



CITY of BRISBANE

City Council Meeting Agenda

Thursday, October 17, 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 Davis will join via teleconference at 251 Mendocino St. Brisbane, CA.

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 respectfully 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 via Zoom Webinar. Aside from commenting personally while in the Zoom Webinar, you can also use the call in number. The public comments received will be noted for the record during Oral Communications 1 and 2 or during an agenda item. We encourage you to email comments on or not on agenda items in advance of the meeting to ipadilla@brisbaneca.org. That email address, however, will not be monitored during the meeting and emails received during the meeting will not be responded to or brought to the attention of the City Council during the meeting.

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.

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 distributed to the Council and made available for public inspection at the front lobby and on the internet the day after the meeting (brisbaneca.org/meetings).

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

ORAL COMMUNICATIONS NO. 1

AWARDS AND PRESENTATIONS

- B. Proclamation for Domestic Violence Prevention Month
- C. The Great Shake Out-- Earthquake Preparedness Update

CONSENT CALENDAR

- D. Approve Minutes of City Council Meeting of October 3, 2024
- E. Approve Minutes of City Council Special Meeting of October 3, 2024
- F. Approve Minutes of City Council Meeting of September 5, 2024
- G. Approve the “Amended and Restated Emergency Intertie Agreement” and Authorize the City Manager to Sign the Document on the City’s Behalf

(The environmental documents for development at 800-1800 Sierra Point Parkway and 3000-3500 Marina Boulevard both required mitigations to modify an existing water intertie agreement between the City of Brisbane and the California Water Service

Company, and the need to modify the existing 16" interconnection. The cost of constructing the modified interconnection is borne by the two developments. The proposed agreement and the foreseen modification of the existing intertie were both reviewed and previously received CEQA clearance. No further review is required.)

- H. Adopt the Resolution to Revise the Start Date for a Trial Residential Parking Permit Program on Thomas Ave on November 1, 2025
- I. Adopt a Resolution to Revise the Conflict of Interest Code to Include New Classifications or Categories of Public Officials
- J. Adopt a Resolution to Amend the Master Pay Schedule to Meet the New Minimum Wage Requirement

OLD BUSINESS

- K. City Council Consideration of R-BA Zoning District Issues Including Protection of City-Owned Open Space, Public Street Standards and Related Development Standards, Ownership of Non-Public Roadways, And Solar Shading

(These issues were raised in the City Council's consideration of 2024-RZ- 1 on September 5, 2024 but the issues were largely collateral to the item itself; City staff has placed these issues on the agenda for Council consideration.)

PUBLIC HEARING

- L. 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 on and discussed at the City Council Meeting of September 5, 2024; the public hearing was closed but the item continued to a future date.)

- M. Consider Adoption of a Resolution of the City Council of the City of Brisbane Amending the Community Health and Safety Element of the General Plan to Incorporate the City of Brisbane's 2021 Local Hazard Mitigation Plan into the Element

(To purpose of this item is to amend the Community Health and Safety Element of the General Plan to reflect the most recently adopted Local Hazard Mitigation Plan to

comply with State Assembly Bill 2140. This project is exempt from environmental review under CEQA Guidelines Section 15061(b)(3).)

- N. 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 on the City Council Meeting of September 5, 2024 but not discussed at this time.)

STAFF REPORTS

- O. City Manager’s Report on Upcoming Activities

MAYOR/COUNCIL MATTERS

- P. Countywide Assignments and Subcommittee Reports

- Q. Written Communications

ORAL COMMUNICATIONS NO. 2

ADJOURNMENT

File Attachments for Item:

C. The Great Shake Out-- Earthquake Preparedness Update



CITY COUNCIL AGENDA REPORT

Meeting Date: October 17, 2024
From: Director of Public Works/City Engineer
Subject: Update on Earthquake Preparedness

Community Goal/Result: Safe Community

Recommendation: Receive the update

Background

The Earthquake Country Alliance (ECA) in partnership with the Statewide California Earthquake Center, annually sponsors a “Shakeout” to motivate individuals, businesses and government to prepare for the inevitable seismic event. The city does not participate in this event as an active scenario member, but with full credit given to the original author of the attached (ECA), we are sharing the useful information provided by the Shakeout sponsors..

Attachments

1. Slide deck on earthquake safety

R.L. Breault

Randy Breault, Public Works Director

Jeremy Dennis

Jeremy Dennis, City Manager

Seven Steps To Earthquake Safety

1. Secure Your Space



2. Plan To Be Safe



3. Organize Supplies



4. Minimize Financial Hardship



5. Drop, Cover, and Hold On



6. Improve Safety



7. Reconnect and Restore



BEFORE

DURING

AFTER

EarthquakeCountry.org/sevensteps

Terremotos.org/sietepasos

The complete and detailed information for each of the Seven Steps can be found at: <https://www.earthquakecountry.org/sevensteps/>

[illegible]

Plan Your Response: Extinguish Small Fires

- Get a fire extinguisher for your home.
- Your local fire department can train you and your family to use it properly.



Disaster Supplies Checklist

- Choose where you want to store your supplies:
 - Under-Bed bag?
 - Go-Bag?
 - Home?
 - Work?
 - Car?
- What personal items do you need?

Step 3: Organize Emergency Supplies
The Seven Steps to Earthquake Safety

It may be easier and cheaper than you think to organize emergency supplies in convenient locations. This is not just about "having a kit." It includes supplies specific to you, such as medications, eyeglasses, clothing, shoes, toiletries, and more. This is in addition to the basic supplies everyone should have (cash, food, first aid, flashlight, radio, etc.).

The chart below can help you customize supplies for when and where you need them: **under-bed bag** (immediate supplies), **evacuation** ("go-bag" - 3 days), **home** (2 weeks), and perhaps at **work** and in your **car**. Choose what makes the most sense based on your needs and budget. Learn more at EarthquakeCountry.org/step3.

Under-Bed Bag	Go-Bag	Home	Work	Car	Home
☐	☐	☐	☐	☐	Clothing, shoes, hat, hat / beanie, gloves
☐	☐	☐	☐	☐	Vehicle
☐	☐	☐	☐	☐	Flashlight / headlamp
☐	☐	☐	☐	☐	First aid kit and supplies
☐	☐	☐	☐	☐	Cash / coins
☐	☐	☐	☐	☐	Back (for work, school, outdoor work)
☐	☐	☐	☐	☐	Current map (for home, not at work)
☐	☐	☐	☐	☐	Copy of ID / important documents
☐	☐	☐	☐	☐	Batteries, battery pack, B charging cables
☐	☐	☐	☐	☐	Prescriptions / copies of prescriptions
☐	☐	☐	☐	☐	Personal and emergency supplies
☐	☐	☐	☐	☐	Water and food (keep shelf life)
☐	☐	☐	☐	☐	Personal notes
☐	☐	☐	☐	☐	Tools (screwdriver, pliers, hammer, etc.)
☐	☐	☐	☐	☐	Blank (small) paper
☐	☐	☐	☐	☐	Blank (large) and exposed
☐	☐	☐	☐	☐	First aid kit (band-aids, gauze, bandages)
☐	☐	☐	☐	☐	Other / (see below, bottom)
☐	☐	☐	☐	☐	Personal notes, emergency notes, etc.
☐	☐	☐	☐	☐	Flashlight / headlamp / light
☐	☐	☐	☐	☐	Personal items

Choose what makes sense for you and where to keep it

© 2012 Earthquake Country Alliance

EarthquakeCountry.org/step3

Under-Bed Bags

- Keep **shoes** and a **flashlight** in a **closed** bag attached to each bed.
- You can also include other items as in this picture.



The collage shows several items: a pair of white sneakers, a yellow flashlight, a pair of tan work gloves, a white surgical mask, a yellow hard hat, a fire extinguisher, and a small bag of supplies.

Prevents...

- Cut feet and hands
- Tripping over objects

Allows you to...

- Open jammed doors
- Help injured

-
- The collage consists of nine individual images of PPE items:
- Top left: A pair of white sneakers with yellow laces and yellow socks, with a yellow flashlight placed next to them for scale.
 - Top center: A pair of safety glasses with red frames and clear lenses.
 - Top right: A yellow hard hat with a black chin strap.
 - Middle left: A pair of tan work gloves.
 - Middle center: A white plastic bag with a yellow label, likely containing a respirator filter.
 - Middle right: A red and white respirator mask with a blue strap.
 - Bottom left: A yellow flashlight.
 - Bottom center: A white and blue striped respirator mask.
 - Bottom right: A long, orange and white tool, possibly a pry bar or a similar lifting device.

Allows you to...

- Open jammed doors
- Help injured

Why Drop, Cover, and Hold On?

