.
B. "Acting in Concert" means the property owner, or a person as an agent or representative of the property owner, knowingly participating with another person in joint activity or parallel action toward a common goal of subdividing an adjacent parcel.
C. "Car Share Facility" means one or more parking space(s) that have been designated permanently for car share vehicles, where the vehicles are leased for short periods of time, often by the hour.
D. "Department" means the Community Development Department.
E. "Existing Exterior Structural Wall" means and constitutes the original bottom plate and original top plate in its existing position, original studs (with the exception for new window framing), and capable of standing without support
F. "Flag or Panhandle Lot" means a parcel which includes a strip of land that is owned in fee that is used primarily for vehicular access from a public or private street to the major portion of the parcel.
G. "High Quality Transit Corridor" means a corridor with fixed bus route service with service intervals no longer than 15 minutes during peak commute hours, or as defined in State law.
H. "Major Transit Stop" means a site containing any of the following: (i) an existing rail or bus rapid transit station; (ii) a ferry terminal served by either a bus or rail transit service; or (iii) the intersection of two or more major bus routes with a frequency of service intervals of 15 minutes or less during the morning and afternoon peak commute periods, or as defined in state law.
I. "Primary Dwelling Unit" or "Primary Unit" means the same as defined in section 17.02.235.G.
J. "Specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date an application was deemed complete.
K. "Two-unit Development" means a proposed housing development that contains two primary dwelling units on a single lot.

L. "Urban Lot Split" means a subdivision of an existing lot of record in a single-family zoning district into no more than two separate legal lots, which subdivision satisfies all of the criteria and standards set forth in this Chapter and Government Code Section 66411.7.

17.05.040 Eligibility.

A. To be eligible for a two-unit development or urban lot split as specified in this Chapter, the application shall meet all of the following criteria:
   1. The lot is a lot of record and is located within the R-1 Residential zoning district or the R-BA Brisbane Acres Residential zoning district.
   2. The owner(s) of the lot has not exercised the owner's rights under Government Code Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the application has been submitted.
   3. The lot is not within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.
   4. The lot does not contain any of the site conditions listed in Government Code section 65913.4, subdivision (a)(6)(B-K), or successor provisions or as amended, which includes, but is not limited to, lands within wetlands, a very high fire hazard severity zone, a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood), habitat for protected species, and lands under a conservation easement.
   5. The lot has not previously been subdivided under this Chapter, or under Government Code section 66411.7.
   6. For urban lot splits, Prior to a lot split being recorded, the property owner(s) shall sign an affidavit stating that the owner, or a member or members of the owner's immediate family, intends to occupy one of the dwelling units as the person's principal residence for a minimum of three years. This requirement shall not apply to an applicant that is a "community land trust," as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or is a "qualified nonprofit corporation" as described in Section 214.15 of the Revenue and Taxation Code.

17.05.050 Anti-displacement/Eligibility Criteria.

A. Development under this Chapter shall not result in displacement of tenants from:
   1. A lot that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
   2. A lot that is subject to any form of rent or price control through the City's valid exercise of its police power.

B. Development under this Chapter shall not result in:
   1. Demolition or alteration as defined in Section 15.10.040.A or B of a dwelling unit that has been occupied by a tenant in the last three years.
   2. Demolition of a building, or alteration as defined in Section 15.10.040.A or B, when the building is occupied by a tenant.

17.05.060 Permitted Uses. The following uses, defined in Chapter 17.02 - Definitions, are permitted in this overlay zoning district in accordance with the development standards and are added to the permitted uses provided in Chapters 17.06 - R-1 Residential District and 17.12 - R-BA Brisbane Acres Residential District of this title:

A. Duplex dwellings.
B. Dwelling groups of two primary dwelling units per lot.

17.05.070 Two Unit Developments without an Urban Lot Split. A Two Unit Development on a lot of record that has not been split under the urban lot split provisions of this Chapter shall comply with the development standards provided in this section.

A. Development Standards. Where not expressly stated, the R-1 and R-BA zoning district development standards, set forth in Chapters 17.06 and 17.12, and ADU and JADU development standards set forth in Chapter 17.43, shall apply. For urban lot split development standards see Section 17.05.080.C.

1. Number of dwelling units. Development of up to four dwelling units may be built in the same lot area typically used for a single-family residence, without an urban lot split, as follows:

Development Scenario Options on a Single Lot without Urban Lot Split	Single Family Dwelling	Duplex Dwelling (two attached primary units")	Two-unit Dwelling Group (two detached primary units")	ADU	JADU	Total Dwelling Units
Type A.	NA	2				2
Type B.	NA		2			2
Type C.	NA	2		1		3
Type D.	NA		2	1		3
Type E.	NA	2		2		4
Type F.	NA		2	2		4
Type G.	NA		2	1	1	4

Notes:
1. NA: Not applicable. Development of a single-family dwelling on a lot of record may be permitted per the zoning district standards, provided in Chapter 17.06 and 17.12, without invoking the two unit overlay provisions.
2. See Chapter 17.43 for applicable development regulations for ADU's or JADU's..
3. Four units are the maximum that may be permitted on a lot.
4. If Types A through D are initially developed, one or two ADUs may later be added up to the maximum allowed, Types E or F, subject to the provisions of this Chapter.

2. Primary Dwelling Unit Size. Each of the primary dwelling units shall be permitted to be at least 800 square feet in floor area, regardless of the zoning district's lot coverage and floor area ratio (FAR) limits. For primary dwelling units over 800 square feet, the zoning district floor area standards shall apply; provided, however, this shall not preclude the option to construct smaller primary dwelling units in compliance with the state building code. The minimum floor area for each unit shall be as permitted by the state building code.

3. Lot coverage. The R-1 or R-BA district lot coverage limit shall apply except where it would preclude development of new primary units of 800 square feet, or retention of the lot coverage of an existing primary unit or addition of accessory dwelling unit, in compliance with the provisions of this Chapter and Chapter 17.43 of this Title.

4. Side and Rear Setbacks. Minimum side and rear setbacks for the primary dwelling units shall be 4 feet, except for the following:

(a) Where the underlying district development standards allow for a lesser setback, the district standards shall apply.
(b) No setback shall be required for an existing legal non-conforming structure, or a replacement structure constructed in the same location and to the same dimensions as an existing legal non-conforming structure.

5. Height of Primary Dwelling Units.

(a) Where a primary dwelling unit utilizes the 4-foot side or rear setback allowance, for a reduced setback versus the district's setback, no portion of the building that is located in the area between the 4-foot setback and the district's setback minimum shall exceed 25 feet in height.
(b) The maximum height of any primary dwelling unit on a ridgeline lot within the R-BA district, as defined in Section 17.02.695, shall be 25 feet, except for (i) an existing legal non-conforming structure, (ii) a replacement structure constructed in the same location and to the same dimensions as an existing legal non-conforming structure, or(iii) as approved by design review permit per Section 17.12.040.L.

6. Off-Street Parking.

(a) A minimum of one standard size, off-street parking space (uncovered or carport) for each primary dwelling unit shall be required (refer to Chapter 17.34 for parking space design standards). Garage parking space(s) shall not count towards meeting the minimum parking requirements.

(b) Shared driveways may be permitted to serve more than one dwelling unit, subject to approval by the City Engineer, based on finding that a shared driveway will not pose a hazard to public safety. See the definition of driveway in Section 17.02.220 of this title.

(c) Notwithstanding the parking requirements indicated above, no off-street parking shall be required if:

(i) The lot is located within one-half mile walking distance of either a transit stop located in a high-quality transit corridor, as defined in Public Resources Code Section 21155(b), or a major transit stop, as defined in Public Resources Code Section 21064.3; or
(ii) There is a designated parking area for one or more car-share facilities within one block of the lot.

17.05.080 Urban Lot Splits. The City may approve a parcel map for an urban lot split ministerially, subject to the procedures, requirements and development standards provided in this section.

A. Ministerial Parcel Map Procedures. The parcel map shall be prepared following the tentative map form and procedures provided in Chapter 16.16 - Tentative Map Procedures and Chapter 16.20- Final Map Procedures, except that the parcel map shall be approved by the City Engineer. The City Engineer shall have authority to waive specific requirements provided in Chapter 16.16 and Chapter 16.20, if the City Engineer deems the requirements inapplicable, given the site location or other characteristics.

B. Ministerial Parcel Map Requirements. A parcel map for an urban lot split shall meet the requirements of Chapter 16.16 and 16.20 of the Municipal Code, as deemed applicable by the City Engineer, and all of the following requirements:

1. The parcel map subdivides an existing lot of record to create no more than two legal lots of record of approximately equal lot area provided that one lot shall not be smaller than 40 percent of the lot area of the original lot of record proposed for subdivision.
2. Both newly created lots of record shall be no smaller than 1,200 square feet.
3. The zoning district lot width and depth dimension minimums shall not apply.
4. Flag lots may be approved. The flagpole portion, whether part of the flag lot or an easement on the flag lot, shall have a minimum width of 12 feet to accommodate a driveway, unless a lesser width is approved by the City Engineer. The location and dimensions of driveways are subject to approval by the City Engineer as set forth in Section 12.24.015.
5. Both parcels resulting from the urban lot split shall have access to, provide access to, or adjoin the public right-of-way through right-of-way frontage or recorded access easements.
6. The approved parcel map shall include a notation that the parcels were created using the Urban Lot Split provisions of this Chapter and the resulting parcels cannot be further subdivided under this Chapter.
7. The urban lot split conforms to all applicable objective requirements of the Subdivision Map Act, except as otherwise expressly provided in this Chapter.
8. The parcel being subdivided was not established through prior exercise of an urban lot split as provided for in this Chapter.
9. Neither the property owner of the parcel being subdivided nor any person acting in concert with the property owner has previously subdivided an adjacent parcel using an urban lot split as provided for in this Chapter.

C. Development Standards for Urban Lot Splits. Development on lots that have been split under this Chapter shall comply with the development standards provided in this section. Where not expressly stated, the R-1 and R-BA zoning district development standards, set forth in Chapters 17.06 and 17.12, and ADU and JADU development standards set forth in Chapter 17.43, shall apply.

1. Number of dwelling units. With an urban lot split, development of no more than four dwelling units may be built in the same lot area that would otherwise be used for a single-family residence, as shown in Tables a and b provided below. Note that Tables a and b are to be used together to detail possible development scenarios following an urban lot split. Table a provides various development scenarios that are possible on a single lot, following a lot split, as Types A through I. Table b shows how the scenario types may then be combined for the two resultant lots. For example, if one resultant lot is developed with three units (Types F, G, H or I), the second resultant lot may only be developed with a single family dwelling (Type A), for a maximum of four units on the two resultant lots.

a. Number and Types of Units- With Urban Lot Split

Development Scenario Options for **Each Resultant Lot** Following Split	Single Family Residence	Duplex	Two-unit Dwelling Group	ADU	JADU[(2)]	Total Units per lot
Type A	1					1
Type B	1			1		2
Type C	1				1	2
Type D		2				2
Type E			2			2
Type F	1			1	1	3
Type G		2		1		3
Type H			2	1		3
Type I			2		1	3

Notes:

1. Urban lot splits may utilize a combination of buildout types A – H, provided that all of the following conditions are met: a) the total number of units does not exceed four across the two lots, b) each of the two lots is to be developed with at least one primary dwelling unit, and c) development of ADUs and JADUs shall comply with Chapter 17.43.
2. JADU's are not permitted as a part of building that contains 2 or more units (i.e. duplex).

b. Lot Split - Resulting Lot Buildout Scenarios. The following table shows the total units that may be achieved by applying the development scenario options from Table 17.05.080.C.1.a to the two resultant lots.

	RESULTANT **LOT 1** (Housing Unit Totals)									
RESULTANT **LOT 2** (Housing Unit Totals)	Buildout Type (units)	Type A (1)	Type B (2)	Type C (2)	Type D (2)	Type E (2)	Type F (3)	Type G (3)	Type H (3)	Type I (3)
	Type A (1)	2	3	3	3	3	4	4	4	4
	Type B (2)	3	4	4	4	4	NP	NP	NP	NP
	Type C (2)	3	4	4	4	4	NP	NP	NP	NP
	Type D (2)	3	4	4	4	4	NP	NP	NP	NP
	Type E (2)	3	4	4	4	4	NP	NP	NP	NP
	Type F (3)	4	NP	NP	NP	NP	NP	NP	NP	NP
	Type G (3)	4	NP	NP	NP	NP	NP	NP	NP	NP
	Type H (3)	4	NP	NP	NP	NP	NP	NP	NP	NP
	Type I (3)	4	NP	NP	NP	NP	NP	NP	NP	NP

Note: NP: Not Permitted for the buildout scenario. Buildout scenario may not exceed four units.

2. Primary Dwelling Unit Size. Each of the primary dwelling units shall be permitted to be at least 800 square feet in floor area, regardless of the zoning district's lot coverage and floor area ratio (FAR) limits. For primary dwelling units over 800 square feet, the zoning district floor area standards shall apply; provided, however, this shall not preclude the option to construct smaller primary dwelling units in compliance with the state building code. The minimum floor area for each unit shall be as permitted by the state building code.

3. Lot coverage. The zoning district's lot coverage limit shall not apply where it would preclude development of new primary units of at least 800 square feet, retention of the lot coverage of an existing primary unit or addition of accessory dwelling unit, in compliance with the provisions of this Chapter and Chapter 17.43 of this Title.

4. Side and Rear Setbacks. Minimum side and rear setbacks for the primary dwelling units shall be four feet, except for the following:

(a) Where the underlying zoning district development standards allow for a lesser setback, the district standards shall prevail.

(b) No setback shall be required for an existing legal non-conforming structure, or a replacement structure constructed in the same location and to the same dimensions as an existing legal non-conforming structure.

5. Height of Primary Units.

(a) Where a primary dwelling unit utilizes the 4-foot side or rear setback allowance, for a reduced setback versus the district's setback, no portion of the building that is located in the area between the four 4-foot setback and the district's setback minimum shall exceed 25 feet in height.

(b) The maximum height of any primary dwelling unit on a ridgeline lot within the R-BA district, as defined in Section 17.02.695, shall be 25 feet, except for (i) an existing legal non-conforming structure, (ii) a replacement structure constructed in the same location and to the same dimensions as an existing legal non-conforming structure, or(iii) as approved by design permit per Section 17.12.040.L.

6. Off-Street Parking.

(a) A minimum of one standard size, off-street parking space (uncovered or carport) for each primary dwelling unit shall be required (refer to Chapter 17.34 for parking space design standards). Garage parking space(s) shall not count towards meeting the minimum parking requirements.

(b) Shared driveways may be permitted to serve more than one lot, subject to approval by the City Engineer, based on finding that the driveway will not pose a hazard to public safety. See the definition of driveway in Section 17.02.220 of this title.

(c) Notwithstanding the parking requirements indicated above, no off-street parking shall be required if:

(iii) The lot is located within one-half mile walking distance of either a transit stop located in a high-quality transit corridor, as defined in Public Resources Code Section 21155(b), or a major transit stop, as defined in Public Resources Code Section 21064.3; or

(iv) There is a designated parking area for one or more car-share facilities within one block of the parcel.

7. Deed Restriction. A property owner utilizing the provisions of this Chapter shall record a deed restriction, in a form acceptable to the City, that does the following:

(a) Where applicable, documents that the lot split complies with the provisions of this Chapter and restrictions provided in Government Code section 66411.7.

(b) Expressly prohibits any rental of any dwelling unit on the property or properties for a term of 30 days or less.

17.05.090 Requirement for a Building Permit

Demolition, alteration or construction of any building shall require building permit(s). All construction shall be in conformance with the most recent edition of the California Model Codes with any applicable Brisbane amendments.

17.05.100 Notices

Upon issuance of a building permit for a two unit development under Section 17.05.070 or a building permit following an urban lot split under Section 17.05.080, the City shall provide an informational notice to the property owners adjacent to and directly across the street from the subject site(s). The notice shall provide a brief description of the project and information on how to view approved plans.

17.05.110 Condominiums

Condominiums may be established for primary dwelling units in accordance with Chapter 17.30 - Condominiums. Establishment of condominiums shall be subject to ministerial approval by the Community Development Director, based on conformance with the applicable provisions of this chapter and Chapter 17.30.

17.05.120 Findings of Denial. The City may deny a two-unit housing development or urban lot split, based upon a preponderance of the evidence, that the proposed housing development would have a specific, adverse impact, as defined in Section 17.05.030.J.

*****

SECTION 8: 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 9: This Ordinance shall be in full force and effect thirty days after its passage and adoption.

_____
Terry O'Connell, Mayor

* * *

The above and foregoing Ordinance was adopted at a regular meeting of the City Council of the City of Brisbane held on the _____ day of _____, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Mayor

ATTEST:

_____
City Clerk

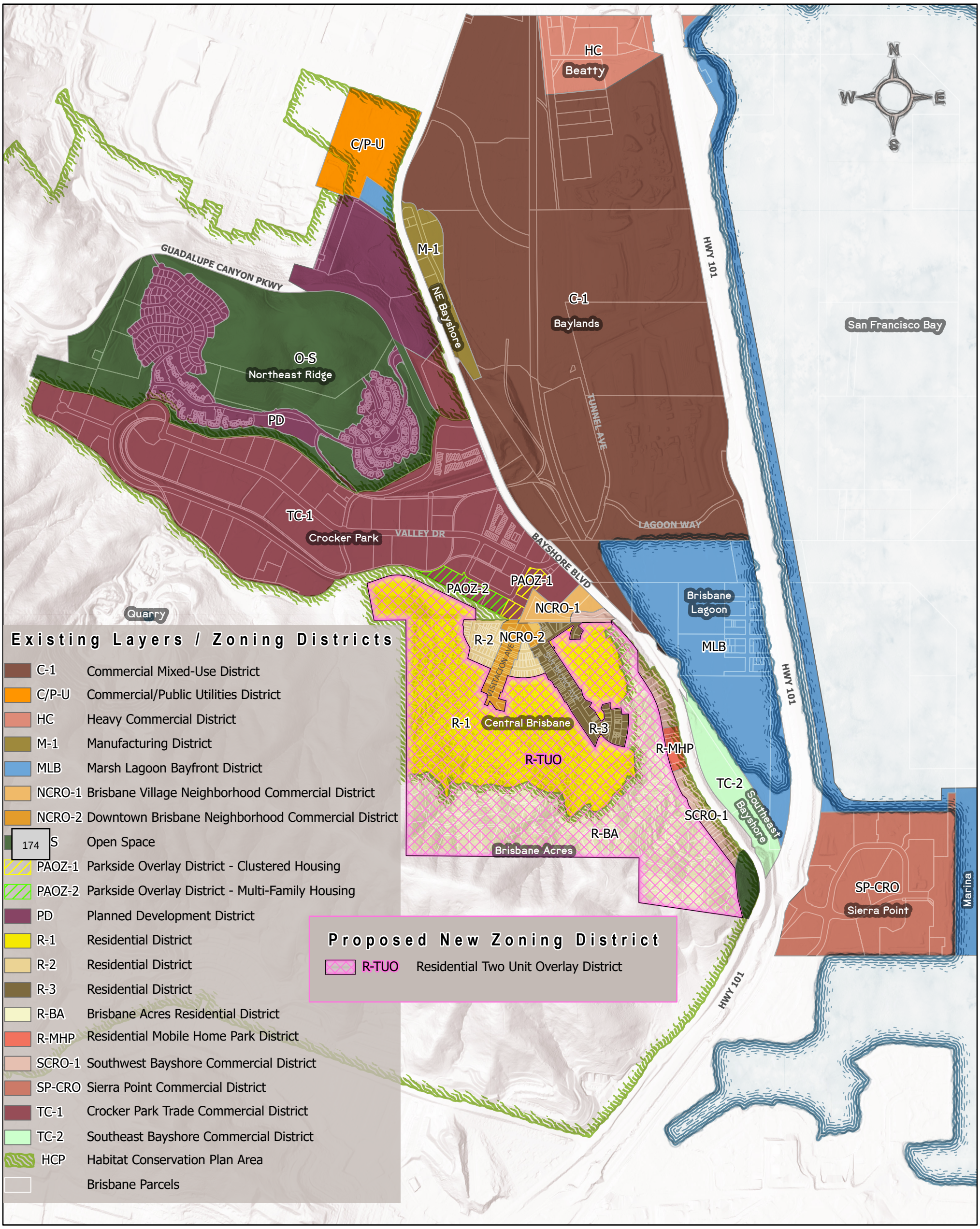
APPROVED AS TO FORM:

_____
City Attorney

N.

ATTACHMENT 4
(continued)

Proposed New Zoning District



Existing Layers / Zoning Districts

C-1	Commercial Mixed-Use District
C/P-U	Commercial/Public Utilities District
HC	Heavy Commercial District
M-1	Manufacturing District
MLB	Marsh Lagoon Bayfront District
NCRO-1	Brisbane Village Neighborhood Commercial District
NCRO-2	Downtown Brisbane Neighborhood Commercial District
O-S	Open Space
PAOZ-1	Parkside Overlay District - Clustered Housing
PAOZ-2	Parkside Overlay District - Multi-Family Housing
PD	Planned Development District
R-1	Residential District
R-2	Residential District
R-3	Residential District
R-BA	Brisbane Acres Residential District
R-MHP	Residential Mobile Home Park District
SCRO-1	Southwest Bayshore Commercial District
SP-CRO	Sierra Point Commercial District
TC-1	Crocker Park Trade Commercial District
TC-2	Southeast Bayshore Commercial District
HCP	Habitat Conservation Plan Area
	Brisbane Parcels

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Proposed New Zoning District

R-TUO	Residential Two Unit Overlay District

0 0.25 0.5 1 1.5 2 Miles

Parcel and HCP GIS data provided by San Mateo County
Zoning GIS data provided by City of Brisbane

CITY OF BRISBANE CALIFORNIA

Airbus,USGS,NGA,NASA,CGIAR,NCEAS,NLS,OS,NMA,Geodatastyrelsen,GSA,GSI and the GIS User Community

04/25/2024

CITY COUNCIL AGENDA REPORT

Meeting Date: June 6, 2024

From: John Swiecki, Community Development Director

Subject: Zoning Map and Text Amendment 2024-RZ-1 – zoning text and map amendment 2024-RZ-1 amending regulations within Title 16 and 17 of the Brisbane Municipal Code to add the R-TUO residential two unit overlay district as new chapter 17.05 and related amendments; and finding that this project is exempt from environmental review under CEQA Guidelines Sections 15061(b)(1) & (3), Section 15183; City of Brisbane, applicant.

COMMUNITY GOAL/RESULT

Safe Community - Residents and visitors will experience a sense of safety.

PURPOSE

To amend the zoning ordinance to establish regulations for urban lot splits and two-unit developments consistent with the requirements of Senate Bill SB 9.

RECOMMENDATION

Introduce the ordinance amending the zoning text and zoning map to establish the R-TUO Residential Two Unit Overlay district and related code amendments, as provided in Attachments 1 and 2.

BACKGROUND

California Senate Bill SB 9 (2021) was codified as Gov't Code Sections 65852.21(j) and 66411.7(n). These regulations became effective on January 1, 2022 and require jurisdictions statewide to permit two-unit primary dwellings in the single-family residential zoning districts on lots where one single-family dwelling would normally be permitted, or for single-family lots to be split into two lots, subject to certain restrictions. For Brisbane, this is applicable to the R-1 Residential District and the R-BA Brisbane Acres Residential District. It does not apply to multifamily zoning districts.

Property owners may invoke the provisions of SB 9, absent a City ordinance. Since January 2022, the City has had four such applications submitted, two for urban lot splits and two for two unit

developments. Although SB 9 may be invoked without City regulations, the revised 2023-2031 Housing Element (Housing Element) includes a program for Brisbane to update its zoning ordinance to implement SB 9. That is:

> *"Program 2.A.6: Adopt implementing ordinance for ministerial duplex conversions and single-family lot splits as provided by Government Code Sections 65852.21 and 66411.7."*

State law also allows jurisdictions to adopt objective standards through local ordinance, so long as they would not preclude two unit developments that would otherwise comply with the law.

The Planning Commission held workshops in 2023 to early 2024 on the proposed regulations, then a held a public hearing on May 9, 2024. The Planning Commission, by a vote of 4-0, recommended that City Council adopt the proposed ordinance. The Planning Commission resolution, draft minutes and agenda report are provided in Attachments 4, 5 and 6. Public correspondence is provided in Attachment 7.

Correspondence and the Planning Commission's discussion referenced a recent ruling by a Los Angeles Superior Court judge's overturning SB 9 as it applies to five charter cities in Southern California and its potential applicability to Brisbane. The City's Legal Counsel indicated that the decision has no effect on other trial courts or other cities. Also, the cities in question are charter cities, not general law cities, such as Brisbane, and the decision hinged on SB 9 conflicting with the land use authority of those cities under their charters. As such, the decision is not relevant to SB 9 as it applies to the City of Brisbane.

DISCUSSION:

SB 9 allows for owners of certain eligible lots within the single-family zoning districts to either split an existing lot of record to two lots, or to keep the lot as-is and develop it with two primary units where one single family dwelling would otherwise be permitted. Note that a primary dwelling unit is a housing unit that is not a junior accessory dwelling unit (JADU) or accessory dwelling unit (ADU). Primary dwelling unit is a broad term that, for the purposes of the proposed overlay district, may include single family dwellings, duplex dwelling units and two-unit dwelling groups. In multifamily zoning districts a primary unit may also refer to units within a multifamily development.

State law and Brisbane code also allows for JADUs and ADUs, both on lots with single family dwellings and those established through SB 9. There are various ways that development under SB 9 could be accomplished, but in essence the maximum number of units that could be permitted by invoking SB 9 is four units and the maximum without SB 9 is three units. Note that per SB 9, the permitting process would be ministerial, whether the development is as a two unit development on an existing lot, or by urban lot split.

Specific provisions, as required by SB 9, allow for the following:

- Primary dwelling units of 800 square feet in floor area must be allowed, regardless of the underlying district's floor area ratio (FAR) maximums. Note that JADU and ADU sizes are provided in BMC Chapter 17.43, consistent with state law, and these would not change.

- The district's lot coverage limits may not be used to prevent development that would otherwise comply with the development standards.

- Required side and rear setbacks shall not exceed 4 feet.

- No more than 1 off-street parking space per primary dwelling unit may be required by the City.

- For urban lot splits, the two resultant lots must each be at least 1,200 square feet and the size difference between the lot must be in the proportion range of 50:50 to 40:60, so they would be near the same size.

Additional provisions proposed in the draft ordinance are outlined below, with further discussion on the next page:

- In cases where the 4 foot setback would be less than the underlying district setback, a height limit of 25 feet is proposed as discussed below. The existing district setback standards range from 3 to 5 feet for the side and 10 feet in the rear in the R-1 district and 5 to 15 feet for the side and 10 feet in the rear in the R-BA district.

- Each primary dwelling unit would be required to have a minimum of one standard size off-street parking space, as indicated above, and that parking may be either uncovered or covered by a carport. Garage parking may also be provided, as an owner's option in addition to the minimum parking, but it may not count toward meeting the required parking.

- Shared driveways may be permitted.

<u>Height Limit:</u> The 25 foot height limit is proposed for that portion of a primary dwelling that is located between the underlying district setback and the 4 foot setback allowed by SB 9. For example, the rear setback for structures in the R-1 district is 10 feet minimum from the rear lot line, whereas SB 9 reduces that setback to a 4 feet minimum. The 25 foot height limit would apply to that portion of a structure located between the 10 foot and 4 foot setbacks.

The height of 25 feet is proposed as it is the same as recently adopted state law for ADU heights, which may also have 4 foot setbacks. This same objective standard would apply to any primary

unit on an R-BA ridgeline lot, since the design permit provisions for ridgeline lots would not apply in the case of a two unit development using the overlay standards. This would be a reduction from the current district height limit of 35 feet in the R-BA district and the 30 height limit in the R-1. (Note that the draft ordinance 2024-RZ-2, which is also on the agenda for tonight, would raise the underlying district heights to 36 feet, but the 25 foot limit would apply to that portion of a structure that's within the normal setback area.)

Parking & Shared Driveways: As noted above, each primary dwelling unit would be required to have a minimum of one standard size off-street parking space. That may be uncovered or covered by a carport. Garage parking may also be provided, as an owner's option in addition to the minimum parking, but it may not count toward meeting the required parking. The provision of not counting garage parking toward the minimum requirement is proposed as a result of Planning Commission concerns raised about the use of garage spaces for other uses besides parking, such as storage, and the limited number of on-street parking spaces in many of the R-1 residential neighborhoods. Note that JADU or ADU off-street parking generally is not required, with some exceptions depending on distance to public transportation, and this would not be changed through this ordinance.

Shared driveways may also be permitted, given the proposed amendment to the driveway definition, but where parking is required for the different units, they must be independently accessible (i.e. not in tandem with another unit). Note that the amendment to allow for shared driveways would be within Chapter 17.02 - Definitions, so it would extend beyond the overlay zoning district.

The Planning Commission recommended an additional provision following the public hearing, that an informational notice to be sent to adjacent property owners upon issuance of a building permit approval, for projects approved utilizing the overlay provisions. That has been included in the draft ordinance as Section 17.05.100 - Notices.

Correspondence received prior to the Planning Commission hearing was duly considered by the Commission and is provided for reference in Attachment 7.

FISCAL IMPACT

None.

MEASURE OF SUCCESS

To provide clear provisions in the BMC in compliance with SB 9 (2021).

ATTACHMENTS

1. ~~Draft Ordinance Establishing the R-TUO Zoning District~~
2. ~~Draft Zoning Map Amendment Showing the Proposed R-TUO District~~
3. Redlined Draft Ordinance
4. Planning Commission Resolution 2024-RZ-1
5. Draft Planning Commission Meeting Minutes, May 9, 2024
6. Planning Commission Agenda Report, May 9, 2024
7. Correspondence

Provided separately

John Swiecki
John Swiecki, Community Development Director

Clay Holstine
Clay Holstine, City Manager

REDLINED DRAFT ORDINANCE

Note: Red text indicates proposed as new or strikeout amendments to the Brisbane Municipal Code (BMC).

Section 16.12.040 - Tentative and final parcel map—Exceptions to requirements is amended as follows:

16.12.040 - Tentative and final parcel map- Exceptions to requirements

A tentative parcel map and final parcel map shall not be required in the following cases:

A. Where the subdivision is created by a short-term lease, terminable by either party on not more than thirty (30) days' written notice, of a portion of the operating right-of-way of a railroad corporation, as defined by Section 230 of the Public Utilities Code;

B. Where land is conveyed to or from a government agency, public entity or public utility, or to a subsidiary of a public utility for rights-of-way, unless a showing is made in individual cases that public policy necessitates a parcel map.

C. Where an urban lot split is proposed, see Chapter 17.05 of Title 17 of this Municipal Code.

Section 17.02.120 - Carport is amended, as follows:

17.02.120 - Carport. "Carport" means an accessory structure or a portion of a main structure designed for the storage of motor vehicles having a roof or other solid covering and enclosed on no more than two (2) sides.

~~"Carport" means an accessory structure or a portion of a main structure designed for the storage of motor vehicles having a permanent roof and not enclosed on two (2) or more sides.~~

Section 17.02.220 - Driveway is amended, as follows:

17.02.220 - Driveway. "Driveway" means a private roadway which provides access to off-street parking or loading spaces, and the use of which is limited to persons residing on the site, their invitees, or persons working on the site. A driveway may be shared, to serve two or more lots, by access easement across one or more of the affected lots. This does not include private streets as defined in Section 17.02.750.

~~on a single site, the use of which is limited to persons residing or working on the site and their invitees, licensees and business visitors.~~

Section 17.02.230 - Duplex is hereby deleted in its entirety.

Section 17.02.235 - Dwelling is amended to add a definition for "Duplex dwelling" and "Primary dwelling unit" or "Main Dwelling", 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 mobile homes, but excludes trailers, campers, tents, recreational vehicles, hotels, motels, boarding houses and temporary structures.

A. "Duplex dwelling" means a building containing two dwelling units totally separated from each other by a wall, floor or ceiling; provided, however, that a building containing a single-family dwelling and a lawful accessory dwelling unit or junior accessory dwelling unit shall not be deemed a duplex.

B. ~~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.

C. ~~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.

D. ~~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.

E. ~~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.

F. ~~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.

G. "Primary dwelling unit" or "Main Dwelling" means a dwelling unit that is not an accessory dwelling unit or a junior accessory dwelling unit.

H. ~~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-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 17.04.010 - Establishment of Districts is amended to add the "R-TUO Residential two unit overlay district" as follows:

The districts into which the city is divided are hereby established and designated as follows:

A. R-1 Residential district.
B. R-2 Residential district.
C. R-3 Residential district.
D. R-BA: Brisbane acres residential district.
E. R-TUO Residential two unit overlay district.
F. ~~E.~~ C-1: Commercial mixed use district.
G. ~~F.~~ NCRO: Central Brisbane commercial district.
H. ~~G.~~ HC: Beatty heavy commercial district.
I. ~~H.~~ SCRO-1: Southwest Bayshore commercial district.
J. ~~I.~~ SP-CRO: Sierra Point commercial district.
K. ~~J.~~ TC-1: Crocker Park trade commercial district.
L. ~~K.~~ TC-2: Southeast Bayshore trade commercial district.
M. ~~L.~~ MLB: Marsh Lagoon Bayfront district.
N. ~~M.~~ O-S: Open space district.
O. ~~N.~~ P-D: Planned development district.
P. ~~O.~~ PAOZ: Parkside overlay district.
Q. ~~P.~~ R-MHP: Residential mobile home park district.

Chapter 17.05 Residential Two Unit Overlay District is added to Title 17 as follows:

17.05 Residential Two Unit Development Overlay District.

17.05.010 Purpose. The purpose of this Chapter is to allow no more than two detached or attached primary dwelling units on one lot of record, establish objective standards for the District, and regulate certain subdivisions of a lot of record in single-family zoning districts, in accordance with State law. This Chapter shall be implemented and interpreted in conjunction with California Government Code Sections 65852.21 and 66411.7, as may be amended, and applicable objective standards and procedures set forth in Chapters 17.06, 17.12, 17.43, 16.12, 16.16, and 16.20 of the Brisbane Municipal Code.

17.05.020 Applicability and Relation to Other Sections. This Chapter is provided as an overlay district to the R-1 and R-BA residential districts, to comply with State law, and to carry out the purpose of Section 17.05.010, and, unless specifically addressed within this Chapter, the R-1 and R-BA district standards shall apply, as applicable. This Chapter also allows for ministerial approval of urban lot splits in conjunction with Chapter 16.16 and 16.20 of this Code.

This chapter shall not supersede the provisions of Section 17.01.060 - Requirement For Lot of Record and Infrastructure Improvements-- but applications shall be considered in concert with the provisions of that Section.

This chapter may be applied to a substandard lot, as further described in Section 17.47.030- Exceptions – Lot Area, Lot Dimensions and Lot Lines, if the substandard lot is a lot of record, as defined in Section 17.02.490.

17.05.030 Definitions

For the purposes of this Chapter, the following definitions apply. Terms not defined herein shall be based upon the definitions in Chapter 17.02.

A. "Access Corridor" means an access easement or the "pole" of a flag lot that provides vehicular access to the public right-of-way, that is free of features that obstruct ingress/egress to a lot.
B. "Acting in Concert" means the property owner, or a person as an agent or representative of the property owner, knowingly participating with another person in joint activity or parallel action toward a common goal of subdividing an adjacent parcel.
C. "Car Share Facility" means one or more parking space(s) that have been designated permanently for car share vehicles, where the vehicles are leased for short periods of time, often by the hour.
D. "Department" means the Community Development Department.
E. "Existing Exterior Structural Wall" means and constitutes the original bottom plate and original top plate in its existing position, original studs (with the exception for new window framing), and capable of standing without support
F. "Flag or Panhandle Lot" means a parcel which includes a strip of land that is owned in fee that is used primarily for vehicular access from a public or private street to the major portion of the parcel.
G. "High Quality Transit Corridor" means a corridor with fixed bus route service with service intervals no longer than 15 minutes during peak commute hours, or as defined in State law.
H. "Major Transit Stop" means a site containing any of the following: (i) an existing rail or bus rapid transit station; (ii) a ferry terminal served by either a bus or rail transit service; or (iii) the intersection of two or more major bus routes with a frequency of service intervals of 15 minutes or less during the morning and afternoon peak commute periods, or as defined in state law.
I. "Primary Dwelling Unit" or "Primary Unit" means the same as defined in section 17.02.235.G.
J. "Specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date an application was deemed complete.
K. "Two-unit Development" means a proposed housing development that contains two primary dwelling units on a single lot.
L. "Urban Lot Split" means a subdivision of an existing lot of record in a single-family zoning district into no more than two separate legal lots, which subdivision satisfies all of the criteria and standards set forth in this Chapter and Government Code Section 66411.7.

17.05.040 Eligibility.

A. To be eligible for a two-unit development or urban lot split as specified in this Chapter, the application shall meet all of the following criteria:
    1. The lot is a lot of record and is located within the R-1 Residential zoning district or the R-BA Brisbane Acres Residential zoning district.
    2. The owner(s) of the lot has not exercised the owner's rights under Government Code Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the application has been submitted.
    3. The lot is not within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.
    4. The lot does not contain any of the site conditions listed in Government Code section 65913.4, subdivision (a)(6)(B-K), or successor provisions or as amended, which includes, but is not limited to, lands within wetlands, a very high fire hazard severity zone, a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood), habitat for protected species, and lands under a conservation easement.
    5. The lot has not previously been subdivided under this Chapter, or under Government Code section 66411.7.
    6. For urban lot splits, Prior to a lot split being recorded, the property owner(s) shall sign an affidavit stating that the owner, or a member or members of the owner's immediate family, intends to occupy one of the dwelling units as the person's principal residence for a minimum of three years. This requirement shall not apply to an applicant that is a "community land trust," as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or is a "qualified nonprofit corporation" as described in Section 214.15 of the Revenue and Taxation Code.

17.05.050 Anti-displacement/Eligibility Criteria.

A. Development under this Chapter shall not result in displacement of tenants from:
    1. A lot that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
    2. A lot that is subject to any form of rent or price control through the City's valid exercise of its police power.
B. Development under this Chapter shall not result in:
    1. Demolition or alteration as defined in Section 15.10.040.A or B of a dwelling unit that has been occupied by a tenant in the last three years.
    2. Demolition of a building, or alteration as defined in Section 15.10.040.A or B, when the building is occupied by a tenant.

17.05.060 Permitted Uses. The following uses, defined in Chapter 17.02 - Definitions, are permitted in this overlay zoning district in accordance with the development standards and are added to the permitted uses provided in Chapters 17.06 - R-1 Residential District and 17.12 - R-BA Brisbane Acres Residential District of this title:

A. Duplex dwellings.

B. Dwelling groups of two primary dwelling units per lot.

17.05.070 Two Unit Developments without an Urban Lot Split. A Two Unit Development on a lot of record that has not been split under the urban lot split provisions of this Chapter shall comply with the development standards provided in this section.

A. Development Standards. Where not expressly stated, the R-1 and R-BA zoning district development standards, set forth in Chapters 17.06 and 17.12, and ADU and JADU development standards set forth in Chapter 17.43, shall apply. For urban lot split development standards see Section 17.05.080.C.

1. Number of dwelling units. Development of up to four dwelling units may be built in the same lot area typically used for a single-family residence, without an urban lot split, as follows:

Development Scenario Options on a Single Lot without Urban Lot Split	Single Family Dwelling	Duplex Dwelling (two attached primary units")	Two-unit Dwelling Group (two detached primary units")	ADU	JADU	Total Dwelling Units
Type A.	NA	2				2
Type B.	NA		2			2
Type C.	NA	2		1		3
Type D.	NA		2	1		3
Type E.	NA	2		2		4
Type F.	NA		2	2		4
Type G.	NA		2	1	1	4

Notes:

1. NA: Not applicable. Development of a single-family dwelling on a lot of record may be permitted per the zoning district standards, provided in Chapter 17.06 and 17.12, without invoking the two unit overlay provisions.
2. See Chapter 17.43 for applicable development regulations for ADU's or JADU's..
3. Four units are the maximum that may be permitted on a lot.
4. If Types A through D are initially developed, one or two ADUs may later be added up to the maximum allowed, Types E or F, subject to the provisions of this Chapter.

2. Primary Dwelling Unit Size. Each of the primary dwelling units shall be permitted to be at least 800 square feet in floor area, regardless of the zoning district's lot coverage and floor area ratio (FAR) limits. For primary dwelling units over 800 square feet, the zoning district floor area standards shall apply; provided, however, this shall not preclude the option to construct smaller primary dwelling units in compliance with the state building code. The minimum floor area for each unit shall be as permitted by the state building code.

3. Lot coverage. The R-1 or R-BA district lot coverage limit shall apply except where it would preclude development of new primary units of 800 square feet, or retention of the lot coverage of an existing primary unit or addition of accessory dwelling unit, in compliance with the provisions of this Chapter and Chapter 17.43 of this Title.

4. Side and Rear Setbacks. Minimum side and rear setbacks for the primary dwelling units shall be 4 feet, except for the following:

(a) Where the underlying district development standards allow for a lesser setback, the district standards shall apply.

(b) No setback shall be required for an existing legal non-conforming structure, or a replacement structure constructed in the same location and to the same dimensions as an existing legal non-conforming structure.

5. Height of Primary Dwelling Units.

(a) Where a primary dwelling unit utilizes the 4-foot side or rear setback allowance, for a reduced setback versus the district's setback, no portion of the building that is located in the area between the 4-foot setback and the district's setback minimum shall exceed 25 feet in height.

(b) The maximum height of any primary dwelling unit on a ridgeline lot within the R-BA district, as defined in Section 17.02.695, shall be 25 feet, except for (i) an existing legal non-conforming structure, (ii) a replacement structure constructed in the same location and to the same dimensions as an existing legal non-conforming structure, or(iii) as approved by design review permit per Section 17.12.040.L.

6. Off-Street Parking.

(a) A minimum of one standard size, off-street parking space (uncovered or carport) for each primary dwelling unit shall be required (refer to Chapter 17.34 for parking space design standards). Garage parking space(s) shall not count towards meeting the minimum parking requirements.

(b) Shared driveways may be permitted to serve more than one dwelling unit, subject to approval by the City Engineer, based on finding that a shared driveway will not pose a hazard to public safety. See the definition of driveway in Section 17.02.220 of this title.

(c) Notwithstanding the parking requirements indicated above, no off-street parking shall be required if:

(i) The lot is located within one-half mile walking distance of either a transit stop located in a high-quality transit corridor, as defined in Public Resources Code Section 21155(b), or a major transit stop, as defined in Public Resources Code Section 21064.3; or

(ii) There is a designated parking area for one or more car-share facilities within one block of the lot.

17.05.080 Urban Lot Splits. The City may approve a parcel map for an urban lot split ministerially, subject to the procedures, requirements and development standards provided in this section.

A. Ministerial Parcel Map Procedures. The parcel map shall be prepared following the tentative map form and procedures provided in Chapter 16.16 - Tentative Map Procedures and Chapter 16.20- Final Map Procedures, except that the parcel map shall be approved by the City Engineer. The City Engineer shall have authority to waive specific requirements provided in Chapter 16.16 and Chapter 16.20, if the City Engineer deems the requirements inapplicable, given the site location or other characteristics.

B. Ministerial Parcel Map Requirements. A parcel map for an urban lot split shall meet the requirements of Chapter 16.16 and 16.20 of the Municipal Code, as deemed applicable by the City Engineer, and all of the following requirements:

1. The parcel map subdivides an existing lot of record to create no more than two legal lots of record of approximately equal lot area provided that one lot shall not be smaller than 40 percent of the lot area of the original lot of record proposed for subdivision.
2. Both newly created lots of record shall be no smaller than 1,200 square feet.
3. The zoning district lot width and depth dimension minimums shall not apply.
4. Flag lots may be approved. The flagpole portion, whether part of the flag lot or an easement on the flag lot, shall have a minimum width of 12 feet to accommodate a driveway, unless a lesser width is approved by the City Engineer. The location and dimensions of driveways are subject to approval by the City Engineer as set forth in Section 12.24.015.
5. Both parcels resulting from the urban lot split shall have access to, provide access to, or adjoin the public right-of-way through right-of-way frontage or recorded access easements.
6. The approved parcel map shall include a notation that the parcels were created using the Urban Lot Split provisions of this Chapter and the resulting parcels cannot be further subdivided under this Chapter.
7. The urban lot split conforms to all applicable objective requirements of the Subdivision Map Act, except as otherwise expressly provided in this Chapter.
8. The parcel being subdivided was not established through prior exercise of an urban lot split as provided for in this Chapter.
9. Neither the property owner of the parcel being subdivided nor any person acting in concert with the property owner has previously subdivided an adjacent parcel using an urban lot split as provided for in this Chapter.

C. Development Standards for Urban Lot Splits. Development on lots that have been split under this Chapter shall comply with the development standards provided in this section. Where not expressly stated, the R-1 and R-BA zoning district development standards, set forth in Chapters 17.06 and 17.12, and ADU and JADU development standards set forth in Chapter 17.43, shall apply.

1. Number of dwelling units. With an urban lot split, development of no more than four dwelling units may be built in the same lot area that would otherwise be used for a single-family residence, as shown in Tables a and b provided below. Note that Tables a and b are to be used together to detail possible development scenarios following an urban lot split. Table a provides various development scenarios that are possible on a single lot, following a lot split, as Types A through I. Table b shows how the scenario types may then be combined for the two resultant lots. For example, if one resultant lot is developed with three units (Types F, G, H or I), the second resultant lot may only be developed with a single family dwelling (Type A), for a maximum of four units on the two resultant lots.

a. Number and Types of Units- With Urban Lot Split

Development Scenario Options for **Each Resultant Lot** Following Split	Single Family Residence	Duplex	Two-unit Dwelling Group	ADU	JADU[(2)]	Total Units per lot
Type A	1					1
Type B	1			1		2
Type C	1				1	2
Type D		2				2
Type E			2			2
Type F	1			1	1	3
Type G		2		1		3
Type H			2	1		3
Type I			2		1	3

Notes:

1. Urban lot splits may utilize a combination of buildout types A – H, provided that all of the following conditions are met: a) the total number of units does not exceed four across the two lots, b) each of the two lots is to be developed with at least one primary dwelling unit, and c) development of ADUs and JADUs shall comply with Chapter 17.43.
2. JADU's are not permitted as a part of building that contains 2 or more units (i.e. duplex).

b. Lot Split - Resulting Lot Buildout Scenarios. The following table shows the total units that may be achieved by applying the development scenario options from Table 17.05.080.C.1.a to the two resultant lots.

	RESULTANT **LOT 1** (Housing Unit Totals)									
RESULTANT **LOT 2** (Housing Unit Totals)	Buildout Type (units)	Type A (1)	Type B (2)	Type C (2)	Type D (2)	Type E (2)	Type F (3)	Type G (3)	Type H (3)	Type I (3)
	Type A (1)	2	3	3	3	3	4	4	4	4
	Type B (2)	3	4	4	4	4	NP	NP	NP	NP
	Type C (2)	3	4	4	4	4	NP	NP	NP	NP
	Type D (2)	3	4	4	4	4	NP	NP	NP	NP
	Type E (2)	3	4	4	4	4	NP	NP	NP	NP
	Type F (3)	4	NP	NP	NP	NP	NP	NP	NP	NP
	Type G (3)	4	NP	NP	NP	NP	NP	NP	NP	NP
	Type H (3)	4	NP	NP	NP	NP	NP	NP	NP	NP
	Type I (3)	4	NP	NP	NP	NP	NP	NP	NP	NP

Note: NP: Not Permitted for the buildout scenario. Buildout scenario may not exceed four units.

2. Primary Dwelling Unit Size. Each of the primary dwelling units shall be permitted to be at least 800 square feet in floor area, regardless of the zoning district's lot coverage and floor area ratio (FAR) limits. For primary dwelling units over 800 square feet, the zoning district floor area standards shall apply; provided, however, this shall not preclude the option to construct smaller primary dwelling units in compliance with the state building code. The minimum floor area for each unit shall be as permitted by the state building code.

3. Lot coverage. The zoning district's lot coverage limit shall not apply where it would preclude development of new primary units of at least 800 square feet, retention of the lot coverage of an existing primary unit or addition of accessory dwelling unit, in compliance with the provisions of this Chapter and Chapter 17.43 of this Title.

4. Side and Rear Setbacks. Minimum side and rear setbacks for the primary dwelling units shall be four feet, except for the following:

(a) Where the underlying zoning district development standards allow for a lesser setback, the district standards shall prevail.

(b) No setback shall be required for an existing legal non-conforming structure, or a replacement structure constructed in the same location and to the same dimensions as an existing legal non-conforming structure.

5. Height of Primary Units.

(a) Where a primary dwelling unit utilizes the 4-foot side or rear setback allowance, for a reduced setback versus the district's setback, no portion of the building that is located in the area between the four 4-foot setback and the district's setback minimum shall exceed 25 feet in height.

(b) The maximum height of any primary dwelling unit on a ridgeline lot within the R-BA district, as defined in Section 17.02.695, shall be 25 feet, except for (i) an existing legal non-conforming structure, (ii) a replacement structure constructed in the same location and to the same dimensions as an existing legal non-conforming structure, or(iii) as approved by design permit per Section 17.12.040.L.

6. Off-Street Parking.

(a) A minimum of one standard size, off-street parking space (uncovered or carport) for each primary dwelling unit shall be required (refer to Chapter 17.34 for parking space design standards). Garage parking space(s) shall not count towards meeting the minimum parking requirements.

(b) Shared driveways may be permitted to serve more than one lot, subject to approval by the City Engineer, based on finding that the driveway will not pose a hazard to public safety. See the definition of driveway in Section 17.02.220 of this title.

(c) Notwithstanding the parking requirements indicated above, no off-street parking shall be required if:

(iii) The lot is located within one-half mile walking distance of either a transit stop located in a high-quality transit corridor, as defined in Public Resources Code Section 21155(b), or a major transit stop, as defined in Public Resources Code Section 21064.3; or

(iv) There is a designated parking area for one or more car-share facilities within one block of the parcel.

7. Deed Restriction. A property owner utilizing the provisions of this Chapter shall record a deed restriction, in a form acceptable to the City, that does the following:

(a) Where applicable, documents that the lot split complies with the provisions of this Chapter and restrictions provided in Government Code section 66411.7.

(b) Expressly prohibits any rental of any dwelling unit on the property or properties for a term of 30 days or less.

17.05.090 Requirement for a Building Permit

Demolition, alteration or construction of any building shall require building permit(s). All construction shall be in conformance with the most recent edition of the California Model Codes with any applicable Brisbane amendments.

17.05.100 Notices

Upon issuance of a building permit for a two unit development under Section 17.05.070 or a building permit following an urban lot split under Section 17.05.080, the City shall provide an informational notice to the property owners adjacent to and directly across the street from the subject site(s). The notice shall provide a brief description of the project and information on how to view approved plans.

17.05.110 Condominiums

Condominiums may be established for primary dwelling units in accordance with Chapter 17.30 - Condominiums. Establishment of condominiums shall be subject to ministerial approval by the Community Development Director, based on conformance with the applicable provisions of this chapter and Chapter 17.30.

17.05.120 Findings of Denial. The City may deny a two-unit housing development or urban lot split, based upon a preponderance of the evidence, that the proposed housing development would have a specific, adverse impact, as defined in Section 17.05.030.J.

*****

RESOLUTION 2024-RZ-1

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BRISBANE RECOMMENDING CITY COUNCIL APPROVAL OF ZONING TEXT AND MAP AMENDMENT 2024-RZ-1 AMENDING BRISBANE MUNICIPAL CODE TITLES 16 AND 17, TO AMEND SECTION 16.12.040 - TENTATIVE AND FINAL PARCEL MAP- EXCEPTIONS TO REQUIREMENTS, ADD CHAPTER 17.05 RESIDENTIAL OVERLAY, TO PROVIDE FOR URBAN LOT SPLITS AND TWO-UNIT DEVELOPMENTS IN SINGLE FAMILY RESIDENTIAL ZONES, AND TO AMEND SECTION 17.02.235, TO ADD A DEFINITION FOR "PRIMARY DWELLING UNIT" OR "MAIN DWELLING", AND TO AMEND SECTIONS 17.02.120 AND 17.02.220 DEFINING CARPORTS AND DRIVEWAYS

WHEREAS, Senate Bill 9 ("SB 9"), which amended Section 66452.6 of the Government Code and added Sections 65852.21 and 66411.7 to the Government Code, to allow for streamlined ministerial approval of two-unit development and urban lot splits within single-family zoned areas, was signed by the Governor of California on September 16, 2021; and

WHEREAS, these changes to the Government Code became effective on January 1, 2022; and

WHEREAS, SB 9 requires cities and counties, including the City of Brisbane, to ministerially approve a parcel map for an urban lot split and/or a proposed housing development containing a maximum of two primary residential units within a single-family residential zone, if the proposal meets certain statutory criteria; and

WHEREAS, SB 9 specifies that proposed projects and subdivisions cannot be proposed in prohibited locations under Government Code Section 65913.4(a)(6)(B)-(K) such as lands within an earthquake fault zone, federally designated flood plan, historic district or property, and high fire hazard severity zone as defined under state law; and

WHEREAS, SB 9 further restricts the standards and regulations that local agencies, including the City of Brisbane, may impose to only objective zoning, subdivision, and design standards that do not conflict with the statue and where those standards must not physically preclude a unit size of at least 800 square feet or qualifying urban lot split; and

Whereas, no parcel within the overlay district is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code, or within one block of a car share facility.

WHEREAS, the City seeks to regulate development pursuant to SB 9 through the implementation of regulations concerning duplex residential developments and urban lot splits; and

WHEREAS, pursuant to Section 65852.21(j) and 66411.7(n) of the Government Code, a local agency may adopt an ordinance to implement SB 9; and

WHEREAS, City Council adopted the revised 2023-2031 Housing Element (Housing Element) on May 18, 2023, which was subsequently certified by the California Department of Housing and Community Development; and

WHEREAS, the Housing Element includes Program 2.A.6, "Adopt implementing ordinance for ministerial duplex conversions and single-family lot splits as provided by Government Code Sections 65852.21 and 66411.7", and

WHEREAS, the draft ordinance attached as Exhibit A to this resolution proposes amendments to Title 16 and Title 17; and

WHERAS, Exhibit B to this resolution proposes amendment to the zoning map to establish a new R-TUO Residential Two Unit Overlay District, to overlay the R-1 Residential District and the R-BA Residential Brisbane Acres District; and

WHEREAS, on May 9, 2024, the Planning Commission conducted a hearing of the application, 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 Planning Commission reviewed and considered the staff memorandum relating to said application, and the written and oral evidence presented to the Planning Commission in support of and in opposition to the application; and

WHEREAS, adoption of this ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to California Government Code Section 15061(b)(1) & (3), Section 15183 relating to the implementation of the Housing Element, and because it involves code amendments pursuant to California Government Code Section 65852.21(j) and Section 66411.7(n) relating to the implementation of SB 9; and

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 ninth day of May, 2024, by the following vote:

AYES: Funke, Lau, Patel, and Sayasane
NOES: NA
ABSENT:Gooding

Pamala Sayasane
PAMALA SAYASANE, Vice Chairperson
for ALEX LAU, Chairperson

ATTEST:

John Swiecki
JOHN SWIECKI, Community Development Director

DRAFT
BRISBANE PLANNING COMMISSION
Action Minutes of May 9, 2024
Hybrid Meeting

ROLL CALL

Present: Commissioners Funke, Lau, Patel, and Sayasane
Absent: Gooding
Staff Present: Director Swiecki, Senior Planner Johnson, Associate Planner Robbins

CALL TO ORDER

Chairperson Lau called the meeting to order at 7:30 p.m.

ADOPTION OF AGENDA

A motion by Commissioner Sayasane, seconded by Commissioner Funke to adopt the agenda. Motion approved 4-0.

CONSENT CALENDAR

A motion by Commissioner Funke, seconded by Commissioner Sayasane to adopt the consent calendar. Motion approved 4-0.

ORAL COMMUNICATIONS

There were none.

WRITTEN COMMUNICATIONS

Chairperson Lau acknowledged written correspondence pertaining to New Business Items A and B

NEW BUSINESS

A. **PUBLIC HEARING: Zoning Text and Map Amendment 2024-RZ-1, R-1 Residential District and the R-BA Brisbane Acres Residential District in entirety;** recommendation to City Council on zoning text and map amendment 2024-RZ-1 amending regulations within Title 16 and 17 of the Brisbane Municipal Code to add the R-TUO residential two unit overlay district as new chapter 17.05 and related amendments; and finding that this project is exempt from environment review under CEQA Guidelines Sections 15061(b)(1) & (3), Section 15183; City of Brisbane, applicant.

Senior Planner Johnson presented staff report to the Commission.

Commissioner Sayasane asked about the pending court decision on SB 9 in the Los Angeles Superior Court and whether the City's decision on the ordinance should be postponed until after that ruling has further played out. Director Swiecki responded, noting that Brisbane's legal counsel had reviewed this matter and indicated that the decision is from a trial court in southern California and is only applicable to those specific charter cities. It would not be applicable to Brisbane which is a general law city. In response to an inquiry as to what would happen if SB9 was repealed or invalidated, Mr. Swiecki responded the City could amend its zoning regulations accordingly.

Commissioner Patel asked about whether there were notification procedures included in the draft ordinance. Staff responded that there were not, since lot splits and two-unit developments are to be ministerial, per SB 9. Mr Swiecki noted an informational notification could be provided.

Chairperson Lau opened the public hearing.

With no one wishing to address the Commission, a motion was made by Commissioner Patel and seconded by Commissioner Funke to close the public hearing. The motion was approved 4-0.

After discussion, a motion was made by Commissioner Patel and seconded by Commissioner Funke to approve the application, including an informational notification provision to adjacent property owners, via adoption of Resolution 2024-RZ-1. The motion was approved 4-0.

Chairperson Lau read the appeal procedure.

B. PUBLIC HEARING: Zoning Text Amendment 2024-RZ-2, City-wide; recommendation to City Council on omnibus zoning amendments to modify the development standards for multifamily and residential mixed use zoning districts consistent with California Senate Bill SB 478 ("housing opportunity act") and as provided in the 2023-2031 Housing Element for building heights, lot coverage and floor area ratios, and related amendments, including, but not limited to, organizational amendments and amendments to development regulation exceptions and Zoning Administrator procedures; and finding that this project is exempt from environment review under CEQA Guidelines Sections 15061(b)(3), Section 15183; City of Brisbane, applicant.

Senior Planner Johnson presented staff report to the Commission.

Senior Planner Johnson responded to the Commission's questions regarding the balance between lot coverage and the floor area ratio for multifamily developments that would have a 1.25 floor area ratio maximum, the process for Planning Commission appeals on Zoning Administrator items, the rationale for increasing the height limit to 36 feet, the difference between minor versus and major modifications, and the neighbor notification process for Zoning Administrator applications.

Chairperson Lau opened the public hearing.

With no one wishing to address the Commission, a motion was made by Commissioner Patel and seconded by Commissioner Funke to close the public hearing. The motion was approved 4-0.

A motion was made by Commissioner Patel and seconded by Commissioner Sayasane to approve the application via adoption of Resolution 2024-RZ-2. The motion was approved 4-0.

Chairperson Lau read the appeal procedure.

ITEMS INITIATED BY STAFF

Director Swiecki noted the following:

1. County-wide planning commissioner training will be held at the end of May,
2. The City Council authorized staff to initiate the Bank of America planning process.
3. Jeremy Dennis was hired as the new City Manager.

ITEMS INITIATED BY THE COMMISSION

Commissioner Sayasane announced she registered for the commissioner training and invited the other members to join.

ADJOURNMENT

Chairperson Lau adjourned the meeting at approximately 8:44 p.m. to the next regular meeting of May 23, 2024.

Attest:

_____
John A. Swiecki, Community Development Director

NOTE: A full video record of this meeting can be found on the City's YouTube channel at www.youtube.com/BrisbaneCA, on the City's website at http://www.brisbaneca.org/meetings, or on DVD (by request only) at City Hall.

File Attachments for Item:

O. Consider Introducing an Ordinance Approving a Zoning Text Amendment 2024-RZ-2, City-wide

(It is being recommended to introduce an ordinance approving omnibus zoning amendments to modify the development standards for multifamily and residential mixed use zoning districts consistent with California Senate Bill SB 478 ("housing opportunity act") and as provided in the 2023-2031 Housing Element; and finding that this project is exempt from environmental review under CEQA Guidelines Sections 15061(b)(3), Section 15183. This item was continued from the City Council Meeting of June 6, 2024.)

CITY COUNCIL AGENDA REPORT

Meeting Date: July 18, 2024

From: John Swiecki, Community Development Director

Subject: Zoning Text Amendments to Title 17 – Omnibus Zoning Amendments to modify the development standards for multifamily and residential mixed use zoning districts consistent with California Senate Bill SB 478 ("housing opportunity act") and as provided in the 2023-2031 Housing Element for building heights, lot coverage and floor area ratios, and related amendments, including, but not limited to, organizational amendments and amendments to development regulation exceptions and Zoning Administrator procedures; and finding that this project is exempt from environment review under CEQA Guidelines Sections 15061(b)(3), Section 15183; City of Brisbane, applicant.

SUPPLEMENTAL REPORT

COMMUNITY GOAL/RESULT

Safe Community - Residents and visitors will experience a sense of safety.

PURPOSE

To amend the zoning text provisions in a number of Chapters in the Brisbane Municipal Code (BMC), consistent with state law and the adopted 2023-2031 Housing Element.

RECOMMENDATION

Introduce the ordinance amending the zoning text as provided in Attachment 4.

BACKGROUND

On June 6, 2024, City Council continued the public hearing on this matter to allow for additional time for the public review. The City Council further directed staff to provide additional background information and explanation of the proposed amendment, and to increase the level of public awareness and engagement.

The June 6, 2024 agenda report and previous Planning Commission workshops and hearing reports are provided in Attachment 5 for reference and include detailed information regarding the proposed ordinance.

DISCUSSION:

As directed by City Council, staff has prepared informational webpages for the draft omnibus ordinance, including graphics showing the massing differences for multifamily residential developments required under SB 478 for projects with 3 or more dwelling units, and the height limit increase that is called for in the City's adopted Housing Element. See the hyperlink to a new draft ordinances webpage, Draft Ordinances | City of Brisbane, CA (brisbaneca.org), and the omnibus specific webpage, 2024-RZ-2 | City of Brisbane, CA (brisbaneca.org)

The new webpages include information on the key issues associated with the requirements and implications of the omnibus and answers some key questions that have been raised. These are addressed through frequently asked questions (FAQs) on the webpage referenced above. The FAQs also contain the graphic illustrations requested by Council and an excerpt is provided in Attachment 2.

The July Star included a front-page article summarizing the proposed amendment as well as a hyperlink to the new web pages. Information regarding the proposed amendment was also included in the July 3 Brisbane Blast and on the City's social media platforms. Also, although this item was continued to tonight's date specific, new public notices were posted on July 5th. The City's electronic sign boards at the Community Park and the Northeast Ridge have also been utilized to advertise tonight's public hearing. Since the June 6th public hearing to the time of this writing, no written comments have been received. If any comments are received prior to the July 18th meeting, they will be provided separately to City Council.

Some key items to note include:

- SB 478 became effective statewide in January 2022, including Brisbane, and requires the City to update its zoning to allow for increased floor area ratios (FARs) for multifamily development in the R-2 and R-3 zoning districts. FAR is the ratio of permitted building area to lot area. For example, an FAR of 1.0 would allow a 5,000 square foot building on a 5,000 square foot lot. AB 478 requires the City to allow an FAR of 1.25 for multifamily housing developments in the R-2 and R-3 zoning districts, where the City's FAR for these districts is currently 0.72. Under the current R-2 and R-3 district regulations a 5,000 square foot lot with an FAR maximum of 0.72 could have a building up to 3,600 square feet in size. Under state law with a maximum FAR of 1.25, a building of up to 6,250 square feet would be permitted. Illustrations showing the massing differences for these FARs are provided in Attachment 1. Note that the FAR of 0.72 that currently applies to single family dwellings and duplexes in those districts would not be changed.

- The City's adopted 2023-2031 Housing Element, Program 2.A.12, committed the City to increasing its height limits in the mixed-use and multifamily zoning districts, from 35 feet in the NCRO-2 and SCRO-1 districts and 28 or 30 feet in the R-2 and R-3 districts, to 36 feet. Additionally, the Planning Commission recommended that the height limits in the R-1 and R-BA single family residential zoning districts should also be increased to 36 feet. This was proposed for consistency and equity across these districts that lie in close proximity to each other.

- Other amendments proposed in the draft ordinance would help streamline permitting related to both new housing development and improvements to existing homes. Perhaps most notably it would streamline the permitting for accessibility improvements, for those with disabilities and to help residents age in place. It would also provide for clarity and consistency in other development regulations and procedures in processing permits.

FISCAL IMPACT

None.

MEASURE OF SUCCESS

To provide clear provisions in the BMC that are compliant with state law and consistent with the City's adopted Housing Element.

ATTACHMENTS

1. FAR Illustrations
2. Webpage excerpts –FAQs with graphic illustrations
3. Website hyperlinks (including additional illustrations):
    a. Draft Ordinances | City of Brisbane, CA (brisbaneca.org)
    b. 2024-RZ-2 | City of Brisbane, CA (brisbaneca.org)
4. Draft Ordinance
5. City Council Agenda Report, June 6, 2024
    (includes links to Planning Commission reports and minutes)

John Swiecki

John Swiecki, Community Development Director

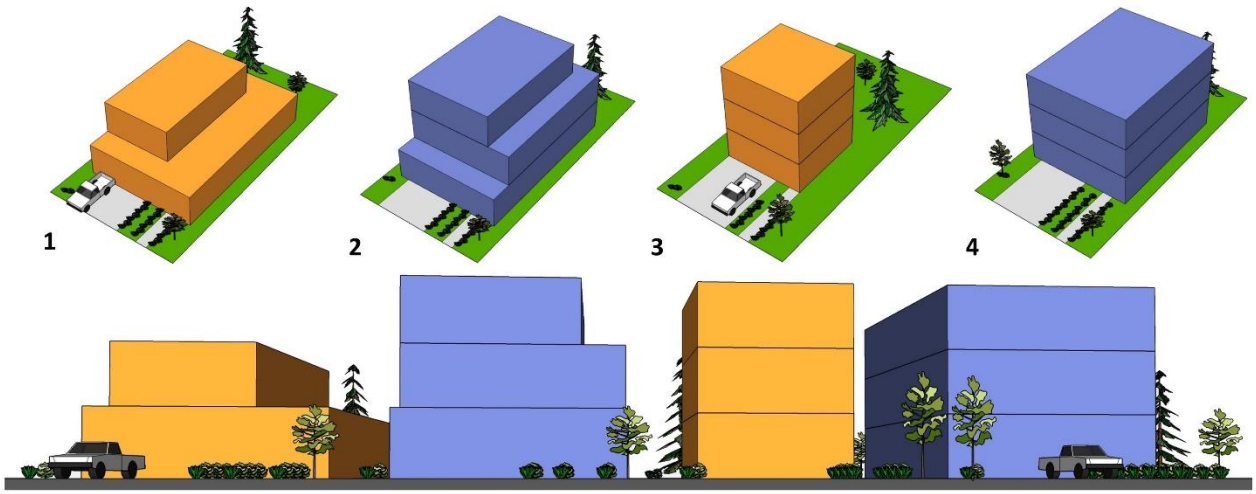
Jeremy Dennis, City Manager

ATTACHMENT 1
FAR Illustrations

The massing illustrations provided below are based on a 5,000 square foot lot and show maximum buildout potential using floor area ratios of 0.72 (orange) and 1.25 (blue). Orange represents a hypothetical development with a maximum FAR allowed under current development standards of 0.72 for the R-2 and R-3 zoning districts. Blue represents a 1.25 FAR, as allowed under SB 478.

In addition to maximum FARs, massings 1 and 2 also show what the mass of a structure may look like using a lot coverage of 50 percent. That's the maximum allowed in the R-2 Zoning District. In massing 1, the result is a two story building, with the second floor smaller than the first. Massing 2 shows a three story building, with the second and third floors progressively smaller than the first.

Massings 3 and 4 show buildings constructed to a maximum height of 36 feet, without the upper floors being stepped back, and maximum FARs of 0.72 and 1.25. The result is that in these massing examples the lot coverage is reduced to be less than the 50 percent maximum.



ATTACHMENT 2
FREQUENTLY ASKED QUESTIONS

Excerpt from webpage: 2024-RZ-2 | City of Brisbane, CA (brisbaneca.org)

Why is the City Council considering this ordinance?

A couple events prompted the City to undertake this ordinance.

In 2021, the Governor signed SB 478, which was subsequently codified into state law and became effective in January of 2022. SB 478 requires cities statewide, including Brisbane, to allow for certain floor area ratios (FARs) in the multifamily districts. The state's requirement is greater than is currently permitted by City ordinance. FAR refers to the ratio between floor area for the building(s) on a lot versus the lot area.

In May 2023, City Council adopted the 2023-2031 Housing Element, which committed the City to a number of programs. Some of these programs are aimed at meeting the Housing Element goals of facilitating and supporting the production of housing at all income levels, but especially affordable housing and avoiding unreasonable government constraints to the provision of housing. This draft ordinance is aimed at addressing those goals and some of the corresponding programs.

What zoning districts would be impacted by the provisions of SB 478 and what would change?

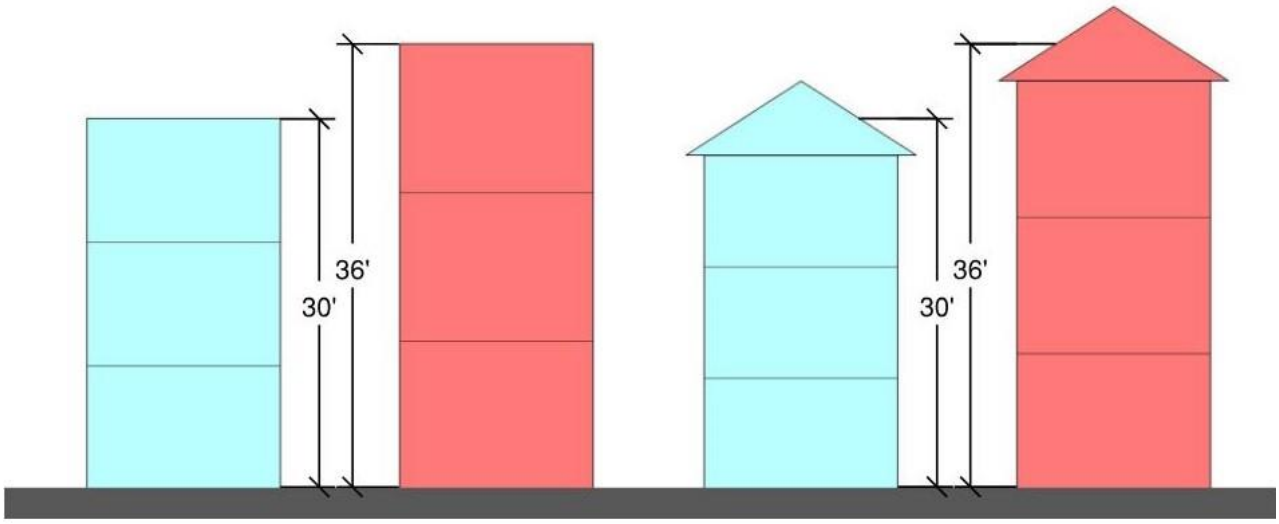
SB 478 requires that a local agency allow a FAR of at least 1.0 for 3 to 7 unit developments and 1.25 for 8 to 10 unit developments, to provide for more infill housing. The R-2 and R-3 residential districts allow for multifamily development, but the FAR for both districts is currently 0.72. Following workshops in 2023 and early 2024 (June 8, October 26, December 5, 2023 and February 22, 2024) and a public hearing at the Planning Commission on May 9, 2024, the Commission recommended consistency for the FAR of 1.25 for developments with 3 or more units. Note that the NCRO-2 and SCRO-1 mixed use districts do not have FAR limits in the Municipal Code, so these districts are not affected by SB 478. The building development size in those districts is restricted by other standards, such as heights, setbacks and parking. Illustrations showing differences in massing are provided ~~below~~. (See illustrations separately in Attachment 1, above.)

What changes to building height limits are proposed?

The Housing Element included Program 2.A.12 to raise the height limit in districts that permit multifamily uses to 36 feet, from the current requirements. These existing height limits range from 28 to 30 feet in the R-2 and R-3 districts to 35 feet in the NCRO-2 and SCRO-1 mixed use districts. This program was specifically in response to the California Department of Housing and Community Development (HCD) comments in their review of the Housing Element, to more reasonably allow for three story housing developments in multi-family zoning districts.

See, "Why are the single family zoning districts also being considered for this amendment?" for a discussion of height limits in the R-1 and R-BA zones.

Below is a comparison of the existing 30-foot height limit in the R-1, R-2, and R-3 districts (red) and how a 36-foot limit compares (blue). (Note, height is measured from grade to the top of a flat roof or the midpoint of a sloped roof; see Guidelines for Measuring Height.)



The City committed to raising the building height limit to 36 feet in the zoning districts that permit multifamily development through the 2023-2031 Housing Element, why are the single family zoning districts also being considered for this amendment?

In considering the draft ordinance, an increase to single family zoning district height limits - to 36 feet - was proposed to achieve consistency and equity across multiple zoning districts that lie in close proximity to each other. This would include the R-1 and R-BA districts. The R-1 district currently has height limits of 28 to 30 feet, depending on the slope of the lot, while the R-BA district currently has a height limit of 35 feet.

ATTACHMENT 3

Website hyperlinks:

a. Draft Ordinances | City of Brisbane, CA (brisbaneca.org)

b. 2024-RZ-2 | City of Brisbane, CA (brisbaneca.org)

ATTACHMENT 4

DRAFT ORDINANCE NO.___
AN ORDINANCE OF THE CITY OF BRISBANE
AMENDING BRISBANE MUNICIPAL CODE TITLE 17 – OMNIBUS ZONING AMENDMENTS TO MODIFY THE DEVELOPMENT STANDARDS FOR MULTIFAMILY AND RESIDENTIAL MIXED USE ZONING DISTRICTS CONSISTENT WITH CALIFORNIA SENATE BILL SB 478 ("HOUSING OPPORTUNITY ACT"); FOR ADMINISTRATIVE RESTRUCTURING OF THE DEVELOPMENT STANDARDS SECTIONS FOR THE RESIDENTIAL ZONING DISTRICTS; TO CLARIFY THE REVIEWING AUTHORITY FOR DESIGN PERMIT MODIFICATIONS IN CHAPTER 17.42 AND VARIANCES IN CHAPTER 17.46; CREATE A SEPARATE CHAPTER AND UPDATE EXCEPTIONS TO THE DISTRICT DEVELOPMENT REGULATIONS AS A NEW CHAPTER 17.47; TO UPDATE THE APPEALS PROCEDURES IN CHAPTER 17.52; AND RE-TITLE AND UPDATE THE ZONING ADMINISTRATOR PROCEDURES IN CHAPTER 17.56.

SECTION 1: Section 17.02.065 - Outside Wall is hereby deleted in its entirety.

Section 2: New Section 17.02.785 - Wall, is added to read as follows:

17.02.785 - Wall.
"Wall" means a vertical structure that encloses or divides an area of land or interior spaces of a building. See also the definition of retaining wall in Section 17.02.690 of this Chapter. A wall, as provided in the following sub-definitions, is part of a building or structure and is not a fence. Fence is defined in Section 17.02.300 and provided in Section 17.47.050.B.

A. "Outside wall" means any wall that defines the exterior boundaries of a building or structure, including the following:
    a. Front outside wall – generally that wall or walls parallel to the front lot line
    b. Rear outside wall – generally that wall or walls parallel to the rear lot line
    c. Side outside wall – generally that wall or walls parallel to the side lot line
B. "Exterior (front, rear or side) outside wall" means a front, rear or side outside wall generally parallel to a street.
C. "Interior (front, rear or side) outside wall" means a front, rear or side outside wall other than an exterior side outside wall.
D. "Inside Wall" or "Interior Wall" means a wall that is inside the boundaries of a structure, that is not an outside wall.

SECTION 3: Section 17.06.040 - Development Regulations, of Chapter 17.06 - R-1 Residential District, 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- I combined to amended Subsection A.)

A. Table 17.06.040.A: R-1 District Development Regulations

Type	Description	Single-family Dwelling	Exceptions and Notes
Density of Development – maximum		1 DU/5,000 square feet	A single-family dwelling may be constructed on a lot of record with an area of less than 5,000 square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.47.030 Exceptions to Lot area, lot dimensions and lot lines. See Chapter 17.05 of this title for urban lot split and two-unit development provisions.
Lot Dimensions	Lot Area – minimum	5,000 square feet	
	Lot Width - minimum	50 feet	
	Lot Depth - minimum	100 feet	
Setback minimums	Front: For dwellings and structures, except garages and carports.	15 feet for lots with a slope of less than 15 percent; or 10 feet for lots with a slope of 15 percent or greater; or Where 50 percent or more of the lots of record in a block have been improved with single-family dwellings, the average distance of the front outside wall of the single-family structures from the front lot line on the same side of the street, if less than 10 or 15 feet, as otherwise applicable.	That portion of the structure that is subject to this setback exception (within the district standard setback area) shall not exceed 20 feet in height measured from finish grade.
	Front: For garages and carports.	10 feet	See exception allowing for lesser setback by City Engineer approval in Section 17.47.050
	Side: For dwellings and structures on lots greater than or equal to 50 feet wide .	5 feet	See setback exceptions in Chapter 17.47. Does not apply to garages and carports accessed from a street or alley.
	Side: For dwellings and structures on lots less than 50 feet wide, except garages and carports accessed from a street or alley.	10 percent of the lot width, but not less than 3 feet.	See setback exceptions in Chapter 17.47
	Side: For garages or carports accessed from a street or alley along that side of the lot.	10 feet	See exception allowing for lesser setback by City Engineer approval in Section 17.47.050
	Rear	10 feet	See exceptions in Chapter 17.47, including decks and an allowance for a lesser setback for garages and carports on through lots, by

Type	Description	Single-family Dwelling	Exceptions and Notes
			City Engineer approval, in Section 17.47.050.
Coverage	Lot Coverage	40 percent of lot area	See lot coverage definition in Section 17.02.495.
Floor Area	Floor Area Ratio: For lots greater than three thousand seven hundred (3,700) square feet.	0.72	See definition of floor area and floor area ratio in Section 17.02.315.
	Floor Area Ratio: For lots less than or equal to three thousand seven hundred (3,700) square feet	0.72, plus up to 200 square feet for a garage parking space	
Height	Height of dwellings and structures, if not within the setback areas and at least 15 feet from the front lot line.	36 feet	See the definition of height in Section 17.02.400. See various exceptions in Chapter 17.47. See the exception for garages in the front setback in Table 17.47.050.A
	Height of dwellings and structures for the area within 15 feet of the front lot line, where less than a 15 foot setback is permitted.	20 feet above finish grade	
	Height of garages and carports when permitted within the front setback area	15 feet above the elevation of the center of the adjacent street when permitted by Section 17.47.050 of this title.	
Articulation	Front: outside walls greater than 20 ft by 20 ft	30 percent	Articulation requirements are as a cumulative area. See definition of articulation in Section 17.02.050 and the definitions of outside walls, interior and exterior side outside walls in Section 17.02.065 of this title. Exempt from articulation requirements: • Single story 1 and 2 car garages. • Accessory structures not exceeding a floor area of 120 square feet. • Walls that are smaller than those listed in this table.
	Side: exterior side outside walls greater than 20 ft by 20 ft on greater than or equal to 40 ft wide lots	20 percent	
	Side: interior side outside walls greater than 20 ft by 20 ft	NA	
	Rear: Rear outside wall greater than 20 ft by 20 ft	30 percent	
Landscaping	Front Setback Area for lots with greater than or equal to 30 ft front lot line (minimum)	15 percent	New and rehabilitated, irrigated landscapes are subject to the provisions of the water

Type	Description	Single-family Dwelling	Exceptions and Notes
	Rear of newly constructed main structure on a downslope lot	Screened with trees and shrubs in accordance with a landscape plan approved by the planning director	conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

Note: See also, Chapter 17.47 - Exceptions to District Development Regulations.

B. 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.

C. 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.

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SECTION 4: Section 17.08.040. - Development Regulations, of Chapter 17.08 - R-2 Residential District, 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 - I combined to amended Subsection A.)

A. Table 17.08.040.A: R-2 District Development Regulations

Type	Description	Single-family Dwelling	Two-units	Multi-family (three or more primary dwelling units)	Exceptions and Notes
Density of Development – maximum		1 DU/2,500 square feet			Except a lot having an area of 4,950 square feet or greater shall be considered conforming for a development density of two units.
Lot Dimensions	Lot Area – minimum	5,000 square feet	4,950 square feet	No Requirement for lot of record	
	Lot Width - minimum	50 feet	50 feet		
	Lot Depth - minimum	100 feet	100 feet		
Setback minimums	Front: For dwellings and structures, except garages and carports.	15 feet for lots with a slope of less than 15 percent; or 10 feet for lots with a slope of 15 percent or greater; or Where50 percent or more of the lots of record in a block have been improved with single-family dwellings, the average distance of the front outside wall of the single-family structures from the front lot line on the same side of the street, if less than 10 or15 feet, as otherwise applicable.			That portion of the structure that is subject to this setback exception (within the district standard setback area) shall not exceed 20 feet in height from finish grade. See height definition in section 17.02.400.
	Front: For garages and carports.	10 feet			See exception allowing for lesser setback by City Engineer approval in Section 17.47.050
	Side: For dwellings and structures on lots greater than or equal to 50 feet wide except garages and carports accessed from a street or alley.	5 feet			See setback exceptions in Chapter 17.47
	Side: For dwellings and structures on lots less than 50 feet wide, except garages and carports accessed from a street or alley.	10 percent of the lot width, but not less than 3 feet.			See setback exceptions in Chapter 17.47
	Side: For garages or carports accessed from a street or alley along that side of the lot.	10 feet			See exception allowing for lesser setback by City Engineer approval in Section 17.47.050
	Rear	10 feet			See exceptions in Chapter 17.47, including decks and an allowance for a lesser setback for garages and carports on through lots, by City Engineer approval, in Section 17.47.050.

Type	Description	Single-family Dwelling	Two-units	Multi-family (three or more primary dwelling units)	Exceptions and Notes
Coverage	Lot Coverage	50 percent of lot area			See lot coverage definition in Section 17.02.495. Lot coverage over 50 percent may be approved by the planning director, if required to meet the 1.25 FAR for developments of 3 or more units on a lot.
Floor Area	Floor Area Ratio: For lots greater than three thousand seven hundred (3,700) square feet.	0.72	0.72	1.25	See definition of floor area and floor area ratio in Section 17.02.315.
	Floor Area Ratio: For lots less than or equal to three thousand seven hundred (3,700) square feet	0.72, plus up to 200 square feet for a garage parking space.	0.72, plus up to400 square feet for garage parking spaces.	1.25	
Height	Height of dwellings and structures, if not within the setback areas and at least 15 feet from the front lot line.	36 feet			See the definition of height in Section 17.02.400. See various exceptions in Chapter 17.47. See the exception for garages in the front setback in Table 17.47.050.A
	Height of dwellings and structures for the area within 15 feet of the front lot line, where less than a 15-foot setback is permitted.	20 feet			
	Height of garages and carports when permitted within the front setback area	15 feet above the elevation of the center of the adjacent street when permitted by Section 17.47.050 of this title.			
Articulation	Front: outside walls greater than 20 ft by 20 ft	30 percent			Articulation requirements are as a cumulative area. See definition of articulation in Section 17.02.050 and the definitions of outside walls, interior and exterior side outside walls in Section 17.02.065 of this title. Exempt from articulation requirements: • Single story 2 car garages. • Accessory structures not exceeding a floor
	Side: exterior side outside walls that are greater than 20 ft by 20 ft on greater than or equal to 40 ft wide lots	20 percent			
	Side: interior side outside walls	NA			
	Rear: Rear outside wall	30 percent			

Type	Description	Single-family Dwelling	Two-units	Multi-family (three or more primary dwelling units)	Exceptions and Notes
					area of 120 square feet. • Walls that are smaller than those listed in this table. • Where superseded by objective design standards established in Chapter 17.45 - Housing Development Permits.
Landscaping	Front Setback Area for lots with greater than or equal to 30 ft front lot line (minimum)	15 percent			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.
	Rear of newly constructed main structure on a downslope lot	Screened with trees and shrubs in accordance with a landscape plan approved by the planning director			

Notes:
1. Certain development regulations may be superseded for housing development projects, as defined in Chapter 17.02, by objective design standards provided in Chapter 17.45 - Housing Development Permits.
2. See also, Chapter 17.47 - Exceptions to District Development Regulations.

B. 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.

C. C. 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 5: Section 17.10.040 - Development Regulations, of Chapter 17.10 - R-3 Residential District, 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 - I combined to amended Subsection A.)

A. Table 17.10.040.A: R-3 District Development Regulations

Type	**Description**	**Single-family Dwelling**	**Two-units**	**Multi-family (three or more primary dwelling units)**	**Exceptions and Notes**
Density of Development – maximum		1 DU/1,500 square feet			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.
Lot Dimensions	Lot Area – minimum	5,000 square feet	5,000 square feet	No Requirement for lot of record	
	Lot Width - minimum	50 feet	50 feet		
	Lot Depth - minimum	100 feet	100 feet		
Setback minimums	Front: For dwellings and structures, except garages and carports.	15 feet for lots with a slope of less than 15 percent; or 10 feet for lots with a slope of 15 percent or greater; or Where 50 percent or more of the lots of record in a block have been improved with single-family dwellings, the average distance of the front outside wall of the single-family structures from the front lot line on the same side of the street, if less than 10 or15 feet, as otherwise applicable.			That portion of the structure that is subject to this setback exception (within the district standard setback area) shall not exceed 20 feet in height from finish grade. See height definition in section 17.02.400.
	Front: For garages and carports.	18 feet			If the front setback is less than 15 feet as provided for slope over 20 percent or by block average setbacks, then the garage setback minimum shall be three (3) feet behind the front wall of the main structure. If the garage setback exemptions set forth in Section 17.47.050.A of this Title apply, the regulations of that section shall prevail.

Type	Description	Single-family Dwelling	Two-units	Multi-family (three or more primary dwelling units)	Exceptions and Notes
	Side: For dwellings and structures on lots greater than or equal to 50 feet wide except garages and carports accessed from a street or alley.	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 10 feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.
	Side: For dwellings and structures on lots less than 50 feet wide, except garages and carports accessed from a street or alley.	10 percent of the lot width, but not less than 3 feet.			
	Side: For garages or carports accessed from a street or alley along that side of the lot.	10 feet			See exception allowing for lesser setback by City Engineer approval in Section 17.47.050
	Rear	10 feet			See exceptions in Chapter 17.47, including decks and an allowance for a lesser setback for garages and carports on through lots, by City Engineer approval, in Section 17.47.050.
Coverage	Lot Coverage	60 percent of lot area			See lot coverage definition in Section 17.02.495. Lot coverage over 60 percent may be approved by the planning director, if required to meet the 1.25 FAR for developments of three or more units on a lot.
Floor Area	Floor Area Ratio: For lots greater than three thousand seven hundred (3,700) square feet.	0.72	0.72	1.25	See definition of floor area and floor area ratio in Section 17.02.315.
	Floor Area Ratio: For lots less than or equal to three thousand seven hundred (3,700) square feet	0.72, plus up to 200 square feet for a garage parking space.	0.72, plus up to 400 square feet for garage parking spaces.	1.25	
Height	Height of dwellings and structures, if not within the setback areas and at least 15 feet from the front lot line.	36 feet			See the definition of height in Section 17.02.400. See various exceptions in Chapter 17.47. See the exception for garages in the front setback in Table 17.47.050.A
	Height of dwellings and structures for the area within 15 feet of the front lot line, where less than a 15-foot setback is permitted.	20 feet			

Type	Description	Single-family Dwelling	Two-units	Multi-family (three or more primary dwelling units)	Exceptions and Notes
	Height of garages and carports when permitted within the front setback area	15 feet above the elevation of the center of the adjacent street when permitted by Section 17.47.050 of this title.			
Articulation	Front: outside walls greater than 20 ft by 20 ft	30 percent			Articulation requirements are as a cumulative area. See definition of articulation in Section 17.02.050 and the definitions of outside walls, interior and exterior side outside walls in Section 17.02.065 of this title. Exempt from articulation requirements: • Single story 2 car garages. • Accessory structures not exceeding a floor area of 120 square feet. • Walls that are smaller than those listed in this table. • Where superseded by objective design standards established in Chapter 17.45 - Housing Development Permits.
	Side: exterior side outside walls that are greater than 20 ft by 20 ft on greater than or equal to 40 ft wide lots	20 percent			
	Side: interior side outside walls	NA			
	Rear: rear outside wall.	30 percent			
Landscaping	Front Setback Area for lots with greater than or equal to 30 ft front lot line (minimum)	15 percent			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.
	Rear of newly constructed main structure on a downslope lot.	Screened with trees and shrubs in accordance with a landscape plan approved by the planning director			
	Sites with Three (3) or More Units	Not less than ten percent (10 percent) of the lot area shall be improved with landscaping.			

Notes:

1. Certain development regulations may be superseded for housing development projects, as defined in Chapter 17.02, by objective design standards provided in Chapter 17.45 - Housing Development Permits.

2. See also, Chapter 17.47 - Exceptions to District Development Regulations.

B. 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.

C. Refuse and Recycling Area Requirements.

1. So as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare, areas for depositing, collecting and loading refuse and recyclable materials shall be provided and fully enclosed within an enclosure a minimum of six (6) feet tall. All receptacles for collection and recycling shall be completely screened from view at street level. All enclosures and gates shall be designed to withstand heavy use. Wheel stops or curbs shall be provided to prevent dumpsters from banging into walls of enclosure. 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. Lighting shall be provided at all enclosures for nighttime security and use. Lights shall be full cutoff luminaires, as certified by the manufacturer, with the light source directed downward and away from adjacent residences. 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.