- Strong consensus for many years, based on data for how people are injured, and experience of Urban Search and Rescue firefighters
- Prevents being thrown to the ground
- Reduces injury from falling or flying items... including structural elements and exterior façades (brick, glass, etc.)
- Increases chance of surviving collapse



Classroom in Calexico, CA
April 2010 M7.2

**DROP!**

**COVER!**

**HOLD ON!**

EarthquakeCountry.org/step5
ShakeOut.org/dropcoverholdon

-

EarthquakeCountry.org/step5

ShakeOut.org/dropcoverholdon

Know How to Protect Yourself

In *most* situations and building types:



Drop on to your hands and knees, where you are



See EarthquakeCountry.org/step5 for advice for a variety of settings

Know How to Protect Yourself

In *most* situations and building types:



Cover your head and neck with one arm and hand

- If a sturdy table or desk is nearby, crawl underneath it for shelter
- If no table/desk, crawl against a wall or next to low furniture for sideways protection



See EarthquakeCountry.org/step5 for advice for a variety of settings

Know How to Protect Yourself

In *most* situations and building types:



Hold On to your shelter until shaking stops

- Be ready to move with your shelter
- *If not under a shelter*, hold on to your head/neck with both arms and hands



See [EarthquakeCountry.org/step5](https://www.EarthquakeCountry.org/step5) for advice for a variety of settings

Adapt to Your Situation

- Don't drop down, if you can't get back up
- Practice your preferred method with others who assist you
- [EarthquakeCountry.org/accessibility](https://www.EarthquakeCountry.org/accessibility)

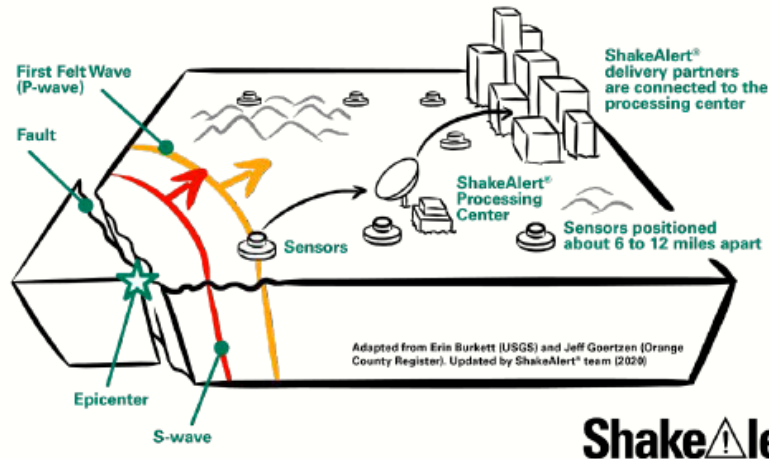
If You Feel Shaking or Get an Alert:



[EarthquakeCountry.org/step5](https://www.EarthquakeCountry.org/step5)

Earthquake Early Warning

- Detects an earthquake as it begins
- Rapidly estimates ground-motion patterns
- Issues alerts to locations expected to experience significant shaking



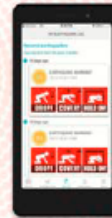
Earthquake Warning California

Earthquake Early Warnings
Now Available through Wireless
Emergency Alerts (WEA)



Magnitude = 5 or greater
and
Intensity at your location =
greater than IV

Download the **MyShake™**
Earthquake Early Warning App.



Magnitude = 4.5 or greater
and
Intensity at your location =
greater than III



Magnitude = 4.5 or greater
and
Intensity at your location =
greater than III

earthquake.ca.gov

File Attachments for Item:

D. Approve Minutes of City Council Meeting of October 3, 2024



BRISBANE CITY COUNCIL**ACTION MINUTES**

**CITY COUNCIL MEETING AGENDA
THURSDAY, SEPTEMBER 19, 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 7:41 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. Councilmember Davis will join via Teleconference at 251 Mendocino St. Brisbane, California. Councilmember Cunningham will join via Teleconference at 1826 Birdie Lane, Henderson, Nevada.

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

Councilmembers absent: None

Staff Present: City Manager Dennis, City Clerk Padilla, City Attorney McMorrow, Finance Director Yuen, Economic Development Director Bull, Assistant to the City Manager Cheung, Economic Development Director Bull, Parks and Recreation Director Leek, Inspector Preston and Administrative Management Analyst Ibarra

ADOPTION OF AGENDA

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

Ayes: Councilmembers Cunningham, Davis, Lentz, Mackin, and Mayor O'Connell.

Noes: None

Absent: None

Abstain: None

AWARDS AND PRESENTATIONS

B. Declaring October 6-11, 2024 as Fire Prevention Week

Mayor O’Connell proclaimed October 6th – 12th, 2024, as Fire Prevention Week throughout this city. Urging all the people of Brisbane to be aware of their surroundings, look for available ways out in the event of a fire or other emergency, respond when the smoke alarm sounds by exiting the building immediately, and support the many public safety activities and efforts of North County Fire Authority and emergency services during Fire Prevention Week 2024.

Inspector Preston accepted the proclamation on behalf of the North County Fire Authority.

C. Presentation: Overview of the Public Art Master Plan Survey Results

Parks and Recreation Director Leek provided an overview community engagement activities, the Public Art Master Plan Survey results, the Mission and Vision and Selection Criteria for public art and next steps.

According to the survey, 94% want more public art, 81% don’t understand the public art selection and funding process, 79% believe public art strengthens identity, and 81% want art in parks.

Parks and Recreation Director Leek added that in November 2024, a draft Master Plan will be forwarded to the Public Art Advisory Committee for review and revisions and in December of 2024 – January of 2025 a draft Master Plan will come before the City Council for consideration, revisions, and adoption.

ORAL COMMUNICATIONS NO. 1

No members of the public wished to make public comment.

CONSENT CALENDAR

D. Approve Investment Report as of August 2024

E. Approve City Council Closed Session Meeting Minutes of August 28, 2024

F. Approve City Council Closed Session Meeting Minutes of September 5, 2024

G. Approve City Council Meeting Minutes of September 5, 2024

H. Approve City Council Closed Session Meeting Minutes of September 19, 2024

I. Approve City Council Meeting Minutes of September 19, 2024

J. Approve the Brisbane Lions Club Worldwide Candle Lighting as a Cosponsored Event

K. Adopt an Ordinance of the City of Brisbane, Waiving Second Reading, Amending Chapter 3.24 of the Brisbane Municipal Code Concerning Voluntary Collection Agreement with Hosting Platforms for the Collection and Payment of Transient Occupancy Taxes

Staff proposed to pull Consent Calendar Item G due to a request from a member of the public. It will be re-agendized at a future City Council meeting.

Councilmember Cunningham made a motion, seconded by Councilmember Lentz, to approve the Consent Calendar Items D-F and H-K. The motion passed unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, Mackin, and Mayor O'Connell.

Noes: None

Absent: None

Abstain: None

NEW BUSINESS

L. Consider Recommendations of Use of State and Local Fiscal Recovery Funds (SLFRF)

Finance Director Yuen reported that the purpose of this item is for Council to provide a list of recommended projects to review and consider on how to use remaining funds received through the State and Local Fiscal Recovery Funds program (SLFRF). Staff is recommended that City Council consider recommendations on how to use remaining funds from the SLFRF program and, if there is an interest in one or more projects, direct staff to return such projects to Council for further consideration.

Finance Director Yuen added that she forwarded a correspondence to the Council earlier in the day, reporting that the Fiscal Impact Section of the attached report should have clarified that a selection of a new project will increase expenses to the extent of any new projects selected for FY2025, potentially increasing our budgeted deficit. If we were to use the full remaining award in FY2025, the General Fund budgeted deficit will grow from \$2.699 Million to \$3.589 Million. Any increase would be offset by savings found during the budget year.

After Council questions, Michael Barnes advocated for the Crocker Trail CEQA plan to be prioritized for the SLFRF program. He added that it is important to provide active recreation to the community such as exercise stations and bicycle skills features.

After further Council discussion, Councilmember Lentz made a motion, seconded by Councilmember Davis, to recommend the Crocker Trail CEQA plan (\$150,000) and the Mission Blue Center Renovation designs (\$45,000) for the SLFRF program. The motion passed with a 3 to 1 vote.

Ayes: Councilmembers Cunningham, Davis, Lentz, Mackin, and Mayor O'Connell.

Noes: Councilmember Mackin and Mayor O'Connell

Absent: None

Abstain: None

STAFF REPORTS

M. City Manager's Report on Upcoming Activities

City Manager Dennise reported on the latest news and upcoming City events.

MAYOR/COUNCIL MATTERS

N. Countywide Assignments and Subcommittee Reports

Councilmembers reported on their countywide assignment meetings.

O. Written Communications

Council received the following correspondence:

Yuen (10/3/24) Fiscal Impact on SLFRF and ARPA Funds

Follien (10/3/24) SLFRF Item I

ORAL COMMUNICATIONS NO. 2

Chris Florkowski, in response to previous commenter, expressed her appreciation for the work of the Council and staff.

ADJOURNMENT

Mayor O'Connell congratulated Councilmember Davis on the birth of her son.

Mayor O'Connell adjourned the meeting at 8:35 P.M.

Ingrid Padilla
City Clerk

File Attachments for Item:

E. Approve Minutes of City Council Special Meeting of October 3, 2024



BRISBANE CITY COUNCIL**ACTION MINUTES**

**CITY COUNCIL SPECIAL MEETING AGENDA
THURSDAY, OCTOBER 3, 2024**

HYBRID MEETING, 50 PARK PLACE, BRISBANE, CA 94005

6:00 P.M. WORKSHOP

Mayor O'Connell called the meeting to order at 6:06 p.m. Councilmember Davis joined via Teleconference at 251 Mendocino St. Brisbane, California. Councilmember Cunningham joined via Teleconference at 1826 Birdie Lane, Henderson, Nevada.

A. Approval of the Special Meeting Agenda

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

Ayes: Councilmembers Cunningham, Davis, Lentz, Mackin and Mayor O'Connell

Noes: None

Absent: None

Abstain: None

B. Discuss Draft Code of Conduct

City Manager Dennis reported that the Best Practices Ad Hoc Subcommittee focused on a high-level "code of conduct" document based on the Town of Colma's document. It is being recommended for Council to direct staff or the Subcommittee to finalize a Code of Conduct based on Council's discussions at the workshop. Councilmembers Davis and Lentz, as the Best Practices Ad Hoc Subcommittee members, provided a recap on why the Town of Colma's Code of Conduct was a good foundation on how councilmembers and staff should treat each other personally and professionally.

After Council questions, no public comment and Council discussion, Councilmembers directed staff to draft a document that will compile the proposals from the Best Practices Subcommittee, Councilmembers' additional input, and the California Fair Political Practices Commission (FPPC) mandates. The Council agreed to discuss this matter again at a future City Council Special Meeting in a workshop format.

ADJOURNMENT

The meeting was adjourned by Mayor O'Connell at 7:30 p.m.

Ingrid Padilla
City Clerk

File Attachments for Item:

F. Approve Minutes of City Council Meeting of September 5, 2024



BRISBANE CITY COUNCIL

ACTION MINUTES

CITY COUNCIL MEETING AGENDA THURSDAY, SEPTEMBER 5, 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 7:31 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 Cunningham, Davis, Lentz, Mackin, and Mayor O’Connell

Councilmembers absent: None

Staff Present: City Manager Dennis, City Clerk Padilla, City Attorney McMorrow, Finance Director Yuen, City Engineer Breault, Community Development Director Swiecki, Senior Planner Johnson, Assistant to the City Manager Cheung, Economic Development Director Bull, Deputy Fire Chief Abelson, Police Commander Garcia, and Administrative Management Analyst Ibarra

REPORT OUT OF CLOSED SESSION

City Attorney McMorrow reported that Councilmembers took action on Liability Claim Item D and Liability Claim Item E.

ADOPTION OF AGENDA

Councilmember Cunningham made a motion, seconded by Councilmember Mackin, to approve the City Council Meeting agenda as it stands. The motion passed unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, Mackin, and Mayor O’Connell.

Noes: None

Absent: None

Abstain: None

ORAL COMMUNICATIONS NO. 1

David Schooley spoke about his concern for the Oak Grove at the entrance of Brisbane.

Michael Barnes congratulated the Council for the High Speed Rail agreement and asked the City to provide Bicycle Accident Reports by the Police Department on the City's website as noted in the City's response to a Grand Jury report on bicycle safety.

Michele Salmon thanked the council for the High Speed Rail resolutions.

Del Schembari shared a leaflet from the Mountain Butterfly Collective to stop the development of the quarry.

CONSENT CALENDAR

- B. Approve Minutes of City Council Special Meeting of July 15, 2024**
- C. Approve Minutes of City Council Closed Session Meeting of July 18, 2024**
- D. Approve Minutes of City Council Meeting of July 18, 2024**
- E. Approve Investment Report as of June 2024**
- F. Approve Investment Report as of July 2024**
- G. Approve Response to Grand Jury Report on Restaurant Exteriors: The Neglected Space**
- H. Approve Response to Grand Jury Report on the State of Compost Compliance in San Mateo County**
- I. Adopt a Resolution "Authorizing the Director of Public Works/City Engineer to execute agreements with the California Department of Transportation for a Brisbane Lagoon and U.S. Highway 101 Adaptation Planning Study"**
(The grant award amount is \$259,920. Once the grant is finalized, city staff will request an obligation of \$34,000 to meet the required local match.)
- J. Approve Resolutions Appointing Committee Members from Open Space Ecology Committee, Inclusion, Diversity, Equity, and Accountability Committee, Complete Streets Safety Committee and San Mateo County Mosquito and Vector Control District Board of Trustees**
- K. Authorize staff to publish the Public Art RFP to solicit prospective artists for the Alvarado to San Benito Stairway as recommended by the Public Art Advisory Committee**
- L. Approve David L. Brown Productions' 25th Anniversary documentary screening as a cosponsored event**
- M. Award the Smart Corridors Northern Cities - Brisbane construction contract (Project No. 924D) to Bear Electrical Solutions, Inc. in the amount of \$2,915,935 and authorize the mayor to sign the Agreement on behalf of the City**

Councilmember Cunningham made a motion, seconded by Councilmember Mackin, to approve Consent Calendar Items B-M. The motion passed unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, Mackin, and Mayor O'Connell.

Noes: None

Absent: None

Abstain: None

N. Approve Excelsior Running Club's 6th Annual Star City San Bruno Mountain Half Marathon and 5K as a cosponsored event

Due to a conflict of interest, Councilmember Lentz left the room and recused himself from voting on this item. Councilmember Davis made a motion, seconded by Councilmember Cunningham, to approve Consent Calendar Item N. The motion passed 4 votes and 1 recusal.

Ayes: Councilmembers Cunningham, Davis, Mackin, and Mayor O'Connell.

Noes: None

Absent: None

Abstain: None

Recused: Councilmember Lentz

O. Approve the Sierra Point Yacht Club's 2024 Regatta as a cosponsored event

Due to a conflict of interest, Mayor O'Connell left the room and recused herself from voting on this item. Councilmember Davis made a motion, seconded by Councilmember Lentz, to approve Consent Calendar Item O. The motion passed 4 votes and 1 recusal.

Ayes: Councilmembers Cunningham, Davis, Lentz and Mackin

Noes: None

Absent: None

Abstain: None

Recused: Mayor O'Connell

AWARDS AND PRESENTATIONS CONTINUED

P. Swearing In Newly Appointed Committee Members

City Clerk Padilla administered the Oath Or Affirmation of Allegiance for Public Officers for the newly appointed committee members:

- Anthony Walker, Open Space & Ecology Committee term through 2026
- Michael Goldman, San Mateo County Mosquito & Vector Control District Board of Trustee term through 2028
- Paul Bouscal, Complete Streets Safety Committee term through 2028
- Emily Wirowek, Complete Streets Safety Committee term through 2028
- Lailah Khalil, Inclusion, Diversity, Equity, and Accountability Committee term through 2026
- Carol Zoltowski, Inclusion, Diversity, Equity, and Accountability Committee term through 2026

Quita Highsmith was appointed to the Inclusion, Diversity, Equity, and Accountability Committee with a term through 2026. She was not able to attend the City Council Meeting and will be sworn in at a later time.

Q. Proclaiming September as National Preparedness Month

Mayor O'Connell proclaimed September 2024 as National Preparedness Month and encouraged all Brisbane residents to increase their knowledge and awareness of proper safety measures to follow before, during, and after a disaster.

Deputy Fire Chief Abelson accepted the proclamation on behalf of North County Fire Authority.

CONTINUED PUBLIC HEARING

R. 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 and July 18, 2024.)

Community Development Director Swiecki presented a graphic to explain what happens in Brisbane with the proposed ordinance and without the proposed ordinance.

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

Peter Sutherland shared his concerns about road safety and the quality of soil in the acres.

Stephen Goodwin shared his public health and safety concerns about the proposed Ordinance.

Rachel asked what the federal protections for the trees are.

Tom Heinz commented there is strength in numbers to join the other cities against SB 9.

Sherry Goodwin submitted petitions signed by 224 members of the public not to approve the Ordinance and have the public decide on the issue through an election.

Linda Salmon commented that the residents need protection from earthquakes, mudslides and fires.

DeeDee Porter commented that she signed the petition to prevent overdevelopment in the area above Kings Road and that she should have read up more on the proposed ordinance, SB 9 and SB 1037. She added that the ordinance does not mandate that we develop the Acres and that SB 9 cannot be implemented in areas that do not have infrastructure. The ordinance will also help protect the City more and not lessen restrictions. All of this is public opposition is to SB 9 and not the council's proposed ordinance.

Michele Salmon asked the Council to read the Open Space Ecology Committee letter regarding this issue and delay the vote for two more weeks.

Prem Lall asked for more information about the trust-like option for Open Space.

Paul Bouscal agrees with developing plans to protect the Acres.

Leesa Greenlee agrees with developing plans to protect the Acres if it is just a matter of semantics. She also shared her concerns about Margaret Road.

Ron Coloma commented that Council should preserve the property rights of property owners in the lower acres.

Michele Salmon, Peter Sutherland, Dana Dillworth and Paul Bouscal added follow up comments.

Councilmember Cunningham made a motion, seconded by Councilmember Davis, to close the public hearing. The motion passed unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, Mackin, and Mayor O'Connell.

Noes: None

Absent: None

Abstain: None

After a brief break, Council continued the public hearing Item R to a future City Council meeting in order for staff to provide more information to Council on zoning district issues including protection of City-owned open space, public street standards and related development standards, ownership of non-public roadways, and solar shading.

S. 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 and July 18, 2024.)

Due to the late hour, Continued Public Hearing Item S was not discussed and will be continued to a future meeting.

STAFF REPORTS

T. City Manager’s Report on Upcoming Activities

City Manager Dennis reported on an upcoming event.

MAYOR/COUNCIL MATTERS

U. Update on Vacancy on the Open Space Ecology Committee and IDEA Committee

City Clerk Padilla reported that Committee Member Glenn Fieldman from OSEC and Miyoko Nida from the IDEA Committee had resigned from their committees. Councilmembers directed Clerk Padilla to begin recruitment to fill these two seats and other expiring seats in 2025. Interviews will be scheduled January of 2025.

V. Update on the City Council Meeting 2024 Schedule

Councilmembers approved the remaining schedule for the City Council Meetings of 2024, which includes the following:

October 3, 2024 Proposed Special Meeting Best Practices/Code of Conduct Workshop

October 17, 2024 Regular Meeting

November 7, 2024 Regular Meeting

November 21, 2024 Special Meeting (Mayoral Rotation) & Regular Meeting

December 5, 2024 Regular Meeting

December 12, 2024 Special Meeting for the City Council Reorganization

December 19, 2024 Meeting Cancellation

W. Countywide Assignments and Subcommittee Reports

Councilmembers reported on their county wide assignments and subcommittee activities.