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SECTION 6: Section 17.12.040 - Development Regulations, of Chapter 17.12 - R-BA Brisbane Acres Residential District, 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:

(Subsections A- H combined to amended Subsection A.)

A. Table 17.12.040.A: R-BA District Development Regulations

Type	Description	Single-family Dwelling	Exceptions and Notes
Density of Development – maximum		1 DU/20,000 square feet	Not more than one single-family dwelling shall be located on each lot in the R-BA District, except as otherwise provided in Section 17.12.050, Density transfer, and Section 17.12.055,
Lot Dimensions	Lot Area – minimum	20,000 square feet	
	Lot Width - minimum	110 feet	
	Lot Depth - minimum	140 feet	

Type	Description	Single-family Dwelling	Exceptions and Notes
			Clustered development, of this chapter, or Chapter 17.05 of this title for urban lot split and two-unit development provisions. A single-family dwelling may be constructed on a lot of record with an area of less than20,000 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. See also Chapter 17.05 of this title for urban lot split and two-unit development provisions.
Setback minimums	Front.	10 feet	See exception allowing for lesser garage setback by City Engineer approval in Section 17.47.050.
	Side: For dwellings and structures, except garages and carports accessed from a street or alley	10 percent of the lot width, but in no event more than 15 feet or less than 5 feet.	See also setback exceptions in Chapter 17.47
	Side: For garages or carports accessed from a street or alley along that side of the lot.	10 feet	See exception allowing for lesser setback by City Engineer approval in Section 17.47.050
	Rear.	10 feet	See exceptions in Chapter 17.47, including decks and an allowance for a lesser setback for garages and carports on through lots, by City Engineer approval, in Section 17.47.050.
Coverage	Lot Coverage	25 percent of lot area	See lot coverage definition in Section 17.02.495. See provisions for two-unit developments and urban lot splits in Chapter 17.05.
Floor Area	Floor Area Ratio	0.72 provided, however, that in no event shall the floor area of all buildings on a lot exceed 5,500 square feet	Accessory dwelling units and junior accessory dwelling units are excepted from the floor area ratio limits as permitted in Chapter 17.43 See definition of floor area and floor area ratio in Section 17.02.315.

Type	Description	Single-family Dwelling	Exceptions and Notes
			See provisions for two-unit developments and urban lot splits in Chapter 17.05.
Height	The maximum height of any structure outside the side and rear setbacks and more than 20 feet from the front lot line.	36 feet	See the definition of height in Section 17.02.400. See various exceptions in Chapter 17.47. See other exception for garages in the front setback in Table 17.47.050.A
	The maximum height of any structure within twenty (20) feet from the front lot line, .	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.	
		Garages and carports may be constructed to a height of 15 feet above the elevation of the center of the adjacent street and may exceed a height of thirty-six (36) feet, but the height of any permitted living area underneath shall not exceed 36 feet from finish grade.	
Articulation	Front: outside walls greater than 20 ft by 20 ft	30 percent	Articulation requirements are as a cumulative area. See definition of articulation in Section 17.02.050 and the definitions of outside walls, interior and exterior side outside walls in Section 17.02.065 of this title. Exempt from articulation requirements: • Single story 2 car garages. • Accessory structures not exceeding a floor area of 120 square feet. • Walls that are smaller than those listed in this table.
	Side: exterior side outside walls that are greater than 20 ft by 20 ft on greater than or equal to 40 ft wide lots	20 percent	
	Side: interior side outside walls	NA	
	Rear: rear outside wall	30 percent	

Note: See also, Chapter 17.47 - Exceptions to District Development Regulations.

B. 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.

C. 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.

(Subsection J. Articulation Requirements, removed. See Table 17.12.040.A, above.)

D. 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.

(Subsection L. Ridgeline, removed. See new Section 17.12.045 below.)

E. Canyon Watercourses and Wetlands. Development of the site, including any temporary disturbance, shall be set back 30 feet in each direction from the center line of any watercourse, and 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.

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

G. 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.

H. 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.

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SECTION 7: New Section 17.12.045 - Ridgeline Development is added to Chapter 17.12 R-BA Brisbane Acres Residential District as follows:

17.12.045 - Ridgeline Development.

A. 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, 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 planning 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.

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SECTION 8: Section 17.14.060 - Development regulations for the NCRO-2 district is amended to read as follows:

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, except that a lot of record that is less than 2,500 square feet, created prior to January 1, 2022, shall be recognized as conforming for 3 or more dwelling units as part of a mixed-use development, pursuant to Section 17.14.040.K.2.

(Subsections B and C, no change.)

D. Setbacks. The minimum required setbacks for any lot in the NCRO-2 district, except as provided in Chapter 17.47, shall be as follows:

1. Front setback: No requirement.

2. Side Setback: No requirement, except a 10 foot setback shall be required on the side where abutting any residential district.

3. Rear Setback: 10 feet.

(Subsection E no change)

F. Height of Structures. The maximum height of any structure, except as provided in Chapter 17.47, shall be 36 feet.

G. Fencing Requirements. Fencing shall be subject to zoning administrator review as set forth in Section 17.47.060, except where subject to a design permit per Section 17.14.110. If the site is next to a residential district, a fence not to exceed 10 feet in height, that screens the site from the abutting residential property rear or side yard areas shall be installed along the property line.

(Subsections H, I and J no change)

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SECTION 9: Section 17.16.040 - Development Regulations, of Chapter 17.16 - SCRO-1 Southwest Bayshore Commercial District, is amended to read as follows:

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, except that a lot of record that is less than 7,500 square feet, created prior to January 1, 2022, shall be recognized as conforming for 3 or more dwelling units.

(Subsections B and C, no change.)

D. Setbacks. The minimum required setbacks for any lot, except as provided in Chapter 17.47, shall be as follows:

1. Front setback:

a. Residential/Mixed Use: 10 feet;

b. Commercial Uses: 25 feet for commercial uses;

c. Exception: The setbacks may be reduced to zero 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: 5 feet;

b. Commercial Uses: 15 feet;

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

3. Rear setback: 10 feet.

(Subsection E, no change.)

F. Height of Structures. The maximum height of any structure, except as provided in Chapter 17.47, shall be 36 feet.

(Subsections G, H, I, J, K, L and M, no change.)

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SECTION 10: Section 17.27.040 - Development Regulations for the PAOZ-1 District is amended to read as follows:

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

(Subsections A, B, C, D, E and F, no change.)

G. Height.

1. Buildings and Architectural Features. The maximum building height shall be 38 feet and 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 10 feet above the maximum building height.

2. Fences and Walls. Fences and walls in front yards shall be no more than 3 feet in height from the adjacent sidewalk. Fences and walls in side yards shall not exceed 6 feet in height. Deviations from maximum fence and wall heights shall require approval by the zoning administrator as provided in Chapter 17.47.

(Subsections H, I, J, K, L and M, no change.)

SECTION 11: Section 17.27.050 - Development Regulations for the PAOZ-2 District is amended to read as follows:

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

(Subsections A, B, C, D, E and F, no change.)

G. Height.

1. Buildings and Architectural Features. The maximum building height shall be 38 feet and 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 10 feet above the maximum building height.

2. Fences and Walls. Fences and walls in front yards shall be no more than 3 feet in height from the adjacent sidewalk. Fences and walls in side yards shall not exceed 6 feet in height. Deviations from maximum fence and wall heights shall require approval by the zoning administrator as provided in Chapter 17.47.

(Subsections H, I, J, K, L and M, no change.)

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SECTION 12: Sections 17.032.050 - Fences, hedges and walls, 17.032.055 - Exceptions – Lot area, lot dimensions and lot lines, 17.32.060 - Exceptions – Height Limit, 17.32.070 - Exceptions – Setback requirements, and 17.32.080 - Requests for reasonable accommodations are hereby deleted in their entirety.

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SECTION 13: Section 17.42.070 - Amendment of design permit—Minor modifications is amended to read as follows:

17.42.070 - Amendment of design permit—Modifications.

A. Amendments or modifications to a design permit shall require approval by the zoning administrator as set forth in Section 17.56.090 of this title, or by the planning commission if referred by the zoning administrator.

SECTION 14: Chapter 17.46 - Variances is amended to read as follows:

Chapter 17.46 - VARIANCES

17.46.010 - Application—Required circumstances.

Applications for variances from the strict application of the terms of this title may be made and variances granted when the following circumstances are found to apply:

A. That any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and district in which the subject property is located;

B. That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of this title is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.

17.46.020 - Application—Form—Contents.

Application for variance shall be made in writing by a property owner, lessee, purchaser in escrow, or optionee with the consent of the owners, on a form prescribed by the planning director. The application shall be accompanied by a fee, set by the city council, a plan of the details of the variance requested and evidence showing:

A. That the granting of the variance will not be contrary to the intent of this title or to the public safety, health and welfare; and

B. That due to special conditions or exceptional characteristics of the property or its location, the strict application of this chapter results in practical difficulties and unnecessary hardship. "Hardship," as used in this chapter does not mean personal or financial hardship but refers to the conditions in subsection B of Section 17.46.010.

17.46.030 - Application—Hearing date—Notice.

The planning commission shall conduct a public hearing on the application for a variance. Notice of such hearing shall be given as set forth in Chapter 17.54.

17.46.040 - Granting.

A. After the conclusion of the public hearing or continuations thereof, the planning commission may grant or deny a variance from the strict application of the regulations established by this chapter. The commission may impose any reasonable conditions deemed necessary to achieve the purpose of this title.

B. A variance shall be effective the seventh (7th) day after planning commission approval unless the action is appealed to the city council, in which case the variance shall not be effective until final action upon the appeal.

17.46.050 - Nonconforming uses not allowed.

The use of lands or buildings not in conformity with the regulations specified for the district in which such lands or buildings are located may not be allowed by the granting of a variance.

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SECTION 15: New Chapter 17.47 - Exceptions to District Development Regulations is added to read as follows:

17.47 - EXCEPTIONS TO DISTRICT DEVELOPMENT REGULATIONS

17.47.010 - Purpose of Chapter

The purpose of this chapter is to provide standards and procedures for recognition of certain substandard lots as legal lots for development, as well as exceptions to specified district development regulations for certain structures and other built features.

17.47.020 - Applicability

Unless indicated otherwise in this title, the exceptions provided in this chapter shall apply to all districts.

17.47.030 - Exceptions to Lot area, lot dimensions and lot lines.

Lots sizes and dimensions shall conform to the district development regulations, except as provided herein.

A. Substandard Lots.

1. No substandard lot shall be independently developed if it is less than 5,000 square feet in area and if it was owned in common with contiguous property in the same district on October 27, 1969. A substandard lot at least 5,000 square feet in area may be developed as a standard site under the applicable district regulations.
2. In any R district, single-family dwellings only may be erected on any substandard lot less than 5,000 square feet in area, if the lot was not owned in common with contiguous property in the same district on October 27, 1969.
3. As an exception to A.1, a property in the R-1 Residential district consisting of 4 contiguous lots of record totaling at least 9,650 square feet that were owned in common on October 27, 1969, may be developed as 2 sites, each consisting of one pair of contiguous lots.
4. Any substandard lot created through a parcel map, resubdivision or lot line adjustment approved by the city after October 27, 1969, shall be recognized as a standard lot.
5. Contiguous substandard lots owned in common may be subject to merger in compliance with this section and Municipal Code Chapter 16.12.

B. Urban Lot Split. A lot may be created and developed in the R-1 and R-BA districts that does not conform to the lot area and dimensions subject to the provisions of the Two-unit Development Residential Overlay District - R-1 and R-BA Districts, as set forth in Chapter 17.05.

C. Modification in Conjunction with Application for Tentative Map. The planning commission may approve an application for a modification to the lot dimension regulations set forth in Title 17, Zoning, for real property located in any subdivision proposed in compliance with Title 16, Subdivisions, subject to the following findings:

1. The property is of such size or shape, or is subject to such title limitations of record, or is affected by such topographical location or conditions, or is to be devoted to such use that it is impossible, impractical or undesirable in a particular case for the subdivider to fully conform to the regulations;
2. Each lot or parcel subject to the modification will be capable of being developed in accordance with the other applicable provisions of the zoning ordinance; and
3. The modification conforms with the spirit and purpose of this title.

D. Lot Line Adjustment. In compliance with the procedures set forth in Chapter 16.32 of Title 16, Subdivisions, the planning director may approve a lot line adjustment that will not increase the degree of noncompliance or otherwise increase the discrepancy between existing conditions and the requirements of the Zoning Ordinance, even though the resulting parcels may not fully comply with the development regulations of the applicable zoning district. Where each lot is a substandard lot as defined in Section 17.02.490.H, a lot line adjustment may be utilized to effectuate an urban lot split, subject to the provisions of the two-unit development residential overlay district, as set forth in Chapter 17.05.

E. **Elimination of Interior Lot Lines.** A property owner may eliminate an interior lot line between record lots in common ownership through recordation of a declaration of merger signed by the property owner and acknowledged by the planning director, as prescribed by Chapter 16.12 of Title 16, Subdivisions.

17.47.040 - Height Limit Exceptions

Heights of structures shall conform to the district development regulations, except as provided herein.

A. Height Exception Limits.

The following height limit exceptions in Table 17.47.040.A apply to all zoning districts:

Table 17.47.040.A

Type	Applicability	Height Exception	Eligible for Modification?
Chimney	Chimney not exceeding 3 feet in width or depth.	Feature may be less than or equal to 5 feet over the district height limit, or as required to comply with the California Building Code.	No. Modification to the height exception provided may only be by variance, per Chapter 17.46, subject to the findings therein.
Miscellaneous structures	Cupolas, monuments, water tanks, mechanical appurtenances and similar structures.	Subject to use permit approval by the Planning Commission.	No. Modification to the height exception provided may only be by use permit, per Chapter 17.40 of this title, subject to the findings therein.

Type	Applicability	Height Exception	Eligible for Modification?
Rooftop solar	Rooftop solar energy systems, including those for water heating as well as photovoltaic purposes.	Feature may be less than or equal to 24 inches above the roofline of the structure on which it is mounted, measured from the exterior roofing material to the highest point of the panel, regardless of the building height. If greater than 24 inches above the roofline and over the district height limit, the feature is subject to approval by the zoning administrator, per Section 17.32.060.B.	Yes (see Section 17.47.060)

Note: Height exceptions may be superseded by objective design standards established in this title, including but not limited to the POAZ Parkside Overlay District and Housing Development Permits.

17.47.050 - Setback Exceptions

Setbacks from lot lines to buildings and structures shall conform to the district development regulations, except as provided herein.

A. Setback Exception Limits. 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 Table 17.47.050.A and subject to applicable building and fire codes:

Table 17.47.050.A

Type	Applicability	Required Front Setback (ft)	Required Rear Setback (ft)	Required Side Setback (ft)
Residential Garages, Carports and Parking Decks in the R-1, R-2, R-3 and R-BA districts	• If located within the setback area, a garage, carport, or parking deck may not exceed 15 feet in height above the centerline of the adjacent street. • Notwithstanding the allowable exceptions, placement is subject to approval by the city engineer, based upon a finding that no traffic or safety hazard will be created. • A garage or carport in compliance with this subsection may exceed the district height limit, but the height of any permitted living space underneath shall not exceed the district height limit.	0	Interior rear: NA Exterior rear (through lots): 0	Interior side: NA Exterior side (i.e. corner street or alley lots): 0
Overhanging Architectural Features	Includes such features as eaves and cornices that extend from the wall of a building and into the setback area.	5	7	2.5
Gutters and downspouts		5	7	2
Cantilevered Windows	• Includes window(s) extending from the wall of a building into the setback area such as bay windows, box windows, etc. • To qualify for the exception, the window may not include floor area. If the window includes a built-in bench seat or shelf, 16 inches or higher from the floor, without steps, the area will not be counted as floor area regardless of the clear height above the bench or step (see also Floor Area defined, Section 17.02.315).	5	7	3
Decks and Balconies	Either free-standing or attached to a building.	5	5	NA

Type	Applicability	Required Front Setback (ft)	Required Rear Setback (ft)	Required Side Setback (ft)
Roof Decks and associated guardrails over a garage that is subject to a setback exception	• Roof decks over garages that are subject to the garage setback exception may not be covered by a roofed or unroofed structure (I.e. pergola over a roof deck), except that the portion of a deck covered by an eave from an adjacent building segment may cover the portion of the deck not to exceed 3 feet from the edge of the building wall	0	Interior rear: NA Exterior rear (i.e. through lots): 0	NA
Stairs, Ramps and Landings to a building entrance	• Applies only to unenclosed stairs, ramps or landings. • May not drain onto the neighbor's property. • Materials within a setback must be non-combustible, to the satisfaction of the building official.	0	5	0
Awning over a building entrance or landing	• Allowed as a type of projection from a building. • May not drain to the neighbor's property. • In all zoning districts except the R-1 District, to be eligible for a side setback exception, the awning may project no more than 3 feet from the building into the side setback area. • In the R-1 District, to be eligible for a side setback exception the awning may extend 4 feet from the building into the side setback area but shall not extend over the abutting property.	5	5	All districts except R-1: 2.5 R-1 district only: 0

Type	Applicability	Required Front Setback (ft)	Required Rear Setback (ft)	Required Side Setback (ft)
Roofed Accessory Structures (such as detached home offices and art studios, sheds and gazebos)	• The portion of the structure encroaching within the setback area may not exceed 10 feet in height measured from lowest grade immediately adjacent to the structure's exterior walls or the alignment of the supporting posts. • The square footage of the portion of the structure encroaching within the setback area may not exceed 120 square feet. • These exceptions do not apply to accessory dwelling units. ADU development regulations are contained in Chapter 17.43.	NA	5	Interior side: 3 Exterior side: NA
Unroofed Accessory Structures (such as arbors, trellises, pergolas and gateways)	The structure's portion within the setback area may not exceed 10 feet in height and may not cover more than 15 percent of the front setback area	0	5	3
Ponds, Fountains and Similar Decorative Water Features	Feature must not exceed 6 feet in height.(2)	0	0	0
Decorative Artwork	Feature must not exceed 6 feet in height. The artwork shall not block access to a building entrance or otherwise create a safety hazard.	0	0	0
Flag pole & flag	• Not more than 1 pole per lot • Height of pole less than or equal to 20 feet • Individual flag size than or equal to 3 by 5 ft, with up to two on a pole • Flag may not extend over the property line when fully extended. • May not include advertising. • Unlighted only. • Flags shall be maintained in good repair.	5	5	NA
Accessory Dwelling Units		See Chapter 17.43.		
Fences, hedges and walls		See Section 17.47.050.B		

Notes:

1. NA: Not applicable. In such cases, the standard setback provided in the zoning district's development regulations shall prevail.
2. The exceptions set forth in this Table 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.
3. The exceptions set forth in this Table do not waive the requirement to obtain any other required permits from the City, including, but not limited to, a building permit. New construction or tenant improvements on commercial properties may also require a design permit, in which case the requested exception may be included in the design permit application.
4. In a case of conflict between the setback exceptions listed here and other laws, regulations or conditions of approval, the most stringent requirements shall prevail.
5. Fire Code may prohibit certain materials from use within setback areas.
6. Non-combustible flatwork, such as concrete pavers and stone on grade, are not subject to setbacks and may be placed anywhere within a setback area.
7. Setback exceptions may be superseded by objective design standards established in this title, including but not limited to the POAZ Parkside Overlay District and Housing Development Permits.
8. See the definition of setback in Section 17.02.715 - Setback – Setback Area.

B. Fences, hedges and walls within setbacks. Fences, hedges and walls may be erected within setback areas as provided herein.

1. Fences.

a. Height and Fence Type Allowances. Where a fence, as defined in Section 17.02.300, is to be constructed in a setback area, the following regulations shall apply, except where otherwise indicated in Section 17.47.050.B.1.b. See also the definition of height for fences and walls in Section 17.02.400.C.

Table 17.47.050.B.1

Zoning District	Height Limit – Front Setback (feet)	Height Limit - Side and Rear Setbacks, except that portion extending to the front setback area (feet)	Special provisions
R-1	6	7 or 8*	*If the top 2 feet of a fence is constructed of lattice, or other open pattern, to the satisfaction of the planning director, the fence may be 8 ft in total height in the side and rear setbacks, but not extending into front setback. Otherwise, where lattice or a similar open pattern is not included the limit is 7 ft, but the fence must step down to 6 ft in the front setback area.
R-2	6	7 or 8*	
R-3	6	7 or 8*	
R-BA	6	7 or 8*	

Zoning District	Height Limit – Front Setback (feet)	Height Limit - Side and Rear Setbacks, except that portion extending to the front setback area (feet)	Special provisions
R-MHP	8***	8***	***Fence heights may be up to ten (10) feet along the mobile home park perimeter abutting a public right-of-way.
C-1	8	8	
M-1	8	8	
SCRO-1	8	8	
TC-2	8	8	
HC	8	8	
C/P-U	8	8	
PAOZ-1	As provided in Section 17.27.040.G.2.		
PAOZ-2	As provided in Section 17.27.050.G.2.		
NCRO-1 NCRO-2 PD SP-CRO TC-1	By setback exception permit for fences on developed sites, per Section 17.47.060. By design permit when associated with new development, or modification of a design permit for existing development when associated with other development modification(s) that is subject to a design modification permit. See Chapter 17.42 for design permits and Section 17.56.090 for modification of a design permit. See also the district development standards for fence provisions.		
All Districts	Temporary chain-link demolition/construction barricades not exceeding eight (8) feet in height are permitted in all districts, subject to removal prior to final inspection.		

b. **Overriding Factors and Other Requirements**

i. In any district, where the director of public works determines that traffic visibility would be affected, due to the location of the fence being near or adjacent to the public right-of-way, the fence height may be required to be reduced, to the satisfaction of the director.

ii. Where a fence is proposed to be constructed, or has been constructed, adjacent to city property, a boundary survey or other evidence of the location of the fence shall be submitted to the director of public works upon request if the director determines that a question exists as to whether the fence encroaches on public property.

iii. In all districts, the following materials are prohibited: razor wire, barbed wire and similar materials with sharp edges or points.

iv. Chain-link fences may not be constructed in or adjacent to residential districts and are required to be black or green vinyl coated, except as approved by the planning director where the fence is not readily within public view or is otherwise screened from view by landscaping.

v. For fences within the San Bruno Mountain Area Habitat Conservation Plan (HCP), within the R-BA, SCRO-1 and certain PD districts, the height, location and/or design of fences may be subject to

restrictions for protection or passage of butterflies, consistent with the site's HCP operating program or other required permitting consistent with HCP requirements.

vi. When construction of a fence would impair the visibility of address numbers on a house, such numbers shall be relocated with approval of the fire prevention officer, or the fence may be required to be lowered.

vii. Gated driveways are subject to approval by the planning director, based on a determination that the gate will not create a safety hazard.

viii. A building permit may be required for construction of a fence, depending on such factors as height or location relative to a retaining wall, and is subject to building official determination.

2. Retaining Walls

a. Height. Where a retaining wall, as defined in Section 17.02.690, is to be constructed in a setback area, the provisions in Table 17.47.050.B.2 shall apply. See also the definition of height for fences and walls in Section 17.02.400.C.

Table 17.47.050.B.2 Retaining Walls in Setback Areas

All Zoning Districts	Permitted Height in All Setback Areas	Special Provisions
	6 feet or less of exposed wall surface	None
	More than 6 feet	Greater than 6 feet of exposed wall surface, where one or more of the following conditions are met, to the satisfaction of the planning director: (i) Walls shall be architecturally integrated with proposed or existing structures on the site; (ii) Wall faces shall be decorative and treated with color, texture, architectural features, trelliswork or other means to visually break up the wall expanses; (iii) Walls shall be screened with water conserving, non-invasive landscaping that at maturity will soften and reduce the visible expanse of walls; (iv) Other means that ensure that the walls are designed to be as visually unobtrusive as possible.

b. **Overriding Factors and Other Requirements.**

i. Where construction of a retaining wall would result in grading, the provisions of Chapter 15.01 shall apply. If planning commission review of a grading permit is required, per Section 15.01.110, the retaining wall design will be considered as part of the planning commission's grading review.

ii. A building permit is generally required for construction of a retaining wall, subject to building official determination.

3. Hedges

a. Height Limit: Where a hedge, as defined in Section 17.02.390, is to be established within a setback area, the height limit shall be as shown in Table 17.47.050.B.3:

Table 17.47.050.B.3 Hedges within Setbacks

	Permitted Height in All Setback Areas
Hedges in all zoning districts	8 feet

b. **Overriding Factors and Other Requirements**

In any district, where the director of public works determines that traffic visibility would be affected, due to the location of the hedge being near or adjacent to the public right-of-way, the height may be required to be reduced to less than 8 feet, to the satisfaction of the director.

4. Modification to Fence, Wall and Hedge Exceptions: All other exceptions, or modification to exceptions, pertaining to fences, walls or hedges shall require approval by the zoning administrator, as provided in Section 17.47.060.

17.47.060 - Exception Modification Procedures

Modifications to the height and setback exceptions specified in sections 17.47.040 and 17.47.050 of this Chapter are subject to zoning administrator approval and are subject to the following procedures, except as indicated otherwise:

A. **Application form, fee and plans.** An application for a height or setback exception shall be made in writing by the owners of the property, lessee, purchaser in escrow, or optionee with the consent of the owners, on a form prescribed by the planning director. At a minimum, the application shall be accompanied by a fee, set by the city council, and plans showing the details of the proposed feature.

B. **Findings.** The zoning administrator may approve an exception if the zoning administrator makes the following findings, as applicable.

1. Height Exception Modifications for a rooftop solar system may be approved if the zoning administrator makes the finding that the feature would not result in a specific adverse impact upon the public health and safety.

2. Setback Exception Modifications may be approved for any of the structures or features listed in Table 17.47.050.A if the zoning administrator makes the findings that:
   a. The setback exception modification/the feature or structure will not create any significant adverse impacts upon adjacent properties in terms of loss of safety, privacy, noise or glare.
   b. The feature will be constructed in a sound and workmanlike manner, in compliance with all applicable provisions of the building and fire codes.
   c. Structures are designed to be compatible with the primary dwelling(s) on the site.
   d. Architectural features are designed to be compatible with the building on which they are located.

3. Fence, hedge or wall Exception Modifications may be approved if the zoning administrator makes the findings that:
   a. The proposed fence, hedge or wall will not create a safety hazard for pedestrians or vehicular traffic.
   b. The appearance of the fence, hedge or wall is compatible with the design, appearance and scale of the existing buildings and structures in the neighboring area.

C. **Notice procedure and action by the zoning administrator.** The procedure for action by the zoning administrator shall be as provided in Chapter 17.56.

D. **Appeals:** The decision of the zoning administrator or planning commission shall be effective on the close of the appeal period, unless an appeal has been filed pursuant to Chapter 17.52 of this title.

E. **Notice to the Planning Commission:** All decisions of the zoning administrator shall be reported to the planning commission by email at least seven (7) days prior to the expiration of the appeal period. If any two members of the planning commission indicate in writing a desire to appeal the decision it shall be considered appealed and placed on the next available commission agenda, following the public hearing notice procedures provided in Chapter 17.54.

17.47.070 - Requests for reasonable accommodations.

Modifications or exceptions to the regulations set forth in Title 17 that are not otherwise addressed in Sections 17.32.060.B and C may be granted as reasonable accommodations for residential and non-residential improvements, or for new development, when designed for, intended for occupancy by, or with supportive services for, persons with disabilities. Such requests may be granted by the planning director through a building permit, if through the building permit application it has been demonstrated that:

A. The exception is necessary for current or future accessibility to the property or building by persons with disabilities that cannot be addressed within either the applicable zoning district height limits or setbacks, or through the exceptions provided in Sections 17.32.060.B and C.
B. The accessibility improvement(s) will be constructed in compliance with all applicable provisions of the state and local building and fire codes.

17.47.080 - Nonconforming Structures and Features. Any structure, architectural feature, wall, or other improvement lawfully constructed within a setback area or over the height limit 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.

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SECTION 16: Chapter 17.52 - Appeals is amended to read as follows:

Chapter 17.52 - APPEALS

Sections:

17.52.005 - Appeal from planning director.

Any person may appeal to the planning commission any order, requirement, decision, determination or other action of the planning director with regard to any matter arising under this title, including any determination concerning the contents, subject matter or completeness of any application, any determination concerning which permit or other approval is required.

17.52.007 - Appeal from zoning administrator.

A. Appeals from the decision of the zoning administrator, except decisions related to housing development permits as set forth in Chapter 17.45 of this title, shall be made to the planning commission.

B. Appeals from decisions of the zoning administrator relating to housing development permits as set forth in Chapter 17.45 of this title shall be made to the city council.

17.52.010 - Appeal from planning commission.

Any person may appeal to the city council any order, requirement, decision, determination or other action of the planning commission in the manner provided in this title, including any planning commission decision of an appeal from an order, requirement, decision, determination or other action of the planning director or zoning administrator.

17.52.020 - Method and timing.

A. All appeals shall be in writing and filed with, and on a form prescribed by, the city clerk and shall be accompanied by a fee, as set by the city council, and shall clearly state the reason for appeal.

B. The appeal shall be filed according to the following schedule, unless specified otherwise in this title:

a. Appeal of Planning Director decision: close of business ten (10) days after the decision
b. Appeal of Zoning Administrator decision: close of business ten (10) days after the decision
c. Appeal of planning commission decision: close of business fifteen (15) days after the decision

If the appeal closing date would be on a weekend or City observed holiday, the appeal date shall be the close of business on the next business day.

C. In addition to the above, any two (2) members of the planning commission may appeal a decision of the zoning administrator, according to the schedule provided, by filling the appeal in writing with the city clerk. Written appeal to the city clerk may include email. The mere fact that two (2) members of the planning commission have filed an appeal does not of itself require disqualification of either such commission member from hearing and/or deciding the item.

D. In addition to the above, any two (2) members of the city council may appeal any decision, according to the schedule provided, by filling the appeal in writing with the city clerk. The mere fact that two (2) members of the city council have filed an appeal does not of itself require disqualification of either such councilmembers from hearing and/or deciding the item.

E. Upon receipt of such appeal, the city clerk shall notify the planning department and the applicant. A time shall then be set as soon as practical but within sixty (60) days after the receipt of such appeal (unless the applicant agrees otherwise) for a public hearing. Notice of such hearing shall be given as set forth in Chapter 17.54.

17.52.030 - Planning department report.

The planning department, upon receipt of the notice of appeal, shall prepare a report of the facts pertaining to the decision and shall submit such report to the appeal hearing body along with the department's recommendation and the reasons for the action.

17.52.040 - Action on appeal.

The planning commission or city council shall conduct a de novo hearing on the appeal. At the close of the public hearing, the appeal hearing body may affirm, reverse or modify the decision, either at the same meeting or at such later meeting as the body may determine, for any basis permitted by law. If action is not taken on the appeal within sixty (60) days after the clerk's receipt of the appeal, unless the applicant otherwise agrees or the appeal hearing body has determined that additional time was needed in order for it to make an informed decision, the original action shall be deemed affirmed. To reverse or modify the decision shall require a majority of the quorum

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SECTION 17: Chapter 17.56 - Administration is amended to read as follows:

Chapter 17.56 - ZONING ADMINISTRATOR

Sections:

17.56.010 - Zoning administrator—Function created.

There is created the function of zoning administrator which shall be carried out by the planning director.

17.56.020 - Zoning administrator—Powers and duties.

The zoning administrator shall have all the powers and duties of a board of zoning adjustment as set forth in Section 65900 through 65909 of Article 3 of Chapter 4 of Title 7 of the Government Code of the state.

17.56.030 - Zoning administrator—Action on applications.

A. Except as otherwise provided in this title, the zoning administrator shall decide the following, unless referred by the zoning administrator to the planning commission:

1. Administrative design review in the POAZ districts pursuant to Section 17.27.060.A;
2. Wireless telecommunication facilities pursuant to Section 17.32.032;
3. Height and setback exception modification permits pursuant to Section 17.47.060;
4. Certain sign permits pursuant to Section 17.36.060;
5. Amendments or modifications to a design permit pursuant to Section 17.42.070;
6. Housing development permits pursuant to Section 17.45.050;
7. Zoning conformance pursuant to Section 17.56.080;
8. Planning application modifications pursuant to Section 17.56.090.
9. Interim use permit extensions pursuant to Section 17.41.080.D

B. In connection with the applications provided for in this section, the zoning administrator shall have all the duties and responsibilities set forth in this title for the planning commission.

17.56.080 - Zoning conformance.

Zoning conformance shall be determined in conjunction with, and as a part of, building permits. If it has been determined that any proposed construction is not in conformity with the regulations for the district in which the construction is to be located, the determination shall be provided by the zoning administrator, or the zoning administrator's designee. No building permit shall be issued until the zoning conformance has been confirmed by the zoning administrator or the designee.

17.56.090 - Planning Permit Modifications.

An applicant may request modifications to a previously approved planning permit prior to or during construction. Examples of such modifications include alteration to an approved building or structure, change in configuration of site improvements, or modification or deletion of conditions of approval. A modification shall not automatically extend the approval expiration date beyond that of the original planning application.

Modifications are classified in three ways based on the significance of the proposed change and amount of additional review required: A) substantial conformance, B) minor, or C) major. The Zoning Administrator shall determine the type of modification required based on the criteria specified below.

A. Substantial Conformance. Modifications that are in substantial conformance with the original planning application can be approved as part of the building permit review process.

1. Substantial conformance is generally defined as a modification or change that:

a. Results in a project with reduced or inconsequential changes in size, scale, design, or intensity; or
b. Is necessary to accommodate parking requirements, utility configurations or other mechanical or operational components of a project identified during building permit review or construction;
c. Is in order to comply with updated Federal or State laws including but not limited to, the Americans with Disabilities Act, Building Code requirements, or Fire Code requirements; or
d. Cumulatively would not result in substantive changes to the overall project.

2. Public notification shall not be required for substantial conformance modifications.

B. Minor Modification. Modifications that result in minor changes to an approved planning application require review and approval by the Zoning Administrator, except if otherwise specified in this title or through the approved planning application conditions of approval.

1. Minor modification is generally defined as a modification where all of the following circumstances apply:

a. The modification would not result in a Major Modification, as defined below, to the approved site plan or project design;
b. The modification would not significantly change the nature of the approved use(s);
c. The modification would not significantly intensify the approved use(s); and
d. The modification would not result in any new or substantially greater environmental effects than the originally approved project.

2. Procedures for minor modifications are set forth in Section 17.56.110, or, where otherwise provided in this title, according to the original permitting procedures.

C. Major Modification. Modifications that result in a significant change, or “substantial modification” as provided in Section 17.42.010.A or this title, require review and approval by the original decision-making body, whether zoning administrator or planning commission except if otherwise specified in this title or as specified through the approved planning application conditions of approval. If the

original decision maker was the planning commission or city council, whether in the first instance or on appeal, then public noticing and a public hearing by the planning commission are required.

1. A modification to a project is considered major if any of the following circumstances in paragraphs a, b, c, d or e apply:

a. The modifications involve substantive changes to the approved site plan or project design. A substantive change, for the purpose of this section, includes but is not limited to:
   i. A change that is visually conspicuous from the public right-of-way or adjacent properties; or
   ii. A change that results in non-conformance with City standards or policies; or
   iii. A change that alters the intent of a project-specific condition of approval; or

b. The modifications significantly change the nature of the approved use; or

c. The modifications significantly intensify the approved use; or

d. The modifications may result in new or substantially greater environmental impacts than the originally approved project; or

e. The modifications involve major policy decisions or unique land use characteristics, as determined by the Zoning Administrator.

17.56.100 - Other Permits.

Zoning Administrator approvals of permit types provided elsewhere in this title shall be subject to the findings and procedures provided therein. Where procedures are not otherwise provided in this title, the zoning administrator procedures shall be as set forth in Section 17.56.110.

17.56.110 - Procedures.

A. Procedures for major modifications to approved planning permits shall follow the same permitting procedures as the original application, as provided elsewhere in this title.

B. The following procedures shall apply to minor modifications and other zoning administrator permits, unless provided otherwise in this title.

1. **Application form, fee and plans.** Application shall be made in writing by the owner(s) of the property, lessee, purchaser in escrow, or optionee with the consent of the owners, on a form prescribed by the planning director. At a minimum, the application shall be accompanied by a fee, set by the city council, and plans showing and describing the details of the proposed.

2. **Notice procedure and action by the zoning administrator.**

   a. **Notice of recommended decision and action:**
      i. The zoning administrator shall provide notice of the application and publish a staff report with a recommended decision to grant or deny the permit at least ten (10) days prior to a decision on the permit application. The notice shall be mailed to all

owners of property adjacent to, and directly across the street from, the exterior boundaries of the subject property.

ii. If no written public comments are received objecting to the recommended decision by the date indicated on the notice, at least ten (10) days following the issuance of the notice, the zoning administrator shall act on the application consistent with the recommendation contained in the staff report and the decision shall be effective immediately.

b. **Public hearing, when required:**

i. If written public comments objecting to the recommended decision are received, that relate to the required findings, the zoning administrator shall hold a public hearing on the application. Notice of the hearing shall be given to all owners of property adjacent to, or directly across the street from the exterior boundaries of the subject property, and any party that has requested notice or provided written public comments on the application. The notice of public hearing shall be mailed not less than ten (10) or more than thirty (30) days before the date of the hearing. Alternatively, the zoning administrator may refer the application to the planning commission for public hearing and decision.

ii. The zoning administrator, or if referred, the planning commission, may either grant or deny the application subject to the required finding(s). The zoning administrator or planning commission may grant the permit subject to such conditions as deemed necessary or appropriate to meet the required findings.

3. **Appeals:** The decision of the zoning administrator or planning commission shall be effective on the close of the appeal period, unless an appeal has been filed pursuant to Chapter 17.52 of this title.

4. **Zoning administrator—Reporting decisions to planning commission.** All decisions of the zoning administrator that are subject to public hearing shall be reported to the planning commission by email at least seven (7) days prior to the expiration of the appeal period. If any two members of the planning commission indicate in writing, including email, a desire to appeal the decision it shall be considered appealed and placed on the next available commission agenda, following the public hearing notice procedures provided in Chapter 17.54.

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SECTION 18: 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 19: This Ordinance shall be in full force and effect thirty days after its passage and adoption.

_____
Terry O'Connell, Mayor

* * *

The above and foregoing Ordinance was adopted at a regular meeting of the City Council of the City of Brisbane held on the _____ day of _____, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

CITY COUNCIL AGENDA REPORT
Meeting Date: June 6, 2024

From: John Swiecki, Community Development Director

Subject: Zoning Text Amendments to Title 17 – Omnibus Zoning Amendments to modify the development standards for multifamily and residential mixed use zoning districts consistent with California Senate Bill SB 478 ("housing opportunity act") and as provided in the 2023-2031 Housing Element for building heights, lot coverage and floor area ratios, and related amendments, including, but not limited to, organizational amendments and amendments to development regulation exceptions and Zoning Administrator procedures; and finding that this project is exempt from environment review under CEQA Guidelines Sections 15061(b)(3), Section 15183; City of Brisbane, applicant.

COMMUNITY GOAL/RESULT

Safe Community - Residents and visitors will experience a sense of safety.

PURPOSE

To amend the zoning text provisions in a number of Chapters in the Brisbane Municipal Code (BMC), consistent with the revised 2023-2031 Housing Element goals, policies and programs.

RECOMMENDATION

Introduce the ordinance amending the zoning text as provided in Attachment 1.

BACKGROUND

On May 18, 2023, City Council adopted the revised 2023-2031 Housing Element (Housing Element) and it was subsequently certified by the California Department of Housing and Community Development (HCD). It includes goals which are applicable to this ordinance, along with related policies and implementation programs. Goals 2 and 7 are:

> *"Facilitate and support the production of housing at all income levels, but especially affordable housing."*
>
> *"Avoid unreasonable government constraints to the provision of housing."*

Additionally, California Senate Bill SB 478 (2021) was codified as Government Code Section 65913.11 and became effective on January 1, 2022. It requires that a local agency allow minimum floor area ratios (FARs) of at least 1.0 for 3 to 7 unit developments and 1.25 for 8 to 10 unit developments.

The Planning Commission held workshops on June 8, 2023 and February 22, 2024 regarding the proposed amendment. In the workshops it was suggested that the Housing Element Program 2.A.12, which calls for raising the height limits to 36 feet, should be extended to the single family zoning districts, to provide for equity across the various residential districts. It was also suggested that the floor area ratio standards for multifamily developments of three or more units should be consistent.

On May 9, 2024, the Planning Commission held a public hearing and, by a vote of 4-0, recommended that City Council adopt the proposed ordinance. The Planning Commission resolution, draft minutes and agenda report are provided in Attachments 3, 4 and 5. Public correspondence to the Commission is provided in Attachment 6.

DISCUSSION:

The ordinance updates the residential zoning regulations as provided in the Housing Element programs, provides for reorganization of certain sections, and updates and clarifies procedural requirements for planning permits. The draft ordinance is provided as Attachment 1 and a redlined version is provided as Attachment 2. The redlined version shows only proposed substantive amendments and does not show redlines for edits that were made for reorganizational purposes.

In summary, the amendments provided in the draft ordinance are as follows:

- Update development standards for the residential districts and exceptions to development standards to tables, for clarity and ease of use.

- Single family zoning districts (R-1 and R-BA), to increase the maximum height of 28 feet or 30 feet, depending on the slope of the lot, to a maximum of 36 feet.

- Multifamily zoning districts (R-2 and R-3) and mixed-use districts that allow multifamily development (NCRO-2 and SCRO-1), to increase the height maximums to 36 feet. The R-2 and R-3 districts currently allow for heights up to 28 or 30 feet and the NCRO-2 and SCRO-1 allow for 35 feet. The FAR for these districts would also be increased from 0.72 to

1.25, along with related SB 478 provisions, including that the lot coverage limit may not preclude development to the 1.25 FAR.

- The exceptions to the development regulations that are currently provided in Chapter 17.32 - General Use Regulations, would be reorganized and made a new chapter "Chapter 17.47 - Exceptions to District Development Regulations". Aside from reorganization, a few notable amendments within that new chapter are that, 1) requests for reasonable accommodations would become an administrative review through the building permit process, 2) other types of setback and height exceptions would have some updates as illustrated in the redlined ordinance 3) the procedures for requests for modification of an exception would be normalized to require zoning administrator review.

- Both Chapter 14.46 - Variances and Section 17.42.070 - Amendment of Design Permit – Minor Modifications would have minor updates for clarity.

- Chapter 17.52 - Appeals would be updated to provide for more structure and consistency to the time periods and process. Currently, various appeals timeframes are provided in Title 17 for different applications. While this update is not an attempt to address all of these, it would serve as a start for greater consistency. Where another section of Title 17 provides a different appeal period, it would prevail. Otherwise, the appeal periods would be as provided on Chapter 17.52.

- Finally, Chapter 17.56 - Zoning Administrator would be retitled from Administration to Zoning Administrator, to more accurately reflect its contents. The amendment would update the list of application types subject to zoning administrator approval. It also further updates and fleshes out the procedures for evaluating and hearing proposed modifications to planning permits into three types, 1) substantial conformance, 2) minor modification 3) major modification. Note that major modifications would be subject to review and approval by the original decision-making body, while minor modifications would be subject to Zoning Administrator review.

Correspondence received prior to the Planning Commission hearing was duly considered by the Commission and is provided for reference in Attachment 6.

FISCAL IMPACT

None.

MEASURE OF SUCCESS

To provide clear provisions in the BMC.

ATTACHMENTS

1. ~~Draft Omnibus Ordinance~~ Provided separately
2. Redlined Draft Ordinance
3. Planning Commission Resolution 2021-RZ-2
4. Draft Planning Commission Meeting Minutes, May 9, 2024
5. Planning Commission Agenda Report, May 9, 2024
6. Correspondence

John Swiecki
John Swiecki, Community Development Director

Clay Holstine
Clay Holstine, City Manager

REDLINED DRAFT ORDINANCE 2024-RZ-2

Note: The Brisbane Municipal Code (BMC) Sections provided in this draft represent reformatting of the development regulations for most of the districts that allow residential uses and exceptions to development regulations that are applicable to all districts. Reformatting is to a table format and non-substantive changes are not shown. The Red text indicates substantive proposed changes.

SECTION 1: Section 17.02.065 - Outside Wall is hereby deleted in its entirety.

~~17.02.065 - Outside wall.~~

~~"Outside wall" means any wall that defines the exterior boundaries of a structure.~~

~~A. "Front outside wall," "rear outside wall" and "side outside wall" respectively mean the outside wall that is generally parallel to the front, rear or side lot line of the site.~~

~~B. "Exterior side outside wall" means a side outside wall generally parallel to a street. "Interior side outside wall" means any side outside wall other than an exterior side outside wall.~~

Section 2: New Section 17.02.785 - Wall, is added to read as follows:

17.02.785 - Wall.