X. Written Communications

City Clerk Padilla reported that written communication were received from the following:

Faust (7/23/24) Silverspot Nursery Lease and Funding
Dillworth (8/24/24) Rezone Editor
Ames (8/24/24) Rezoning Brisbane Acres
Nunan (8/28/24) OSEC Response Letter to Rezoning Proposal
Goodwin (9/1/24) Reject 2024 RZ1 and RZ2
Ramirez (9/3/24) Fire in the Ring
Dillworth (9/5/24) Rezoned

ORAL COMMUNICATIONS NO. 2

No member of the public wished to make public comment.

ADJOURNMENT

Mayor O'Connell adjourned the meeting at 10:52 P.M.

Ingrid Padilla
City Clerk

File Attachments for Item:

G. Approve the “Amended and Restated Emergency Intertie Agreement” and Authorize the City Manager to Sign the Document on the City’s Behalf

(The environmental documents for development at 800-1800 Sierra Point Parkway and 3000-3500 Marina Boulevard both required mitigations to modify an existing water intertie agreement between the City of Brisbane and the California Water Service Company, and the need to modify the existing 16” interconnection. The cost of constructing the modified interconnection is borne by the two developments. The proposed agreement and the foreseen modification of the existing intertie were both reviewed and previously received CEQA clearance. No further review is required.)



CITY COUNCIL AGENDA REPORT

Meeting Date: October 17, 2024
From: Director of Public Works/City Engineer
Subject: Emergency Water Intertie Agreement

The environmental documents for development at 800-1800 Sierra Point Parkway and 3000-3500 Marina Boulevard both required mitigations to modify an existing water intertie agreement between the City of Brisbane and the California Water Service Company, and the need to modify the existing 16" interconnection.

Community Goal/Result: Safe Community

Purpose

To complete mitigations required in environmental documentation for Sierra Point developments.

Recommendation

Approve the "Amended and Restated Emergency Intertie Agreement" and authorize the City Manager to sign the document on the city's behalf.

Background

The City and California Water Service Company (CWS) have an existing emergency intertie in the median of Shoreline Court, generally at Brisbane's southern limit with South San Francisco (almost directly across from the entrance to Homewood Suites at 2000 Shoreline Court). This existing intertie is manually operated and has been used over the years when one or the other of the connected water systems anticipates low water pressure in their system due to scheduled maintenance.

The environmental clearance for the 800-1800 Sierra Point Parkway identified both the need to modify the agreement with CWS and the need to install a pressure reducing/sustaining valve:

MMUTL-2a: The proposed project shall incorporate a pressure reducing/ pressure sustaining valve on the 16-inch interconnection between CalWater and the City of Brisbane Water Districts in a valve box located in the center median of Shoreline Court. The valve shall be properly sized and have the ability to provide bidirectional fire flow to Sierra Point and the proposed project while concurrently maintaining the capacity to provide the required fire flow and pressure to the CalWater District. The new interconnection assembly shall comply with the City of Brisbane Public Works Department, CalWater and North County Fire Department specifications.

MMUTL-2b: As a condition of approval and prior to issuance of building permits, an agreement must be made between CalWater and the City of Brisbane Water District and a program prepared that identifies and establishes responsibilities and operating ranges for the pressure reducing/pressure sustaining valve and the routine maintenance and testing of the facility. The applicant shall be responsible for the costs associated with preparation and implementation of the program.

The requirement to modify the existing interconnection was also identified as a mitigation measure for the 3000-3500 Marina Boulevard project:

XVI. Utilities and Services
<u>UTL-1a:</u> As a condition of approval and prior to issuance of building permits, the applicant shall incorporate a pressure reducing/pressure sustaining valve on the 16-inch interconnection between CalWater and the City of Brisbane Water Districts in a valve box located in the center median of Shoreline Court, or pay their fair share as determined by the Public Works Department if the improvement has already been completed. The valve shall be properly sized and have the ability to provide bidirectional fire flow to Sierra Point and the proposed project while concurrently maintaining the capacity to provide the required fire flow and pressure to the CalWater District. The new interconnection assembly shall comply with the City of Brisbane Public Works Department, CalWater and North County Fire Departments specifications.

Discussion

The purpose of these mitigations was to provide automatic bidirectional flow of water in the event of an emergency drop in water pressure in either system.

Fiscal Impact

The cost of constructing the modified interconnection is borne by the two developments.

Measure of Success

Completed mitigation measures.

Environmental Review

The proposed agreement and the foreseen modification of the existing intertie were both reviewed and previously received CEQA clearance. No further review is required.

Attachments

1. Amended and Restated Emergency Intertie Agreement

R.L. Breault

Randy Breault, Public Works Director

Jeremy Dennis

Jeremy Dennis, City Manager

**AMENDED AND RESTATED
EMERGENCY INTERTIE AGREEMENT**
(SSF/Shoreline Court and Sierra Point, Brisbane)

This AMENDED AND RESTATED EMERGENCY INTERTIE AGREEMENT (this “Agreement”) is entered into this _____ (the “Effective Date”) by and between the CITY OF BRISBANE, a municipal corporation (“Brisbane”), and the CALIFORNIA WATER SERVICE COMPANY, a California corporation (“Cal Water”). Brisbane and Cal Water may be referred to individually as a “Party” or collectively as the “Parties”.

BACKGROUND

A. The Parties are engaged in the supply of water in the County of San Mateo in contiguous service areas; and

B. Each Party has its own water supply and, under usual and ordinary operating conditions, neither Party would usually need or purchase water from the other Party.

C. The Parties believe it is reasonable and prudent to maintain an automated interconnection of their respective water systems so that Supplemental Water (defined below) may be supplied by one Party (as the “Suppling Party”) to the other Party (as the “Receiving Party”) upon a limited basis in cases of emergency, disaster, or a maintenance event, to help ensure or mitigate the impacts of the temporary loss of water for a Receiving Party’s customers.

D. The Parties are or may be parties to one or more other written agreements or instruments concerning interties, cross-connections, or similar arrangements and for similar purposes as this Agreement.

E. The Parties want to fully amend and restate any operative and effective agreements or instruments between the Parties concerning the interconnection of their respective systems, and for this Agreement to supersede and be the definitive agreement between the Parties with respect to the subject of this Agreement.

[Remainder of page intentionally left blank.]

AGREEMENT

NOW, THEREFORE, for and in consideration of the terms and conditions below, the Parties agree as follows:

1. Intertie

1.1. Installation. The Parties intend to build and then maintain an intertie of their respective water distribution systems through a fixed piped interconnection, including manually controlled valves, a bi-directional meter, a pressure reducing/pressure sustaining control valve, pressure relief valve, SCADA telemetry, protection covers, sanitary sewer lateral with connection to existing nearby sanitary sewer main, concrete apron, wrought iron fencing/gate with security slats, roadway restoration and a vault, lid and access ladder south of the intersection of Sierra Point Parkway and Shoreline Court, including the facilities and improvements shown in **Exhibit A** (collectively, the “Intertie”). Subject to Cal Water’s agreement, the Parties expect and intend Brisbane to do the initial planning, design, permitting, construction, and installation of the Intertie.

1.2. Brisbane POC. The “Brisbane POC” (i.e., point of connection) is that portion of the Intertie from Brisbane’s water main, originating from the north, to the (southern) flange of the pressure reducing/pressure sustaining valve, including the pipes and all pipe appurtenances as shown on **Exhibit A**.

1.3. Cal Water POC. The “Cal Water POC” is that portion of the Intertie from Cal Water’s water main, originating from the south, to the (southern) flange of the pressure reducing/pressure sustaining valve, including the pipes and all pipe appurtenances as shown on **Exhibit A**.

2. Design and Construction

2.1. Design Standard. Brisbane will cause the Intertie to be constructed by Brisbane’s contractors or agents according to applicable water industry and health standards and according to the plans, drawings, and specifications that the Parties approve. Brisbane will not authorize its contractors or agents to begin construction of the Intertie unless the Parties have approved all of the final plans, drawings, and specifications for the Intertie. Brisbane will provide all plans, drawings, and specifications for the Intertie to Cal Water for approval before Brisbane intends to begin construction.

2.2. Construction Planning. Within a reasonable time before the construction of the Intertie begins, the Parties will agree on individual plans for a construction shutdown, which may include limited or no reduction in service to existing customers during the intended construction period.

2.3. Tie-In; Acceptance. Physical connection to the Cal Water system shall require Cal Water personnel to be on site and no connection shall be made without Cal Water personnel on-site. Cal Water will not accept the Cal Water POC or tie-in the Intertie unless Cal Water has had a reasonable opportunity to inspect the Intertie and the Cal Water POC (the “Tie-In Date”). The costs and expenses Cal Water may incur to inspect, test, accept and tie-in the Intertie may be paid or reimbursed to Cal Water by Brisbane. Within 30 days of Cal Water’s acceptance of the Cal Water

POC, Cal Water may deliver an invoice for its final costs and expenses for inspection and tie-in to Brisbane (the "Final Invoice"). Brisbane will cause the Final Invoice to be paid within 30 days of receipt of the Final Invoice.

3. Operation and Maintenance

3.1. Ownership on Tie-In. From and after the Tie-In Date, Brisbane will own the Brisbane POC and Cal Water will own the Cal Water POC. Brisbane will own the SCADA telemetry system and all related equipment for the intertie and will allow Cal Water to connect so that both Parties may monitor the intertie.