"Wall" means a vertical structure that encloses or divides an area of land or interior spaces of a building. See also the definition of retaining wall in Section 17.02.690 of this Chapter. A wall, as provided in the following sub-definitions, is part of a building or structure and is not a fence. Fence is defined in Section 17.02.300 and provided in Section 17.47.050.B.

A. "Outside wall" means any wall that defines the exterior boundaries of a building or structure, including the following:
    a. Front outside wall – generally that wall or walls parallel to the front lot line
    b. Rear outside wall – generally that wall or walls parallel to the rear lot line
    c. Side outside wall – generally that wall or walls parallel to the side lot line
B. "Exterior (front, rear or side) outside wall" means a front, rear or side outside wall generally parallel to a street.
C. "Interior (front, rear or side) outside wall" means a front, rear or side outside wall other than an exterior side outside wall.
D. "Inside Wall" or "Interior Wall" means a wall that is inside the boundaries of a structure, that is not an outside wall.

SECTION 3: Section 17.06.040 - Development Regulations, of Chapter 17.06 - R-1 Residential District, 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- I combined to amended Subsection A.)

A. Table 17.06.040.A: R-1 District Development Regulations

Type	Description	Single-family Dwelling	Exceptions and Notes
Density of Development – maximum		1 DU/5,000 square feet	A single-family dwelling may be constructed on a lot of record with an area of less than 5,000 square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.47.030 Exceptions to Lot area, lot dimensions and lot lines. See Chapter 17.05 of this title for urban lot split and two-unit development provisions.
Lot Dimensions	Lot Area – minimum	5,000 square feet	
	Lot Width - minimum	50 feet	
	Lot Depth - minimum	100 feet	
Setback minimums	Front: For dwellings and structures, except garages and carports.	15 feet for lots with a slope of less than 15 percent; or 10 feet for lots with a slope of 15 percent or greater; or Where 50 percent or more of the lots of record in a block have been improved with single-family dwellings, the average distance of the front outside wall of the single-family structures from the front lot line on the same side of the street, if less than 10 or 15 feet, as otherwise applicable.	That portion of the structure that is subject to this setback exception (within the district standard setback area) shall not exceed 20 feet in height measured from finish grade.
	Front: For garages and carports.	10 feet	See exception allowing for lesser setback by City Engineer approval in Section 17.47.050
	Side: For dwellings and structures on lots greater than or equal to 50 feet wide .	5 feet	See setback exceptions in Chapter 17.47. Does not apply to garages and carports accessed from a street or alley.
	Side: For dwellings and structures on lots less than 50 feet wide, except garages and carports accessed from a street or alley.	10 percent of the lot width, but not less than 3 feet.	See setback exceptions in Chapter 17.47
	Side: For garages or carports accessed from a street or alley along that side of the lot.	10 feet	See exception allowing for lesser setback by City Engineer approval in Section 17.47.050

Type	Description	Single-family Dwelling	Exceptions and Notes
	Rear	10 feet	See exceptions in Chapter 17.47, including decks and an allowance for a lesser setback for garages and carports on through lots, by City Engineer approval, in Section 17.47.050.
Coverage	Lot Coverage	40 percent of lot area	See lot coverage definition in Section 17.02.495.
Floor Area	Floor Area Ratio: For lots greater than three thousand seven hundred (3,700) square feet.	0.72	See definition of floor area and floor area ratio in Section 17.02.315.
	Floor Area Ratio: For lots less than or equal to three thousand seven hundred (3,700) square feet	0.72, plus up to 200 square feet for a garage parking space	
Height	Height of dwellings and structures, if not within the setback areas and at least 15 feet from the front lot line.	~~28 feet, or 30 feet for lots with a slope of 20 percent or more.~~ 36 feet	See the definition of height in Section 17.02.400. See various exceptions in Chapter 17.47. See the exception for garages in the front setback in Table 17.47.050.A
	Height of dwellings and structures for the area within 15 feet of the front lot line, where less than a 15 foot setback is permitted.	20 feet above finish grade	
	Height of garages and carports when permitted within the front setback area	15 feet above the elevation of the center of the adjacent street when permitted by Section 17.47.050 of this title.	
Articulation	Front: outside walls greater than 20 ft by 20 ft	30 percent	Articulation requirements are as a cumulative area. See definition of articulation in Section 17.02.050 and the definitions of outside walls, interior and exterior side outside walls in Section 17.02.065 of this title. Exempt from articulation requirements: • Single story 1 and 2 car garages. • Accessory structures not exceeding a floor area of 120 square feet. • Walls that are smaller than those listed in this table.
	Side: exterior side outside walls greater than 20 ft by 20 ft on greater than or equal to 40 ft wide lots	20 percent	
	Side: interior side outside walls greater than 20 ft by 20 ft	NA	
	Rear: Rear outside wall greater than 20 ft by 20 ft	30 percent	
Landscaping	Front Setback Area for lots with greater than or equal to 30 ft front lot line (minimum)	15 percent	New and rehabilitated, irrigated landscapes are subject to the provisions of the water

Type	Description	Single-family Dwelling	Exceptions and Notes
	Rear of newly constructed main structure on a downslope lot	Screened with trees and shrubs in accordance with a landscape plan approved by the planning director	conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

Note: See also, Chapter 17.47 - Exceptions to District Development Regulations.

B. ~~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.

C. ~~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.

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SECTION 4: Section 17.08.040. - Development Regulations, of Chapter 17.08 - R-2 Residential District, 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 - I combined to amended Subsection A.)

A. Table 17.08.040.A: R-2 District Development Regulations

Type	Description	Single-family Dwelling	Two-units	Multi-family (three or more primary dwelling units)	Exceptions and Notes
Density of Development – maximum		1 DU/2,500 square feet			Except a lot having an area of 4,950 square feet or greater shall be considered conforming for a development density of two units.
Lot Dimensions	Lot Area – minimum	5,000 square feet	4,950 square feet	No Requirement for lot of record~~4,950 for 3 units~~ NA~~50~~ NA~~100~~	
	Lot Width - minimum	50 feet	50 feet		
	Lot Depth - minimum	100 feet	100 feet		
Setback minimums	Front: For dwellings and structures, except garages and carports.	15 feet for lots with a slope of less than 15 percent; or 10 feet for lots with a slope of 15 percent or greater; or Where50 percent or more of the lots of record in a block have been improved with single-family dwellings, the average distance of the front outside wall of the single-family structures from the front lot line on the same side of the street, if less than 10 or15 feet, as otherwise applicable.			That portion of the structure that is subject to this setback exception (within the district standard setback area) shall not exceed 20 feet in height from finish grade. See height definition in section 17.02.400.
	Front: For garages and carports.	10 feet			See exception allowing for lesser setback by City Engineer approval in Section 17.47.050
	Side: For dwellings and structures on lots greater than or equal to 50 feet wide except garages and carports accessed from a street or alley.	5 feet			See setback exceptions in Chapter 17.47
	Side: For dwellings and structures on lots less than 50 feet wide, except garages and carports accessed from a street or alley.	10 percent of the lot width, but not less than 3 feet.			See setback exceptions in Chapter 17.47
	Side: For garages or carports accessed from a street or alley along that side of the lot.	10 feet			See exception allowing for lesser setback by City Engineer approval in Section 17.47.050
	Rear	10 feet			See exceptions in Chapter 17.47, including decks and an allowance for a lesser setback for garages and carports on through lots, by City Engineer

Type	Description	Single-family Dwelling	Two-units	Multi-family (three or more primary dwelling units)	Exceptions and Notes
					approval, in Section 17.47.050.
Coverage	Lot Coverage	50 percent of lot area			See lot coverage definition in Section 17.02.495. Lot coverage over 50 percent may be approved by the planning director, if required to meet the 1.25 FAR for developments of 3 or more units on a lot.
Floor Area	Floor Area Ratio: For lots greater than three thousand seven hundred (3,700) square feet.	0.72	0.72	1.25 ~~0.72~~	See definition of floor area and floor area ratio in Section 17.02.315.
	Floor Area Ratio: For lots less than or equal to three thousand seven hundred (3,700) square feet	0.72, plus up to 200 square feet for a garage parking space.	0.72, plus up to400 square feet for garage parking spaces.	1.25 ~~0.72, plus up to four hundred (400) square feet for garage parking spaces.~~	
Height	Height of dwellings and structures, if not within the setback areas and at least 15 feet from the front lot line.	~~28 feet, or 30 feet for lots with a slope of 20 percent or more.~~ 36 feet			See the definition of height in Section 17.02.400. See various exceptions in Chapter 17.47. See the exception for garages in the front setback in Table 17.47.050.A
	Height of dwellings and structures for the area within 15 feet of the front lot line, where less than a 15-foot setback is permitted.	20 feet			
	Height of garages and carports when permitted within the front setback area	15 feet above the elevation of the center of the adjacent street when permitted by Section 17.47.050 of this title.			
Articulation	Front: outside walls greater than 20 ft by 20 ft	30 percent			Articulation requirements are as a cumulative area. See definition of articulation in Section 17.02.050 and the definitions of outside walls, interior and exterior side outside walls in Section 17.02.065 of this title.
	Side: exterior side outside walls that are greater than 20 ft by 20 ft on greater than or equal to 40 ft wide lots	20 percent			
	Side: interior side outside walls	NA			
	Rear: Rear outside wall	30 percent			

Type	Description	Single-family Dwelling	Two-units	Multi-family (three or more primary dwelling units)	Exceptions and Notes
					Exempt from articulation requirements: • Single story 2 car garages. • Accessory structures not exceeding a floor area of 120 square feet. • Walls that are smaller than those listed in this table. • Where superseded by objective design standards established in Chapter 17.45 - Housing Development Permits.
Landscaping	Front Setback Area for lots with greater than or equal to 30 ft front lot line (minimum)	15 percent			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.
	Rear of newly constructed main structure on a downslope lot	Screened with trees and shrubs in accordance with a landscape plan approved by the planning director			

Notes:

1. Certain development regulations may be superseded for housing development projects, as defined in Chapter 17.02, by objective design standards provided in Chapter 17.45 - Housing Development Permits.

2. See also, Chapter 17.47 - Exceptions to District Development Regulations.

B. ~~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.

C. ~~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 5: Section 17.10.040 - Development Regulations, of Chapter 17.10 - R-3 Residential District, 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 - I combined to amended Subsection A.)

A. Table 17.10.040.A: R-3 District Development Regulations

Type	**Description**	**Single-family Dwelling**	**Two-units**	**Multi-family (three or more primary dwelling units)**	**Exceptions and Notes**
Density of Development – maximum		1 DU/1,500 square feet			
Lot Dimensions	Lot Area – minimum	5,000 square feet	5,000 square feet	No Requirement for lot of record ~~4,950 for 3 units~~ NA~~50~~ NA~~100~~	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.
	Lot Width - minimum	50 feet	50 feet		
	Lot Depth - minimum	100 feet	100 feet		
Setback minimums	Front: For dwellings and structures, except garages and carports.	15 feet for lots with a slope of less than 15 percent; or 10 feet for lots with a slope of 15 percent or greater; or			That portion of the structure that is subject to this setback exception (within the district standard setback area) shall not exceed 20 feet in height

Type	Description	Single-family Dwelling	Two-units	Multi-family (three or more primary dwelling units)	Exceptions and Notes
		Where 50 percent or more of the lots of record in a block have been improved with single-family dwellings, the average distance of the front outside wall of the single-family structures from the front lot line on the same side of the street, if less than 10 or15 feet, as otherwise applicable.			from finish grade. See height definition in section 17.02.400.
	Front: For garages and carports.	18 feet			If the front setback is less than 15 feet as provided for slope over 20 percent or by block average setbacks, then the garage setback minimum shall be three (3) feet behind the front wall of the main structure. If the garage setback exemptions set forth in Section 17.47.050.A of this Title apply, the regulations of that section shall prevail.
	Side: For dwellings and structures on lots greater than or equal to 50 feet wide except garages and carports accessed from a street or alley.)	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 10 feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.
	Side: For dwellings and structures on lots less than 50 feet wide, except garages and carports accessed from a street or alley.	10 percent of the lot width, but not less than 3 feet.			
	Side: For garages or carports accessed from a street or alley along that side of the lot.	10 feet			See exception allowing for lesser setback by City Engineer approval in Section 17.47.050
	Rear	10 feet			See exceptions in Chapter 17.47, including decks and an allowance for a lesser setback for garages and carports on through lots, by City Engineer approval, in Section 17.47.050.
Coverage	Lot Coverage	60 percent of lot area			See lot coverage definition in Section 17.02.495.

Type	Description	Single-family Dwelling	Two-units	Multi-family (three or more primary dwelling units)	Exceptions and Notes
					Lot coverage over 60 percent may be approved by the planning director, if required to meet the 1.25 FAR for developments of three or more units on a lot.
Floor Area	Floor Area Ratio: For lots greater than three thousand seven hundred (3,700) square feet.	0.72	0.72	~~0.72~~ 1.25	See definition of floor area and floor area ratio in Section 17.02.315.
	Floor Area Ratio: For lots less than or equal to three thousand seven hundred (3,700) square feet	0.72, plus up to 200 square feet for a garage parking space.	0.72, plus up to 400 square feet for garage parking spaces.	~~0.72~~ 1.25	
Height	Height of dwellings and structures, if not within the setback areas and at least 15 feet from the front lot line.	~~28 feet, or 30 feet for lots with a slope of 20 percent or more.~~ 36 feet			See the definition of height in Section 17.02.400. See various exceptions in Chapter 17.47. See the exception for garages in the front setback in Table 17.47.050.A
	Height of dwellings and structures for the area within 15 feet of the front lot line, where less than a 15-foot setback is permitted.	20 feet			
	Height of garages and carports when permitted within the front setback area	15 feet above the elevation of the center of the adjacent street when permitted by Section 17.47.050 of this title.			
Articulation	Front: outside walls greater than 20 ft by 20 ft	30 percent			Articulation requirements are as a cumulative area. See definition of articulation in Section 17.02.050 and the definitions of outside walls, interior and exterior side outside walls in Section 17.02.065 of this title. Exempt from articulation requirements: • Single story 2 car garages. • Accessory structures not exceeding a floor area of 120 square feet.
	Side: exterior side outside walls that are greater than 20 ft by 20 ft on greater than or equal to 40 ft wide lots	20 percent			
	Side: interior side outside walls	NA			
	Rear: rear outside wall.	30 percent			

Type	Description	Single-family Dwelling	Two-units	Multi-family (three or more primary dwelling units)	Exceptions and Notes
					• Walls that are smaller than those listed in this table. • Where superseded by objective design standards established in Chapter 17.45 - Housing Development Permits.
Landscaping	Front Setback Area for lots with greater than or equal to 30 ft front lot line (minimum)	15 percent			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.
	Rear of newly constructed main structure on a downslope lot.	Screened with trees and shrubs in accordance with a landscape plan approved by the planning director			
	Sites with Three (3) or More Units	Not less than ten percent (10 percent) of the lot area shall be improved with landscaping.			

Notes:

1. Certain development regulations may be superseded for housing development projects, as defined in Chapter 17.02, by objective design standards provided in Chapter 17.45 - Housing Development Permits.

2. See also, Chapter 17.47 - Exceptions to District Development Regulations.

B. ~~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.

C. ~~K.~~ Refuse and Recycling Area Requirements.

1. So as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare, areas for depositing, collecting and loading refuse and recyclable materials shall be provided and fully enclosed within an enclosure a minimum of six (6) feet tall. All receptacles for collection and recycling shall be completely screened from view at street level. All enclosures and gates shall be designed to withstand heavy use. Wheel stops or curbs shall be provided to prevent dumpsters from banging into walls of enclosure. 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.

Lighting shall be provided at all enclosures for nighttime security and use. Lights shall be full cutoff luminaires, as certified by the manufacturer, with the light source directed downward and away from adjacent residences. 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 6: Section 17.12.040 - Development Regulations, of Chapter 17.12 - R-BA Brisbane Acres Residential District, 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:

(Subsections A- H combined to amended Subsection A.)

A. Table 17.12.040.A: R-BA District Development Regulations

Type	Description	Single-family Dwelling	Exceptions and Notes
Density of Development – maximum		1 DU/20,000 square feet	Not more than one single-family dwelling shall be located on each lot in the R-BA District, except as otherwise provided in Section 17.12.050, Density transfer, and Section 17.12.055, Clustered development, of this chapter, or Chapter 17.05 of this title for urban lot split and two-unit development provisions. A single-family dwelling may be constructed on a lot of record with an area of less than20,000 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. See also Chapter 17.05 of this title for urban lot split and two-unit development provisions.
Lot Dimensions	Lot Area – minimum	20,000 square feet	
	Lot Width - minimum	110 feet	
	Lot Depth - minimum	140 feet	

Type	Description	Single-family Dwelling	Exceptions and Notes
Setback minimums	Front.	10 feet	See exception allowing for lesser garage setback by City Engineer approval in Section 17.47.050.
	Side: For dwellings and structures, except garages and carports accessed from a street or alley	10 percent of the lot width, but in no event more than 15 feet or less than 5 feet.	See also setback exceptions in Chapter 17.47
	Side: For garages or carports accessed from a street or alley along that side of the lot.	10 feet	See exception allowing for lesser setback by City Engineer approval in Section 17.47.050
	Rear.	10 feet	See exceptions in Chapter 17.47, including decks and an allowance for a lesser setback for garages and carports on through lots, by City Engineer approval, in Section 17.47.050.
Coverage	Lot Coverage	25 percent of lot area	See lot coverage definition in Section 17.02.495. See provisions for two-unit developments and urban lot splits in Chapter 17.05.
Floor Area	Floor Area Ratio	0.72 provided, however, that in no event shall the floor area of all buildings on a lot exceed 5,500 square feet	Accessory dwelling units and junior accessory dwelling units are excepted from the floor area ratio limits as permitted in Chapter 17.43 See definition of floor area and floor area ratio in Section 17.02.315. See provisions for two-unit developments and urban lot splits in Chapter 17.05.
Height	The maximum height of any structure outside the side and rear setbacks and more than 20 feet from the front lot line.	~~35 feet~~ 36 feet	See the definition of height in Section 17.02.400. See various exceptions in Chapter 17.47. See other exception for garages in the front setback in Table 17.47.050.A
	The maximum height of any structure within twenty (20) feet from the front lot line, .	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.	
		Garages and carports may be constructed to a height of 15 feet above the elevation of the center of the adjacent street and may exceed a height of thirty-six (36) feet, but the height of any permitted living	

Type	Description	Single-family Dwelling	Exceptions and Notes
		area underneath shall not exceed 36 feet from finish grade.	
Articulation	Front: outside walls greater than 20 ft by 20 ft	30 percent	Articulation requirements are as a cumulative area. See definition of articulation in Section 17.02.050 and the definitions of outside walls, interior and exterior side outside walls in Section 17.02.065 of this title. Exempt from articulation requirements: • Single story 2 car garages. • Accessory structures not exceeding a floor area of 120 square feet. • Walls that are smaller than those listed in this table.
	Side: exterior side outside walls that are greater than 20 ft by 20 ft on greater than or equal to 40 ft wide lots	20 percent	
	Side: interior side outside walls	NA	
	Rear: rear outside wall	30 percent	

Note: See also, Chapter 17.47 - Exceptions to District Development Regulations.

B. ~~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.

C. ~~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.

(Subsection J. Articulation Requirements, removed. See Table 17.12.040.A, above.)

D. ~~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.

(Subsection L. Ridgeline, removed. See new Section 17.12.045 below.)

E. ~~M.~~ Canyon Watercourses and Wetlands. Development of the site, including any temporary disturbance, shall be set back 30 feet in each direction from the center line of any watercourse, and 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.

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

G. ~~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.

H. ~~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.

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SECTION 7: New Section 17.12.045 - Ridgeline Development is added to Chapter 17.12 R-BA Brisbane Acres Residential District as follows:

17.12.045 - Ridgeline Development.

A. 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, 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 planning 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.

*****

SECTION 8: Section 17.14.060 - Development regulations for the NCRO-2 district is amended to read as follows:

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, except that a lot of record that is less than 2,500 square feet, created prior to January 1, 2022, shall be recognized as conforming for 3 or more dwelling units as part of a mixed-use development, pursuant to Section 17.14.040.K.2.

(Subsections B and C, no change.)

D. Setbacks. The minimum required setbacks for any lot in the NCRO-2 district, except as provided in Chapter 17.47, shall be as follows:

1. Front setback: No requirement.

2. Side Setback: No requirement, except a 10 foot setback shall be required on the side where abutting any residential district.

3. Rear Setback: 10 feet.

(Subsection E no change)

F. Height of Structures. The maximum height of any structure, except as provided in Chapter 17.47, 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~~ 36 feet.

~~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.~~

G. Fencing Requirements. Fencing shall be subject to zoning administrator review as set forth in Section 17.47.060, except where subject to a design permit per Section 17.14.110. If the site is next to a residential district, a fence not to exceed 10 feet in height, that screens the site from the abutting residential property rear or side yard areas shall be installed along the property line.

(Subsections H, I and J no change)

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SECTION 9: Section 17.16.040 - Development Regulations, of Chapter 17.16 - SCRO-1 Southwest Bayshore Commercial District, is amended to read as follows:

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, except that a lot of record that is less than 7,500 square feet, created prior to January 1, 2022, shall be recognized as conforming for 3 or more dwelling units.

(Subsections B and C, no change.)

D. Setbacks. The minimum required setbacks for any lot, except as provided in Chapter 17.47, shall be as follows:

1. Front setback:

a. Residential/Mixed Use: 10 feet;

b. Commercial Uses: 25 feet for commercial uses;

c. Exception: The setbacks may be reduced to zero 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: 5 feet;

b. Commercial Uses: 15 feet;

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

3. Rear setback: 10 feet.

(Subsection E, no change.)

F. Height of Structures. The maximum height of any structure, except as provided in Chapter 17.47, shall be ~~thirty-five (35) feet~~36 feet.

(Subsections G, H, I, J, K, L and M, no change.)

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SECTION 10: Section 17.27.040 - Development Regulations for the PAOZ-1 District is amended to read as follows:

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

(Subsections A, B, C, D, E and F, no change.)

G. Height.

1. Buildings and Architectural Features. The maximum building height shall be 38 feet and 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 10 feet above the maximum building height.

2. Fences and Walls. Fences and walls in front yards shall be no more than 3 feet in height from the adjacent sidewalk. Fences and walls in side yards shall not exceed 6 feet in height. Deviations from maximum fence and wall heights shall require approval by the ~~planning commission~~ zoning administrator as provided in ~~Section 17.32.050.B.5. of this title~~ Chapter 17.47.

(Subsections H, I, J, K, L and M, no change.)

SECTION 11: Section 17.27.050 - Development Regulations for the PAOZ-2 District is amended to read as follows:

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

(Subsections A, B, C, D, E and F, no change.)

G. Height.

1. Buildings and Architectural Features. The maximum building height shall be 38 feet and 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 10 feet above the maximum building height.

2. Fences and Walls. Fences and walls in front yards shall be no more than 3 feet in height from the adjacent sidewalk. Fences and walls in side yards shall not exceed 6 feet in height. Deviations from maximum fence and wall heights shall require approval by the ~~planning commission~~ zoning administrator as provided in ~~Section 17.32.050.B.5. of this title~~ Chapter 17.47.

(Subsections H, I, J, K, L and M, no change.)

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SECTION 12: Sections 17.032.050 - Fences, hedges and walls, 17.032.055 - Exceptions – Lot area, lot dimensions and lot lines, 17.32.060 - Exceptions – Height Limit, 17.32.070 - Exceptions – Setback requirements, and 17.32.080 - Requests for reasonable accommodations are hereby deleted in their entirety.

~~17.32.050 - Fences, hedges and walls.~~

~~A. General Regulations. Fences, hedges and walls may be erected subject to the following conditions:~~

~~1. Unless otherwise provided elsewhere in this title, fences, hedges and walls not exceeding six (6) feet in height may be constructed in any district within any required setback area, except as follows:~~

~~a. Where the director of public works determines that visibility would be affected, the height of fences, hedges and walls shall be reduced to not less than three (3) feet.~~

~~b. Chain-link fences shall not be constructed in or adjoining any R residential district, except as provided in subsections (B)(4) and (B)(5).~~

~~c. Razor wire, barbed wire and similar materials with sharp edges or points shall not be used for fencing in any district, except as provided in subsection (B)(5). Other non-standard fencing materials may be similarly restricted per guidelines approved by the planning commission.~~

~~d. As a condition of approval for properties subject to the San Bruno Mountain Area Habitat Conservation Plan, the planning commission shall restrict the height, location and/or design of fencing to maintain sufficient openness to allow passage of butterflies while remaining consistent with building code requirements.~~

~~2. Where a fence is proposed to be constructed, or has been constructed, adjacent to city property, a boundary survey or other evidence of the location of the fence shall be submitted to the director of public works upon request if the director determines that a question exists as to whether the fence encroaches on public property.~~

~~3. When construction of a fence impairs the visibility of address numbers on a house, such numbers shall be relocated with approval of the fire prevention officer.~~

~~B. Exceptions.~~

~~1. The community development director may approve retaining walls located in any required setback area having a height (as defined in Section 17.02.400) in excess of six (6) feet and falling within any one of the following categories:~~

~~a. The surface of the retaining wall is treated with coloring, texture, architectural features, trelliswork, or other means that will visually divide the height of the retaining wall into horizontal sections of no more than six (6) feet.~~

~~b. Water-conserving, non-invasive landscaping of sufficient size at maturity will be planted and maintained to provide screening so that no more than six (6) feet of the height of the retaining wall would remain visible.~~

~~c. The retaining wall is located on a cut slope so that it is not readily visible from off the site.~~

~~2. Fence heights may exceed six (6) feet through the addition of up to two (2) feet of wooden lattice on top within the required side and rear setbacks in the R-1, R-2, R-3, R-BA and NCRO-2 districts, but not within the front setback required per the district's development regulations.~~

~~3. Metal rail-and-picket fences and black or dark green vinyl-coated chain-link fences not exceeding eight (8) feet in height may be constructed in the C-1, TC-1 and M-1 districts.~~

~~4. Temporary chain-link demolition/construction barricades not exceeding eight (8) feet in height are permitted in all districts, subject to removal prior to final inspection.~~

~~5. In the R-MHP district, fence heights may be constructed up to eight (8) feet along the mobile home park perimeter, except that fence heights may be constructed up to ten (10) feet along the mobile home park perimeter abutting a public right-of-way.~~

~~6. All other exceptions to the general regulations set forth in subsection 17.32.050(A) shall require approval by the planning commission. Application for such exception shall be filed with the community development director and shall be accompanied by payment of a processing fee in such amount as established from time to time by resolution of the city council. The planning commission may grant the exception upon making all of the following findings:~~

~~a. The exception is necessary by reason of unusual or special circumstances or conditions relating to the property in order to gain full use and enjoyment of the property.~~

~~b. The proposed fence, hedge or wall will not create a safety hazard for pedestrians or vehicular traffic.~~

~~c. The appearance of the fence, hedge or wall is compatible with the design, appearance and scale of the existing buildings and structures in the neighboring area.~~

~~17.32.055 Exceptions—Lot area, lot dimensions and lot lines.~~

~~A. Limitations on Substandard Lots.~~

~~1. No substandard lot shall be independently developed if it is less than five thousand (5,000) square feet in area and if it was owned in common with contiguous property in the same district on October 27, 1969.~~

~~A substandard lot at least five thousand (5,000) square feet in area may be developed as a standard site under the applicable district regulations.~~

~~2. In any R district, single-family dwellings only may be erected on any substandard lot less than five thousand (5,000) square feet in area, if the lot was not owned in common with contiguous property in the same district on October 27, 1969.~~

~~3. As an exception to subsection (A)(1), a property in the R-1 Residential district consisting of four (4) contiguous lots of record totaling at least nine thousand six hundred fifty (9,650) square feet that were owned in common on October 27, 1969, may be developed as two (2) sites, each consisting of one pair of contiguous lots.~~

~~4. Any substandard lot created through a parcel map, resubdivision or lot line adjustment approved by the city after October 27, 1969, shall be recognized as a standard site.~~

~~5. Contiguous substandard lots owned in common may be subject to merger in compliance with this section and Municipal Code Chapter 16.12.~~

~~B. Modification in Conjunction with Application for Tentative Map. The planning commission may approve an application for a modification to the lot dimension regulations set forth in Title 17, Zoning, for real property located in any subdivision proposed in compliance with Title 16, Subdivisions, subject to the following findings:~~

~~1. The property is of such size or shape, or is subject to such title limitations of record, or is affected by such topographical location or conditions, or is to be devoted to such use that it is impossible, impractical or undesirable in a particular case for the subdivider to fully conform to the regulations;~~

~~2. Each lot or parcel subject to the modification will be capable of being developed in accordance with the other applicable provisions of the zoning ordinance; and~~

~~3. The modification conforms with the spirit and purpose of this title.~~

~~C. Lot Line Adjustment. In compliance with the procedures set forth in Chapter 16.32 of Title 16, Subdivisions, the planning director may approve a lot line adjustment that will not increase the degree of noncompliance or otherwise increase the discrepancy between existing conditions and the requirements of the Zoning Ordinance, even though the resulting parcels may not fully comply with the development regulations of the applicable zoning district.~~

~~D. Elimination of Interior Lot Lines. A property owner may eliminate an interior lot line between record lots in common ownership through recordation of a declaration of merger signed by the property owner and acknowledged by the community development director.~~

~~17.32.060 Exceptions—Height limit.~~

~~A. Chimneys which do not exceed three (3) feet in width or depth may exceed the height limit by no more than five (5) feet except as required to comply with the California Building Code.~~

~~B. Where cupolas, flag poles, monuments, radio and other towers, water tanks, church steeples, mechanical appurtenances and similar structures are permitted in a district, height limits therefore may be exceeded upon the securing of a use permit. Wireless telecommunications facilities shall be subject to the height exception procedures set forth in Section 17.32.035.~~

~~C. Rooftop solar energy systems may exceed the maximum building height limit of the applicable zoning district in accordance with the following procedures:~~

~~1. Rooftop solar energy systems, including those for water heating as well as photovoltaic purposes, that do not extend more than twenty-four (24) inches above the roofline of the structure on which they are mounted, measured from the exterior roofing material to the highest point of the panel, are exempt from maximum building height limits in all zoning districts.~~

~~2. Rooftop solar energy systems that extend more than twenty-four (24) inches above the roofline of the structure on which they are mounted, measured from the exterior roofing material to the highest point of the panel, may exceed the height limit through approval of an administrative permit by the zoning administrator. If the zoning administrator determines that the granting of the permit would not result in a specific adverse impact upon the public health and safety, the zoning administrator shall give written notice of the intended approval to property owners and occupants on both sides of, to the rear of and directly across the street from the site on which the system is proposed to be located. The notice shall generally describe the nature, design and location of the proposed system and advise the recipients that they may submit written comments on the intended decision by a certain date, which shall be not less than twenty-one (21) days from the date of mailing the notice. The notice shall also advise the recipients that they have the right to appeal a decision of the zoning administrator to the planning commission. The zoning administrator shall send a copy of the final decision on the application to each person who has submitted written comments within the time prescribed in the notice.~~

~~D. Exceptions to the height limit to accommodate accessibility improvements (such as elevators and wheelchair van garage spaces) may be allowed 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 property owners and occupants on both sides of, to the rear of and directly across the street from the site. The zoning administrator may issue the accessibility improvement permit if he or she finds and determines that:~~

~~1. The exception is necessary to meet special needs for accessibility of a person having a disability which impairs his or her ability to access the property.~~

~~2. Visual impacts of the accessibility improvements exceeding the height limit will be minimized.~~

~~3. The accessibility improvements will not create any significant adverse impacts upon adjacent properties in terms of loss of privacy, noise or glare.~~

~~4. The accessibility improvements will be constructed in a sound and workmanlike manner, in compliance with all applicable provisions of the building and fire codes.~~

~~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 3 feet from the building into the front setback area, but no closer than 5 feet from the front lot line.~~

~~Rear setback area:, May extend 3 feet from the building into the rear setback area, but no closer than 7 feet from the rear lot line.~~

~~Side setback area:, May extend 3 feet from the building into the side setback area, but no closer than 2½ feet from the side lot line. Rain gutters and downspouts may extend no closer than 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 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 3 feet from the building into the front setback area, but no closer than 5 feet from the front lot line.~~

~~Rear setback area:, May extend 3 feet from the building into the rear setback area, but no closer than 7 feet from the rear lot line.~~

~~Side setback area:, May extend 2 feet into the side setback area, but no closer than 3 feet from the side lot line.~~

~~c. Supported Decks, Cantilevered Decks and Balconies.~~

~~Front setback area: May extend 5 feet from the building into the front setback area, but no closer than 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 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 5 feet from the building into the rear setback area, but no closer than 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 4 feet from the surface of the deck.~~

~~Rear setback area:, May not be higher than 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 1 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 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 1 set of stairs per dwelling unit may extend from the building into the rear setback area, but no closer than 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 1 set of stairs per dwelling unit may extend from the building into the side setback area, but no closer than 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 5 feet from the rear lot line or 3 feet from the interior side lot line, provided the building or structure, or portion thereof, within the rear setback area does not exceed 8 feet in height and does not have a floor area in excess of 120 square feet.~~

~~Side setback area:, May be placed at any location within the interior side setback area which is not less than 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 8 feet in height and does not have a floor area in excess of 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 8 feet in height or cover more than 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 5 feet from the rear lot line, provided the structure, or portion thereof, within the rear setback area does not exceed 8 feet in height and does not cover more than 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 3 feet from the side lot line, provided the structure, or portion thereof, within the side setback area does not exceed 8 feet in height and does not cover more than 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 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 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.~~

~~17.32.080 Requests for reasonable accommodations.~~

~~Modifications or exceptions to the regulations set forth in Title 17 may be requested as reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities, if the accommodation would not impose an undue financial or administrative burden upon the city and would not require a fundamental alteration in the nature of the applicable regulation. Such requests may be granted by the zoning administrator through application for an accessibility improvement permit, following the conduct of a hearing with ten (10) days' notice thereof being given to property owners and occupants on both sides of, to the rear of and directly across the street from the site. The zoning administrator may issue the accessibility improvement permit if he or she finds and determines that:~~

~~A. The accommodation is necessary to meet special needs for a person having a disability and cannot be addressed through the exceptions under Sections 17.32.060 and 17.32.070.~~

~~B. Any visual impacts of the accommodation will be minimized.~~

~~C. The accommodation will not create any significant adverse impacts upon adjacent properties in terms of loss of privacy, noise or glare.~~

~~D. Any construction resulting from the accommodation will be done in a sound and workmanlike manner, in compliance with all applicable provisions of the building and fire codes.~~

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SECTION 13: Section 17.42.070 - Amendment of design permit—Minor modifications is amended to read as follows:

17.42.070 - Amendment of design permit—~~Minor m~~Modifications.

A. Amendments or modifications to a design permit shall require approval by the ~~planning commission, except that the~~ zoning administrator as set forth in Section 17.56.090 of this title, or by the planning commission if referred by the zoning administrator. ~~shall have authority to approve the following matters:~~

~~1. Any items which, under the terms of the design permit, have been delegated to the zoning administrator 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.~~

~~B. The application requirements, public hearing procedures and findings required for amendments or modifications to a design permit shall be as prescribed in Sections 17.42.020, 17.42.030 and 17.42.040 of this chapter.~~

SECTION 14: Chapter 17.46 - Variances is amended to read as follows:

Chapter 17.46 - VARIANCES

17.46.010 - Application—Required circumstances.

Applications for variances from the strict application of the terms of this title may be made and variances granted when the following circumstances are found to apply:

A. That any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and district in which the subject property is located;

B. That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of this title is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.

17.46.020 - Application—Form—Contents.

Application for variance shall be made in writing by a property owner, lessee, purchaser in escrow, or optionee with the consent of the owners, on a form prescribed by the planning director ~~zoning administrator~~. The application shall be accompanied by a fee, set by the city council, a plan of the details of the variance requested and evidence showing:

A. That the granting of the variance will not be contrary to the intent of this title or to the public safety, health and welfare; and

B. That due to special conditions or exceptional characteristics of the property or its location, the strict application of this chapter results in practical difficulties and unnecessary hardship. "Hardship," as used in this chapter does not mean personal or financial hardship but refers to the conditions in subsection B of Section 17.46.010.

17.46.030 - Application—Hearing date—Notice.

The planning commission shall conduct a public hearing on the application for a variance. Notice of such hearing shall be given as set forth in Chapter 17.54.

17.46.040 - Granting.

A. After the conclusion of the public hearing or continuations thereof, the planning commission ~~or zoning administrator~~ may grant or deny a variance from the strict application of the regulations established by this chapter. The commission may impose any reasonable conditions deemed necessary to achieve the purpose of this title.

B. A variance shall be effective the seventh (7th) day after planning commission ~~or zoning administrator~~ approval unless the action is appealed to the city council, ~~or in the case of the zoning administrator, to the planning commission,~~ in which case the variance shall not be effective until final action upon the appeal.

17.46.050 - Nonconforming uses not allowed.

The use of lands or buildings not in conformity with the regulations specified for the district in which such lands or buildings are located may not be allowed by the granting of a variance.

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SECTION 15: New Chapter 17.47 - Exceptions to District Development Regulations is added to read as follows:

17.47 - EXCEPTIONS TO DISTRICT DEVELOPMENT REGULATIONS

17.47.010 - Purpose of Chapter

The purpose of this chapter is to provide standards and procedures for recognition of certain substandard lots as legal lots for development, as well as exceptions to specified district development regulations for certain structures and other built features.

17.47.020 - Applicability

Unless indicated otherwise in this title, the exceptions provided in this chapter shall apply to all districts.

17.47.030 - Exceptions to Lot area, lot dimensions and lot lines.

Lots sizes and dimensions shall conform to the district development regulations, except as provided herein.

A. Substandard Lots.

1. No substandard lot shall be independently developed if it is less than 5,000 square feet in area and if it was owned in common with contiguous property in the same district on October 27, 1969. A substandard lot at least 5,000 square feet in area may be developed as a standard site under the applicable district regulations.
2. In any R district, single-family dwellings only may be erected on any substandard lot less than 5,000 square feet in area, if the lot was not owned in common with contiguous property in the same district on October 27, 1969.
3. As an exception to A.1, a property in the R-1 Residential district consisting of 4 contiguous lots of record totaling at least 9,650 square feet that were owned in common on October 27, 1969, may be developed as 2 sites, each consisting of one pair of contiguous lots.

4. Any substandard lot created through a parcel map, resubdivision or lot line adjustment approved by the city after October 27, 1969, shall be recognized as a standard lot.
5. Contiguous substandard lots owned in common may be subject to merger in compliance with this section and Municipal Code Chapter 16.12.

B. Urban Lot Split. A lot may be created and developed in the R-1 and R-BA districts that does not conform to the lot area and dimensions subject to the provisions of the Two-unit Development Residential Overlay District - R-1 and R-BA Districts, as set forth in Chapter 17.05.

C. ~~B.~~ Modification in Conjunction with Application for Tentative Map. The planning commission may approve an application for a modification to the lot dimension regulations set forth in Title 17, Zoning, for real property located in any subdivision proposed in compliance with Title 16, Subdivisions, subject to the following findings:

1. The property is of such size or shape, or is subject to such title limitations of record, or is affected by such topographical location or conditions, or is to be devoted to such use that it is impossible, impractical or undesirable in a particular case for the subdivider to fully conform to the regulations;
2. Each lot or parcel subject to the modification will be capable of being developed in accordance with the other applicable provisions of the zoning ordinance; and
3. The modification conforms with the spirit and purpose of this title.

D. ~~C.~~ Lot Line Adjustment. In compliance with the procedures set forth in Chapter 16.32 of Title 16, Subdivisions, the planning director may approve a lot line adjustment that will not increase the degree of noncompliance or otherwise increase the discrepancy between existing conditions and the requirements of the Zoning Ordinance, even though the resulting parcels may not fully comply with the development regulations of the applicable zoning district. Where each lot is a substandard lot as defined in Section 17.02.490.H, a lot line adjustment may be utilized to effectuate an urban lot split, subject to the provisions of the two-unit development residential overlay district, as set forth in Chapter 17.05.

E. **~~D.~~ Elimination of Interior Lot Lines.** A property owner may eliminate an interior lot line between record lots in common ownership through recordation of a declaration of merger signed by the property owner and acknowledged by the planning director, as prescribed by Chapter 16.12 of Title 16, Subdivisions.

17.47.040 - Height Limit Exceptions

Heights of structures shall conform to the district development regulations, except as provided herein.

A. Height Exception Limits.

The following height limit exceptions in Table 17.47.040.A apply to all zoning districts:

Table 17.47.040.A

Type	Applicability	Height Exception	Eligible for Modification?
Chimney	Chimney not exceeding 3 feet in width or depth.	Feature may be less than or equal to 5 feet over the district height limit, or as required to comply with the California Building Code.	No. Modification to the height exception provided may only be by variance, per Chapter 17.46, subject to the findings therein.
Miscellaneous structures	Cupolas, ~~flag poles,~~ monuments, water tanks, mechanical appurtenances and similar structures. ~~Church steeples, radio and other towers~~	Subject to use permit approval by the Planning Commission.	No. Modification to the height exception provided may only be by use permit, per Chapter 17.40 of this title, subject to the findings therein.
Rooftop solar	Rooftop solar energy systems, including those for water heating as well as photovoltaic purposes.	Feature may be less than or equal to 24 inches above the roofline of the structure on which it is mounted, measured from the exterior roofing material to the highest point of the panel, regardless of the building height. If greater than 24 inches above the roofline and over the district height limit, the feature is subject to approval by the zoning administrator, per Section 17.32.060.B.	Yes (see Section 17.47.060)

Note: Height exceptions may be superseded by objective design standards established in this title, including but not limited to the POAZ Parkside Overlay District and Housing Development Permits.

~~D. Exceptions to the height limit to accommodate accessibility improvements (such as elevators and wheelchair van garage spaces) may be allowed 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 property owners and occupants on both sides of, to the rear of and directly across the street from the site. The zoning administrator may issue the accessibility improvement permit if he or she finds and determines that:~~

~~1. The exception is necessary to meet special needs for accessibility of a person having a disability which impairs his or her ability to access the property.~~

~~2.Visual impacts of the accessibility improvements exceeding the height limit will be minimized.~~

~~3. The accessibility improvements will not create any significant adverse impacts upon adjacent properties in terms of loss of privacy, noise or glare.~~

~~4. The accessibility improvements will be constructed in a sound and workmanlike manner, in compliance with all applicable provisions of the building and fire codes.~~

17.47.050 - Setback Exceptions

Setbacks from lot lines to buildings and structures shall conform to the district development regulations, except as provided herein.

A. Setback Exception Limits. 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 Table 17.47.050.A and subject to applicable building and fire codes:

Table 17.47.050.A

Type	Applicability	Required Front Setback (ft)	Required Rear Setback (ft)	Required Side Setback (ft)
Residential Garages, Carports and Parking Decks in the R-1, R-2, R-3 and R-BA districts	• If located within the setback area, a garage, carport, or parking deck may not exceed 15 feet in height above the centerline of the adjacent street. • Notwithstanding the allowable exceptions, placement is subject to approval by the city engineer, based upon a finding that no traffic or safety hazard will be created. • A garage or carport in compliance with this subsection may exceed the district height limit, but the height of any permitted living space underneath shall not exceed the district height limit.	0	Interior rear: NA Exterior rear (through lots): 0	Interior side: NA Exterior side (i.e. corner street or alley lots): 0
Overhanging Architectural Features	Includes such features as eaves and cornices that extend from the wall of a building and into the setback area.	5	7	2.5
Gutters and downspouts		5	7	2

Type	Applicability	Required Front Setback (ft)	Required Rear Setback (ft)	Required Side Setback (ft)
Cantilevered Windows	• Includes window(s) extending from the wall of a building into the setback area such as bay windows, box windows, etc. • To qualify for the exception, the window may not include floor area. If the window includes a built-in bench seat or shelf, 16 inches or higher from the floor, without steps, the area will not be counted as floor area regardless of the clear height above the bench or step (see also Floor Area defined, Section 17.02.315).	5	7	3
Decks and Balconies	Either free-standing or attached to a building.	5	5	NA
Roof Decks and associated guardrails over a garage that is subject to a setback exception	• Roof decks over garages that are subject to the garage setback exception may not be covered by a roofed or unroofed structure (I.e. pergola over a roof deck), except that the portion of a deck covered by an eave from an adjacent building segment may cover the portion of the deck not to exceed 3 feet from the edge of the building wall	0	Interior rear: NA Exterior rear (i.e. through lots): 0	NA
Stairs, Ramps and Landings to a building entrance	• Applies only to unenclosed stairs, ramps or landings. • May not drain onto the neighbor's property. • Materials within a setback must be non-combustible, to the satisfaction of the building official.	0	5	0

Type	Applicability	Required Front Setback (ft)	Required Rear Setback (ft)	Required Side Setback (ft)
Awning over a building entrance or landing	• Allowed as a type of projection from a building. • May not drain to the neighbor's property. • In all zoning districts except the R-1 District, to be eligible for a side setback exception, the awning may project no more than 3 feet from the building into the side setback area. • In the R-1 District, to be eligible for a side setback exception the awning may extend 4 feet from the building into the side setback area but shall not extend over the abutting property.	5	5	All districts except R-1: 2.5 R-1 district only: 0
Roofed Accessory Structures (such as detached home offices and art studios, sheds and gazebos)	• The portion of the structure encroaching within the setback area may not exceed ~~8~~ 10 feet in height measured from lowest grade immediately adjacent to the structure's exterior walls or the alignment of the supporting posts. • The square footage of the portion of the structure encroaching within the setback area may not exceed 120 square feet. • These exceptions do not apply to accessory dwelling units. ADU development regulations are contained in Chapter 17.43.	NA	5	Interior side: 3 Exterior side: NA
Unroofed Accessory Structures (such as arbors, trellises, pergolas and gateways)	The structure's portion within the setback area may not exceed ~~8~~ 10 feet in height and may not cover more than 15 percent of the front setback area	0	5	3
Ponds, Fountains and Similar Decorative Water Features	Feature must not exceed 6 feet in height.(2)	0	0	~~NA~~ 0

Type	Applicability	Required Front Setback (ft)	Required Rear Setback (ft)	Required Side Setback (ft)
Decorative Artwork	Feature must not exceed 6 feet in height. The artwork shall not block access to a building entrance or otherwise create a safety hazard.	0	0	~~NA~~ 0
Flag pole & flag	• Not more than 1 pole per lot • Height of pole less than or equal to 20 feet • Individual flag size than or equal to 3 by 5 ft, with up to two on a pole • Flag may not extend over the property line when fully extended. • May not include advertising. • Unlighted only. • Flags shall be maintained in good repair.	5	5	NA
Accessory Dwelling Units		See Chapter 17.43.		
Fences, hedges and walls		See Section 17.47.050.B		

Notes:

1. NA: Not applicable. In such cases, the standard setback provided in the zoning district's development regulations shall prevail.
2. The exceptions set forth in this Table 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.
3. The exceptions set forth in this Table do not waive the requirement to obtain any other required permits from the City, including, but not limited to, a building permit. New construction or tenant improvements on commercial properties may also require a design permit, in which case the requested exception may be included in the design permit application.
4. In a case of conflict between the setback exceptions listed here and other laws, regulations or conditions of approval, the most stringent requirements shall prevail.
5. Fire Code may prohibit certain materials from use within setback areas.
6. Non-combustible flatwork, such as concrete pavers and stone on grade, are not subject to setbacks and may be placed anywhere within a setback area.
7. Setback exceptions may be superseded by objective design standards established in this title, including but not limited to the POAZ Parkside Overlay District and Housing Development Permits.
8. See the definition of setback in Section 17.02.715 - Setback – Setback Area.