3.2. General Maintenance. From and after the Tie-In Date, each Party will keep, operate, and maintain its respective POC in good order and repair, reasonable wear and tear excepted, according to prudent utility standards. Notwithstanding the generality of the forgoing, each Party will visually inspect its POC no less than one time during a 12-month period (i.e., every year), and conduct an operational test of its POC, including an accuracy check of the control valve pressure set points, and bi-directional meter, no less than one time during a 24-month period (i.e., every two years). Each Party will promptly repair, restore, or replace any damaged, worn, or inoperable facilities as reasonably necessary to ensure the safe operability of its POC.

3.3. Control Settings. On or before the Tie-In Date, the Parties will agree on the pressure setpoints of the modulating control valve of the Intertie. Upon a Party's request, the Parties will meet to review and agree on the applicable control settings for modulating control valve to ensure the Intertie operates according to the purposes of this Agreement, and specifically to ensure that the water supplied and received under this Agreement is Supplemental Water.

3.4. Flushing Plan. The Parties shall independently develop a plan for regular, periodic flushing of potentially stagnant water to avoid water quality issues during the automated and unanticipated opening of the modulating control valve. A minimum annual flushing frequency shall be maintained by both Parties. Costs for development and implementation of the flushing plan shall be borne by the Parties individually. In conjunction with flushing, and both Parties shall take a bacteriological sample for informative purposes only (not included as part of each respective Parties' state-required sampling) and communicate the results to each other.

3.5. Reasonable Access. The Parties and their respective employees, staff, and contractors and subcontractors (a "Party's Representative") may access the other Party's POC at reasonable times and with at least 24 hours prior notice to the other Party to examine or test the valves, connections, meters, pipes, hydrants, and other necessary equipment. Unless the Parties agree otherwise, a Party Representative from each Party must be present at the time of examination or testing. Each Party will be responsible for any damage, injury, death, or destruction caused by or arising from its access or use of the other Party's POC.

3.6. Automation of Intertie and SCADA Telemetry. Each Party's butterfly valve shall be maintained in the normally closed position prior to the installation and acceptance of the SCADA telemetry system. Only after (i) the installation of the fully functioning SCADA telemetry and all related equipment have been completed and accepted by both Parties, (ii) Brisbane has notified Cal Water of the completion, and (iii) Cal Water has connected communications to its own SCADA system so it can

properly monitor and be alerted to any volumes of water flowing through the connection, shall the butterfly valves be maintained in the normally open position. Acceptance of this work and equipment shall be at the sole discretion and satisfaction of Cal Water.

3.7. Supplemental Water. “Supplemental Water” is water from a Supplying Party’s water supply that is above and beyond the Supplying Party’s needs to meet its system and customer demands in its service area and is meant to be the water that a Party may require because of an emergency or disaster, failure of water supply, power failure for an extended period of time, mechanical failure of pumps or a major pipeline break, or similar event of emergency or maintenance.

3.8. Availability. The Parties’ obligation to supply water under this Agreement is limited to a reasonable period of time to permit the Receiving Party to accomplish repairs to its own sources or to obtain water from other sources.

3.9. No Dedication. Nothing in this Agreement shall be deemed to constitute a dedication of the water supply to either Party to service the territory of the other Party or to constitute a commitment to supply water to the other Party as a regular customer.

3.10. No Change to Service Area. Nothing in this Agreement shall be deemed to constitute a change in the respective service areas of Brisbane or Cal Water.

3.11. Failure of Supply. Neither Party shall be responsible for damages for any failure to supply water or for interruption of water supply.

3.12. Quantity and Quality of Water. Neither Brisbane nor Cal Water makes any representation or warranty of any kind regarding the quantity, quality, or pressure of water available at any time through the Intertie, except that the Supplemental Water will comply with the California State Water Resources Control Board’s Division of Drinking Water requirements. Notwithstanding the foregoing, the receiving Party is solely responsible for verifying or otherwise assuring for itself the quality of water entering its system and of any interactions or reactions of the water supplied with the Receiving Party’s water distribution system and facilities.

4. General Responsibilities

4.1. Payment. A Receiving Party will pay the Supplying Party for all water delivered in accordance with the Supplying Party’s tariff or rate schedule in effect at the time of delivering Supplemental Water to the Receiving Party. The rate used to calculate charges will be the Supplying Party’s lowest non-residential water rate that is operative at the time of delivering Supplemental Water, regardless of the total volume of water delivered to the Receiving Party. A Supplying Party will only charge a Receiving Party for the months in which Supplemental Water is actually delivered, and a Receiving Party will pay a Supplying Party within thirty (30) days after a Receiving Party’s receipt of a bill from a Supplying Party. The amount of Supplemental Water delivered shall be estimated if conditions do not permit metered measurement.

4.2. Compliance with Laws. Each Party will obtain and maintain all applicable permits and prepare reports or plans as necessary or applicable to comply with applicable local, state, and federal laws, rules, regulations concerning the construction, repair, maintenance, and operation of its respective POC.

4.3. Reasonable Care. Each Party will exercise reasonable care in the performance of its obligations and rights under this Agreement to ensure that the other Party's facilities and operations are not impaired or damaged.

4.4. Water Supply Agreements. The volumes of Supplemental Water provided by a Supplying Party may count toward a Receiving Party's volume of water used for purposes of reporting to the San Francisco Public Utilities Commission (SFPUC), the State Water Resources Control Board (SWRCB), the Bay Area Water Supply and Conservation Agency (BAWSCA), or any other public agency. Volumes of Supplemental Water provided by a Supplying Party to a Receiving Party will not be deemed or construed to increase, decrease, or otherwise affect a Supplying Party's supply of water under an applicable water supply agreement. A Receiving Party is responsible for compliance with any reporting requirements under any applicable water supply agreements.

4.5. Reasonable Cooperation. During the term of this Agreement the Parties may meet as needed to discuss and coordinate the opening and closing of the Intertie or modifications to the Intertie to effectuate the purposes of this Agreement and will jointly respond to any operational issues, including, but not necessarily limited to, low pressure and contamination.

5. Mutual Indemnification

5.1. Cal Water Indemnity. To the extent permitted by law, Cal Water shall protect, defend, hold harmless and indemnify Brisbane, its City Council, commissions, officers, employees, volunteers, and agents from and against any claim, injury, liability, loss, cost, or expense or damage, including all costs and reasonable attorney's fees in providing a defense to any claim arising therefrom, for which Brisbane shall become liable arising from Cal Water's negligent, reckless, or wrongful acts, errors, or omissions with respect to its performance of this Agreement.

5.2. Brisbane Indemnity. To the extent permitted by law, Brisbane shall protect, defend, hold harmless and indemnify Cal Water, its shareholders, directors, officers, employees, staff, agents, and representatives from and against any claim, injury, liability, loss, cost, or expense or damage, including all costs and reasonable attorney's fees in providing a defense to any claim arising therefrom, for which Cal Water shall become liable arising from Brisbane's negligent, reckless, or wrongful acts, errors, or omissions with respect to its performance of this Agreement.

6. Notice

Unless otherwise provided under this Agreement, any notice or request from a Party to the other shall be delivered to the other Party in writing and to the following addresses:

Brisbane:	Public Works Director
	City of Brisbane
	50 Park Place
	Brisbane, CA 94005
P::	(415) 508-2130
E:	cityengineer@brisbaneca.org

Cal Water: Bayshore District
 California Water Service Company
 341 North Delaware Street
 San Mateo, CA 94401
 P: (650) 558-7891
 D: (209) 993-6471
 E: rmoilan@calwater.com

Copy to: Legal Department
 California Water Service Company
 1720 N First Street
 San Jose, CA 95112
 Attn: Assoc. General Counsel
 P: (408) 367-8200
 E: LegalDepartment@calwater.com

A Party may change its respective addresses by delivering written notice to the other Party. If notice is sent via email, a signed original of the material shall also be mailed. The day an email was sent will control the date that notice was deemed given. An email transmitted after 1:00 p.m. on a Friday will be deemed to have been delivered on the following Monday.

7. General Terms

7.1. Term; Termination. This Agreement shall continue in effect until terminated by either Party upon not less than 6 months prior written notice to the other.

7.2. Assignment. Brisbane and Cal Water bind themselves, their partners, successors, assigns, executors, and administrators to all covenants of this Agreement. Except as otherwise set forth in this Agreement, no interest in this Agreement or any of the work provided for under this Agreement shall be assigned or transferred, either voluntarily or by operation of law, without the prior written approval of the other Party.

7.3. Amendment. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the Parties and incorporated into this Agreement.

7.4. Integration. This Agreement embodies the agreement between Brisbane and Cal Water and its terms and conditions. No other understanding, agreements, or conversations, or otherwise, with any officer, agent, or employee of the Parties prior to execution of this Agreement shall affect or modify any of the terms or obligations contained in any documents comprising this Agreement. Any such verbal agreement shall be considered as unofficial information and in no way binding upon either Party.

7.5. No Third-Party Beneficiaries. This Agreement shall not be construed to be an agreement for the benefit of any third party or parties and no third party or parties shall have any claim or right of action under this Agreement for any cause whatsoever.

7.6. Captions. The captions of the various sections, paragraphs, and subparagraphs of this Agreement are for convenience only and shall not be considered or referred to in resolving questions of interpretation.

7.7. Binding Effect. The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives. It is the intent of the Parties that this Agreement shall become operative on the Effective Date.