B. Fences, hedges and walls within setbacks. Fences, hedges and walls may be erected within setback areas as provided herein.

1. Fences.

a. Height and Fence Type Allowances. Where a fence, as defined in Section 17.02.300, is to be constructed in a setback area, the following regulations shall apply, except where otherwise indicated in Section 17.47.050.B.1.b. See also the definition of height for fences and walls in Section 17.02.400.C.

Table 17.47.050.B.1

Zoning District	Height Limit – Front Setback (feet)	Height Limit - Side and Rear Setbacks, except that portion extending to the front setback area (feet)	Special provisions
R-1	6	7 or 8*	*If the top 2 feet of a fence is constructed of lattice, or other open pattern, to the satisfaction of the planning director, the fence may be 8 ft in total height in the side and rear setbacks, but not extending into front setback. Otherwise, where lattice or a similar open pattern is not included the limit is 7 ft, but the fence must step down to 6 ft in the front setback area.
R-2	6	7 or 8*	
R-3	6	7 or 8*	
R-BA	6	7 or 8*	
R-MHP	8***	8***	***Fence heights may be up to ten (10) feet along the mobile home park perimeter abutting a public right-of-way.
C-1	8	8	
M-1	8	8	
SCRO-1	8	8	
TC-2	8	8	
HC	8	8	
C/P-U	8	8	
PAOZ-1	As provided in Section 17.27.040.G.2.		
PAOZ-2	As provided in Section 17.27.050.G.2.		
NCRO-1	By setback exception permit for fences on developed sites, per Section 17.47.060. By design permit when associated with new development, or modification of a design permit for existing development when associated with other development modification(s) that is subject to a design modification permit. See Chapter 17.42 for design permits and Section 17.56.090 for modification of a design permit. See also the district development standards for fence provisions.		
NCRO-2			
PD			
SP-CRO			
TC-1			
All Districts	Temporary chain-link demolition/construction barricades not exceeding eight (8) feet in height are permitted in all districts, subject to removal prior to final inspection.		

b. **Overriding Factors and Other Requirements**

i. In any district, where the director of public works determines that traffic visibility would be affected, due to the location of the fence being near or adjacent to the public right-of-way, the fence height

may be required to be reduced, to the satisfaction of the director. ~~shall be reduced to not less than three (3) feet~~

ii. Where a fence is proposed to be constructed, or has been constructed, adjacent to city property, a boundary survey or other evidence of the location of the fence shall be submitted to the director of public works upon request if the director determines that a question exists as to whether the fence encroaches on public property.

iii. In all districts, the following materials are prohibited: razor wire, barbed wire and similar materials with sharp edges or points.

iv. Chain-link fences may not be constructed in or adjacent to residential districts and are required to be black or green vinyl coated, except as approved by the planning director where the fence is not readily within public view or is otherwise screened from view by landscaping.

v. For fences within the San Bruno Mountain Area Habitat Conservation Plan (HCP), within the R-BA, SCRO-1 and certain PD districts, the height, location and/or design of fences may be subject to restrictions for protection or passage of butterflies, consistent with the site's HCP operating program or other required permitting consistent with HCP requirements. ~~As a condition of approval for properties subject to the San Bruno Mountain Area Habitat Conservation Plan, the planning commission shall restrict the height, location and/or design of fencing to maintain sufficient openness to allow passage of butterflies while remaining consistent with building code requirements.~~

vi. When construction of a fence would impair the visibility of address numbers on a house, such numbers shall be relocated with approval of the fire prevention officer, or the fence may be required to be lowered.

vii. Gated driveways are subject to approval by the planning director, based on a determination that the gate will not create a safety hazard.

viii. A building permit may be required for construction of a fence, depending on such factors as height or location relative to a retaining wall, and is subject to building official determination.

2. Retaining Walls

a. Height. Where a retaining wall, as defined in Section 17.02.690, is to be constructed in a setback area, the provisions in Table 17.47.050.B.2 shall apply. See also the definition of height for fences and walls in Section 17.02.400.C.

Table 17.47.050.B.2 Retaining Walls in Setback Areas

All Zoning Districts	Permitted Height in All Setback Areas	Special Provisions
	6 feet or less of exposed wall surface	None
	More than 6 feet	Greater than 6 feet of exposed wall surface, where one or more of the following conditions are met, to the satisfaction of the planning director: (i) Walls shall be architecturally integrated with proposed or existing structures on the site; (ii) Wall faces shall be decorative and treated with color, texture, architectural features, trelliswork or other means to visually break up the wall expanses; (iii) Walls shall be screened with water conserving, non-invasive landscaping that at maturity will soften and reduce the visible expanse of walls; (iv) Other means that ensure that the walls are designed to be as visually unobtrusive as possible **(Note: Taken from BMC Section 15.01.110.B.2)** ~~a. The surface of the retaining wall is treated with coloring, texture, architectural features, trelliswork, or other means that will visually divide the height of the retaining wall into horizontal sections of no more than six (6) feet.~~ ~~b. Water-conserving, non-invasive landscaping of sufficient size at maturity will be planted and maintained to provide screening so that no more than six (6) feet of the height of the retaining wall would remain visible.~~ ~~c. The retaining wall is located on a cut slope so that it is not readily visible from off the site.~~

b. **Overriding Factors and Other Requirements.**

i. Where construction of a retaining wall would result in grading, the provisions of Chapter 15.01 shall apply. If planning commission review of a grading permit is required, per Section 15.01.110, the retaining wall design will be considered as part of the planning commission's grading review.

ii. A building permit is generally required for construction of a retaining wall, subject to building official determination.

3. Hedges

a. Height Limit: Where a hedge, as defined in Section 17.02.390, is to be established within a setback area, the height limit shall be as shown in Table 17.47.050.B.3:

Table 17.47.050.B.3 Hedges within Setbacks

	Permitted Height in All Setback Areas
Hedges in all zoning districts	8 feet

b. **Overriding Factors and Other Requirements**

In any district, where the director of public works determines that traffic visibility would be affected, due to the location of the hedge being near or adjacent to the public right-of-way, the height may be required to be reduced to less than 8 feet, to the satisfaction of the director.

4. Modification to Fence, Wall and Hedge Exceptions: All other exceptions, or modification to exceptions, pertaining to fences, walls or hedges shall require approval by the zoning administrator, as provided in Section 17.47.060.

17.47.060 - Exception Modification Procedures

Modifications to the height and setback exceptions specified in sections 17.47.040 and 17.47.050 of this Chapter are subject to zoning administrator approval and are subject to the following procedures, except as indicated otherwise:

A. **Application form, fee and plans.** An application for a height or setback exception shall be made in writing by the owners of the property, lessee, purchaser in escrow, or optionee with the consent of the owners, on a form prescribed by the planning director. At a minimum, the application shall be accompanied by a fee, set by the city council, and plans showing the details of the proposed feature.

B. **Findings.** The zoning administrator may approve an exception if the zoning administrator makes the following findings, as applicable.

1. Height Exception Modifications for a rooftop solar system may be approved if the zoning administrator makes the finding that the feature would not result in a specific adverse impact upon the public health and safety.

2. Setback Exception Modifications may be approved for any of the structures or features listed in Table 17.47.050.A if the zoning administrator makes the findings that:
   a. The setback exception modification/the feature or structure will not create any significant adverse impacts upon adjacent properties in terms of loss of safety, privacy, noise or glare.
   b. The feature will be constructed in a sound and workmanlike manner, in compliance with all applicable provisions of the building and fire codes.
   c. Structures are designed to be compatible with the primary dwelling(s) on the site.
   d. Architectural features are designed to be compatible with the building on which they are located.

3. Fence, hedge or wall Exception Modifications may be approved if the zoning administrator makes the findings that:

a. The proposed fence, hedge or wall will not create a safety hazard for pedestrians or vehicular traffic.
b. The appearance of the fence, hedge or wall is compatible with the design, appearance and scale of the existing buildings and structures in the neighboring area.

C. **Notice procedure and action by the zoning administrator.** The procedure for action by the zoning administrator shall be as provided in Chapter 17.56.

D. **Appeals:** The decision of the zoning administrator or planning commission shall be effective on the close of the appeal period, unless an appeal has been filed pursuant to Chapter 17.52 of this title.

E. **Notice to the Planning Commission:** All decisions of the zoning administrator shall be reported to the planning commission by email at least seven (7) days prior to the expiration of the appeal period. If any two members of the planning commission indicate in writing a desire to appeal the decision it shall be considered appealed and placed on the next available commission agenda, following the public hearing notice procedures provided in Chapter 17.54.

17.47.070 - Requests for reasonable accommodations.

Modifications or exceptions to the regulations set forth in Title 17 that are not otherwise addressed in Sections 17.32.060.B and C may be granted as reasonable accommodations for residential and non-residential improvements, or for new development, when designed for, intended for occupancy by, or with supportive services for, persons with disabilities. Such requests may be granted by the planning director through a building permit, if through the building permit application it has been demonstrated that:

A. The exception is necessary for current or future accessibility to the property or building by persons with disabilities that cannot be addressed within either the applicable zoning district height limits or setbacks, or through the exceptions provided in Sections 17.32.060.B and C.
B. The accessibility improvement(s) will be constructed in compliance with all applicable provisions of the state and local building and fire codes.

17.47.080 - Nonconforming Structures and Features. Any structure, architectural feature, wall, or other improvement lawfully constructed within a setback area or over the height limit 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.

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SECTION 16: Chapter 17.52 - Appeals is amended to read as follows:

Chapter 17.52 - APPEALS

Sections:

17.52.005 - Appeal from planning director.

Any person may appeal to the planning commission any order, requirement, decision, determination or other action of the planning director with regard to any matter arising under this title, including any determination concerning the contents, subject matter or completeness of any application, any determination concerning which permit or other approval is required.

~~Any person may appeal to the planning commission any order, requirement, decision, determination or other action of the planning director with regard to any matter arising under this title, including any determination concerning the contents, subject matter or completeness of any application, any determination concerning which permit or other approval is required, and any determination pursuant to Section~~s or . ~~Any such appeal shall be in writing and shall be filed with the planning department within fifteen (15) days after the action complained of. The appeal shall be accompanied by a fee, as set by the city council, and shall clearly state the reason for appeal. Upon receipt of such an appeal, the planning department, acting under the direction of the planning director, shall bring the appeal before the planning commission within thirty (30) days and shall notify the appellant and (if different) the applicant of the date and time of the planning commission meeting at which the appeal will be heard. No other notice need be given, except such additional notice as may be required by state or other law. The planning commission shall proceed to hear and determine the appeal at the same meeting or at such later meeting as it shall determine, and in connection therewith may continue the same from time to time.~~

17.52.007 - Appeal from zoning administrator.

A. Appeals from the decision of the zoning administrator, except decisions related to housing development permits as set forth in Chapter 17.45 of this title, shall be made to the planning commission.

B. Appeals from decisions of the zoning administrator relating to housing development permits as set forth in Chapter 17.45 of this title shall be made to the city council.

17.52.010 - Appeal from planning commission.

Any person may appeal to the city council any order, requirement, decision, determination or other action of the planning commission in the manner provided in this title, including any planning commission decision of an appeal from an order, requirement, decision, determination or other action of the planning director or zoning administrator.

17.52.020 - Method and timing.

A. All appeals shall be in writing and filed with, and on a form prescribed by, the city clerk and shall be accompanied by a fee, as set by the city council, and shall clearly state the reason for appeal.

B. The appeal shall be filed according to the following schedule, unless specified otherwise in this title:

a. Appeal of Planning Director decision: close of business ten (10) ~~fifteen (15)~~ days after the decision
b. Appeal of Zoning Administrator decision: close of business ten (10) days after the decision

c. Appeal of planning commission decision: close of business fifteen (15) days after the decision

If the appeal closing date would be on a weekend or City observed holiday, the appeal date shall be the close of business on the next business day.

C. In addition to the above, any two (2) members of the planning commission may appeal a decision of the zoning administrator, according to the schedule provided, by filling the appeal in writing with the city clerk. Written appeal to the city clerk may include email. The mere fact that two (2) members of the planning commission have filed an appeal does not of itself require disqualification of either such commission member from hearing and/or deciding the item.

D. In addition to the above, any two (2) members of the city council may appeal any decision, according to the schedule provided, by filling the appeal in writing with the city clerk. The mere fact that two (2) members of the city council have filed an appeal does not of itself require disqualification of either such councilmembers from hearing and/or deciding the item.

E. Upon receipt of such appeal, the city clerk shall notify the planning department and the applicant. A time shall then be set as soon as practical but within sixty (60) days after the receipt of such appeal (unless the applicant agrees otherwise) for a public hearing. Notice of such hearing shall be given as set forth in Chapter 17.54.

17.52.030 - Planning department report.

The planning department, upon receipt of the notice of appeal, shall prepare a report of the facts pertaining to the decision and shall submit such report to the appeal hearing body along with the department's recommendation and the reasons for the action.

17.52.040 - ~~Council~~Action on appeal.

The planning commission or city council shall conduct a de novo hearing on the appeal. At the close of the public hearing, the appeal hearing body may affirm, reverse or modify the decision, either at the same meeting or at such later meeting as the body may determine, for any basis permitted by law. If action is not taken on the appeal within sixty (60) days after the clerk's receipt of the appeal, unless the applicant otherwise agrees or the appeal hearing body has determined that additional time was needed in order for it to make an informed decision, the original action shall be deemed affirmed. To reverse or modify the decision shall require a majority of the quorum

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SECTION 17: Chapter 17.56 - Administration is amended to read as follows:

Chapter 17.56 - ZONING ADMINISTRATOR ~~ADMINISTRATION~~

Sections:

17.56.010 - Zoning administrator—Function created.

There is created the function of zoning administrator which shall be carried out by the planning director.

17.56.020 - Zoning administrator—Powers and duties.

The zoning administrator shall have all the powers and duties of a board of zoning adjustment as set forth in Section 65900 through 65909 of Article 3 of Chapter 4 of Title 7 of the Government Code of the state.

17.56.030 - Zoning administrator—Action on applications.

A. Except as otherwise provided in this title, the zoning administrator shall decide the following, unless referred by the zoning administrator to the planning commission:

1. Administrative design review in the POAZ districts pursuant to Section 17.27.060.A;
2. Wireless telecommunication facilities pursuant to Section 17.32.032;
3. Height and setback exception modification permits pursuant to Section 17.47.060;
4. Certain sign permits pursuant to Section 17.36.060;
5. Amendments or modifications to a design permit pursuant to Section 17.42.070;
6. Housing development permits pursuant to Section 17.45.050;
7. Zoning conformance pursuant to Section 17.56.080;
8. Planning application modifications pursuant to Section 17.56.090.
9. Interim use permit extensions pursuant to Section 17.41.080.D
10. ~~Variances, accessibility improvements, large family daycare homes~~

B. In connection with the applications provided for in this section, the zoning administrator shall have all the duties and responsibilities set forth in this title for the planning commission.

17.56.080 - Zoning conformance.

Zoning conformance shall be determined in conjunction with, and as a part of, building permits. If it has been determined that any proposed construction is not in conformity with the regulations for the district in which the construction is to be located, the determination shall be provided by the zoning administrator, or the zoning administrator's designee. No building permit shall be issued until the zoning conformance has been confirmed by the zoning administrator or the ~~authorized representative~~ designee.

17.56.090 - Planning ~~Application~~ Permit Modifications.

An applicant may request modifications to a previously approved planning permit prior to or during construction. Examples of such modifications include alteration to an approved building or structure, change in configuration of site improvements, or modification or deletion of conditions of approval. A modification shall not automatically extend the approval expiration date beyond that of the original planning application.

Modifications are classified in three ways based on the significance of the proposed change and amount of additional review required: A) substantial conformance, B) minor, or C) major. The Zoning Administrator shall determine the type of modification required based on the criteria specified below.

A. Substantial Conformance. Modifications that are in substantial conformance with the original planning application can be approved as part of the building permit review process.

1. Substantial conformance is generally defined as a modification or change that:

a. Results in a project with reduced or inconsequential changes in size, scale, design, or intensity; or
b. Is necessary to accommodate parking requirements, utility configurations or other mechanical or operational components of a project identified during building permit review or construction;
c. Is in order to comply with updated Federal or State laws including but not limited to, the Americans with Disabilities Act, Building Code requirements, or Fire Code requirements; or
d. Cumulatively would not result in substantive changes to the overall project.

2. Public notification shall not be required for substantial conformance modifications.

B. Minor Modification. Modifications that result in minor changes to an approved planning application require review and approval by the Zoning Administrator, except if otherwise specified in this title or through the approved planning application conditions of approval.

1. Minor modification is generally defined as a modification where all of the following circumstances apply:

a. The modification would not result in a Major Modification, as defined below, to the approved site plan or project design;
b. The modification would not significantly change the nature of the approved use(s);
c. The modification would not significantly intensify the approved use(s); and
d. The modification would not result in any new or substantially greater environmental effects than the originally approved project.
e. ~~A maximum of twenty percent (20percent) reduction in lot area, building coverage and yard requirements;~~
f. ~~A maximum of twenty percent (20percent) increase in the height limit in fence, wall and hedge requirements.~~

2. Procedures for minor modifications are set forth in Section 17.56.110, or, where otherwise provided in this title, according to the original permitting procedures.

C. Major Modification. Modifications that result in a significant change, or "substantial modification" as provided in Section 17.42.010.A or this title, require review and approval by the original decision-making body, whether zoning administrator or planning commission except if otherwise specified in this title or as specified through the approved planning application conditions of approval. If the original decision maker was the planning commission or city council, whether in the first instance or on appeal, then public noticing and a public hearing by the planning commission are required.

1. A modification to a project is considered major if any of the following circumstances in paragraphs a, b, c, d or e apply:

a. The modifications involve substantive changes to the approved site plan or project design. A substantive change, for the purpose of this section, includes but is not limited to:
   i. A change that is visually conspicuous from the public right-of-way or adjacent properties; or
   ii. A change that results in non-conformance with City standards or policies; or
   iii. A change that alters the intent of a project-specific condition of approval; or

b. The modifications significantly change the nature of the approved use; or

c. The modifications significantly intensify the approved use; or

d. The modifications may result in new or substantially greater environmental impacts than the originally approved project; or

e. The modifications involve major policy decisions or unique land use characteristics, as determined by the Zoning Administrator.

17.56.100 - Other Permits.

Zoning Administrator approvals of permit types provided elsewhere in this title shall be subject to the findings and procedures provided therein. Where procedures are not otherwise provided in this title, the zoning administrator procedures shall be as set forth in Section 17.56.110.

17.56.110 - Procedures.

A. Procedures for major modifications to approved planning permits shall follow the same permitting procedures as the original application, as provided elsewhere in this title.

B. The following procedures shall apply to minor modifications and other zoning administrator permits, unless provided otherwise in this title.

1. **Application form, fee and plans.** Application shall be made in writing by the owner(s) of the property, lessee, purchaser in escrow, or optionee with the consent of the owners, on a form prescribed by the planning director. At a minimum, the application shall be accompanied by a fee, set by the city council, and plans showing and describing the details of the proposed.

2. **Notice procedure and action by the zoning administrator.**

a. **Notice of recommended decision and action:**
    i. The zoning administrator shall provide notice of the application and publish a staff report with a recommended decision to grant or deny the permit at least ten (10) days prior to a decision on the permit application. The notice shall be mailed to all owners of property adjacent to, and directly across the street from, the exterior boundaries of the subject property.
    ii. If no written public comments are received objecting to the recommended decision by the date indicated on the notice, at least ten (10) days following the issuance of the notice, the zoning administrator shall act on the application consistent with the recommendation contained in the staff report and the decision shall be effective immediately.

b. **Public hearing, when required:**
    i. If written public comments objecting to the recommended decision are received, that relate to the required findings, the zoning administrator shall hold a public hearing on the application. Notice of the hearing shall be given to all owners of property adjacent to, or directly across the street from the exterior boundaries of the subject property, and any party that has requested notice or provided written public comments on the application. The notice of public hearing shall be mailed not less than ten (10) or more than thirty (30) days before the date of the hearing. Alternatively, the zoning administrator may refer the application to the planning commission for public hearing and decision.
    ii. The zoning administrator, or if referred, the planning commission, may either grant or deny the application subject to the required finding(s). The zoning administrator or planning commission may grant the permit subject to such conditions as deemed necessary or appropriate to meet the required findings.

3. **Appeals:** The decision of the zoning administrator or planning commission shall be effective on the close of the appeal period, unless an appeal has been filed pursuant to Chapter 17.52 of this title.

4. **Zoning administrator—Reporting decisions to planning commission.** All decisions of the zoning administrator that are subject to public hearing shall be reported to the planning commission by email at least seven (7) days prior to the expiration of the appeal period. If any two members of the planning commission indicate in writing, including email, a desire to appeal the decision it shall be considered appealed and placed on the next available commission agenda, following the public hearing notice procedures provided in Chapter 17.54.

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A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BRISBANE RECOMMENDING CITY COUNCIL APPROVAL OF ZONING TEXT AMENDMENT 2024-RZ-2 AMENDING BRISBANE MUNICIPAL CODE TITLE 17 – OMNIBUS ZONING AMENDMENTS TO MODIFY THE DEVELOPMENT STANDARDS FOR MULTIFAMILY AND RESIDENTIAL MIXED USE ZONING DISTRICTS CONSISTENT WITH CALIFORNIA SENATE BILL SB 478 ("HOUSING OPPORTUNITY ACT"); FOR ADMINISTRATIVE RESTRUCTURING OF THE DEVELOPMENT STANDARDS SECTIONS FOR THE RESIDENTIAL ZONING DISTRICTS; TO CLARIFY THE REVIEWING AUTHORITY FOR DESIGN PERMIT MODIFICATIONS IN CHAPTER 17.42 AND VARIANCES IN CHAPTER 17.46; CREATE A SEPARATE CHAPTER AND UPDATE EXCEPTIONS TO THE DISTRICT DEVELOPMENT REGULATIONS AS A NEW CHAPTER 17.47; TO UPDATE THE APPEALS PROCEDURES IN CHAPTER 17.52; AND RE-TITLE AND UPDATE THE ZONING ADMINISTRATOR PROCEDURES IN CHAPTER 17.56.

WHEREAS, City Council adopted the revised 2023-2031 Housing Element (Housing Element) on May 18, 2023, which was subsequently certified by the California Department of Housing and Community Development; and

WHEREAS, the Housing Element provides certain goals, policies and programs aimed at facilitating development of new housing, maintaining existing housing, streamlining housing development permitting and providing for special needs populations, including Programs 2.A.12, 7.A.1 and 7.A.3; and

WHEREAS, Senate Bill 478 ("SB 478"), which was signed by the Governor on September 28, 2021, added Government Code Section 65913.11 (Government Code) to require that a local agency shall not impose floor area ratio standards of less than 1.0 for three to seven unit developments or less than 1.25 for eight to ten unit developments, in the zoning districts that allow for multifamily development; and

WHEREAS, the Government Code requires that a local agency may not impose a lot coverage requirement that would physically preclude a housing development project that meets the requirements established in the Government Code from achieving the floor area ratio allowed; and

WHEREAS, these changes to the Government Code became effective on January 1, 2022; and

WHEREAS, SB 478 does not prohibit a local agency from imposing any zoning or design standards, including, but not limited to, building height and setbacks, on a housing development project that meets the requirements of the Government Code other than zoning or design standards that establish floor area ratios or lot size requirements that expressly conflict with the standards in subdivision; and

WHEREAS, the City seeks to update Title 17 consistent with the Government Code and the Housing Element goals, policies and programs and to clarify and simplify provisions contained in Title 17; and

WHEREAS, the draft ordinance attached as Exhibit A to this resolution proposes amendments to Title 17; and

WHEREAS, on May 9, 2024, the Planning Commission conducted a hearing of the application, 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 Planning Commission reviewed and considered the staff memorandum relating to said application, and the written and oral evidence presented to the Planning Commission in support of and in opposition to the application; and

WHEREAS, adoption of this ordinance is not a project under the California Environmental Quality Act (CEQA) pursuant to California Government Code Section 15061(b)(3) because it involves code amendments that would not cause a significant effect on the environment and Section 15183 relating to the implementation of the Housing Element; and

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 ninth day of May, 2024, by the following vote:

AYES: Funke, Lau, Patel, and Sayasane
NOES: NA
ABSENT:Gooding

Pamala Sayasane
_____
PAMALA SAYASANE, Vice Chairperson
for ALEX LAU, Chairperson

ATTEST:

John Swiecki
_____
JOHN SWIECKI, Community Development Director

DRAFT
BRISBANE PLANNING COMMISSION
Action Minutes of May 9, 2024
Hybrid Meeting

ROLL CALL

Present: Commissioners Funke, Lau, Patel, and Sayasane
Absent: Gooding
Staff Present: Director Swiecki, Senior Planner Johnson, Associate Planner Robbins

CALL TO ORDER

Chairperson Lau called the meeting to order at 7:30 p.m.

ADOPTION OF AGENDA

A motion by Commissioner Sayasane, seconded by Commissioner Funke to adopt the agenda. Motion approved 4-0.

CONSENT CALENDAR

A motion by Commissioner Funke, seconded by Commissioner Sayasane to adopt the consent calendar. Motion approved 4-0.

ORAL COMMUNICATIONS

There were none.

WRITTEN COMMUNICATIONS

Chairperson Lau acknowledged written correspondence pertaining to New Business Items A and B

NEW BUSINESS

A. **PUBLIC HEARING: Zoning Text and Map Amendment 2024-RZ-1, R-1 Residential District and the R-BA Brisbane Acres Residential District in entirety;** recommendation to City Council on zoning text and map amendment 2024-RZ-1 amending regulations within Title 16 and 17 of the Brisbane Municipal Code to add the R-TUO residential two unit overlay district as new chapter 17.05 and related amendments; and finding that this project is exempt from environment review under CEQA Guidelines Sections 15061(b)(1) & (3), Section 15183; City of Brisbane, applicant.

Senior Planner Johnson presented staff report to the Commission.

Commissioner Sayasane asked about the pending court decision on SB 9 in the Los Angeles Superior Court and whether the City's decision on the ordinance should be postponed until after that ruling has further played out. Director Swiecki responded, noting that Brisbane's legal counsel had reviewed this matter and indicated that the decision is from a trial court in southern California and is only applicable to those specific charter cities. It would not be applicable to Brisbane which is a general law city. In response to an inquiry as to what would happen if SB9 was repealed or invalidated, Mr. Swiecki responded the City could amend its zoning regulations accordingly.

Commissioner Patel asked about whether there were notification procedures included in the draft ordinance. Staff responded that there were not, since lot splits and two-unit developments are to be ministerial, per SB 9. Mr Swiecki noted an informational notification could be provided.

Chairperson Lau opened the public hearing.

With no one wishing to address the Commission, a motion was made by Commissioner Patel and seconded by Commissioner Funke to close the public hearing. The motion was approved 4-0.

After discussion, a motion was made by Commissioner Patel and seconded by Commissioner Funke to approve the application, including an informational notification provision to adjacent property owners, via adoption of Resolution 2024-RZ-1. The motion was approved 4-0.

Chairperson Lau read the appeal procedure.

B. PUBLIC HEARING: Zoning Text Amendment 2024-RZ-2, City-wide; recommendation to City Council on omnibus zoning amendments to modify the development standards for multifamily and residential mixed use zoning districts consistent with California Senate Bill SB 478 ("housing opportunity act") and as provided in the 2023-2031 Housing Element for building heights, lot coverage and floor area ratios, and related amendments, including, but not limited to, organizational amendments and amendments to development regulation exceptions and Zoning Administrator procedures; and finding that this project is exempt from environment review under CEQA Guidelines Sections 15061(b)(3), Section 15183; City of Brisbane, applicant.

Senior Planner Johnson presented staff report to the Commission.

Senior Planner Johnson responded to the Commission's questions regarding the balance between lot coverage and the floor area ratio for multifamily developments that would have a 1.25 floor area ratio maximum, the process for Planning Commission appeals on Zoning Administrator items, the rationale for increasing the height limit to 36 feet, the difference between minor versus and major modifications, and the neighbor notification process for Zoning Administrator applications.

Chairperson Lau opened the public hearing.

With no one wishing to address the Commission, a motion was made by Commissioner Patel and seconded by Commissioner Funke to close the public hearing. The motion was approved 4-0.

A motion was made by Commissioner Patel and seconded by Commissioner Sayasane to approve the application via adoption of Resolution 2024-RZ-2. The motion was approved 4-0.

Chairperson Lau read the appeal procedure.

ITEMS INITIATED BY STAFF

Director Swiecki noted the following:

1. County-wide planning commissioner training will be held at the end of May,
2. The City Council authorized staff to initiate the Bank of America planning process.
3. Jeremy Dennis was hired as the new City Manager.

ITEMS INITIATED BY THE COMMISSION

Commissioner Sayasane announced she registered for the commissioner training and invited the other members to join.

ADJOURNMENT

Chairperson Lau adjourned the meeting at approximately 8:44 p.m. to the next regular meeting of May 23, 2024.

Attest:

_____

John A. Swiecki, Community Development Director

NOTE: A full video record of this meeting can be found on the City's YouTube channel at www.youtube.com/BrisbaneCA, on the City's website at http://www.brisbaneca.org/meetings, or on DVD (by request only) at City Hall.

PLANNING COMMISSION AGENDA REPORT

Meeting Date: 5/9/2024

From: Ken Johnson, Senior Planner

Subject: Zoning Text Amendments to Title 17 – Omnibus Zoning Amendments to modify the development standards for multifamily and residential mixed use zoning districts consistent with California Senate Bill SB 478 ("housing opportunity act") and as provided in the 2023-2031 Housing Element for building heights, lot coverage and floor area ratios, and related amendments, including, but not limited to, organizational amendments and amendments to development regulation exceptions and Zoning Administrator procedures; and finding that this project is exempt from environment review under CEQA Guidelines Sections 15061(b)(3), Section 15183; City of Brisbane, applicant.

REQUEST: To amend the zoning text provisions in a number of Chapters in the Brisbane Municipal Code (BMC), as outlined in the Applicable Codes Section of this report. This includes updates to the residential and mixed use development standards consistent with California Senate Bill SB 478 ("housing opportunity act") and as provided in the 2023-2031 Housing Element. It also includes reorganization of the development standards in the residential district zoning for clarity and updates to the procedures for planning permit approvals and appeals.

RECOMMENDATION: Via Resolution 2024-RZ-2, recommend that City Council adopt Zoning Text Amendment 2024-RZ-2, as provided in Exhibit A of Attachment A.

ENVIRONMENTAL DETERMINATION: The adoption of this ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to California Government Code Section 15061(b)(3), Section 15183 relating to the implementation of the Housing Element. The exception requiring further review as might be necessary to examine a project specific significant effects does not apply.

APPLICABLE CODE SECTIONS: Procedures for zoning amendments are provided in BMC Chapter 17.50. The following BMC chapters or sections contained within Title 17 – Zoning are applicable to this amendment, with the proposed action indicated for each:

- Section 17.02.065 - Outside Wall definition – delete and include in Wall definition.
- Section 17.02.785 - Wall definition – new, but amended from Outside Wall definition.
- Section 17.06.040 - R-1 Development Regulations - amended.
- Section 17.08.040 - R-2 Development Regulations - amended.
- Section 17.10.040 - R-3 Development Regulations - amended.

- Section 17.12.040 - R-BA Development Regulations - amended.
- Section 17.12.045 - Ridgeline Development – new section, relocated from Section 17.12.040.
- Section 17.14.060 - NCRO-2 Development Regulations - amended.
- Section 17.16.040 - SCRO-1 Development Regulations - amended.
- Section 17.27.040 - POAZ-1 Development Regulations - amended.
- Section 17.27.050 - POAZ-2 Development Regulations - amended.
- Sections 17.032.050 to 17.32.080 - various exceptions to district development regulations – relocated to new Chapter 17.47 and amended.
- Section 17.42.070 - Amendment of Design Permits – Minor Modifications - amended.
- Chapter 17.46 - Variances – amended.
- Chapter 17.47 - Exceptions to District Development Regulations – new chapter from relocated sections 17.32.050 to 17.32.080.
- Chapter 17.52 - Appeals – amended.
- Chapter 17.56 - Administration – retitled to Zoning Administrator and amended.

Note that the provisions of this ordinance would not supersede the provisions of the ordinance proposed for adoption via application number 2024-RZ-1, which would establish an R-TUO Residential Two Unit Overlay district, provided separately.

BACKGROUND: California Senate Bill SB 478 (2021) was codified as Government Code Section 65913.11. This law became effective on January 1, 2022 and requires that a local agency allow minimum floor area ratios (FARs) of at least 1.0 for 3 to 7 unit developments and 1.25 for 8 to 10 unit developments. A local agency may not impose a lot coverage requirement that would physically preclude a housing development project that would meet the FAR requirements for 3 to 10 units. Also, a local agency may not deny a housing development project in the range of 3 to 10 units on an existing lot solely on the basis that it doesn't meet the minimum lot size. For Brisbane, this is applicable to the R-2 and R-3 residential Districts and the NCRO-1 and SCRO-1 mixed use districts. The R-2 and R-3 districts currently have FAR limits of 0.72 and the NCRO-2 and SCRO-1 do not have FAR maximums.

On May 18, 2023, City Council adopted the revised 2023-2031 Housing Element (Housing Element) and it was subsequently certified by the California Department of Housing and Community Development (HCD). It includes a program for Brisbane to update its zoning ordinance to increase the height in the multifamily districts to 36 feet to more reasonably allow for 3 story developments. Additionally, other goals, policies and programs are provided to encourage development of housing, prevent displacement, provide for accessibility and to remove unreasonable government constraints to the provision of housing, as follows:

> *Goal 2: Facilitate and support the production of housing at all income levels, but especially affordable housing.*

Policy 2.A: Provide zoning for a balance of housing types, sizes (bedrooms), tenure and the inclusion of affordable, senior and special needs dwelling units in multi-family developments consistent with the RHNA.

- *Program 2.A.12: Amend the zoning ordinance for all districts that allow multifamily residential uses, to allow for building heights of at least 36 feet, to be able to accommodate 3-story development.*

Goal 7: Avoid unreasonable government constraints to the provision of housing.

Policy 7.A: Improve the development review and approval process.

- *Program 7.A.1: Continue to evaluate and implement changes to the zoning ordinance and permitting process to simplify and streamline approval of projects that meet the City's housing goals.*
- *Program 7.A.3: Continue to allow ministerial approval by the Community Development Director, subject to a minimal fee, of exceptions to the Zoning Ordinance for reasonable accommodation for housing for persons with disabilities per Government Code Section 65583(c)(3).*

Following adoption of the Housing Element, the Planning Commission held workshops on June 8, 2023 and February 22, 2024, during their regularly scheduled public meetings, to discuss the provisions of a draft ordinance addressing SB 478 along with proposed amendments to address these other items. The links to the workshop reports and minutes are provided with the links in the Attachments section of this report.

During the workshops, the Planning Commission indicated a desire to provide for equity in terms of height across the various residential districts as well as consistent floor area ratio standards for 3 unit developments and larger.

Also, since this ordinance touches on the development standards for all of the residential and mixed use districts, with the exception of the POAZ-1 and POAZ-2 districts which are addressed through the Parkside Precise Plan, as well as the related exceptions to development standards, a comprehensive zoning amendment has been proposed.

DISCUSSION: The ordinance updates the residential zoning regulations as provided in the Housing Element programs, provides for reorganization of certain sections, and updates and clarifies procedural requirements for planning permits. The draft ordinance is provided as Exhibit A of Attachment A and a redlined version is provided as Attachment B. The redlined version

shows only proposed substantive amendments and does not show redlines for edits that were made for reorganizational purposes.

The key amendments provided in the draft ordinance are as follows:

Sections 17.02.065 and 17.02.785 Definitions: The definitions provided in Chapter 17.02 apply to any district within the City. The definition in Section 17.02.785 - Outside Wall is updated to provide the definition under the broader definition of Wall and to further clarify the types of outside walls, such as "interior to a lot" or "exterior". This definition is only for clarity, without substantive changes, and is tied to building articulation provisions later in the ordinance.

Section 17.06.040 - Development Regulations (R-1 Residential District): This section of the R-1 Residential zoning district regulations has been reformatted to a table for clarity. The only substantive amendment would be to increase the height for dwellings and structures that are not within the standard setback areas to 36 feet, from the current height limit of either 28 feet for lots with less than a 20 percent slope, or 30 feet for lots with a slope of 20 percent or greater. This is consistent with the requirements established under the Housing Element.

Section 17.08.040 - Development Regulations (R-2 Residential District): This section of the R-2 Residential zoning district regulations has been reformatted to a table for clarity. The substantive amendments would be to increase the height for dwellings and structures that are not within the standard setback areas to 36 feet and for multifamily developments of three units or more, the floor area ratio (FAR) would be amended to 1.25 from 0.72, consistent with SB 478. The lot coverage limit would remain at 50 percent, except that over 50 percent may be approved by the planning director, if required to meet the 1.25 FAR. Also, per SB 478 there would be no requirement for the lot area for a lot of record, for multifamily developments of 3 units or more.

Section 17.10.040 - Development Regulations (R-3 Residential District): This section of the R-3 Residential zoning district regulations has been reformatted to a table for clarity. The substantive amendments are similar to the R-2 district. The height limit for dwellings and structures that are not within the standard setback areas would be increased to 36 feet and for multifamily developments of three units or more, the floor area ratio (FAR) would be amended to 1.25 from 0.72, consistent with SB 478. The lot coverage limit would remain at 60 percent, except that lot coverage exceeding 60 percent may be approved by the planning director, if required to meet the 1.25 FAR for developments of 3 or more units on a lot. Also, per SB 478 there would be no requirement for the lot area for a lot of record, for multifamily developments of 3 units or more.

Section 17.12.040 - Development Regulations (R-BA Brisbane Acres Residential District): This section of the R-BA zoning district regulations has been reformatted to a table for clarity. Similar to the R-1 district, the amendment would increase the height for dwellings and structures that are not within the standard setback areas to 36 feet, from the current height limit of 35 feet. The subsection pertaining to ridgeline development would be relocated to a stand-alone section, but

no substantive amendments are proposed for this section. This would be similar to the organizational structure for clustered development in the R-BA, since there is a planning permit process for both types of developments.

Section 17.14.060 - Development regulations for the NCRO-2 district: The substantive amendment for this section would be the change in height, from the current maximum of 35 feet, when authorized by a design permit, to 36 feet consistent with the Housing Element program. Note that any principal structure in this district requires design permit review and approval by the Planning Commission. Per SB 478, there would be no requirement for the lot area for an existing lot of record, for multifamily developments of 3 units or more. The fencing requirements would also be amended, primarily for clarity, but would also allow for greater flexibility on the height for screening abutting residential district property, so that 8 feet would no longer be the required minimum, but it would establish a maximum height of 10 feet. Currently, no maximum height is specified. Fences would be subject to Zoning Administrator approval, unless it is part of a design permit subject to Planning Commission approval.

Section 17.16.040 - Development regulations for the SCRO-1 district: The substantive amendment for this section would be the change in height, from the current maximum of 35 feet, to 36 feet, consistent with the Housing Element program. Also, per SB 478, there would be no requirement for the lot area for an existing lot of record, for multifamily developments of 3 units or more.

Sections 17.27.040 and 17.27.050 - Development regulations for the PAOZ-1 and PAOZ-2 districts: For consistency with procedures for fence and wall exceptions provided for other districts, such permit applications would be by the Zoning Administrator instead of the Planning Commission.

Sections 17.32.050 to 17.32.080 - various exceptions to development regulations: These sections would be removed from Chapter 17.32 - General Use Regulations. The provisions would be relocated and amended as a new "Chapter 17.47 - Exceptions to District Development Regulations", as described below.

Section 17.42.070 - Amendment of Design Permit – Minor Modifications: This amendment would retitle the section to "Amendment of Design Permit – Modifications" and instead of naming the Planning Commission only as the approving authority, amendments may be approved by the Zoning Administrator or the Planning Commission, as set forth in Section 17.56.090, depending on whether it is a major or minor modification. Proposed amendments to Section 17.56.090 are described below.

Section 17.46 - Variances: This chapter currently names either the Planning Commission or the Zoning Administrator as the approving authority for "variances from the strict application of the terms of this title". In practice, variances have been reviewed by the Planning Commission and,

for clarity and consistency with practice, the reference to the Zoning Administrator would be deleted.

Chapter 17.47 - Exceptions to District Development Regulations: This new chapter would include the following sections:

17.47.010 - Purpose of Chapter
17.47.020 - Applicability
17.47.030 - Exceptions to Lot area, lot dimensions and lot lines
17.47.040 - Height Limit Exceptions
17.47.050 - Setback Exceptions
17.47.060 - Exception Modification Procedures
17.47.070 - Requests for reasonable accommodations.
17.47.080 - Nonconforming Structures and Features.

This is largely a reorganization for clarity to distinguish exceptions as separate from Chapter 17.32 - General Uses, such as conditional uses in all districts, wireless telecommunications facilities, etc. The reorganization would provide a vehicle to clarify and update the processing procedures for the various exception permits and provide more consistent processing of the various exceptions. These are outlined as follows:

Exceptions to Lot area, lot dimensions and lot lines: The provisions of this section would remain largely unchanged, except to cross reference and allow that lots may be created by urban lot split, through the new Chapter 17.05.

Height Limit Exceptions: This section has been reformatted to a table for clarity. The height limit exceptions section, at present, names flag poles, church steeples, radio and other towers as part of a class of exceptions having a use permit requirement and these are proposed to be removed from this section. Flag poles would be removed since height limits are included within a new setback exception type. Where a flag pole is proposed interior to a developed lot, not within the setback area, the standard district height provisions would apply. Churches may be conditionally permitted in any district in accordance with BMC Section 17.32.020.B.1 and telecommunications facilities are provided for in Section 17.32.032.

This section also currently includes a procedure for approving accessibility improvements for accommodation of those with a disability. This section has been relocated to a section at the end of this new Chapter 17.47, to allow for administrative permitting through the building permit process. See further discussion below.

Setback Exceptions: This section has been reformatted to tables for clarity. Also, the various procedures for application for a modification to setback exception would be normalized to a single process that's provided in the draft new Section 17.47.060 - Exception Modification Procedures.

A few setback exception standards are proposed to be updated, following discussion at the Planning Commission workshops. Subject to certain conditions, including compliance with the California Building Code (CBC), these include: 1) adding an exception for garages and carports on through lots to have a zero setback from the rear lot line, the same as currently exists for the front, subject to City Engineer approval; 2) stairs, ramps and landings to a building entrance may have a zero side setback; 3) decorative water features and decorative artwork would have no side setback requirement which is the same as currently allowed for the front and rear; and 4) a new exception has been added for flag poles and flags.