7.8. Counterparts. This Agreement may be signed in one or more counterparts and by facsimile, pdf, or other electronic means. Each counterpart will be deemed an original and all counterparts, when taken together, will form one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first written above.

CITY OF BRISBANE,
a California municipal corporation

APPROVED BY [], ON:
[Date] (By Resolution 2024-)

By: _____
Jeremy Dennis
Its: City Manager

Date: _____

APPROVED AS TO FORM:

ATTEST:

City Attorney

By: _____
Its: City Clerk

Brisbane

CALIFORNIA WATER SERVICE COMPANY, a California corporation

By: _____

Its:

By: _____

Its:

Cal Water

Exhibit A: Interconnection Plans



1	TITLE SHEET
2	IMPROVEMENT PLAN
3	DETAILS

PRIOR TO OBTAINING AN ENCROACHMENT PERMIT FROM THE CITY, THE CONTRACTOR SHALL PREPARE A PLAN FOR PROVIDING POWER TO THE SCADA CABINET AND FLOWMETER FOR APPROVAL BY THE CITY. IT IS THE CONTRACTOR'S RESPONSIBILITY TO OBTAIN ALL PERMITS AND APPROVALS FROM OUTSIDE AGENCIES NEEDED FOR PROVIDING POWER, INCLUDING PG&E.

EXISTING	PROPOSED
PROPERTY LINE	PROPERTY LINE
EASEMENT LINE	EASEMENT LINE
BCDC LIMIT	STORM DRAIN CLEANOUT
CONTOUR	SANITARY SEWER CLEANOUT
WATER LINE (PER RECORD DWGS.)	STORM DRAIN MANHOLE
SANITARY SEWER (PER RECORD DWGS.)	SANITARY SEWER MANHOLE
STORM DRAIN (PER RECORD DWGS.)	STORM DRAIN INLET
ELECTRIC LINE (PER RECORD DWGS.)	JUNCTION BOX
GAS LINE (PER RECORD DWGS.)	STORM DRAIN CATCH BASIN WITH MEDIA FILTER
COMMUNICATIONS LINE (PER RECORD DWGS.)	FIRE HYDRANT
UTILITY TO BE REMOVED	BACKFLOW PREVENTER
	REDUCED PRESSURE ASSEMBLY
	WATER METER
	POST INDICATOR VALVE
	FIRE DEPARTMENT CONNECTION
	WATER GATE VALVE/TEE CONNECTION
	TRANSFORMER – SEE JT PLANS
	UTILITY VAULT – SEE JT PLANS
	PROPOSED TREE – SEE LANDSCAPE PLANS
	SLOPE
	DRAINAGE DIRECTION
	COBBLE
	STORM DRAIN PIPE
	SANITARY SEWER
	SS FORCEMAIN
	PERFORATED UNDERDRAIN
	FIRE SERVICE
	DOMESTIC WATER
	JOINT TRENCH (REFERENCE ONLY)

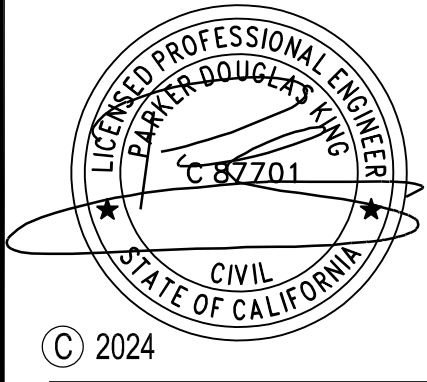
AS TO THE ACCURACY BETWEEN THE WORK SET FORTH ON THESE PLANS AND THE WORK IN THE FIELD, ANY DISCREPANCIES SHALL BE BROUGHT TO THE ATTENTION OF WILSEY HAM PRIOR TO START OF CONSTRUCTION OF THE PARTICULAR ITEM OF WORK.