Fences, hedges and walls would be included in the setback exceptions chapter and the provisions have been updated. That's largely for clarity, but a few notable amendments are as follows:

The current provisions allow for 8 foot wood fences in the residential districts, side and rear setbacks only, with the top two feet being in lattice. The draft provisions would allow up to 7 feet of solid fence, but if the fence is as high as 8 feet then the top 2 feet must be lattice or a similar open pattern. The 7 foot solid fence height correlates to the threshold for when a building permit would be required per the CBC. Within certain commercial districts that have an public, open campus feel, such as the SP-CRO Sierra Point Commercial District, or are public facing, such as the NCRO-1 and NCRO-2, a fence exception permit would be required for any fence. Alternatively, fences may be approved as part of a design permit, if the fence is part of a new development project that would already be going to the Planning Commission for design review.

Under other requirements for fences, a non-substantive amendment to the requirement for fences within the HCP has been included in the other requirements section, to provide clearer language that any such fencing must be consistent with the HCP operating program for the site or other required permitting consistent with the HCP requirements. Also, gated driveways are not currently addressed in the code and so these would be subject to planning director approval, to verify that the gate would not create a safety hazard.

For retaining walls, although not a substantive change, the conditions for walls over 6 feet in height have been updated to match the same conditions provided for retaining walls that may be approved through the grading ordinance provisions in BMC Section 15.01.110.B.2.

Exception Modification Procedures: As indicated above, exception modification procedures would be normalized to one process through the Zoning Administrator, as detailed in the proposed new Section 17.47.060. Zoning Administrator decisions are to be reported to the Planning Commission at least 7 days prior to the expiration of the 10-day appeal period and decisions may be appealed to the Planning Commission. Appeals timeframes and procedures are also proposed to be updated in Section 17.52, as described below.

Requests for reasonable accommodations. Consistent with Housing Element Program 7.A.3, requests for reasonable accommodations would be deleted from the height and setback

exceptions and made a separate subsection within this new chapter. Unlike the other exceptions, which would require a decision by the Zoning Administrator, reasonable accommodations would be subject to a building permit where it has been demonstrated that the current or future accessibility feature cannot be otherwise addressed through the applicable district height or setbacks provisions. As with all of the exceptions, the accessibility improvement will be required to be constructed in compliance with state and local building and fire codes.

Chapter 17.52 - Appeals: Various appeals timeframes are provided in Title 17 for different applications. While this update is not an attempt to address all of these, it would serve to provide more structure and consistency to the time periods and process. Except where specified otherwise in Title 17, decisions of either the Planning Director or the Zoning Administrator would be subject to 10 day appeals periods. Appeal periods are currently 7 days for the Zoning Administrator and 15 days for Planning Director decisions. The Planning Commission appeals are currently 15 days for most applications, except where specified otherwise in the code, and would remain as is. This section would add a procedure for two Planning Commissioners to be able appeal a decision of the Zoning Administrator, to be heard by the Commission, similar to the process for two City Council members to be able to appeal a decision of the Planning Commission.

Chapter 17.56 - Zoning Administrator: Finally, Section 17.56 would be retitled from Administration to Zoning Administrator, to more accurately reflect its contents. The amendment would update the list of application types subject to zoning administrator approval. It also further updates and fleshes out the procedures for evaluating and hearing proposed modifications to planning permits into three types:

- Substantial conformance – may be approved through the building permit review process.
- Minor modification – generally subject to review and approval by the Zoning Administrator following the procedure set forth in Chapter 17.56.
- Major modification - subject to review and approval by the original decision-making body, whether the Zoning Administrator or the Planning Commission.

Procedures for public notice of Zoning Administrator applications and hearing procedures are also provided along with a cross reference to the appeals process provided in Chapter 17.52 and requirements for reporting decisions to the Planning Commission.

This draft ordinance was provided to the Public Works Director/City Engineer, Building Department, North County Fire Authority and City's Legal Counsel and comments have been incorporated into it.

Finally, no correspondence was received from the public prior to publication of this report. Any comments received after publication will be provided to the Commission separately.

ATTACHMENTS:

A. ~~Draft Resolution 2024-RZ-2~~
~~Exhibit A -Draft ordinance, zoning text amendment~~

B. ~~Redlined copy of proposed zoning text amendments~~

C. Workshop links:
   a. February 22, 2024 (Memorandum to PC) (Minutes)
   b. June 8, 2023 (Memorandum to PC) (Minutes)

See as separate attachments to City Council report of 6/6/24.

Ken Johnson, Senior Planner

John Swiecki, Community Development Director

To the Planning Commission
From: Dana Dillworth
R: Zoning Amendments RZ-2024-1 and RZ-2024- 2
May 9, 2024

Don't pass these changes without asking for further studies to disclose these plans' full impacts.

Where is the map? It didn't print out. I only see text.

Rezone the whole town, with a multiplying, quadrupling effect of housing impacts, including the Brisbane Acres, with no study? No infrastructure studies, no hillside stability studies, no commercial safety set-back rules, no natural rivers assessment, no habitat studies, no nothing?

This cannot be in balance with our General Plan because it is not balanced with the other elements and community goals in our General Plan.

Where are the other city commissions and committees weighing in on quadrupling requirements for their areas of concern? Like more open space and mitigations for environmental impacts requiring native plant plantings, net-zero and solar orientation of buildings, stream setbacks, rainwater systems, etc? How about requirements for recreation and community-building opportunities per capita? Pocket gardens. Where is Open Space being mapped or do we accept 1-foot wide planters for Open Space? Where are the safety features like wildfire suppression zoning? Where's the Art Commission weighing in on 40 square foot walls as an opportunity for art or native plantings vs. fenestration through your ministerial housing-only myopic requirements?

What happened to disclosing known hazards (prior land slides at Kings and Humboldt, Harold, and Old County Road below Tulare) and new conditions of recent slides (Glenn and Buckeye Canyons) that make blanket rezoning unsafe. When do you disclose streets that are unable to handle the quadruple traffic or machinery needed for gouging the hillside?

While these documents incorporate the meetings that were presented to the public as study sessions, the impacts of these changes have never been studied by professionals. If it has been studied, please provide the report and its authors. Public comments both at the planning commission and city council level for housing element revisions included requests for studies for sea-level rise, hill and slope stability, rare and endangered species habitat restoration programs, programs to mitigate loss of solar when your neighbor's project shadows your panels, and review of toxins, should all be incorporated (by reference) into this document, including my recent comments to council about re-zoning Crocker Park and Sierra Point for housing.

Absent full knowledge or disclosure of the safety and environmental issues puts the public at risk. For this reason I object to the use of a Zoning Administrator substituting for an openly, noticed planning meeting process. An assigned regulator cannot know the nuances in this town without you disclosing them at this time. Particularly, the Brisbane Acres requirement of 60% habitat preservation; I don't see the lands contractually dedicated for Open Space mapped properly.

Your admission is that this is piecemeal. Stop. You have further revisions pending which includes unlimited heights… Can we see/study all of the impacts of all the new California laws? CEQA requires us to evaluate future and potential projects. I see no mention here. You have not provided adequate information nor proper studies to continue this zoning plan.

Some other disturbing facts is that his disallows Air b'n b uses. I know this is a contentious issue and represents an unlawful taking to citizens that have abided by the city's onerous regulations and if the intent for this passage is to provide for low- and moderate-income housing… it will not. Focus on that, the city's responsibility to all citizens AND the environment, not undermining the fabric and safety of our town to speculators.

File Attachments for Item:

P. Consider Adoption of Resolution Approving an Agreement for the Purchase and Sale of Vacant City Property in Crocker Park (28,000 square feet +/-) and Authorizing the City Manager to Sign the Agreement and All Other Documents Necessary to Carry Out the Sale

(This action is not subject to further environmental review as it is not a project under the California Environmental Quality Act. CEQA Guidelines, Section 15378 (b) (4).)

CITY COUNCIL AGENDA REPORT

Meeting Date: July 18, 2024

From: Michael Roush, Legal Counsel & Jeremy Dennis, City Manager

Subject: Resolution Approving an Agreement for the Purchase and Sale of Vacant City Property in Crocker Park (28,000 square feet +/-) and Authorizing the City Manager to Sign the Agreement and All Other Documents Necessary to Carry Out the Sale

This action is not subject to further environmental review as it is not a project under the California Environmental Quality Act. CEQA Guidelines, Section 15378 (b) (4).

RECOMMENDATION:

Adopt a Resolution "Approving an Agreement for the Purchase and Sale of Vacant City Property in Crocker Park (28,000 square feet +/-) and Authorizing the City Manager to Sign the Agreement and All Other Documents Necessary to Carry Out the Sale" and provide any direction as to how the funds from this sale should be allocated.

BACKGROUND

The City of Brisbane owns a vacant, landlocked parcel located in Crocker Park. The parcel is approximately 28,000 square feet and adjoins property owned jointly by several entities (Central Los Angeles Transfer, a California Corporation, 501 Spectrum Circle, LLC, and S&S Chambers, LLC, [hereafter, collectively, "Buyers"]). That property, located at 151 West Hill Place is developed and is leased to Pepsi/Frito Lay for distribution vehicle storage. The vacant parcel is part of a former rail spur that the Southern Pacific Railroad sold to the McKesson Corporation. The City acquired the vacant parcel from the McKesson Corporation in 1995 as part of a series of real estate transactions between McKesson and the City that led to the development of Crocker Park.

On February 15, 2024, City Council received an agenda report concerning the potential sale of this parcel. That agenda report is attached. After discussion, Council adopted a resolution declaring the property as surplus land and directing staff to the return the item to the Council when and if there is a potential purchaser of the property.

Staff sent the required notices under the Surplus Lands Act that the property was available to school districts, recreation districts, and affordable housing providers. The City received no interest from any of those districts or housing providers. Staff then contacted representatives of the Buyers to determine if the Buyers still had an interest in acquiring the property. The Buyers were still interested in acquiring the property for the price--$718,250—that the Buyers had

discussed earlier with staff. To that end, the Buyers have signed the attached Agreement for the Purchase and Sale of Real Property ("PSA").

On June 28, 2024, the Planning Commission made findings (resolution attached) that the sale of this property is in conformity with the policies of the General Plan.

Staff recommends City Council adopt the attached resolution approving the sale of the property to the Buyers and authorizing the City Manager to sign the PSA and all other documents necessary to carry out the sale.

DISCUSSION

The salient terms of the PSA are as follows:

The purchase price for the property is $718,250, with $50,000 as a deposit and the remainder paid at close of escrow. The property is sold "AS IS".

Buyers will submit to the Community Development Department an application to improve the property with paving, fencing and lighting. The City's approval of such improvements is a condition of Buyer's purchase.

Other than the property being used as a hiking path and a drainage canal (discussed below), the Grant Deed will restrict the use of the property exclusively for the parking of motor vehicles for the employees at 151 West Hill Place, green space, and access to the building at 151 West Hill Place

Promptly after close of escrow, Buyers will construct on the property a 5-foot-wide hiking path and a 5-foot-wide hiking access path on the property at 151 West Hill Place. Buyers will grant the City easements for these purposes. The City must approve the details of the hiking paths. City will have the responsibility to maintain and repair the hiking paths.

A drainage canal currently exists on the property. Buyers shall grant the City an easement concerning the drainage canal but the Buyers shall be responsible for the regular cleaning, maintenance and repair of the drainage canal.

FISCAL IMPACT

The sale of this property will net the City about $718,000. Council has the discretion to direct how those funds are to be allocated.

ENVIRONMENTAL REVIEW

Adoption of this resolution and the sale of the property do not require further environmental review under the California Environmental Quality Act. The sale represents a government fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment and hence it is not a project. CEQA Guidelines, Section 15378 (b) (4).

Attachments:

1. February 15, 2024 Agenda Report
2. Agreement for Purchase and Sale of Real Property
3. Planning Commission Resolution
4. Resolution 2024-XX approving a PSA and authorizing the City Manager to sign the PSA

Michael Roush, Legal Counsel

Jeremy Dennis, City Manager

CITY COUNCIL AGENDA REPORT

Meeting Date: February 15, 2024

From: Director of Public Works/City Engineer

Subject: Potential Sale of City Parcel APN 005-300-999 (formerly, S.P.R.R. SBE 872-41-23R);

Resolution Declaring that City Parcel is Surplus Land

Community Goal/Result: Economic Development

Purpose

To determine whether there is City Council support to sell vacant and landlocked property in Crocker Park and, if so, to discuss the next steps Council must take concerning the sale of this property.

Recommendation

1. If Council elects to continue with the potential sale of APN 005-300-999;

   Adopt Resolution No. 2024-XX declaring that the property owned by the City, a landlocked, vacant site of approximately 28,000 square feet located in Crocker Park, encumbered by a drainage canal, is surplus land, i.e., not necessary for the City's use, and if there is no interest in any school district, recreation agencies, or affordable housing developers to purchase the property, authorize the City Manager to (a) sell the property at fair market value, including the potential sale to the adjacent property owner, BLT Enterprises, and (b) sign a purchase and sale agreement, in a form as approved by the City Attorney, and authorize the City Clerk to record the necessary documents to effectuate the sale.

   These actions are not subject to further environmental review as they involve general policy making activities of the City Council and hence they are not projects under the California Environmental Quality Act (CEQA). CEQA Guidelines, Section 15378 (b) (2).

2. If Council elects not to proceed with selling the property, provide direction to staff deemed necessary and appropriate

Background

The property that is the subject of this agenda report is located in Crocker Park and is part of a former rail spur that was owned by the Southern Pacific Railroad. The Railroad sold the property to the McKesson Corporation and, in 1995, the McKesson Corporation transferred this property and numerous other properties in the area to the City. The particular parcel that is the subject of this agenda report is highlighted in blue on the included

screenshot from San Mateo County Property Information Portal (pg. 5 of this report).

The next screenshot (pg. 6 of 11) shows the portion of the property that was sold to South Hill Properties (Sheng Kee), as well as the discontinuity in the former rail spur immediately to the west of the land sold. The third screenshot (pg. 7 of 11) shows a wider view of the area in question, and also highlights the parcel that is now under discussion for potential sale.

Recently, BLT Enterprises, which owns property at 151 West Hill Place, which property is immediately adjacent to the parcel under discussion, made inquiry of City staff about its purchasing this parcel. Several issues dominated staff's review of this request and subsequent conversations with Council; first, was the examination of any future "best" uses for this parcel, e.g., use of the property for access to San Bruno Mountain; second, the presence of existing city storm drain facilities on the parcel; and third, what level of development would be permitted on the parcel were it sold.

Discussion

The question on future best uses for this parcel was focused primarily on its potential use for access to San Bruno Mountain. As seen in the attached "Vicinity 201 South Hill" photo (pg. 6 of 11), this parcel dead-ends at 201 South Hill, and currently does not provide any potential for future access to the Mountain. In its letter of intent to purchase this property, the adjacent property owner states that it will provide an easement on the property for the purpose of providing public access.

The second issue considered during review of this request was the City's storm drain facilities. This matter would be resolved by requiring any purchaser to grant the City an easement for its storm drain facilities on the property, and the owner's agreement to maintain the storm drain facilities, including providing permission for the city to inspect the owner's compliance with the agreed upon duty to maintain the vee ditch. Those commitments are also set forth in the letter of intent.

Third was the City Council's concern about future development of the property. The property owner's letter of intent states that a covenant would be recorded to restrict the use of the property (other than for the public trail and the storm drain facilities) to parking for and access to the building on the adjacent property (which now houses a Frito-Lay facility).

Given these commitments from BLT Enterprises—which commitments would be embodied in a written purchase agreement—if Council wishes to proceed with the potential sale of the property, set forth below are the next steps, with the understanding, explained below, that the Council's agreeing to proceed with the sale does not necessarily mean the property will be sold to BLT Enterprises.

Next Steps

Compliance with the Surplus Land Act.

The Surplus Land Act (Government Code, section 54220 and following) increases the availability of land held by public agencies for use in creating housing for low/moderate income families, for recreational or school district purposes, and for clustered housing/commercial development near transit stations. The parcel under discussion is not near a transit station, and its 44-foot width is encumbered by a 15' vee ditch easement that makes it likely unsuitable for any housing. Both its small size and its inaccessibility due to being surrounded on all four sides by lands of others also makes it likely unsuitable for recreation or school district purposes.

Notwithstanding its inapplicability to the intent of the Act, there is no express exemption that the Act does not apply and, therefore, prior to selling the land, the City is required to make a finding at a regular public meeting that the land is not necessary for the City's use, which the Act defines as "surplus land." Then the City must provide notice of the availability of the parcel to school districts, recreation agencies and affordable housing developers. (The State maintains a list of such developers.)

Approval of Resolution No. 2024-xx will satisfy the requirements of the Act

Final negotiations with a purchasing party

If there is no interest in any of the public agencies or affordable housing developers in purchasing the property at a price that the City Council deems fair, the City may then enter into negotiations to determine a mutually satisfactory sales price with a third party, such as BLT Enterprises. (BLT's letter of intent includes a purchase price of $718,250.) Based on the unsuitability of the parcel for housing or school purposes, and with no existing/planned trail on the San Bruno Mountain State and County Park trail map within 1/4- 1/2 mile of the western terminus of the parcel, staff does not anticipate receiving offers from affordable housing developers, the County of San Mateo, or school districts. Assuming that is the case, Council action tonight includes authority for the City Manager to enter into a purchase agreement and any other documents necessary to carry out the sale. If a purchase agreement and related documents are entered into with BLT, such agreement must be consistent with BLT's letter of intent, and in a final form as approved by the City Attorney.

Conformity with the City's General Plan and Sale of the Property

If there is a purchase agreement, before the property may be sold, the Planning Commission must find that the sale is consistent with the City's General Plan. Any decision of the Planning Commission could be appealed to the City Council. Such an item would not be presented either to the Planning Commission or to the City Council (on appeal) until there is a signed purchase agreement and, of course, the sale would be contingent on the finding of the sale's conformity

with the General Plan.

Fiscal Impact

If the property is eventually sold as provided in the letter of intent, there would be one time revenue of approximately $718,000. Council will have the discretion to direct this money's placement into whatever account or accounts it deems appropriate. If the City were to receive offers from a school district, recreation agency or an affordable housing developer, the item would be returned to Council for further consideration of such offer.

Environmental Review

These actions are not subject to further environmental review because the actions are general policy making activities and hence they are not projects under the California Environmental Quality Act (CEQA). CEQA Guidelines, section 15378 (b) (2).

Measure of Success

If Council directs staff to move forward with the sale, in the future, City Council has directed that proceeds will be used for open space acquisition and open space habitat management.

Attachments

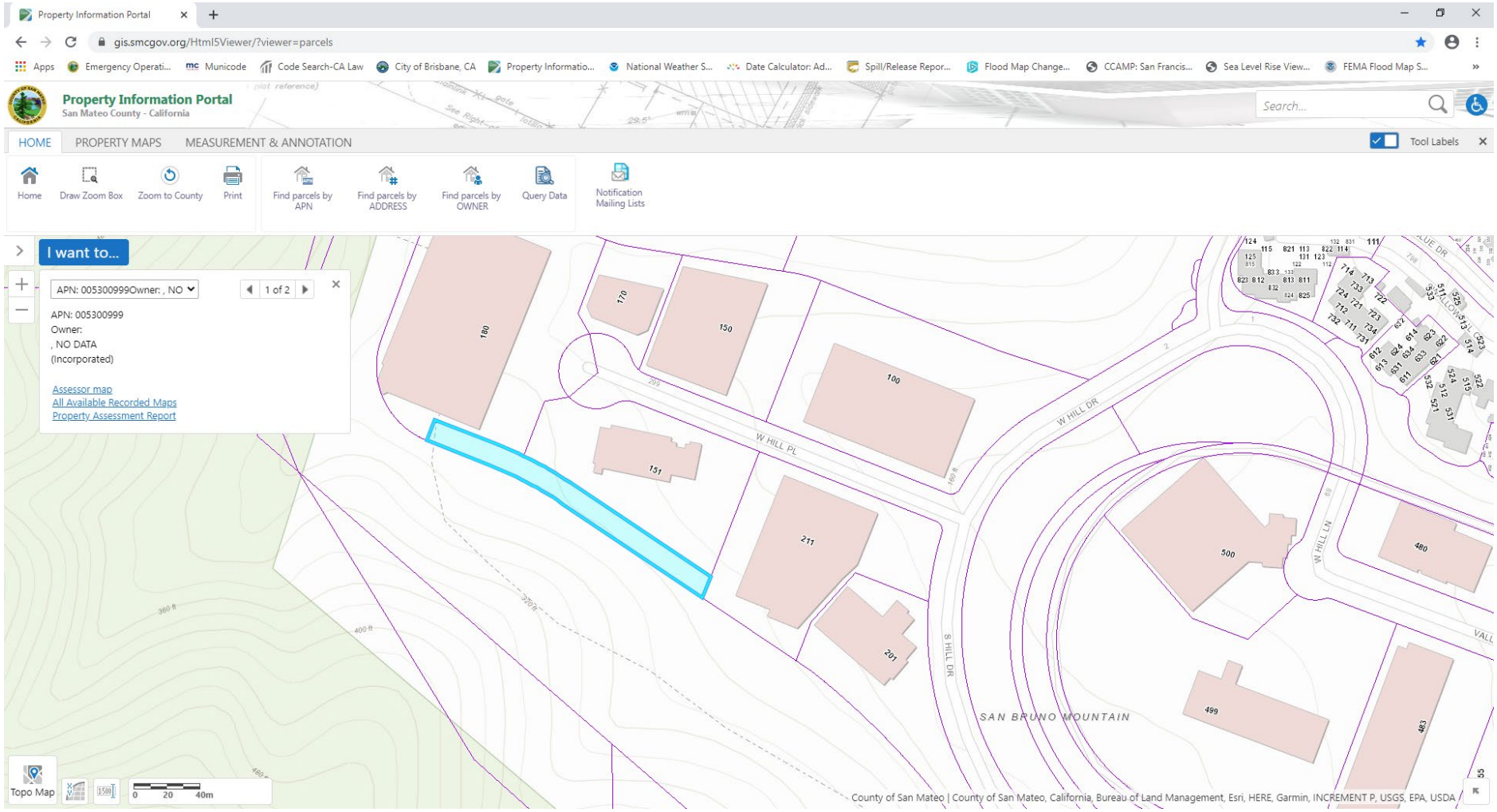
1. Screenshot from San Mateo County Property Information Portal [pg. 5 of 11]
2. Orthodigital view from 201 South Hill sale [pg. 6 of 11]
3. Orthodigital view highlighting requested sale to 151 West Hill Place [pg. 7 of 11]
4. Resolution declaring property surplus land and providing authority to the City Manager to carry out the sale

R.L. Breault

Randy Breault, Public Works Director

Clay Holstine, City Manager

P.



- City owned parcel shown in blue
- BLT parcel at 151 West Hill Place
- Discontinuity in trail spur shown at 211 South Hill Drive
- Sheng Kee (now owning former city railroad spur) at 201 South Hill

316

Vicinity 201 South Hill

P.

6 of 11

0 20 40 80 Feet

City of Bellevue
For Planning Purposes Only
Obtain a Registered Survey for Accurate Information

317

7 of 11

P.

Vicinity 201 South Hill-wider view

0 50 100 200 Feet

City of Brisbane
For Planning Purposes Only

BRISBANE CITY COUNCIL RESOLUTION NO. 2024-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE DECLARING CERTAIN PROPERTY IT OWNS AS SURPLUS LAND AND AUTHORIZING THE CITY MANAGER TO TAKE ALL NECESSARY STEPS TO DISPOSE OF THE PROPERTY CONSISTENT WITH THIS RESOLUTION

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, BLT Enterprises also owns property within Crocker Park and approximately 28,000 square feet of City owned property lies immediately adjacent to the BLT Enterprises property; and

Whereas, BLT Enterprises 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 BLT Enterprises solely for the parking of vehicles for, and access to the building for, employees of the business located on the BLT Enterprises property; and

Whereas, there is a drainage canal on the property and BLT Enterprises has indicated that if the City sells the property to it, it would grant the City an easement for such canal, and maintain the drainage canal in perpetuity; and

Whereas, BLT Enterprises has also indicated that it will grant the City an easement on the property to be sold for the purpose of providing a public access that would connect to the eastern boundary of San Bruno Mountain State and County Park; and

Whereas, BLT Enterprises has also indicated that by written and recorded instrument it would restrict the use of the property sold to it for parking for, and access to, the building on the property that BLT owns; 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 BLT Enterprises, should the property be sold to it, would grant the City an easement for the drainage canal on the property, maintain the drainage canal on the property in perpetuity, grant the City an easement for the purpose of providing a public hiking trail that would connect to the eastern boundary of San Bruno Mountain State and County Park, and would restrict the use of the property sold to it for the parking of vehicles by persons using the

building on adjacent property owned by BLT Enterprises; 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 by those districts, recreation agencies and affordable housing developers who receive such notice, and (c) participate in negotiations to dispose of the property should there be no interest by those school districts, recreation agencies or affordable housing developers or, if there is such interest, no agreement as to the property's disposition is reached.

Section 2. If the surplus land is not sold to a school district, a recreation agency or an affordable housing developer, the City Manager is authorized to take all necessary steps and to sign all necessary documents to sell the property at fair market value, including entering into a purchase agreement to dispose of the surplus land consistent with the terms and conditions of the letter of intent dated January 23, 2024 submitted by BLT Enterprises, when the purchase agreement and any documents required by the purchase agreement are approved in final form by the City Attorney.

Section 3. Should a purchase agreement be executed, once all its conditions have been satisfied, the City Clerk is authorized to record all documents to carry out the purpose of the purchase agreement.

Section 4. This Resolution shall become effective immediately upon its adoption.

_____
Terry O'Connell, Mayor

* * * *

I hereby certify that the foregoing Resolution No. 2024-XX was duly and regularly adopted at a regular meeting of the Brisbane City Council on February 15, 2024 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

_____
Ingrid Padilla, City Clerk

Approved as to form:

_____
Thomas R. McMorrow, City Attorney

EXHIBIT 1

P.

5-30

TAX CODE AREA

26

PARCEL A

PARCEL 2

PARCEL 3

PARCEL B

WEST HILL

PLACE

DRIVE

SOUTH HILL DRIVE

ST. ASSESSED W/ 005-290-160

300

PARCEL A

PARCEL B

PARCEL 1

LOT 1

29

S. P. R. R. SBE 872-41-23 R

CROCKER INDUSTRIAL PARK UNIT NO. 3 RSM 68 32-35

1 PARCEL MAP VOL. 42/57

2 PARCEL MAP VOL. 21/11

3 PARCEL MAP VOL. 12/7

4 PARCEL MAP VOL. 8/13

5 CROCKER INDUSTRIAL PARK UNIT NO. 3 RSM 68 32-35

1" = 100'

AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY

AND

ESCROW INSTRUCTIONS

FOR OFFICE USE ONLY:
TO: Escrow Holder:

_____

RE: Escrow No. _____

Date of Opening of Escrow: _____ Closing Date By: _____

This Agreement for Purchase and Sale of Real Property and Escrow Instructions (the "**Agreement**"), dated as of the latest date of execution shown on the signature page hereto (the "**Effective Date**"), by and between **CITY OF BRISBANE**, a municipal corporation ("**SELLER**"), and **CENTRAL LOS ANGELES TRANSFER**, a California corporation ("**CLAT BUYER**"), as to an undivided 62.40% interest, **501 SPECTRUM CIRCLE, LLC**, a California limited liability company ("**501 SPECTRUM BUYER**"), as to an undivided 32.02% interest, and **S&S CHAMBERS LLC**, a California limited liability company ("**S&S CHAMBERS BUYER**," and collectively with CLAT BUYER and 501 SPECTRUM BUYER,"**BUYER**"), as to an undivided 5.58% interest, as tenants in common, with reference to the following:

RECITALS:

SELLER is the owner of a fee estate in approximately 28,019.22 square feet of land located in the City of Brisbane, County of San Mateo, State of California, the legal description of which is described in **Exhibit A** attached hereto and by this reference incorporated herein, together with all rights and easements appurtenant thereto, all improvements located thereon (the "**Improvements**"), all equipment, machinery, furniture, furnishings, trade fixtures, supplies and other tangible personal property owned by SELLER, now or hereafter located in and used exclusively in connection with the operation, ownership, maintenance or management of the real property (the "**Tangible Personal Property**"), (a) those contracts, agreements, plans and specifications, warranties, guaranties, licenses, permits, entitlements, governmental approvals and certificates of occupancy that specifically relate to the real property (collectively, the "**Intangible Personal Property**"), (each individually, and collectively, the **"Property**"); and

SELLER desires to sell the Property to BUYER and BUYER desires to purchase the Property from SELLER, all on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, with reference to the foregoing Recitals which are incorporated herein by this reference, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

I. PURCHASE AND SALE OF PROPERTY; PURCHASE PRICE

Subject to the terms and conditions of this Agreement, SELLER agrees to sell to BUYER, and BUYER agrees to purchase from SELLER, the Property for a purchase price (the "**Purchase Price**") of Seven Hundred Eighteen Thousand Two Hundred Fifty Dollars ($718, 250), payable in cash upon the Closing (as defined below). BUYER acknowledges that prior to the expiration of the Inspection Period (as defined below), BUYER shall have inspected and examined all factors concerning the Property and hereby affirms that the Purchase Price paid at Closing shall reflect an "AS IS" condition of the Property. Upon the close of Escrow (defined in Section 2.1 below), BUYER shall conclusively be deemed to have released SELLER from all responsibility relating to the Property, and to have accepted the Property in its condition, "AS IS," without warranty express or implied, except as provided in Article IX and any warranty contained in the deed to be provided by SELLER at Closing.

II. OPENING OF ESCROW; DEPOSIT

2.1 Opening of Escrow

Within five (5) business days after the execution of this Agreement by BUYER and SELLER, an executed original of this Agreement shall be deposited with Chicago Title Insurance Company, Attn: Mike Slinger ("**Escrow Holder**") in order to open an escrow (the "**Escrow**") to complete the purchase and sale herein contemplated. By such deposit, Escrow Holder is hereby authorized and instructed to act in accordance with the provisions of this Agreement which shall constitute Escrow Holder's Escrow Instructions.

Escrow shall be deemed to have been opened on the date that a fully-executed original of this Agreement is received by Escrow Holder (the "**Opening of Escrow**") and, upon receipt thereof, Escrow Holder shall advise BUYER and SELLER of said date. In addition, BUYER and SELLER agree to execute, deliver and be bound by any reasonable or customary supplemental escrow instructions of Escrow Holder or other instruments as may be reasonably required by Escrow Holder in order to consummate the transaction contemplated herein.

2.2 Deposit by BUYER

Concurrently with Opening of Escrow, BUYER shall deposit with Escrow Holder an earnest money deposit by wire transfer in the amount of Fifty Thousand Dollars ($50,000) (the "**Escrow Deposit**"), which Escrow Deposit shall be applicable to the Purchase Price upon the Closing (as defined below).

2.3 Independent Contract Consideration

In addition to the Escrow Deposit, BUYER shall, concurrent with its delivery of the Escrow Deposit, deliver to Escrow Holder, by check or wire transfer, the amount of ONE HUNDRED AND NO/100 DOLLARS ($100.00) (the "**Independent Contract Consideration**"), which amount SELLER and BUYER agree has been bargained for as consideration for SELLER's execution and delivery of this Agreement and BUYER's right to inspect the Property, pursuant to Section 4.2 hereof. Additionally, to the extent that this Agreement is construed as an option agreement, such option granted BUYER is, as a result of BUYER's payment of the Independent Contract Consideration, irrevocable, and SELLER shall not terminate said option without the prior written consent of BUYER. The Independent Contract Consideration is in addition to, and independent of, any other consideration or payment provided for in this Agreement and is non-refundable in all events. Escrow Holder shall forward the Independent Contract Consideration to SELLER upon the earlier to occur of (i) the Closing, (ii) termination of this Agreement by either party hereto, or (iii) request by SELLER. Notwithstanding anything contained in this Agreement to the contrary, at the

Closing, BUYER shall receive a credit against the Purchase Price for the Independent Contract Consideration.

III. TERMINATION OF AGREEMENT; CANCELLATION OF ESCROW

3.1 Termination and Cancellation

If BUYER disapproves any condition referred to in this Agreement within the applicable time period and in the manner set forth in this Agreement, all obligations of the parties under this Agreement shall terminate and neither party shall have any further obligation to the other under this Agreement (except that BUYER's indemnity of SELLER, as set forth in Section 4.2 below, shall continue in full force and effect). In such event, Escrow Holder shall return all funds (after deducting its charges, if its charges are to be borne by the party depositing such funds) and documents then in Escrow to the party depositing same, and each party shall promptly return all documents in the possession of such party to the other party. If Escrow fails to close due to a breach of this Agreement by SELLER, SELLER agrees to promptly direct Escrow Holder to return the Escrow Deposit to BUYER.

3.2 Liquidated Damages

BUYER AND SELLER AGREE THAT IF BUYER FAILS TO PERFORM THE OBLIGATIONS AND RESPONSIBILITIES AS AND WHEN REQUIRED BY THIS AGREEMENT, SUCH FAILURE SHALL CONSTITUTE A MATERIAL DEFAULT BY BUYER AND SHALL VEST IN SELLER THE RIGHT TO TERMINATE THIS AGREEMENT AND THE ESCROW BY GIVING WRITTEN NOTICE OF TERMINATION TO BUYER AND ESCROW HOLDER. IN THE EVENT OF SUCH TERMINATION, BUYER AND SELLER AGREE THAT THE ACTUAL DAMAGES WHICH SELLER WOULD SUFFER AS A RESULT OF BUYER'S DEFAULT ARE EXTREMELY DIFFICULT AND IMPRACTICAL TO ASCERTAIN INASMUCH AS IT IS DIFFICULT TO EVALUATE THE DAMAGES TO SELLER TO BE INCURRED BY TAKING THE PROPERTY OFF THE MARKET PURSUANT TO THIS AGREEMENT. THEREFORE, BUYER AND SELLER AGREE THAT BUYER'S ESCROW DEPOSIT REPRESENTS A REASONABLE ESTIMATE AS TO THE AMOUNT OF SUCH DAMAGES AND SELLER SHALL BE ENTITLED TO RECEIVE AND RETAIN THE ESCROW DEPOSIT AS LIQUIDATED DAMAGES WHICH SHALL BE IN LIEU OF ALL OTHER DAMAGES OR REMEDIES THAT OTHERWISE WOULD BE AVAILABLE TO SELLER, IF BUYER FAILS TO CLOSE THE ESCROW ON ACCOUNT OF BUYER'S BREACH OF THIS AGREEMENT. IF SELLER DEFAULTS UNDER THIS AGREEMENT, BUYER'S SOLE REMEDY SHALL BE THE CHOICE OF EITHER: (A) TO TERMINATE THIS AGREEMENT, IN WHICH EVENT, BUYER SHALL BE ENTITLED TO THE RETURN OF THE ESCROW DEPOSIT AND SELLER SHALL REIMBURSE TO BUYER ITS ACTUAL, DOCUMENTED OUT OF POCKET COSTS AND EXPENSES INCURRED IN CONNECTION WITH THIS TRANSACTION, INCLUDING SPECIFICALLY WITHOUT LIMITATIONS ALL COSTS AND EXPENSES INCURRED BY BUYER IN PERFORMING THE PROPERTY ACTIVITIES DEFINED IN THAT CERTAIN SITE ACCESS AND INDEMNIFICATION AGREEMENT BETWEEN THE PARTIES DATED APRIL 14, 2020; OR (B) THE RIGHT OF SPECIFIC PERFORMANCE. BUYER SHALL HAVE NO RIGHT TO SEEK ANY TYPE OF DAMAGES. BUYER AND SELLER, BY THEIR INITIALS BELOW, HEREBY SPECIFICALLY APPROVE AND AGREE TO THIS SECTION.

LH
BUYER's Initials

_____
SELLER's Initials

IV. CONDITIONS PRECEDENT TO BUYER'S PERFORMANCE

BUYER's obligation to purchase the Property is subject to the satisfaction of all the conditions set forth below within the time periods specified. If any of these conditions are not satisfied within the stated applicable time period, BUYER may terminate this Agreement and cancel the Escrow under Section 3.1 above and the Escrow Deposit shall be immediately returned to BUYER. BUYER may waive, in writing, any or all of the conditions, in whole or in part, without prior notice to SELLER.

4.1 Approval of Title and Survey. SELLER shall: cause Escrow Holder to furnish BUYER a title commitment for the Property (the "**Commitment**"), accompanied by copies of all documents of record referred to in such commitment. BUYER shall arrange for a survey of the Property (the "**Survey**") at BUYER's cost. The Commitment, documents of record and Survey BUYER are collectively referred to herein as the "**Title Due Diligence Items**." BUYER shall order the Title Commitment from Escrow Holder within five (5) business days after execution of this Agreement."

4.1.1. BUYER shall have until 11:59 p.m. on the day that is five (5) business days prior to the expiration of the Inspection Period (as defined in Section 4.2, below) (the "**Title/Survey Review Date**") to examine the Title Due Diligence Items. In the event BUYER is not satisfied with any survey or title matters, BUYER shall, on or prior to the Title/Survey Review Date, notify SELLER in writing (the "**Objection Notice**") specifying any objections to matters disclosed by the Title Due Diligence Items (collectively, the "**Objections**"). If BUYER fails to deliver the Objection Notice on or before the Title/Survey Review Date, BUYER shall be deemed to have waived any objection to those matters disclosed by the Title Due Diligence Items and all such matters shall thereupon be deemed to be Permitted Exceptions (as defined below). SELLER shall have until 5:00 p.m. on the date of the third (3rd) business day following the Objection Notice to give BUYER written notice ("**SELLER's Title Response**") as to whether SELLER elects to use commercially reasonable efforts to cure the Objections. If SELLER fails to timely give SELLER's Title Response, SELLER shall be deemed to have elected not to attempt to cure the Objections. If SELLER elects or is deemed to have elected not to attempt to cure any one or more of the Objections (the "**Non-Cure Objections**"), then, with respect thereto, BUYER shall deliver written notice to SELLER and Escrow Holder (the "**Title Notice**") on or before the end of the Inspection Period (as defined below) electing to either: (i) proceed to Closing and accept the title to the Property "as-is" subject to such Non-Cure Objections (which shall thereupon be deemed to be Permitted Exceptions), without adjustment to the Purchase Price; or (ii) terminate this Agreement prior to the expiration of the Inspection Period in accordance with Section 4.2, below, whereupon the Escrow Deposit shall be returned promptly to the BUYER and the parties hereto shall have no further liability hereunder except for any obligations that expressly survive the termination of this Agreement in accordance with the terms hereof. Notwithstanding the foregoing, SELLER shall remove on or before Closing (but may use proceeds from Closing do to so) any and all mortgages on the Property, any notice of lis pendens and any and all mechanic lien claims on the Property.

4.1.2 The Property shall be conveyed subject to the following matters, which are hereinafter referred to as the "**Permitted Exceptions**": (a) those matters that either are not objected to in writing within the time periods provided in Sections 4.1.1 or if objected to in writing by BUYER, are those which SELLER has elected not to remove or cure, or has been unable to remove or cure, and subject to which BUYER has elected or is deemed to have elected to accept the conveyance of the Property; (b) the lien of all ad valorem real estate taxes and assessments not yet due and payable as of the date of Closing (as defined in Section 8.1), subject to adjustment as herein provided; and (c) local, state and federal laws, ordinances or governmental regulations, including but not limited to, building and zoning laws, ordinances and regulations, now or hereafter in effect relating to the Property. For the avoidance of doubt, "Permitted Exceptions" will be deemed to exclude all mortgages, notices of lis pendens and mechanics' liens.

4.2 Inspection Period

For a period of ***Forty-Five (45) days*** from the date of this Agreement, SELLER grants to BUYER, its employees and agents a limited license to enter on the Property, so long as the activities do not damage the Property or materially interfere with the operations of the Property, to conduct reasonable inspections and tests, as may be necessary or desirable in BUYER's sole judgment and discretion, to inspect all aspects of the physical condition of the Property, including, but not limited to: roof, structural, engineering, sprinkler and fire control, condition of the soil, electrical, heating and air conditioning, presence of hazardous materials, water, sewer and plumbing (the "**Inspection Period**").

BUYER agrees that the Property shall be kept free and clear of all mechanics' and materialmens' liens arising out of any activities by BUYER. BUYER agrees to repair any damage to the Property caused by its inspection thereof, and BUYER shall indemnify, defend and hold SELLER harmless against all claims, losses, liabilities, damages or expenses (including, without limitation, attorneys' fees) which may arise from or be related to BUYER's inspection of the Property; provided, that the foregoing indemnity expressly excludes (i) the mere discovery of any condition of the Property existing as of the Effective Date except to the extent BUYER exacerbates any such condition, and (ii) Claims arising as a result of SELLER's negligence.

If for any reason whatsoever in BUYER's sole and absolute judgment BUYER determines that the Property or any aspect thereof is unsuitable for BUYER's acquisition, BUYER shall have the right to terminate this Agreement. **If BUYER fails, for any or no reason, to give SELLER written notice waiving such termination right (the "Waiver Notice") prior to 5:00 p.m. on the last day of the Inspection Period, then this Contract shall be deemed automatically terminated**. If BUYER fails to deliver a Waiver Notice, the parties hereto shall thereupon be relieved of all liabilities and obligations hereunder and the Escrow Deposit and all interest accrued thereon must be refunded fully and promptly to BUYER.

4.3 Delivery of Documents

SELLER shall have executed, acknowledged (if required) and delivered all documents and instruments required of SELLER to Escrow Holder, as provided in this Agreement.

4.5 Approval of BUYER's Proposed Improvements

BUYER has or will submit to the appropriate departments within SELLER (i.e., Planning Department and Building and Safety) an application to improve some or all of the Property with paving, fencing and lighting (the "**Proposed Improvements**"). All costs and expenses with respect to the application for the Proposed Improvements shall be at BUYER's sole cost and expense, without reimbursement from SELLER for any reason. If SELLER is not ready to issue permits for the Proposed Improvements within five (5) days of the scheduled Closing, BUYER shall have the option to extend the Closing by an additional one hundred twenty (120) days (the "**Extension Period**") upon written notice to SELLER at least three (3) days prior to the Closing. In the event SELLER is not ready to issue permits for the Proposed Improvements by the end of the Extension Period, BUYER shall have the option to terminate this Agreement in accordance with the provisions of Section 3.1 above.

4.6 Service Contracts

SELLER shall, at SELLER's sole cost and expense, terminate all other Service Contracts (including any property management agreement affecting the Property) effective as of the Closing Date.

V. CONDITION OF "AS IS" PROPERTY

To the maximum extent permitted by applicable law and except for SELLER's representations and warranties in Article IX hereof and any warranty contained in the deed to be provided by SELLER at Closing, BUYER acknowledges that BUYER is purchasing the Property on an "AS IS" basis, with all faults and problems of any kind and nature, known or unknown, patent or latent, of a physical or legal concern, or otherwise; that the Purchase Price reflects the existing condition of the Property and that any damage or detriment BUYER may suffer by reason thereof is fully compensated for by the Purchase Price. BUYER acknowledges that SELLER's duty to maintain the Property to the Closing (as defined below) shall be to the extent and in the manner consistent with SELLER's current practices.

VI. SUBDIVISION

If subdivision and platting of the Property will be necessary to properly convey the Property or establish a separate tax parcel, SELLER shall promptly initiate subdivision and platting proceedings with respect to the Property and proceed diligently to cause such proceedings to be completed prior to the Closing, at SELLER's sole cost and expense.

VII. CONDITIONS PRECEDENT TO SELLER'S PERFORMANCE

SELLER's obligation to sell the Property is subject to the satisfaction of all the conditions set forth below, within the time periods specified. SELLER may waive, in writing, any or all of the conditions, in whole or in part, without prior notice to BUYER.

7.1 Delivery of Documents

BUYER shall have executed, acknowledged (if required) and delivered all monies, documents and instruments to Escrow Holder, as provided in this Agreement, including (but not limited to) counterparts, if any, of all documents identified in Section 8.6, below.

7.2 Approvals by BUYER

BUYER shall have timely approved or waived the conditions to BUYER's performance, as described in Article IV above.

VIII. CLOSING OF ESCROW

8.1 Closing Date

As a material part of the consideration for BUYER's execution of this Agreement, SELLER hereby agrees that Escrow shall close on or before the date that is fifteen (15) days after the expiration of the Inspection Period or such other date as may be agreed between BUYER and SELLER (the "**Closing**"). The Closing Date may be extended in accordance with the terms of Section 4.5 above.

8.2 Demands

Escrow Holder is hereby authorized and instructed to (a) obtain demands for payment of any recorded liens against the Property and (b) to pay such demands and secure the release of such liens at the Closing out of the funds deposited into Escrow by SELLER or BUYER.

8.3 Allocation of Costs and Expenses

The expenses of Escrow Holder and costs and expenses of consummating the transaction contemplated in this Agreement shall be paid in the following manner:

8.3.1 By BUYER

BUYER shall pay (a) the costs of the Owner's Policy of Title Insurance, including all of the costs associated with endorsements to, and deletions from the Owner's Policy of Title Insurance referred to in Section 8.7 below; (b) the cost of recording SELLER's deed of conveyance to BUYER; (c) the cost of recording any instrument related to BUYER's financing, if any; (d) real property taxes, assessments and personal property taxes as prorated based upon the most recent tax information; (e) the Escrow Holder's fee; and (f) the costs incurred by BUYER to update and modify the Survey.

8.3.2 By SELLER

SELLER shall pay (a) any stamp, conveyance, deed transfer or similar tax calculated based the amount of the Purchase Price; and (b) any other expense associated with the Property to the date of Closing.

8.3.3 Any other costs or expenses shall be allocated between and charged to BUYER and SELLER in accordance with local custom.

8.3.4 If any errors or omissions are made regarding adjustments and prorations as aforesaid, the parties shall make the appropriate corrections promptly upon the discovery thereof. If any estimations are made at the Closing regarding adjustments or prorations, the parties shall make the appropriate correction promptly when accurate information becomes available. Any corrected adjustment or proration shall be paid in cash to the party entitled thereto.

8.4 Allocation of Costs If Escrow Fails To Close

In the event Escrow fails to close because of the failure of BUYER to comply with its obligations hereunder, the cost of the Commitment and any Escrow cancellation charges shall be paid by BUYER. In the event Escrow fails to close because of the failure of SELLER to comply with its obligations hereunder, such costs shall be paid by SELLER. In the event Escrow shall fail to close for any other reason, such costs shall be divided equally between the parties.

8.5 Deposits by BUYER Into Escrow

At least one (1) business day prior to the Closing, BUYER shall deposit with Escrow Holder the balance of the Purchase Price in funds acceptable to Escrow Holder for immediate credit towards payment of the Purchase Price, and any additional funds or documents as may be necessary to comply with this Agreement. BUYER shall also deposit with Escrow Holder at least one (1) business day prior to the Closing (a) the Easement Agreement in the form of attached **Exhibit F** and (b) a separate Easement Agreement granting SELLER access to the Drainage Canal in the form of attached **Exhibit G**.

8.6 Deposits by SELLER Into Escrow

At least three (3) business days prior to the Closing, SELLER shall deposit with Escrow Holder the following items:

8.6.1 The grant deed sufficient to convey the Property to BUYER, duly executed, acknowledged in substantively the form attached hereto as **Exhibit C** ("**Deed**"), revised as necessary to be in recordable form;

8.6.2 A duly executed certificate of SELLER (the "**SELLER's Closing Certificate**") updating the representations and warranties contained in Article IX hereof in the form attached hereto as **Exhibit D**;

8.6.3 An affidavit which satisfies the requirements of Section 1445 of the Internal Revenue Code, as amended (the "**FIRPTA Affidavit**") for the Property in the form attached hereto as **Exhibit E**;

8.6.4 The Easement Agreements in the form of attached **Exhibit F and Exhibit G**;

8.6.5 A title affidavit of SELLER regarding liens, judgments, parties in possession and mechanics' or materialmens' liens and other customary matters affecting title to the Property in form reasonably satisfactory to Escrow Holder;

8.6.6 All books and records relating to the use, occupancy, and maintenance of the Property, if any;

8.6.7 Fully executed counterparts of an agreed upon closing and proration statement (the "**Closing Statement**");

8.6.8 Such other instruments and documents as may be reasonably requested by Escrow Holder or BUYER and are reasonably required to transfer the Property to BUYER in accordance with this Agreement.

8.7 Policy of Title Insurance

At the Closing, Escrow Holder shall deliver to BUYER an ALTA 2006 extended Owner's Policy of Title Insurance (the "**Policy of Title Insurance**") in the amount of the Purchase Price insuring title vested in BUYER as of the date of Closing, free of encumbrances, subject only to the Permitted Exceptions, with full extended coverage over all general exceptions, and containing, if available, an endorsement insuring against violations of state or local subdivision laws or ordinances and such other endorsements as BUYER may reasonably require.

8.8 Disbursement and Other Actions By Escrow Holder

Upon the Closing, Escrow Holder shall promptly undertake all of the following in the manner herein below indicated:

8.8.1 Cause the Deed and the Easement Agreements and any other instruments which the parties so direct to be recorded in the Official Records of the county and state governing the Property.

8.8.2 Disburse all funds deposited with Escrow Holder by BUYER in payment of the Purchase Price for the Property as follows:

A) Deduct therefrom all items chargeable to the account of SELLER pursuant hereto;

B) The remaining balance of the funds so deposited by or for the account of BUYER shall be disbursed to SELLER promptly upon the Closing.

8.8.3 Deliver the Policy of Title Insurance to BUYER;

IX. REPRESENTATIONS AND WARRANTIES OF SELLER

9.1 Operating Covenants.

Prior to the Closing, SELLER shall keep and maintain the Property in a manner consistent with its current practices and applicable legal requirements, and shall not, without the prior written consent of BUYER (not to be unreasonably withheld or delayed), do any of the following with respect to the Property:

(a) Enter into any lease or other contract that will not be fully performed by SELLER on or before the Closing Date.

(b) Sell, assign or create any right, title or interest whatsoever in or to the Property (including any so called "back-up contract) or create or permit to exist any lien, encumbrance or charge thereon, other than liens or encumbrances noted in the Title Commitment.

(c) Take any action, or omit to take any action, which action or omission would have the effect of violating any of the representations and warranties of SELLER contained in the contract.

(d) Rezone, plat, restrict or encumber, or permit to be rezoned, platted, restricted or encumbered, any portion of the Property; grant any licenses, easements, or other uses affecting any portion of the Property; permit any mechanic's or materialmen's lien to attach to any portion of the Property; place or permit to be placed on, or remove or permit to be removed from, the Property any buildings, structures or other improvements of any kind; or excavate or permit the excavation of the Property or any portion thereof.

9.2 SELLER Representations.

SELLER represents and warrants to BUYER as follows, which representations and warranties shall be deemed to have been remade on the Closing Date that, to the best of SELLER's knowledge:

(a) No Litigation. SELLER has received no summons regarding, and there is no litigation pending or threatened, against the Property or SELLER's interest therein, including, without limitation, proceedings for or involving collections, condemnation, eminent domain, alleged environmental or zoning violations, or personal injuries or property damage alleged to have occurred on the Property or by reason of the condition, use of, or operations on, the Property.

(b) Zoning. There are no pending or threatened requests, applications or proceedings to alter or restrict the zoning or other use restrictions applicable to the Property.

(c) Eminent Domain. There is no pending or threatened condemnation or eminent domain proceeding against the Property.

(d) Bankruptcy or Debt of SELLER. SELLER has not made a general assignment for the benefit of creditors, filed any voluntary petition in bankruptcy or received written notice of any threatened filing of an involuntary petition by SELLER's creditors or appointment of a receiver to take possession of all, or substantially all, of SELLER's assets.

(e) Hazardous Substances. SELLER has received no written notice from any governmental authority that there is any Hazardous Material present at the Property in violation of any Environmental Laws, and has no knowledge of Hazardous Material present on the Property. "**Hazardous Material**" shall mean and include, without limitation: (i) those substances included within the definitions of "hazardous substances", "hazardous waste", "toxic substances", "contaminants", and/or "pollutants" in any Environmental Law; and (ii) any material, waste, or substance, which is or contains asbestos, polychlorinated biphenyls, petroleum and its derivative by products, and/or any other explosive or radioactive materials. "**Environmental Law**" shall mean any federal, state, or local law, statute, ordinance, rule, or regulation pertaining to health, industrial hygiene, or the environmental conditions on or under the Property, or relating to releases, discharges, emissions, or disposals to air, water, soil, or ground water, or relating to the withdrawal or use of ground water, or relating to the use, handling, or disposal of polychlorinated biphenyls, asbestos, or urea formaldehyde, or relating to the treatment, transportation, disposal, storage, or management of Hazardous Materials (defined hereinafter), including, without limitation, the Comprehensive Environmental Response Compensation, and Liability Act of 1980, as amended, and the Resource Conservation and Recovery Act of 1976, as amended, and all rules, and regulations, published pursuant thereto or promulgated thereunder.

(f) Authority. This Agreement and all agreements, instruments and documents herein provided to be executed by SELLER are duly authorized, executed and delivered by and binding upon SELLER in accordance with their terms. SELLER has the legal power, right and authority to enter into this Agreement and consummate the transactions contemplated hereby.

(g) Requisite Action. All requisite action (corporate, trust, partnership or otherwise) has been taken or obtained by SELLER in connection with the entering into this Agreement and the consummation of the transactions contemplated hereby, or shall have been taken prior to the Closing Date.

The representations and warranties made in this Article IX by SELLER will not merge into any instrument or conveyance delivered at Closing. Notwithstanding anything to the contrary contained in this Agreement, BUYER acknowledges that BUYER will not be entitled to rely on any representation or warranty made by SELLER to the extent, prior to Closing, BUYER has or obtained actual knowledge of any information that was contrary to such representation or warranty.

X. REPRESENTATIONS AND WARRANTIES OF BUYER

10.1 BUYER's Reliance.

In addition to any other representations and warranties contained in this Agreement, BUYER represents and warrants that in making its decision to purchase the Property, BUYER represents that it has relied and will rely solely upon its own investigations of the Property, SELLER's specific representations and warranties contained in this Agreement and the Commitment, and is not relying on any statement or act or omission of SELLER, its agents or representatives, except as specifically set forth in this Agreement.

10.2 BUYER's Authority.

CLAT BUYER is duly organized and validly exists as a corporation under the laws of the State of California, 501 SPECTRUM BUYER and S&S CHAMBERS BUYER are duly organized and validly exist as limited liability companies under the laws of the State of California, and BUYER is qualified to do business in the state in which the Property is located. BUYER has the right and authority to enter into this Agreement. The person signing this Agreement on behalf of BUYER represents that he or she is authorized to do so. The execution and delivery of this Agreement or any other document in connection with the transactions contemplated by this Agreement will not violate any provision of BUYER's organizational documents or of any regulations or laws to or by which BUYER is bound. This Agreement has been duly authorized, executed and delivered by BUYER, is a valid and binding obligation of BUYER and is enforceable against BUYER in accordance with its terms. SELLER has obtained all consents and permissions required under any covenant, agreement, encumbrance, law or regulation by which SELLER or the Property is bound.

XI. BROKERAGE COMMISSION

SELLER represents and warrants to BUYER, and BUYER represents and warrants to SELLER, that no broker or finder has been engaged by either of them, respectively, in connection with any of the transactions contemplated by this Agreement, or to either of their knowledge is in any way connected with any such transactions.

XII. TAX CERTIFICATION

Section 1455 of the Internal Revenue Code provides that the transferee of a United States real property interest must deduct and withhold a tax equal to ten percent (10%) of the amount realized by the transferor on the disposition, if the transferor is a foreign person. SELLER warrants that SELLER is not a foreign person, and "FIRPTA" certification will be provided to BUYER through Escrow.

XIII. EXCHANGE BY SELLER/BUYER

The parties agree to cooperate with each other in effecting a tax-deferred exchange under Internal Revenue Code Section 1031. Both parties shall have the right, expressly reserved here, to elect this tax-deferred exchange at any time before the Closing; however, SELLER and BUYER agree that consummation of this Agreement is not predicated or conditioned on the exchange being effected. If either party elects to effect a tax-deferred exchange, the other party agrees to execute additional escrow instructions, documents, agreements or instruments to effect the exchange, provided, that such party shall incur no additional costs, expenses or liabilities in this transaction as a result of or connected with the exchange.

XIV. NOTICES

Any notice, delivery or demand shall be in writing and shall be deemed to have been received: (a) upon receipted delivery if sent by personal messenger, (b) by 5:00 p.m. three (3) business days after being deposited in the U.S. mail, registered or certified, return receipt requested, (c) by 5:00 p.m. one (1) business day after being deposited with a national recognized overnight courier service, or (d) upon confirmation of transmission if sent by facsimile or email, in each case with postage/delivery prepaid or billed to the sender and addressed as follows:

To SELLER: City Manager
City of Brisbane
50 Park Place
Brisbane, CA 94005

With a copy to: Director of Public Works
City of Brisbane
50 Park Place
Brisbane, CA 94005

To BUYER: c/o BLT Enterprises
1714 16th Street
Santa Monica, CA 90404
Attn: Robert Solomon
Email: rsolomon@blt-enterprises.com

with a copy to: c/o BLT Enterprises
1714 16th Street
Santa Monica, CA 90404
Attn: Elijah Rosenthal
Email: erosenthal@blt-enterprises.com

XV. RISK OF LOSS

15.1. Condemnation and Casualty.

If, prior to Closing, all or any portion of the Property is taken by condemnation or eminent domain, or is the subject of a pending taking which has not been consummated, or is destroyed or damaged by fire or other casualty, SELLER shall notify BUYER of such fact promptly after SELLER obtains knowledge thereof. If such condemnation or casualty is "**Material**" (as hereinafter defined), BUYER shall have the option to terminate this Agreement upon notice to SELLER given not later than fifteen (15) days after receipt of SELLER's notice, or Closing, whichever is earlier. If this Agreement is terminated, the Escrow Deposit shall be returned to BUYER and thereafter neither SELLER nor BUYER shall have any further rights or obligations to the other hereunder except with respect to obligations expressly identified within this Agreement as continuing after expiration or earlier termination. If this Agreement is not terminated, SELLER shall not be obligated to repair any damage or destruction but (x) SELLER shall assign, without recourse, and turn over to BUYER all of the insurance proceeds or condemnation proceeds, as applicable, net of any costs of repairs incurred by SELLER and net of reasonable collection costs (or, if such have not been awarded, all of its right, title and interest therein) payable with respect to such fire or other casualty or condemnation including any rent abatement insurance for such casualty or condemnation and BUYER shall receive a credit at Closing for any deductible, uninsured or coinsured amount under said insurance policies and (y) the parties shall proceed to Closing pursuant to the terms hereof without abatement of the Purchase Price.

15.2. Condemnation Not Material.

If the condemnation is not Material, then Closing shall occur without abatement of the Purchase Price and, after deducting SELLER's reasonable costs and expenses incurred in collecting any award, SELLER shall assign, without recourse, all remaining awards or any rights to collect awards to BUYER at Closing.

15.3. Casualty Not Material.

If the casualty is not Material, then Closing shall occur without abatement of the Purchase Price and SELLER shall not be obligated to repair such damage or destruction and SELLER shall assign, without recourse, and turn over to BUYER all of the insurance proceeds net of any costs of repairs and net of reasonable collection costs (or, if such have not been awarded, all of its right, title and interest therein) payable with respect to such fire or such casualty including any rent abatement insurance for such casualty and BUYER shall receive a credit at Closing for any deductible, uninsured or coinsured amount under said insurance policies.

15.4. Materiality.

For purposes of this Article XV (i) with respect to a taking by eminent domain, the term "**Material**" shall mean any taking whatsoever, regardless of the amount of the award or the amount of the Property taken, excluding, however, any taking solely of subsurface rights or takings for utility easements or right of way easements, if the surface of the Property, after such taking, may be used in the same manner, as reasonably determined by BUYER, as though such rights had not been taken, and (ii) with respect to a casualty, the term "**Material**" shall mean any casualty such that the reasonably estimated cost of repairs are greater than three percent (3%) of the Purchase Price.

XVI. MISCELLANEOUS

16.1 Time of Essence

Time is of the essence as to each and every provision of this Agreement. Any reference to a particular time of day in this Agreement shall be understood to mean the time of day in the time zone in which the Property is located. In the computation of any period of time provided for in this Agreement or by law, the day of the act or event from which such period of time runs shall be excluded, and the last day of such period shall be included, unless it is a Saturday, Sunday, or legal holiday, in which case the period shall be deemed to run until the end of the next Business Day. "**Business Day**" shall mean any day other than a Saturday, Sunday, or legal holiday on which national banks are authorized by federal law to close.

16.2 Entire Agreement

This Agreement contains the entire agreement between the parties hereto with respect to the matters covered herein and may be amended only by evidence of written documentation signed by both BUYER and SELLER prior to its submittal to any third party or entity for purposes of implementation, change or effect.

16.3 Further Documents

Each party will, whenever and as often as it shall be required by the other party, execute, acknowledge and deliver such further instructions as may be necessary in order to complete the sale, conveyance and transfer herein provided for, and to do any and all other acts and to execute, acknowledge and deliver to Escrow Holder any and all documents as may be reasonably requested in order to carry out the intent and purposes of this Agreement.

16.4 Consent to Assignment; Successors and Assigns

BUYER may not assign its rights under this Agreement without first obtaining SELLER's written approval, which approval may be withheld at SELLER's sole discretion. In the event BUYER intends to assign its rights hereunder, (a) BUYER shall send SELLER written notice of its request at least five (5) business days prior to Closing, and (b) BUYER and the proposed assignee shall execute an assignment and assumption of BUYER's right and interest under this Agreement, and (c) in no event shall any assignment of this Agreement release or discharge BUYER from any liability or obligation hereunder. Subject to the provisions of (a), (b) and (c) immediately above, BUYER may, without the consent of SELLER, assign this Agreement without SELLER's consent to an Affiliate (as hereinafter defined) and to effect an Exchange pursuant to Article XIII hereof. For the purposes of this Section, the term "Affiliate" means (a) an entity that directly or indirectly controls, is controlled by or is under common control with the BUYER, or (b) an entity at least a majority of whose economic interest is owned by BUYER; and the term "control" means the power to direct the management of such entity through voting rights, ownership or contractual obligations. This Agreement shall be binding on and inure to the benefit of the heirs, successors and assigns of the parties hereto. All assignments made in violation of this Section 16.4 shall be deemed void.

16.5 Severability

Should any part, term or provision of this Agreement, or any document dealing with any entity set forth within this Agreement and required herein to be executed or delivered at the Closing, be declared invalid, void or unenforceable, all remaining parts, terms and provisions hereof shall remain in full force and effect and shall in no way be invalidated, impaired or otherwise affected thereby.

16.6 Attorneys' Fees

The prevailing party in any action instituted to enforce or interpret any provision of this Agreement shall be entitled to all fees, expenses and costs, including reasonable attorneys' fees, as fixed by the Court.

16.7 Choice of Law; Venue.

The validity, interpretation and performance of this Agreement shall be controlled and construed under the laws of the state in which the Property is located without regard to conflicts of laws principles and the state or federal district courts in the county in which the Property is located, shall have non-exclusive jurisdiction over any legal action concerning or relating to this Agreement.

16.8 No Implied Representations

No representations, promises, conditions or warranties with reference to the execution of this Agreement have been made or entered into between the parties hereto other than as herein expressly provided, and except to the extent that express warranties are contained in Article IX.

16.9 Possession

BUYER shall be entitled to possession of the Property at the Closing. Possession shall be delivered outside of Escrow, and Escrow Holder shall incur no liability with respect thereto.

16.10 Counterparts

This Agreement may be executed in multiple counterparts, each of which shall be

deemed an original but all of which, taken together, shall constitute a single instrument. SELLER and BUYER agree that the delivery of an executed copy of this Agreement by facsimile or e-mail shall be legal and binding and shall have the same full force and effect as if an original executed copy of this Agreement had been delivered.

16.11 Cumulative Remedies

No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

16.12 Rollback Taxes

If SELLER changes the use of the Property before Closing or if denial of a special valuation on the Property claimed by SELLER results in the assessment of additional taxes , penalties or interest for periods before Closing, such assessments will be the obligation of SELLER. If the sale of the Property or BUYER's use of the Property after Closing results in the assessment of additional taxes, penalties or interest for periods before Closing, such assessments will be the obligation of BUYER. The provisions of this Section 16.12 shall survive Closing and any termination of this Agreement.

16.13 Not Binding Until Executed by BUYER

Neither this Agreement, nor any of the terms and provisions hereof, shall be binding upon or enforceable against BUYER unless and until the same is executed by BUYER.

XVII. SPECIAL PROVISIONS

17.1 Creation of Hiking Paths

Promptly after Closing, BUYER shall at BUYER's expense construct a hiking path on (a) approximately 832 square feet currently owned by BUYER, as shown on attached **Exhibit B** ("**Hiking Path Strip #1**") and (b) approximately 1,106 square feet currently owned by SELLER, also as shown on attached **Exhibit B** ("**Hiking Path Strip #2**") in accordance with the provisions of the easement referenced in Section 17.2 below, the details of which Hiking Paths are subject to approval by SELLER. Hiking Path Strip #2 is a portion of the Property being conveyed to BUYER at Closing. The legal descriptions of Hiking Path Strips #1 and # 2 shall be set forth in the easement referenced in Section 17.2 below. BUYER shall construct Hiking Path Strip #1 and Hiking Path Strip #2 at the same time that BUYER constructs the Proposed Improvements.

17.2 Easement

At Closing, BUYER shall grant to SELLER an easement covering Hiking Path Strips #1 and #2 in the form attached hereto as **Exhibit F**.

17.3 Drainage Canal

A drainage canal (the "**Drainage Canal**") is located adjacent to and along the south side of the Property, as shown on attached **Exhibit G**. BUYER shall be responsible for the regular cleaning, maintenance and repair of the Drainage Canal. Prior to conducting any such cleaning, maintenance or repair, BUYER shall first contact SELLER and obtain SELLER'S approval of the proposed work. BUYER shall provide verification to SELLER on September 1 annually that the Drainage Canal is property maintained and functional, and shall permit SELLER to physically enter upon the property and confirm that necessary maintenance has been performed. BUYER'S obligation to clean, maintain and repair the Drainage Canal shall run with the Property and any

subsequent purchaser shall be required to assume all of BUYER'S responsibilities pursuant to this agreement. At SELLER'S option, SELLER shall have the right to enhance or install native vegetation in the Drainage Canal, provided that there is no additional cost to BUYER for installation or maintenance. BUYER shall provide SELLER reasonable access if SELLER determines to exercise this option. At closing, BUYER shall grant SELLER an easement covering access to the Drainage Canal in the form attached hereto as Exhibit G.

[Signatures Appear on following page]

Excess Property #_____

XVIII. EXECUTION

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year set forth below their respective signatures.

BUYER:

CENTRAL LOS ANGELES TRANSFER,
a California corporation

By: _____
Name: LUKAS HUBERMAN
Its: VICE PRESIDENT

501 SPECTRUM CIRCLE, LLC,
a California limited liability company

By: _____
Name: LUKAS HUBERMAN
Its: MANAGER

Approved as to Form
Legal

S&S CHAMBERS LLC,
a California limited liability company

By: _____
Name: STEVEN PERRY
Its: Manager

Dated: _____ 2024

SELLER:

CITY OF BRISBANE,
a municipal corporation

By: _____
Name: _____
Its: _____

Dated: _____, 2024

P.

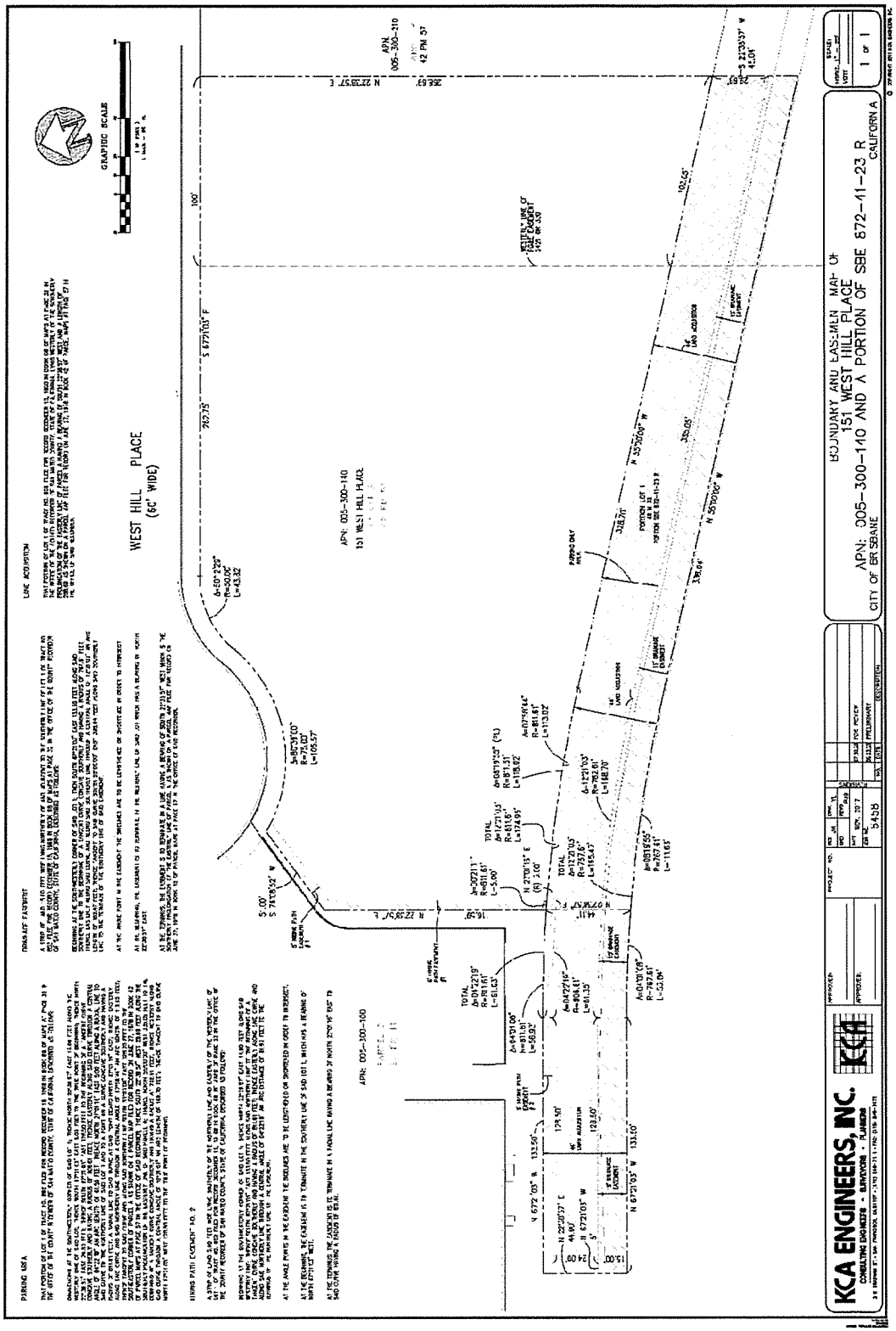
EXHIBIT A

Legal Description of Property

That portion of Lot 1, Block "I" of Tract No. 852 filed for record December 15, 1968 in Book 68 of Maps at page 32 in the office of the County Recorder of San Mateo County, State of California, lying westerly of the southerly prolongation of the easterly line of Parcel A having a bearing of South 22 ° 38' 57" West and a length of 268.69 as shown on a Parcel Map filed for record on June 27, 1978 in Book 42 of Parcel Maps at Page 57 in the Office of said Recorder, and containing approximately 28,019.22 square feet.

P.

EXHIBIT B



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P.

EXHIBIT C

Form of Deed

WHEN RECORDED MAIL TO:

MAIL TAX STATEMENTS TO:

(Space above this line is for recorder's use) APN: _____

GRANT DEED

THE UNDERSIGNED GRANTOR DECLARES:

DOCUMENTARY TRANSFER TAX is $_____

CITY TAX is $_____

[X] computed on full value of property conveyed, or [ ] computed on full value less value of liens or encumbrances remaining at time of sale,

[ ] Unincorporated area: _____, [X] City of Brisbane

FOR VALUE RECEIVED, CITY OF BRISBANE, a municipal corporation ("Grantor"), hereby grants to CENTRAL LOS ANGELES TRANSFER, a California corporation, as to an undivided 62.40% interest, 501 SPECTRUM CIRCLE, LLC, a California limited liability company, as to an undivided 32.02% interest, and S&S CHAMBERS LLC, a California limited liability company, as to an undivided 5.58% interest, as tenants in common (collectively, "Grantee"), that certain real property (the "Property") situated in the City of Brisbane, County of San Mateo, State of California, described in Exhibit A attached hereto and incorporated by reference, together with all contracts, agreements, plans and specifications, warranties, guaranties, licenses, permits, entitlements, governmental approvals and certificates of occupancy that specifically relate to the Property.

THE PROPERTY IS CONVEYED TO GRANTEE SUBJECT TO:

A. All liens, encumbrances, easements, covenants, conditions and restrictions of record;

B. All matters which would be revealed or disclosed in an accurate survey or inspection of the Property;

C. Liens for taxes on real property not yet delinquent, and liens for any general or special assessments of record against the Property not yet delinquent; and

D. All laws, ordinances and governmental rules, regulations and restrictions affecting the Property.

E. The Property, other than the portions of the Property to be used for the Hiking Path and Drainage Canal purposes, shall be used exclusively for the parking of motor vehicles and access over and across the same related to such parking and for green space, all in accordance with applicable laws.

Grantor and Grantee acknowledge and agree that the Deed Restrictions are covenants running with the land, and will be binding on all successors, heirs and assigns that acquire any right, title or interest in or to the Deed Restricted Property. Grantee, by its acceptance hereof, agrees to abide by and comply with the Deed Restrictions and acknowledges that Grantor would not have conveyed the Deed Restricted Property to Grantee in the absence of the Deed Restrictions. Such Deed Restrictions are for the exclusive benefit of Grantor, the City of Brisbane, and Grantor shall have the right to enforce the Deed Restrictions by any proceeding at law or in equity against any violation or attempted violation including (but not limited to) obtaining an injunction against any actions in violation of the Deed Restrictions. Failure to enforce the Deed Restrictions shall not operate to waive the right to enforce the Deed Restrictions in the future.

IN WITNESS WHEREOF, the undersigned Grantor has executed this Grant Deed as of _____, 2024.

GRANTOR:

CITY OF BRISBANE
a municipal corporation

By: _____
Name: _____
Title: _____

P.

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

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P.

EXHIBIT A to Deed

Legal Description of Property

That portion of Lot 1, Block "I" of Tract No. 852 filed for record December 15, 1968 in Book 68 of Maps at page 32 in the office of the County Recorder of San Mateo County, State of California, lying westerly of the southerly prolongation of the easterly line of Parcel A having a bearing of South 22 ° 38' 57" West and a length of 268.69 as shown on a Parcel Map filed for record on June 27, 1978 in Book 42 of Parcel Maps at Page 57 in the Office of said Recorder, and containing approximately 28,019.22 square feet.

P.

EXHIBIT D

Form of SELLER's Certificate

SELLER'S CERTIFICATE

_____, a _____ ("SELLER"), hereby certifies to _____, a _____, that all of the representations and warranties set forth in Article IX of that certain Agreement for Purchase and Sale of Real Property dated as of _____ __, ____, are true and accurate in all material respects, as of the date hereof.

Dated: _____ __, _____.

SELLER:

_____,
a _____

By: _____
Name: _____
Title: _____

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EXHIBIT E

Form of Certificate of Non-Foreign Status

CERTIFICATION OF NON-FOREIGN STATUS

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. To inform _____, a _____ ("Transferee"), that withholding of tax is not required upon the disposition of a U.S. real property interest by _____, a _____ ("SELLER"), the undersigned hereby certifies the following:

1. SELLER is a "United States Person" and is not a "foreign person" in accordance with and for the purposes of the provisions of sections 7701 and 1445 (as may be amended) of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder.

2. SELLER's U.S. Employer Identification Number is: _____.

3. SELLER is not a disregarded entity, as that term is defined in Section 1.1445 - 2(b)(2)(iii); and

4. SELLER's office address is:
   _____
   _____
   _____

The undersigned understands that this certification is made under penalty of perjury, may be disclosed to the Internal Revenue Service by Transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Dated: _____ ___, ____.

SELLER:

_____,
a _____

By: _____
Name: _____
Title: _____

P.

EXHIBIT F

FORM OF EASEMENT AGREEMENT

Recording Requested by:

_____

_____

When Recorded, Mail to:

_____

_____

_____

_____

_____

[SPACE ABOVE THIS LINE FOR RECORDER'S USE]

EASEMENT AGREEMENT
(County of San Mateo, City of Brisbane, California)
(the "**Agreement**")

1. **Grant of Easement**. **CENTRAL LOS ANGELES TRANSFER**, a California corporation, **501 SPECTRUM CIRCLE, LLC**, a California limited liability company, and **S&S CHAMBERS LLC**, a California limited liability company (collectively herein, "**Grantor**"), hereby grants to the **CITY OF BRISBANE**, a municipal corporation (herein "**Grantee**"), a non-exclusive easement (herein "**Easement**") in, on, over, along, and across the certain land described on **Exhibit "A"** (the "**Easement Area**"), attached hereto and made a part hereof, for the limited purpose of constructing, installing, maintaining, repairing, replacing a public hiking path for the general public, in accordance with the terms and conditions hereinafter set forth.

2. **Construction of Hiking Path**. Grantor shall, at its own cost and expense, have, or cause to have, the hiking path facilities (e.g., surfaces, handrails, and directional signs) for the Easement designed, installed and constructed in accordance with applicable law; provided, however, neither Grantee nor Grantor shall erect or maintain any improvements in the Easement Area which are inconsistent with the use of a public hiking path or which interfere with the use of either Grantor's or Grantee's adjoining property. Grantor shall install and construct the hiking path facilities at the same time as Grantor installs and constructs the parking pad on property Grantor has acquired from Grantee,

3. **Protection Statutes**. The parties acknowledge and agree Grantor has entered into this Agreement in material reliance upon Grantee's representations that Grantor is protected from liability by California Civil Code Section 846 (as may be amended, superseded or replaced from time to time, the "**Recreational Use Statute**") and California Government Code Section 831.4 (as may be amended, superseded or replaced from time to time, the "**Trail Immunity Statute**"; together with the Recreational Use Statute, the "**Protection Statutes**"). In that regard, Grantee may not take any action (or, in the event an affirmative obligation is required, refrain from taking any action) that would

invalidate Grantor's protection from liability under the Protection Statutes. Without intending to limit the generality of the foregoing, Grantee specifically agrees to the following terms and conditions:

A. Hiking Path Use. The Easement Area will be used only for a public hiking path and for no other purpose whatsoever. Grantee may not do, or fail to do, or permit, or fail to permit, anything to be done to the Easement Area that may be inconsistent with its classification as a "hiking path" or "trail" (as that term is used in the Trail Immunity Statute or as such term is applied in applicable law interpreting such statute).

B. Entry Fee. Neither Grantee nor any other party may charge a fee or any other consideration in exchange for the general public's entry upon, or use of, any portion of the Easement Area or hiking path (expressly including portions of the hiking path that are located outside of the Easement Area).

C. Public Use; Prohibition against Express Invitation. The parties agree that the Easement is an easement for use by the general public. Notwithstanding the foregoing, the parties acknowledge that the Recreational Use Statute will not protect Grantor or Grantee if either party expressly invites the general public to enter upon or use the Easement Area. Accordingly, Grantor and Grantee are prohibited from expressly inviting the general public to enter upon or use the Easement Area; provided, however, subject to the terms and conditions herein, Grantee will "permit" the general public to use the Easement Area for a public hiking path.

D. Duty to Guard or Warn. Grantee must guard and/or warn against any condition, use, structure or activity within the Easement Area which constitutes a hazard to health or safety. Such obligation shall be the sole responsibility of Grantee.

4. **Maintenance, Repair and Replacement**.

A. Grantee, at Grantee's sole cost, must maintain, repair and replace the Easement Area and any improvements located thereon in a good and safe condition, including, without limitation, any surfaces of the Easement Area (paved or unpaved), vegetation, trees or other landscaping.

B. If any damage, destruction or disturbance occurs on Grantor's property as a result of the actions of Grantee or the general public, then, within thirty (30) days following written notice such damage, destruction or disturbance, Grantee shall repair and restore Grantor's property and the improvements thereon to their condition that existed immediately prior to such damage, destruction or disturbance at no cost to Grantor.

5. **Utilities and Personal Property Tax**. Grantee shall promptly pay any charges for electricity (e.g., for pathway lighting should Grantee elect to install same) and other utilities furnished to the Easement Area and for any personal property taxes on improvements located in the Easement Area.

6. **Use by Grantor; Rights Reserved**. Grantor may use the Easement Area for all purposes which will not unreasonably interfere with the rights granted herein (as determined by Grantor). For the avoidance of doubt, Grantor reserves the right to construct, reconstruct, or maintain any utilities in the Easement Area. Further, the

P.

Easement and associated rights granted herein are, and shall be, subject to (i) any and all rights of Grantor not specifically granted herein, and (ii) all rights and matters of record as of the date hereof. Grantor reserves all rights, if any, in and to oil, gas, sulfur, uranium, fissional materials, and other minerals under the surface of the Easement Area.

7. **Transfer**. Grantor may sell, assign, transfer or convey this Agreement or its interest in this Agreement. Grantee may not assign or otherwise transfer, mortgage or encumber this Agreement. Any attempt by Grantee to transfer this Agreement will be void and will constitute a default of the Agreement without any obligation for Grantor to provide a notice of default.

8. **Permits and Licenses; Compliance with Laws**. Grantor shall procure at its sole expense any permits and licenses required for construction of the Easement, and Grantee will comply with all applicable laws, ordinances and governmental regulations in connection with Grantee's use and operation of the hiking path.

9. **Waiver and Indemnity**. Grantor shall not be liable to Grantee or Grantee's employees, agents, visitors, personal representatives, contractors or subcontractors, successors or assigns or any other person acting directly or indirectly through or under Grantee (collectively, the "**Grantee Parties**"), or to any other person whomsoever, for any injury to person or damage to property on or about the Easement Area, or arising out of any breach or default by Grantee in the performance of its obligations hereunder. Grantee will indemnify, defend (with counsel of Grantor's choice), and hold harmless Grantor and its affiliates, and their respective lessees, employees, agents, personal representatives, contractors, successors and assigns (collectively, the "**Grantor Parties**") against any and all claims, demands, loss, liabilities, costs, fines, penalties, expenses, damages, including suits, liens, causes of action and judgments (including, but not limited to attorney's fees) (collectively, the "**Claims**") arising out of, or in any way related to, or in connection with, or as a result or consequence of (i) any entry upon and/or use of the Easement Area by Grantee, Grantee Parties, the general public or any other party whomsoever; (ii) any intentional misconduct or negligent acts, errors or omissions by Grantee; (iii) any violation of applicable federal, state or local laws, regulations, ordinances, administrative orders or rules by Grantee; (iv) any breach or default by Grantee and/or Grantee Parties of any of their representations, warranties and/or obligations in this Agreement; and (v) any other acts by Grantee and/or Grantee Parties in violation of this Agreement and not cured within any applicable period. This indemnity shall include reasonable attorney's fees and costs and all other expenses incurred in the defense of any suit and shall survive the termination or expiration of the rights granted hereunder.

10. **Waiver of Sovereign Immunity**. Grantee hereby waives any right to assert the defense of governmental immunity or sovereign immunity with respect to any Claims by Grantor hereunder, regardless of whether Grantor's claim or demand is based in contract (including, without limitation, any indemnity claim) or tort.

11. **Default and Remedies**. In the event Grantee fails to perform any obligations hereunder, Grantor shall notify Grantee of such failure in writing. If Grantee fails to remedy such default within thirty (30) days after receipt of such written notice or if such default cannot be cured within thirty (30) days, in the event Grantee fails to commence the cure of such default within such thirty (30) day period and continue to diligently pursue such cure to completion, Grantor may, at its option: (i) perform such obligation and pay any and all costs and charges associated therewith, which costs and

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expenses shall be reimbursed to the Grantor by Grantee; or (ii) terminate this Agreement.

If Grantor elects to exercise its self-help rights in this section, then Grantor shall be entitled to recover from Grantee the reasonable out-of-pocket charges, fees, costs and expenses incurred by the performing party (including reasonable attorneys' fees) in connection therewith, together with interest thereon at a rate equal to twelve percent (12%) per annum and an administrative fee equal to twelve percent (12%) of the total amount of charges, fees, costs and expenses incurred by Grantor. Such charges, fees, costs, expenses and interest shall be paid by Grantee within thirty (30) days after receipt of a statement therefor from the Grantor.

12. **Surrender**. At the expiration or earlier termination of this Agreement, Grantee, at Grantee's expense, must remove any improvements from the Easement Area and otherwise repair and restore the Easement Area to the condition existing as of the date of this Agreement.

13. **Attorney's Fees and Costs**. The prevailing party in an action brought to cure or redress a default under this Agreement shall be entitled to recover its reasonable attorney's fees, expenses and court costs; this right is in addition to, and not exclusive of, any other right to seek attorney's fees and costs under other rule, law or statute.

14. **Notice**. Notice given under this Agreement must be in writing delivered both by U.S. certified mail, postage prepaid, return receipt requested, and via regular U.S. Mail, addressed to the intended recipient at the address shown in the signature blocks of this Agreement. Any address for notice may be changed by written notice delivered as provided herein.

15. **Miscellaneous**.

A. This Agreement constitutes the entire agreement of the parties. There are no oral representations, warranties, agreements or promises pertaining to this Agreement. This Agreement may be amended only by an instrument in writing signed by Grantor and Grantee. If any provision of this Agreement, or portion thereof, or the application thereof to any person or circumstances, shall, to any extent be held invalid, inoperative or unenforceable, the remainder of this Agreement, or the application of such provision or portion thereof to any other persons or circumstances, shall not be affected thereby; it shall not be deemed that any such invalid provision affects the consideration for this Agreement; and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

B. No delay or omission of any party in the exercise of any right accruing upon any default of the other party shall impair such right or be construed to be a waiver thereof, and every such right may be exercised at any time during the continuance of such default. A waiver by any party of a breach of, or a default in, any of the terms and conditions of this Agreement by the other party shall not be construed to be a waiver of any subsequent breach of or default in the same or any other provision of this Agreement.

C. This Agreement and the Easement shall run with the land and be binding upon and inure to the benefit of the parties hereto and their respective tenants, occupants and successors and/or assigns.

D. This Agreement shall be construed in accordance with the laws of the State of California.

E. The headings in this Agreement are for convenience only, shall in no way define or limit the scope or content of this Agreement, and shall not be considered in any construction or interpretation of this Agreement or any part hereof.

F. Nothing herein contained shall be deemed or constructed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto.

G. This Agreement may be executed in several counterparts, each of which may be deemed an original, and all of such counterparts together shall constitute one and the same Agreement.

[SIGNATURE(S) APPEAR ON THE FOLLOWING PAGE]

P.

IN WITNESS WHEREOF, Grantor hereunto set its signature this _____ day of _____, 2024.

GRANTOR:

CENTRAL LOS ANGELES TRANSFER,
a California corporation

By:_____
Name:_____
Its: _____

501 SPECTRUM CIRCLE, LLC,
a California limited liability company

By:_____
Name:_____
Its: _____

S&S CHAMBERS LLC,
a California limited liability company

By:_____
Name:_____
Its: _____

Grantor's Mailing Address:
1714 16th Street
Santa Monica, CA 90404

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P.

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

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GRANTEE:

CITY OF BRISBANE,
a municipal corporation

By: _____
Name:_____
Title: _____

Grantee's Mailing Address:
City of Brisbane
50 Park Place
Brisbane, California 94005
Attn: Director of Public Works

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

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P.

EXHIBIT A to Easement Agreement

LEGAL DESCRIPTION OF EASEMENT AREA
(the locations of which are shown on the attached Exhibit B)

Hiking Path Easement No. 1

A strip of land 5.00 feet wide lying southeasterly and easterly of the westerly line of Parcel A as shown on a Parcel Map filed for record on June 27, 1978 in Book 42 of Parcel Maps at page 57 in the office of the County Recorder of San Mateo County, State of California described as follows:

Beginning at the northwesterly corner of said Parcel A where the westerly line of the property having a bearing of South 76°08'52" West and a length of 51.00 feet intersects with the southerly line of West Hill Place in a point on a curve concave northerly and having a radius of 75.00 feet, as shown on said map; thence South 76°08'52" West 51.00 feet and South 22°38'57" West 116.59 feet to the southerly line of said Parcel A and the terminus of the westerly line of the easement.

At the angle point in the easement the sidelines are to be lengthened or shortened in order to intersect.

At the beginning the easement is to terminate in the southerly line of the West Hill Place cul-de-sac which is a curve concave northerly and having a radius of 75.00 feet as shown on said Parcel Map.

At the terminus, the easement is to terminate in the southerly line of Parcel A which is a curve concave southerly and having a radius of 811.61 feet as shown on said Parcel Map.

Hiking Path Easement No. 2

A strip of land 5.00 feet wide lying southerly of the northerly line and easterly of the westerly line of Lot 1 of Tract No. 852 filed for record December 15, 1968 in Book 68 of Maps of page 32 in the office of the County Recorder of San Mateo County, State of California, described as follows:

Beginning at the southwesterly corner of said lot 1; thence North 22°38'57" East 44.00 feet along said westerly line; thence South 67°21'03" East 133.50 feet along said northerly line to the beginning of a tangent curve concave southerly and having a radius of 811.61 feet; thence easterly along said curve and along said northerly line through a central angle of 04°22'19" an arc distance of 61.93 feet to the terminus of the northerly line of the easement.

At the angle points in the easement the sidelines are to be lengthened or shortened in order to intersect.

At the beginning, the easement is to terminate in the southerly line of said Lot 1, which has a bearing of North 67°21 '03" West.