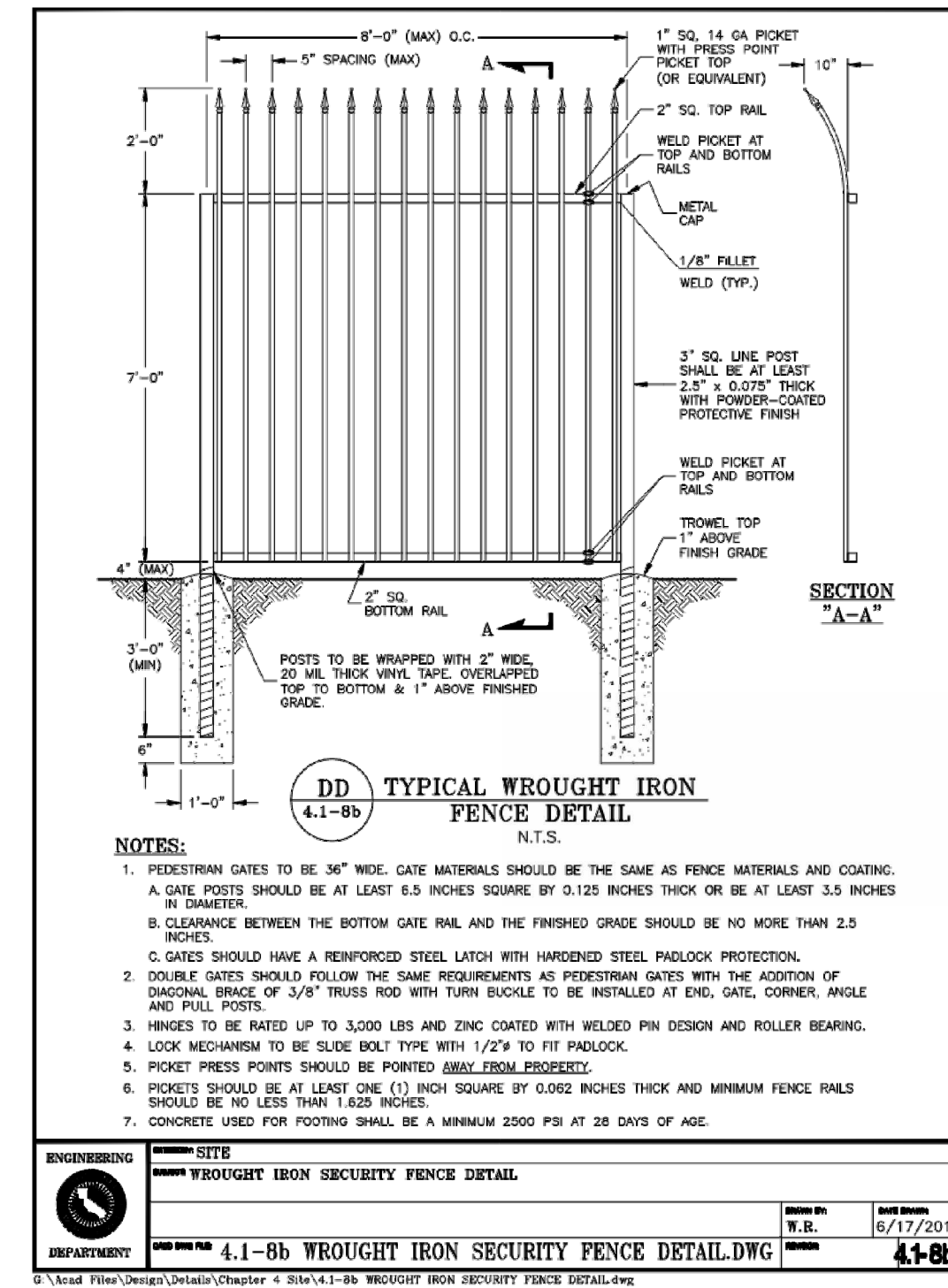
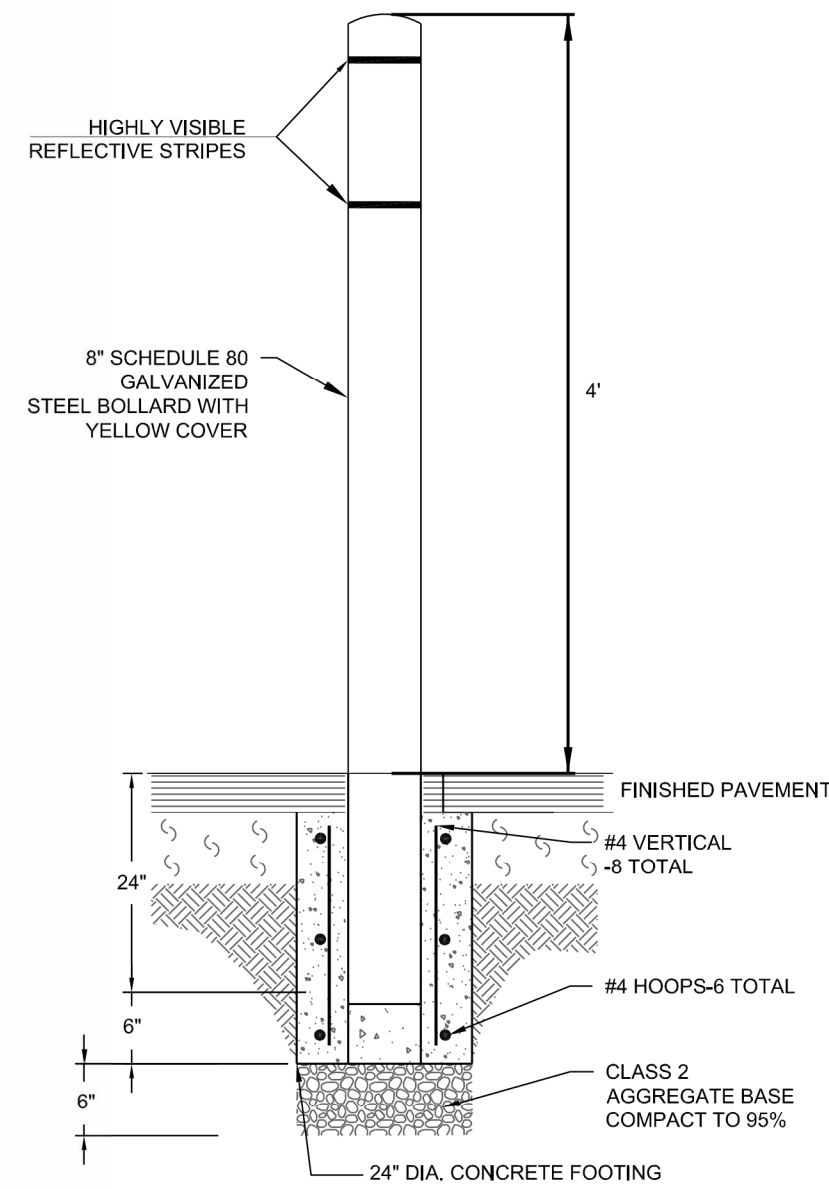
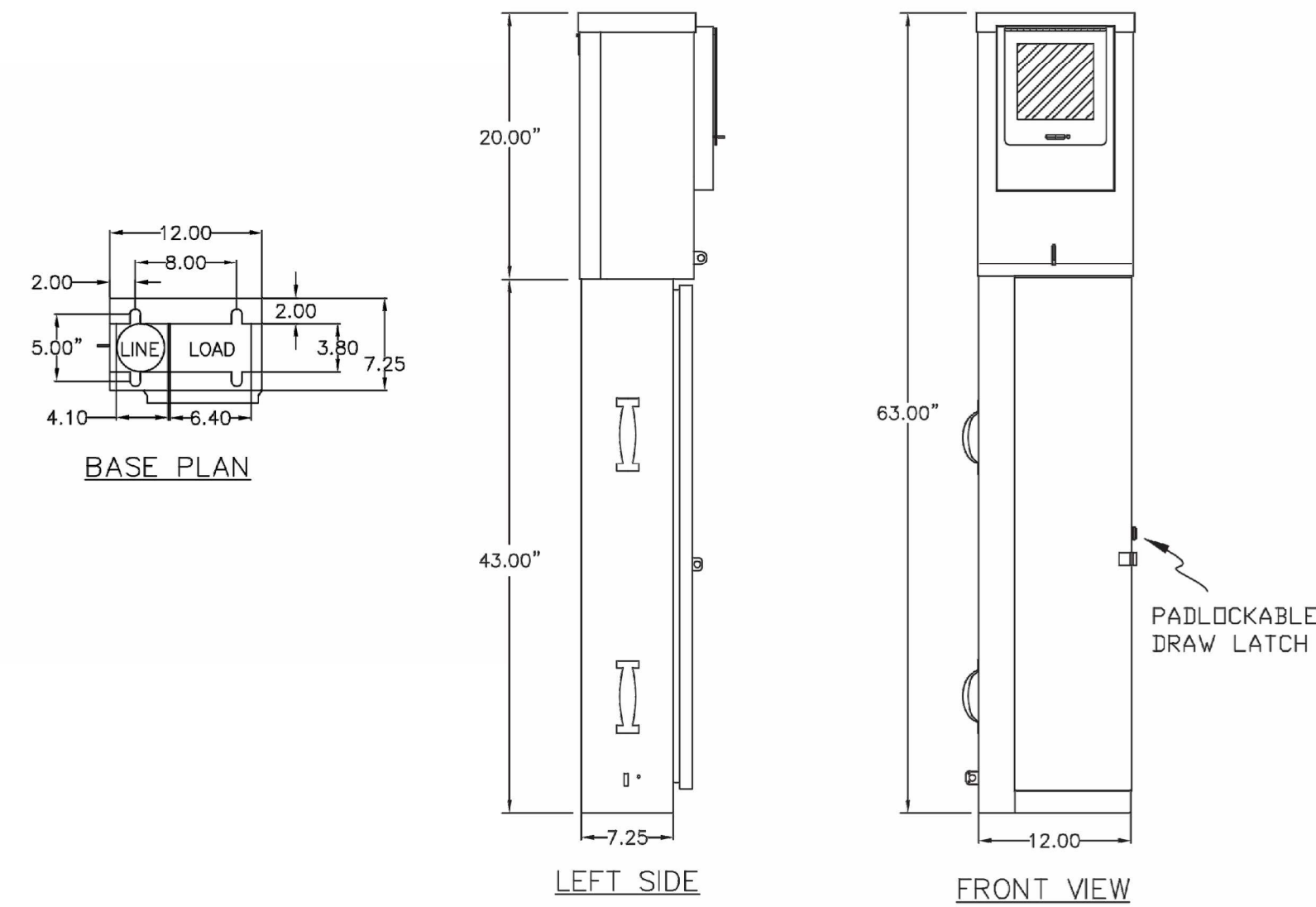
AC	ASPHALT CONCRETE
AD	AREA DRAIN
ARV	AIR RELEASE VALVE
BB	BOTTOM OF BIORETENTION
BC	BACK OF CURB
BOW	BACK OF WALK
BW	BOTTOM OF WALL
CB	CATCH BASIN
CC	CROSSING
DCDA	DOUBLE CHECK DETECTOR ASSEMBLY
DI	DROP INLET
DS	DOWNSIDE
E,EX	EXISTING
(E)	EAST
EG	EXISTING GROUND
EL	ELEVATION
FDC	FIRE DEPARTMENT CONNECTION
FF	FINISHED FLOOR
FM	FORCE MAIN
JB	JUNCTION BOX
JT	JOINT TRENCH
HDPE	HIGH DENSITY POLYETHYLENE
HP	HIGH POINT
INV	INVERT
L	LENGTH
LF	LINEAR FEET
LP	LOW POINT
MON	MONUMENT
MUTCD	MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES
(N)	NORTH
(NE)	NORTHEAST
(NW)	NORTHWEST
NIC	NOT IN CONTRACT
(P)	PROPOSED
PL	PROPERTY LINE
PERF	PERFORATED
PM	PARCEL MAP
POC	POINT OF CONNECTION
PUE	PUBLIC UTILITY EASEMENT
R	RADIUS
RPA	REDUCED PRESSURE ASSEMBLY
S	SLOPE
(S)	SOUTH
(SE)	SOUTHEAST
SD	STORM DRAIN
SDCO	STORM DRAIN CLEANOUT
SDMH	STORM DRAIN MANHOLE
SLP	SEE LANDSCAPE PLANS
SPP	SEE PLUMBING PLANS
SO	SIDE OPENING
SRW	SEGMENTAL RETAINING WALL
SS	SANITARY SEWER
TB	TOP OF BIORETENTION
TG	TOP OF GRATE
TW	TOP OF WALL
TYP.	TYPICAL
UNK	UNKNOWN
UNO	UNLESS NOTED OTHERWISE
US	UPSTREAM
(W)	WEST