At the terminus, the easement is to terminate in a radial line having a bearing of North 27°01'16" East to said curve having a radius of 811.61.

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EXHIBIT B to Easement Agreement

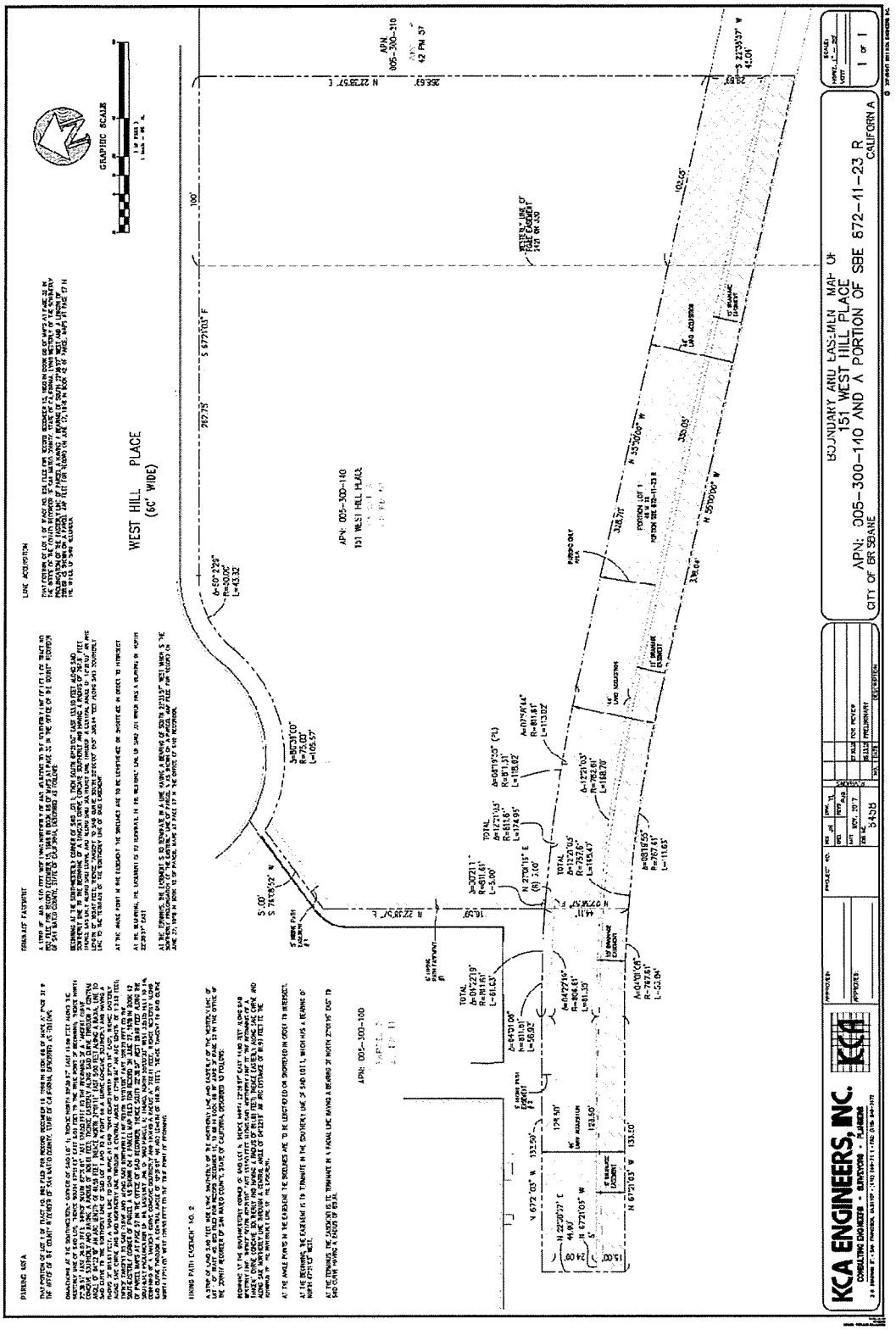

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EXHIBIT G

FORM OF EASEMENT AGREEMENT

Recording Requested by:

_____

_____

When Recorded, Mail to:

_____

_____

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[SPACE ABOVE THIS LINE FOR RECORDER'S USE]

EASEMENT AGREEMENT
(County of San Mateo, City of Brisbane, California)
(the "**Agreement**")

1. **Grant of Easement**. **CENTRAL LOS ANGELES TRANSFER**, a California corporation, **501 SPECTRUM CIRCLE, LLC**, a California limited liability company, and **S&S CHAMBERS LLC**, a California limited liability company (collectively herein, "**Grantor**"), hereby grants to the **CITY OF BRISBANE**, a municipal corporation (herein "**Grantee**"), a non-exclusive easement (herein "**Easement**") in, on, over, along, and across certain land described on **Exhibit A** (the "**Easement Area**"), attached hereto and made a part hereof, for the limited purpose of operating and inspecting the drainage canal (the "**Drainage Canal**") that is located within the Easement Area and to confirm that the cleaning, maintenance and repair of the Drainage Canal by Grantor is acceptable to Grantee, in accordance with the terms and conditions hereinafter set forth.

2. **Cleaning, Maintenance and Repair.** Grantor shall be obligated to clean, maintain and repair the Drainage Canal. Prior to conducting the cleaning, maintenance or repair of the Drainage Canal, Grantor shall contact Grantee and obtain Grantee's approval of the proposed work. Grantor shall provide verification to Grantee on September 1 annually that the Drainage Canal is properly maintained and functional. Grantee shall have the easement rights described in Paragraph 1 above to enter upon the Easement Area to confirm that the cleaning, maintenance and repair work have been properly performed.

3. **Installation of Vegetation**. Grantee, at Grantee's sole cost, shall also have the right to enhance or install native vegetation within the Drainage Canal and to enter upon the Easement Area for such purposes.

4. **Use by Grantor; Rights Reserved**. Grantor may use the Easement Area for all purposes which will not unreasonably interfere with the rights granted herein. The Easement and associated rights granted herein are, and shall be, subject to (i) any and all rights of Grantor not specifically granted herein, and (ii) all rights and matters of record as of the date hereof.

5. **Waiver and Indemnity**. Grantor shall not be liable to Grantee or Grantee's employees, agents, visitors, personal representatives, contractors or subcontractors, successors or assigns or any other person acting directly or indirectly through or under Grantee (collectively, the "**Grantee Parties**"), or to any other person whomsoever, for any injury to person or damage to property on or about the Easement Area, arising out of Grantee's performance of its permitted activities hereunder. Grantee will indemnify, defend (with counsel of Grantor's choice), and hold harmless Grantor and its affiliates, and their respective lessees, employees, agents, personal representatives, contractors, successors and assigns (collectively, the "**Grantor Parties**") against any and all claims, demands, loss, liabilities, costs, fines, penalties, expenses, damages, including suits, liens, causes of action and judgments (including, but not limited to attorney's fees) (collectively, the "**Claims**") arising out of, or in any way related to, or in connection with, or as a result or consequence of (i) any entry upon and/or use of the Easement Area by Grantee, Grantee Parties, the general public or any other party whomsoever; (ii) any intentional misconduct or negligent acts, errors or omissions by Grantee; (iii) any violation of applicable federal, state or local laws, regulations, ordinances, administrative orders or rules by Grantee; (iv) any breach or default by Grantee and/or Grantee Parties of any of their representations, warranties and/or obligations in this Agreement; and (v) any other acts by Grantee and/or Grantee Parties in violation of this Agreement and not cured within any applicable period. This indemnity shall include reasonable attorney's fees and costs and all other expenses incurred in the defense of any suit and shall survive the termination or expiration of the rights granted hereunder.

6. **Waiver of Sovereign Immunity**. Grantee hereby waives any right to assert the defense of governmental immunity or sovereign immunity with respect to any Claims by Grantor hereunder, regardless of whether Grantor's claim or demand is based in contract (including, without limitation, any indemnity claim) or tort.

7. **Attorney's Fees and Costs**. The prevailing party in an action brought to cure or redress a default under this Agreement shall be entitled to recover its reasonable attorney's fees, expenses and court costs; this right is in addition to, and not exclusive of, any other right to seek attorney's fees and costs under other rule, law or statute.

8. **Notice**. Notice given under this Agreement must be in writing delivered both by U.S. certified mail, postage prepaid, return receipt requested, and via regular U.S. Mail, addressed to the intended recipient at the address shown in the signature blocks of this Agreement. Any address for notice may be changed by written notice delivered as provided herein.

9. **Miscellaneous**.

A. This Agreement constitutes the entire agreement of the parties. There are no oral representations, warranties, agreements or promises pertaining to this Agreement. This Agreement may be amended only by an instrument in writing signed by

Grantor and Grantee. If any provision of this Agreement, or portion thereof, or the application thereof to any person or circumstances, shall, to any extent be held invalid, inoperative or unenforceable, the remainder of this Agreement, or the application of such provision or portion thereof to any other persons or circumstances, shall not be affected thereby; it shall not be deemed that any such invalid provision affects the consideration for this Agreement; and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

B. No delay or omission of any party in the exercise of any right accruing upon any default of the other party shall impair such right or be construed to be a waiver thereof, and every such right may be exercised at any time during the continuance of such default. A waiver by any party of a breach of, or a default in, any of the terms and conditions of this Agreement by the other party shall not be construed to be a waiver of any subsequent breach of or default in the same or any other provision of this Agreement.

C. This Agreement and the Easement shall run with the land and be binding upon and inure to the benefit of the parties hereto and their respective tenants, occupants and successors and/or assigns.

D. This Agreement shall be construed in accordance with the laws of the State of California.

E. The headings in this Agreement are for convenience only, shall in no way define or limit the scope or content of this Agreement, and shall not be considered in any construction or interpretation of this Agreement or any part hereof.

F. Nothing herein contained shall be deemed or constructed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto.

G. This Agreement may be executed in several counterparts, each of which may be deemed an original, and all of such counterparts together shall constitute one and the same Agreement.

[SIGNATURE(S) APPEAR ON THE FOLLOWING PAGE]

P.

IN WITNESS WHEREOF, Grantor hereunto set its signature this _____ day of _____, 2024.

GRANTOR:

CENTRAL LOS ANGELES TRANSFER,
a California corporation

By:_____
Name:_____
Its: _____

501 SPECTRUM CIRCLE, LLC,
a California limited liability company

By:_____
Name:_____
Its: _____

S&S CHAMBERS LLC,
a California limited liability company

By:_____
Name:_____
Its: _____

By: _____
Name:
Title:

Grantor's Mailing Address:
1714 16th Street
Santa Monica, CA 90404

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P.

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

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P.

GRANTEE:

CITY OF BRISBANE,
a municipal corporation

By: _____
Name:_____
Title: _____

Grantee's Mailing Address:
City of Brisbane
50 Park Place
Brisbane, California 94005
Attn: Director of Public Works

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

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P.

EXHIBIT A to EASEMENT AGREEMENT

Legal Description of Easement Area
(the location of which is shown on the attached Exhibit B)

Drainage Canal

A strip of land 15.00 feet wide lying northerly of and adjacent to the southerly line of Lot 1 of Tract No. 852 filed for record December 15, 1968 in Book 68 of Maps at page 32 in the office of the County Recorder of San Mateo County, State of California, described as follows:

Beginning at the southwesterly corner of said Lot 1; then South 67°21'03" East 133.50 feet along said southerly line to the beginning of a tangent curve concave southerly and having a radius of 767.61 feet; thence easterly along said curve and along said southerly line through a central angle of 12°21'03" an arc length of 165.47 feet; thence tangent to said curve South 55°00'00" East 338.04 feet along said southerly line to the terminus of the southerly line of said easement.

At the angle point in the easement the sidelines are to be lengthened or shortened in order to intersect.

At the beginning, the easement is to terminate in the westerly line of said lot which has a bearing of North 22°38'57" East.

At the terminus, the easement is to terminate in a line having a bearing of South 22°38'57" West which is the southerly prolongation of the easterly line of Parcel A as shown on a Parcel Map filed for record on June 27, 1978 in Book 42 of Parcel Maps at page 57 in the office of said recorder.

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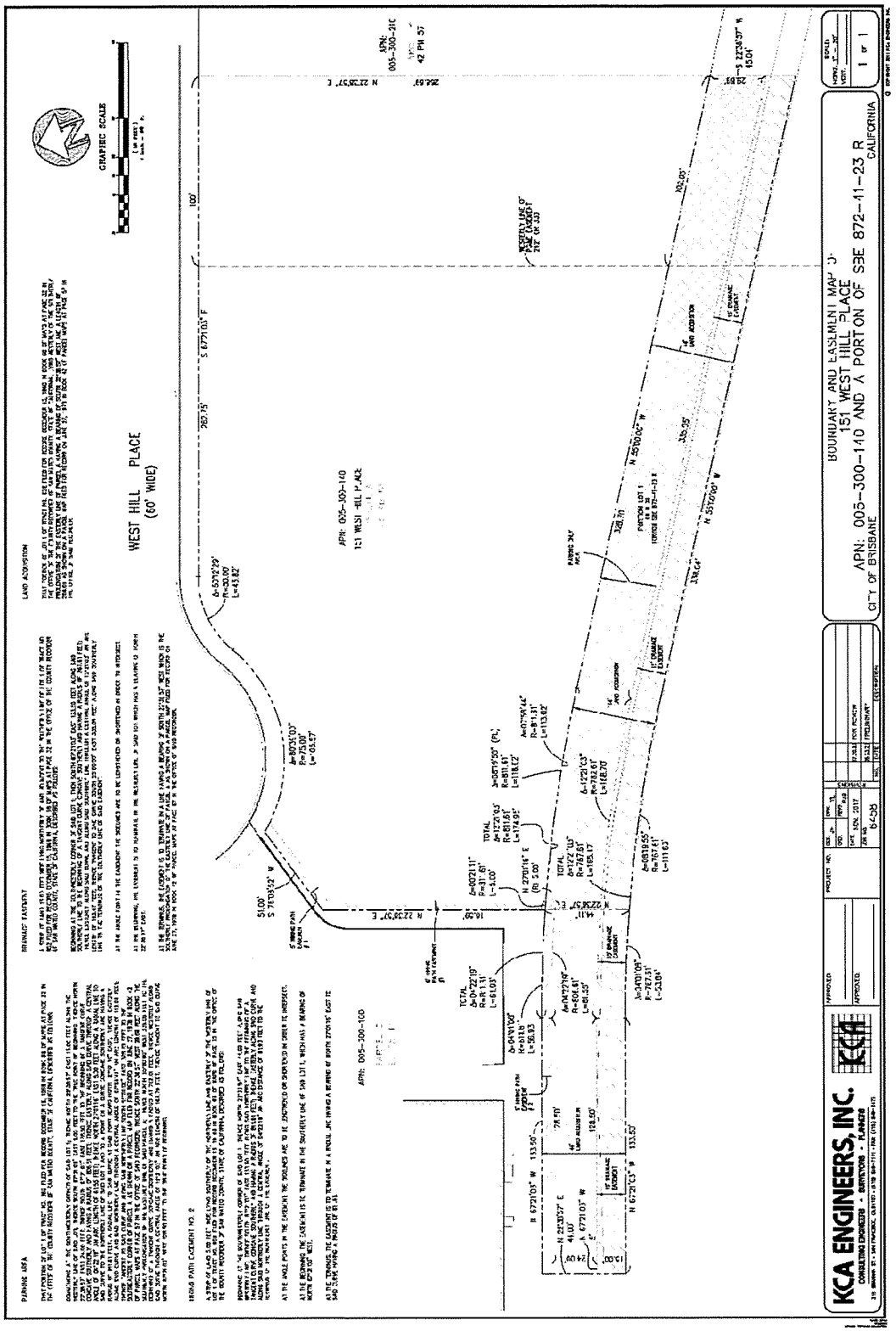
P.

EXHIBIT B to EASEMENT AGREEMENT



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RESOLUTION 2024-GPC-1

A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE
FINDING THE DISPOSITION OF CERTAIN REAL PROPERTY
FROM THE CITY OF BRISBANE TO CENTRAL LOS ANGELES TRANSFER (CLAT), 501 SPECTRUM CIRCLE, LLC (501 SPECTRUM), AND S&S CHAMBERS LLC (S&S CHAMBERS)
CONFORMS TO THE CITY'S GENERAL PLAN

WHEREAS, City is the fee simple owner of the real property bearing Assessor's Parcel Number 005-300-999 ("City Parcel"); and

WHEREAS, Central Los Angeles Transfer (CLAT), 501 Spectrum Circle, LLC (501 Spectrum), and S&S Chambers LLC (S&S Chambers) are the fee simple owner of the real property bearing Assessor's Parcel Number 005-300-140 ("Subject Parcel"); and

WHEREAS, City and CLAT, 501 Spectrum, and S&S Chambers have entered into a Purchase and Sale Agreement ("PSA") concerning the above-mentioned properties owned by the City and CLAT, 501 Spectrum, and S&S Chambers; and

WHEREAS, the PSA provides that the City will convey to CLAT, 501 Spectrum, and S&S Chambers the City's fee interest in all of City Parcel, as shown on the schematic Exhibit A to this Resolution; and

WHEREAS, the PSA provides that CLAT, 501 Spectrum, and S&S Chambers will deed to the City an access easement in a portion of both City Parcel and Subject Parcel, as shown on the schematic Exhibit A to this Resolution; and

WHEREAS, California Government Code, Section 65402(a) requires that before the City disposes of real property such disposition is to be submitted to, and reported on by, the Planning Commission as to conformity with the City's General Plan; and

WHEREAS, the Planning Commission has considered the agenda report and supporting documents concerning the proposed disposition of City property; and

WHEREAS, such disposition is consistent with the City of Brisbane's General Plan, specifically with the land use element which designates this property for trade commercial development and with Local Economic Development Policy 8 and Crocker Park Subarea Policy CP.3 in that these policies refer to maintaining a diverse tax base and uses in the Crocker Park subarea that provide jobs, city revenues, and benefits to the community.

WHEREAS, such disposition is furthermore consistent with Land Use Policy LU.4, Circulation Policy C.34, Open Space Policy 86, and Crocker Park Subarea Policy CP.10 in that these policies refer to providing pedestrian access to natural areas such as San Bruno Mountain State and County Park; and

WHEREAS, the proposed resolution is exempt from California Environmental Quality Act (CEQA), pursuant to Section 15312 of the CEQA Guidelines, Surplus Government Property Sales. The exceptions to this categorical exemption referenced in Section 15300.2 do not apply.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission finds, in accordance with Government Code section 65402(a), that the location, purpose, and extent of the above-described disposition of real property between the City of Brisbane and CLAT, 501 Spectrum, and S&S Chambers conforms to the Brisbane General Plan.

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Planning Commission of the City of Brisbane during the Regular Meeting of the Planning Commission on the twenty-seventh day of June 2024, by the following vote:

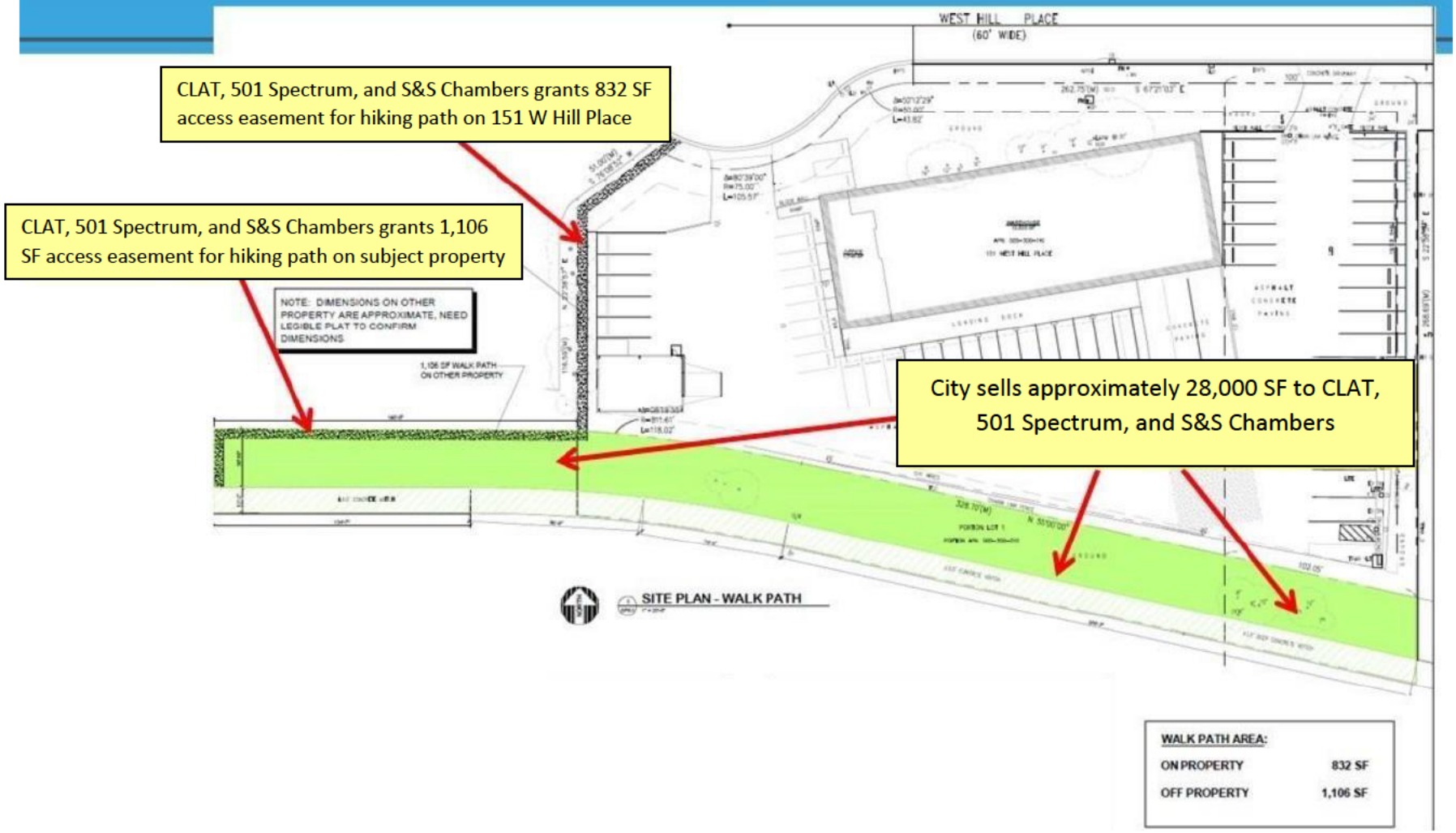
AYES: Funke, Gooding, Lau, Patel, Sayasane
NOES:
ABSENT:

_____
Alex Lau
Chairperson

ATTEST:

John Swiecki
_____
JOHN A SWIECKI, Community Development Director

Brisbane, CA - PSA Concept



RESOLUTION NO. 2024-XX

WHEREAS, the City of Brisbane owns a vacant, landlocked parcel located in Crocker Park, which parcel is approximately 28,000 square feet and adjoins property owned jointly by, several entities (Central Los Angeles Transfer, a California Corporation, 501 Spectrum Circle, LLC, and S&S Chambers, LLC, [hereafter, collectively, "Buyers"]); and

WHEREAS, the Buyers' adjoining property is located at _____, is developed and houses _____; and

WHERAS, the City acquired the vacant parcel from the McKesson Corporation in 1995 as part of a series of transactions between McKesson and the City that led to the development of Crocker Park; and

WHEREAS, on February 15, 2024, City Council received an agenda report concerning the potential sale of this parcel and, after discussion, Council adopted a resolution declaring the property as surplus land and directing staff to the return the item to the Council when and if there is a potential purchaser of the property; and

WHEREAS, Staff sent the required notices under the Surplus Lands Act that the property was available to school districts, recreation districts, and affordable housing providers but within the time frame provided by the Surplus Land Act, the City received no interest from any of those districts or housing providers; and

WHEREAS, staff then contacted representatives of the Buyers to determine if the Buyers still had an interest in acquiring the property; and

WHEREAS, the Buyers were still interested in acquiring the property for the price--$718,250—that the Buyers had discussed earlier with staff and, to that end, the Buyers have signed an Agreement for the Purchase and Sale of Real Property ("PSA"); and

WHEREAS, on June 28, 2024, the Planning Commission made findings that the sale of this property is in conformity with the policies of the General Plan; and

WHEREAS, City Council at its regular meeting on July 18, 2024 considered the proposed PSA, the agenda report and recommendation of City staff, and all comments and concerns of the public.

NOW, THEREFORE, the City Council of the City of Brisbane resolves as follows:

Section 1. City Council approves the sale of the property to the Buyers and authorizes the City Manager to sign the Agreement for the Purchase and Sale of Real Property and all other documents necessary to carry out the sale.

Section 2. The City Clerk is directed to record the Grant Deed and all related Easements when the City Attorney has approved as to form all such documents and advises that all conditions precedent to closing escrow have been satisfied.

Section 3. This Resolution shall take effect immediately upon its adoption.

The above resolution was adopted at a regular meeting of the Brisbane City Council on July 18, 2024 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Ingrid Padilla, City Clerk

Approved as to form:

Thomas R. McMorrow, City Attorney

File Attachments for Item:

Q. Election Issues

i. Consider Adoption of a Resolution to Place on the November 5, 2024 Ballot an Ordinance To Establish Term Limits For City Council Members

ii. Discuss whether to adopt a Resolution to place on the November 5, 2024 ballot an ordinance by which City Council will appoint the Mayor and the Mayor Pro Tempore

CITY COUNCIL AGENDA REPORT

Meeting Date: July 18, 2024

From: Jeremy Dennis, City Manager, Ingrid Padilla, City Clerk & Michael Roush, Legal Counsel

Subject: Election Issues: i. Resolution to Place on the November 5, 2024 Ballot an Ordinance Establishing Term Limits for City Council Members

COMMUNITY GOAL/RESULT
Community Building - Brisbane will honor the rich diversity of our city (residents, organizations, businesses) through community engagement and participation

RECOMMENDATION:

Adopt the attached resolution to place on the November 5, 2024 ballot an ordinance to establish term limits for City Council members.

BACKGROUND

The term of each city council member shall be for a term of four years from the time each member is elected and qualified until the member's successor is elected and qualified. Section 2.38.050, Brisbane Municipal Code. Currently, City Council members in Brisbane may serve an unlimited number of terms.

State law, however, permits a city council to adopt a proposal to limit the number of terms a member of the city council may serve on the city council. Any such proposal shall apply prospectively only and shall not be operative unless it is submitted to the electors (voters) of the city at a regularly scheduled election and a majority of votes cast on the question favor the adoption of the proposal. Government Code, Section 36502 (b).

At its meeting on June 20, 2024, City Council directed staff to prepare a proposal to be submitted to the voters at the November 2024 election (a regularly scheduled election) that would limit the number of consecutive terms that a council could serve to three; such person would not be eligible to run for another term of office for two years, after which the person would be eligible to serve another three consecutive terms. In addition, Council directed that the proposal provide that any term of office for which a person is elected or appointed to fill a vacancy would not count as one of the three terms.

Staff has drafted such a proposal and it is set forth as Exhibit A to the attached resolution. The resolution also asks the County Registrar of Voters to consolidate this matter with the Council's regularly scheduled election of three council members.

In order for this item to be on the November 5, 2024 ballot, Council must adopt the resolution 88 days before the election, which is August 9, 2024. This could be done at its meeting on July 18, at its regular meeting on August 1 (currently cancelled), or at a special meeting before the August 9 deadline.

DISCUSSION

The proposal provides that a council member shall serve no more than three consecutive terms. If such person serves for three consecutive terms, the person is not eligible to serve an additional term except after two years. If then elected, the person may serve an additional three consecutive terms. As to any person who is elected or appointed in order to fill a vacancy, that term of office will not count toward the three consecutive terms of office.

This proposal, if approved by a majority of the voters who cast votes on the proposal, would apply to the terms of office for the three council members elected at the November 2024 election. It would not apply to the terms of office for the two council members Davis and O'Connell whose terms of office run through 2026.

In addition, the resolution authorizes the City Council to submit arguments and rebuttals for or against the Ordinance. The resolution also provides the City Clerk to transmit a copy of the ordinance to the City Attorney to prepare an impartial analysis of the effects of the ordinance on existing law and operation of the ordinance.

Arguments and rebuttals shall be submitted in accordance with Elections Code, section 9280-9287. The City Clerk, as the City Election Official, will set the deadline for submitting arguments and rebuttals.

If the ordinance receives a majority vote of those voting on it, the ordinance will be in effect and may only be changed by a future vote of the electorate.

Fiscal Impact

Since the City will have an election for Council members in November 2024, there will be an additional cost to the City to place this matter on the ballot, but the actual costs are difficult to estimate, depending on the number of registered voters, the number of Brisbane items on a ballot, and the number of items on the ballot from other jurisdictions. Staff estimates that the cost to place one or two additional items on the ballot would be in the range of $19,000 to $27,000. There are funds in the City Clerk's budget for this purpose.

Environmental Review

Adoption of the attached resolution placing the ordinance on the ballot is not subject to environmental review because it concerns organizational or administrative activities of the City that in and of itself will not result in direct or indirect physical changes to the environment and, hence, it is not a project under the California Environmental Quality Act. Section 15378 (b) (5), CEQA Guidelines.

Attachments

Resolution placing on the November 5, 2024 ballot an ordinance to establish term limits for City Council Members

Jeremy Dennis

Jeremy Dennis, City Manager

Ingrid Padilla

Ingrid Padilla, City Clerk

Michael H Roush

Michael Roush, Legal Counsel

CITY COUNCIL AGENDA REPORT

Meeting Date: July 18, 2024

From: Jeremy Dennis, City Manager, Ingrid Padilla, City Clerk & Michael Roush, Legal Counsel

Subject: Election Issues: ii. Discussion Whether to Adopt a Resolution to Place on the November 5, 2024 Ballot an Ordinance to Establish Procedures by which City Council will Appoint the Mayor and Mayor Pro Tempore

Recommendation:

Discuss whether to adopt a Resolution to place on the November 5, 2024 ballot an ordinance by which City Council will appoint the Mayor and the Mayor Pro Tempore.

Background:

The mayor and mayor pro tempore ("pro-temp") in a general law city, such as Brisbane, are selected by a vote of the members of the city council. The Brisbane City Council has adopted a resolution (Resolution 2016-06, attached) setting guidelines for the selection of mayor and mayor pro temp. The resolution provides that serving as mayor and mayor pro temp is a privilege and not a right and states that "Whenever possible, each Council member shall have the opportunity to serve as mayor during that council member's first term of office" and "Whenever possible, the City Council shall select the then current mayor pro tempore as the next mayor." Accordingly, not every Council member is guaranteed that he or she will have the opportunity to serve as mayor.

City Council requested staff to place an item on the agenda to discuss whether an ordinance should be submitted to the voters at the November 2024 election that would replace the above guidelines with clear direction as to how the mayor and mayor pro temp are to be selected. In general terms, the ordinance would set up a rotation by which council members will be appointed as mayor and mayor pro temp, thereby guaranteeing that a council member will have the opportunity to serve as mayor. A proposed Ordinance is attached.

Note that the proposed Ordinance has a subsection D that references procedures by which a Council Member may be "removed" as Mayor and other Council Members may be moved "down" on the Mayoral rotational list. This document is a product of discussions by the ad hoc Code of Conduct Subcommittee (Council Members Lentz and Madison) concerning the grounds, timing and consequences concerning removing the Mayor (as Mayor) or moving a Council member "down" on the mayoral rotational list. The current version of this document is attached; the provisions of the document would not be included in the ordinance in order that City Council would have the discretion to change its terms from time to time.

If the Council decides that it wants to place this item on the November 2024 ballot, Council would need to adopt a resolution prior to August 9, 2024 in order that the County Registrar of Voters would have the item timely. This could occur at the Council's August 1 regular meeting (currently cancelled) or at a Special Meeting between July 18 and August 9.

Discussion

The ordinance would distinguish between situations where all council members have been on the Council in the previous term (even if such council members have been re-elected) and where there are newly elected council members, i.e., persons who did not serve in the previous term of office.

Assuming all council members have been on the Council in the previous term, Council would appoint as mayor the council member with the greatest length of time since that council member served as mayor. Council would appoint as mayor pro temp the council member with the second longest length of time since that member served as mayor.

Below are descriptions of how the rotation would be implemented in a mix of different scenarios:

1. Assume Council member A last served as Mayor in 2020, Council member B last served as Mayor in 2021, Council member C last served as mayor in 2022, Council member D last served as mayor in 2023 and Council member E has been mayor during 2024. Following the election in 2024 (and assuming all current council members are re-elected), if the voters approved an ordinance as described above, Council must appoint Council member A as mayor and must appoint Council member B as mayor pro temp. On the rotational list, Council member C would be in third position, Council member D would be in fourth position, and Council member E, who had just served as Mayor, would be in fifth or last position. The following year, Council would appoint Council member B as mayor, Council member C as mayor pro temp and Councl member A would move to the fifth or las position.

2. If there are one or more newly elected council members, the procedure changes somewhat. If there is only one newly elected Council member, and the person who just served as mayor was re-elected or was not up for re-election, the newly elected Council member would be placed fourth in the rotation and the procedures for appointing the mayor and mayor pro temp would be the same as described above. If there are two newly elected council members, the newly elected member with the higher number of votes would be placed in the rotation in the third position and the other newly elected council member would be in fourth position. If there are three newly elected council members, the council member with the highest number of votes would be placed in the rotation in the second position, and hence would be appointed as mayor pro temp, with the other two newly elected members being in third and fourth positions.

The only caveat to this procedure would be if the person who had just served as mayor either not being re-elected or choosing not to run. In that case, and depending on the number of newly elected council members, a newly elected council member could be in the fifth, fourth or third position in the rotation.

3. Finally, if a council member who would otherwise be in line to be selected as mayor chooses not to be appointed, the appointment would be deferred for a year, and that person will remain as mayor pro temp. Council would then appoint as mayor the council member who was in third position. The following year, Council would select as mayor the council member who deferred. As to the council member who deferred, when that member's mayoral term is over, that council member, rather than moving into the fifth or last position, would be placed in the fourth position, so as not to lose the person's overall position in the rotation.

If the Council were to direct this item be placed on the November 2024 ballot, the ballot question would ask "Shall an ordinance establishing procedures for appointing the Mayor and Mayor Pro-Tempore be adopted? Yes/No"

In addition, if the Council were to direct that this item be placed on the November 2024 ballot, the resolution would authorize the City Council to submit arguments and rebuttals for or against the Ordinance. The resolution would also provide the City Clerk to transmit a copy of the ordinance to the City Attorney to prepare an impartial analysis of the effects of the ordinance on existing law and operation of the ordinance.

If the ordinance received a majority vote of those voting on it, the ordinance would be in effect and could only be changed by a future vote of the electorate. The Ordinance would apply to the procedure concerning the appointment of Mayor for 2025 and thereafter.

Alternative to Placing the Item on the Ballot

Unlike establishing City Council term limits which may only be adopted by the voters, City Council could, of course, choose to implement this procedure by the Council's adopting an ordinance or a resolution, rather than taking the item to the voters. Procedures adopted by the Council, however, could then be changed by a vote of a future Council.

Fiscal Impact

There will be an additional cost to the City to place this matter on the ballot. Election costs are difficult to estimate depending on the number of registered voters, the number of Brisbane items on the ballot, and ballot measures from other jurisdictions. Staff estimates the cost to place one or two ballot measures on the ballot in the range of $19,000 to $27,000. There are funds in the City Clerk's budget for this purpose.

Environmental Review

If a resolution placing the ordinance on the ballot were adopted, it would not be subject to environmental review because it concerns organizational or administrative activities of the City that in and of itself will not result in direct or indirect physical changes to the environment and, hence, it is not a project under the California Environmental Quality Act. Section 15378 (b) (5), CEQA Guidelines.

Attachments:

1. Resolution 2016-06
2. Proposed Ordinance
3. Draft Procedures for Removing a Mayor and Moving Council Members on the Mayoral Rotational List

Jeremy Dennis

_____
Jeremy Dennis, City Manager

Ingrid Padilla

_____
Ingrid Padilla, City Clerk

Michael H Roush

_____
Michael Roush, Legal Counsel

Attachment 1

RESOLUTION NO. 2016-06

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE SETTING GUIDELINES FOR THE SELECTION OF MAYOR AND MAYOR PRO TEMPORE

WHEREAS, the City Council wishes to set guidelines for the selection of Mayor and Mayor Pro Tempore so that potential conflicts concerning who is selected as Mayor and Mayor Pro Tempore may be avoided; and

WHEREAS, serving as Mayor and Mayor Pro Tempore for the City is a privilege and not a right.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Brisbane that the following Guidelines are adopted for the selection of Mayor and Mayor Pro Tempore:

1. The City Council will meet the week prior to the Council's Reorganization Meeting (typically held in December of each year) to discuss the selection of the next Mayor and Mayor Pro Tempore.
2. Whenever possible, each Council member shall have the opportunity to serve as Mayor during that Council member's first term of office.
3. Whenever possible, the City Council shall select the then current Mayor Pro Tempore as the next Mayor.
4. These Guidelines supersede any other adopted Council policy or guidelines concerning the same issue.

Clifford R. Lentz, Mayor

I hereby certify that the foregoing Resolution No. 2016-06 was duly and regularly adopted at the meeting of the Brisbane City Council on February 18, 2016 by the following vote:

AYES: Councilmember Conway, Davis, Liu, O'Connell, and Mayor Lentz

NOES: None

ABSENT: None

Sheri Marie Spediacci, City Clerk

Exhibit A

CITY OF BRISBANE APPOINTMENT OF MAYOR AND MAYOR PRO TEMPORE MEASURE

ORDINANCE NO. ___

AN ORDINANCE OF THE CITY OF BRISBANE ADDING CHAPTER 2.40 (APPOINTMENT OF MAYOR AND MAYOR PRO TEMPORE) TO THE BRISBANE MUNICIPAL CODE

WHEREAS, State law provides that the Mayor and Mayor Pro Tempore of a general law city, such as Brisbane, are appointed by the City Council;

WHEREAS, the City Council by resolution has established procedures by which the City Council will appoint the Mayor and Mayor Pro Tempore but these procedures are only guidelines; and

WHEREAS, City Council would like to establish procedures by which the Mayor and Mayor Pro Tempore are appointed that are more than guidelines; and

WHEREAS, State law allows a City Council to submit to the voters a measure to establish procedures by which City Council will appoint the City's Mayor and Mayor Pro Tempore.

NOW, THEREFORE, BE IT ORDAINED BY THE PEOPLE OF THE CITY OF BRISBANE AND THE CITY COUNCIL OF THE CITY OF BRISBANE THAT:

Section 1. **Ordinance.**

The Brisbane Municipal Code is hereby amended by adding a new Chapter, Chapter 2.40, Appointment of Mayor and Mayor Pro Tempore, to read as follows:

"Section 2.40.010. Definitions

A. Current Council Member. A current Council Member is a Council Member who served in the City Council's most recent term of office, even if, at the time City Council appoints the Mayor and Mayor Pro Tempore, the person had been reelected to the City Council.
B. Newly Elected Council Member. A newly elected Council Member is a person who at the most recent election was elected but did not serve in the immediate term of office before the election

Section 2.40.020 Appointment of Mayor and Mayor Pro Tempore on Rotational Basis

Annually and in December, City Council shall meet and appoint from its members on a rotational basis a Mayor and Mayor pro-temp as provided in this Ordinance. The Mayor and Mayor pro-temp shall serve until the City Council selects their successors.

Section 2.40.030 Appointment Procedures.

A. As to a current Council member, the length of time that has elapsed since the Council Member served as Mayor shall be determined. City Council shall appoint as Mayor the current Council Member with the greatest length of time since that Council Member served as Mayor. City Council shall appoint as Mayor Pro Tempore the current Council Member with second longest length of time since that Council Member served as Mayor. The current Council Member with the third longest length of time since the Council member served as Mayor shall be in third position as to the rotation. The current Council Member with fourth longest length of time since the Council member served as Mayor shall be in fourth position as to the rotation. The current Council Member who just served as Mayor shall be in the last or fifth position.
B. A newly elected Council Member shall be placed in fourth position in the rotation, immediately ahead of the current Council Member who served as Mayor in the previous term of office. If there are two newly elected Council Members, the Council Member with the higher number of votes shall be placed in third position in the rotation and the other Council Member shall be placed in the fourth position in the rotation. If there are three newly elected Council Members, the Council Member with the highest number of votes shall be appointed as Mayor Pro Tempore the Council Member with the second highest number of votes shall be placed in third position in the rotation, and the other Council Member shall be placed in fourth position in the rotation. If the Council Member who served as Mayor in the previous term of office was not re-elected or chose not to run, the newly elected Council Members shall be placed in the third, fourth, and fifth position in the rotation, depending on the number of newly elected Council Members and the number of votes each Council Member received.
C. If a Council Member who would otherwise be in line to be appointed Mayor chooses not to be appointed, that person's appointment shall be deferred for one year, and the Council Member will remain Mayor Pro Tempore. City Council shall then appoint as Mayor the Council Member who was in third position in the rotation. The following year, City Council shall appoint as Mayor the Council Member who deferred. As to the Council member who deferred the Mayoral appointment for one year, when that Council Member's Mayoral term of office is over, that Council Member, rather than moving into fifth or last position, will be placed in fourth position in the rotation. If a Council Member chooses to defer the Mayoral appointment two years in row, the Council Member will be placed in third position in the rotation.

D. Nothing in this Section 2.40.030 precludes or prevents the City Council from removing a Current Council Member as Mayor, or moving a Council Member's position on the Mayoral rotational list, if the City Council has adopted such procedures for so doing including, but not limited to, the grounds, timing and consequences."

Section 2. Environmental Clearance

This Ordinance is not a project for purposes of the California Environmental Quality Act (CEQA). Continuing administrative activities such as general policy and procedure making except as they are applied to specific instances that have a direct or indirect effect on the environment are not projects. CEQA Guidelines, Section 15378 (b) (2). This Ordinance will have no direct or indirect effect on the environment.

Section 3. Severability

If any provision of this Ordinance or the application to any person or circumstance is held invalid the remainder of the Ordinance and application of such provision to other persons or circumstances shall not be affected thereby.

Section 4. Effective Date.

This Ordinance shall take effect only if adopted by the electorate at an election to be held on November 5, 2024.

Mayor of the City of Brisbane

Attest:

Ingrid Padilla, City Clerk

APPROVED by the following vote of the People of the City of Brisbane on November 5, 2024:

YESES

NOES

ADOPTED by Declaration of the vote at the November 5, 2024 election by the City Council of the City of Brisbane on December _____, 2024.

Ingrid Padilla, City Clerk

Approved as to form:

Thomas R. McMorrow, City Attorney

Attachment 3

Draft Procedures for Removing a Mayor & Moving Council Members on the Mayoral Rotational List

A. Grounds for Removing a Council Member as Mayor or Changing a Council Member's Position on the Mayoral Rotational List

1. If a sitting Council Member, or any other Council Member, is alleged to have behaved in a manner inconsistent with their office, within 30 days of the alleged behavior having come to the City's attention, the disinterested Members of the City Council shall hear the allegation and determine by majority vote whether the allegation warrants further review.

2. If the City Council determines that an allegation warrants further review, the City Attorney shall be solely responsible for conducting the review, directly or indirectly, and reporting back to the City Council on the results of the review within 90 days.

3. In carrying out its Section 2 review, the City Attorney shall, at minimum, determine whether one or more of the following have occurred.

   a. The Council Member has pled guilty, pled no contest to, or has been convicted of a felony.

   b. The Council Member is found by the Fair Political Practices Commission to have violated the state Political Reform Act, or the Council Member has conceded to an allegation that they violated the Act.

   c. An outside law enforcement agency finds or has found that a Council Member has engaged in a physical altercation with another Council Member or City staff, and that the Council Member instigated or escalated the altercation.

   d. An outside investigator, retained by the City Attorney, finds or has found that a Council Member disclosed confidential information, whether provided in closed session or otherwise, for the purpose of influencing the outcome of a decision.

   e. An outside investigator, retained by the City Attorney, finds or has found that a Council Member violated the City's Sexual Harassment Policy.

   f. An outside investigator, retained by the City Attorney, finds that the Council Member was under the influence of alcohol or drugs during a City Council meeting.

B. Timing

The City Council must initiate the process to remove a Council Member as Mayor, or to move a Council Member's position on the mayoral rotation list, within one year from a finding reported by the City Attorney under Section 3.

C. Consequences

If the City Attorney reports a finding against a Council Member under Section A3, the four (4) disinterested Council Members shall determine the consequence of the finding:

1. If the Council Member is serving as Mayor when a finding under Section A3 is reported to the City Council, the four (4) disinterested Council Members shall determine by [majority/unanimous] vote whether the Council Member shall be removed as Mayor and placed in the fifth position on the mayoral rotation list. Such removal will occur even if the event that caused the removal occurred while the Council Member was not serving as Mayor.

2. If a Council Member is not serving as Mayor when a finding under Section A3 is reported to the City Council, the four (4) disinterested Council Members shall determine by [majority/unanimous] vote whether the Council Member shall be held back one year on the mayoral rotation list.