CITY OF BRISBANE
BRISBANE, CALIFORNIA

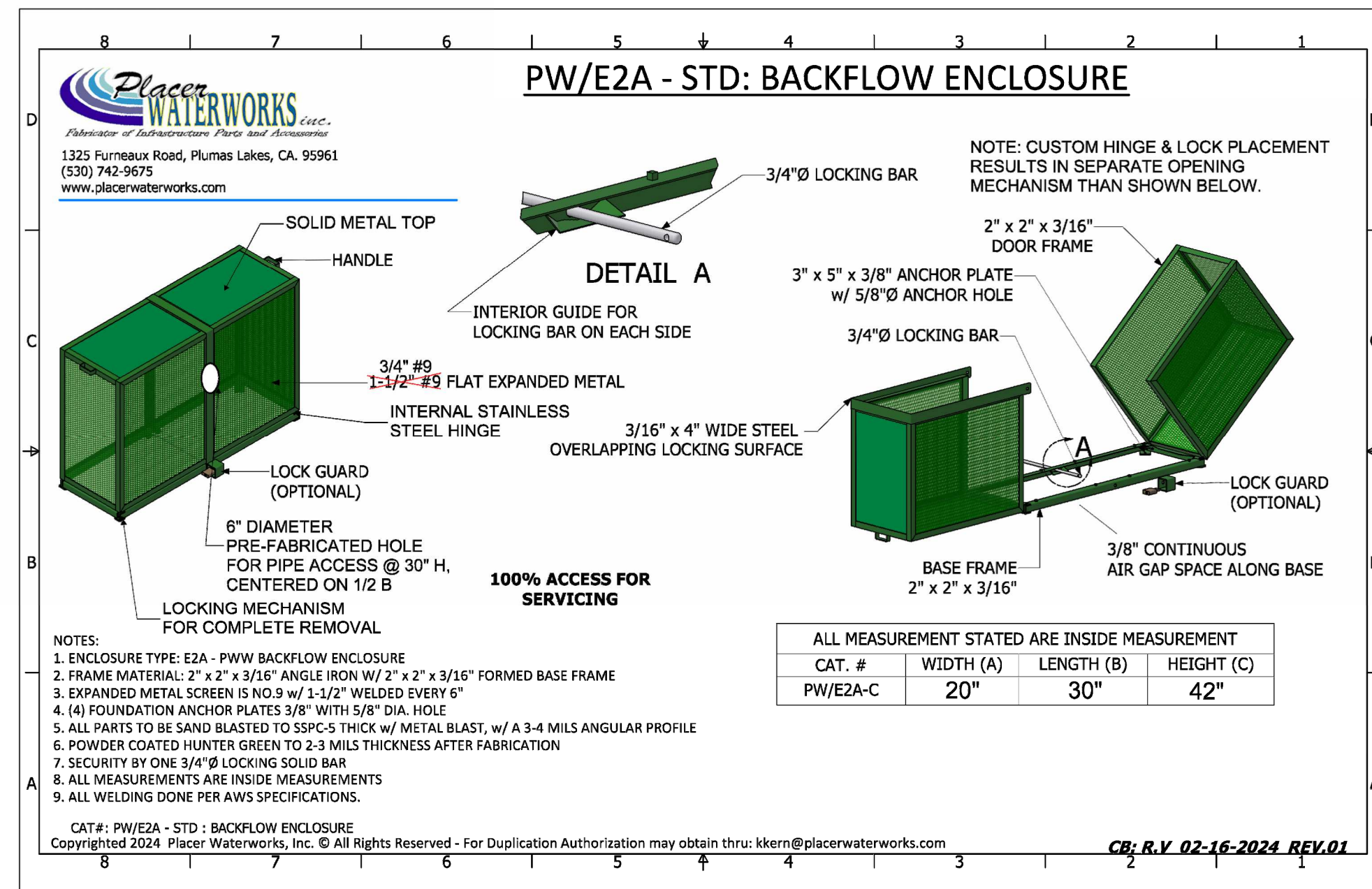
DES PROJECT NO.: 9619.006



MODEL 26-100
TESCOFLEX® SINGLE METER PEDESTAL

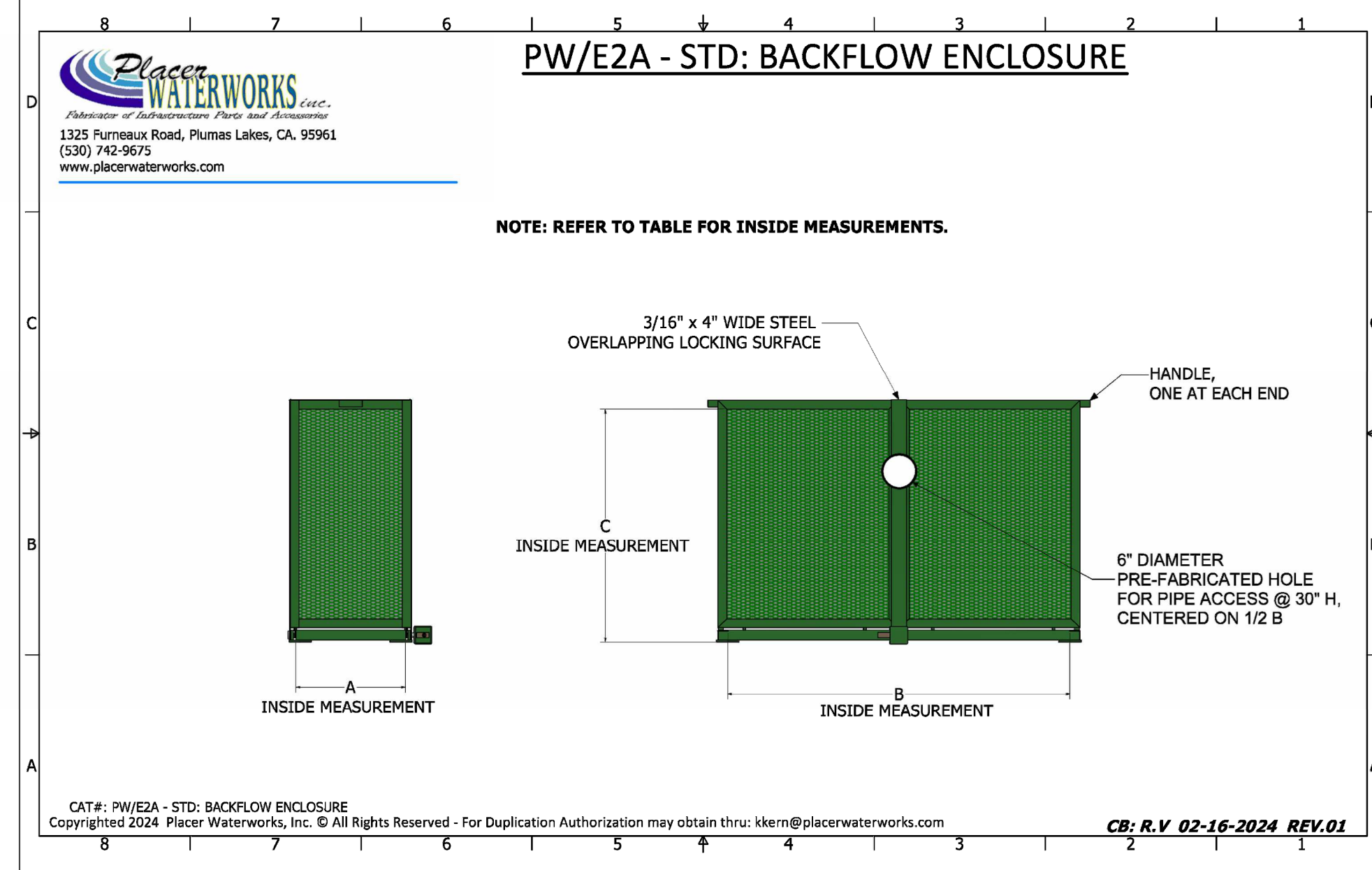


1 **TESCO 26-100 SINGLE METER PEDESTAL**
NOT TO SCALE



2 STEEL BOLLARD
NOT TO SCALE

3 WROUGHT IRON FENCE
NOT TO SCALE



4 PW/E2A ENCLOSURE
NOT TO SCALE

File Attachments for Item:

H. Adopt the Resolution to Revise the Start Date for a Trial Residential Parking Permit Program on Thomas Ave on November 1, 2025



CITY COUNCIL AGENDA REPORT

Meeting Date: October 17, 2024

From: Karen Kinser, Deputy Director of Public Works

Subject: Revised Resolution for test Parking Permit Program on Thomas

Community Goal/Result

- (1) Safe Community
- (2) Community Building

Purpose: To initiate a test residential parking permit program (RPPP) on Thomas Ave. lasting six months, and to later receive feedback from staff on the effectiveness of the program.

Recommendation: Adopt the Resolution to Revise the Start Date for a Trial Residential Parking Permit Program on Thomas Ave on November 1, 2025.

Background

On June 6, 2024, Council adopted Resolution 2024-13 to define and initiate a pilot RPPP on Thomas Ave. Said resolution identified the terms of the parking program, including a start date of August 1, 2024.

Discussion

Staff diligently began working with consultant IPS Group (IPS) and administrative staff to agree to contract terms, set up the permit application webpage and the back-end permit approval portal for staff. It became clear that more time was needed to by the consultant and staff to launch the Thomas Ave. permit program. The revised launch date per the attached resolution is November 1, 2024. Staff will seek feedback from program participants towards the end of the test period on April 30, 2025 and bring those results to Council.

Fiscal Impact

No further fiscal impacts are incurred by adopting the resolution.

Attachments

1. Resolution Revising the Start Date for a Trial Residential Parking Permit Program on Thomas Ave.

Karen Kinser, Deputy Director of Public Works

Tomas Santoyo-Velazquez, Assistant Engineer

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
REVISING THE START DATE FOR A TRIAL RESIDENTIAL PARKING PERMIT
PROGRAM ON THOMAS AVENUE**

WHEREAS, the Council-appointed citizen advisory Complete Streets Safety Committee heard concerns from residents regarding a lack of available street parking due to storage of excess vehicles on the street as well as use of the street for airport parking by non-residents; and

WHEREAS, the Complete Streets Safety Committee reviewed other cities' programs and made a recommendation to the City Council regarding guidelines for a program for either targeted streets or all public streets in Central Brisbane; and

WHEREAS, Council determined it wished to investigate the community's interest in a trial program and directed staff to send a survey letter to residents of Thomas Avenue and Tulare Street; and

WHEREAS, after reviewing the responses to the trial parking program survey Council determined to establish a trial residential parking permit program on Thomas Avenue; and

WHEREAS, the City Council's authority to impose residential parking restrictions by resolution is codified in Brisbane Municipal Code Section 10.26.045.

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

1. A trial residential parking permit program in compliance with Chapter 10.26 of the Brisbane Municipal Code shall be in effect on Thomas Avenue from November 1, 2024 to April 30, 2025.
2. The following guidelines and restrictions will be enforced:
 - a. One permit may be issued per each licensed driver with a unique vehicle, when both driver and vehicle are registered to the address on Thomas Avenue.
 - b. The fee per permit will be based upon consultant IPS's fee schedule.

RESOLUTION NO. 2024-__

- c. Guest permits will be made available. The number of single overnight guest permits per household will be ten (10) for the six-month period. The fee per guest permit will be based upon consultant IPS's fee schedule.
- d. Parking will be restricted to permit holders Sunday through Thursday starting at 10 PM and ending at 6 AM the next day.
- e. Parking complaints for nonpermitted vehicles may be made anonymously by phone or through the city website at any time, but enforcement will only be conducted during program hours, and upon receipt of a resident complaint via phone or website.
- f. The City Engineer is directed to post signage as required by Brisbane Municipal Code Section 10.26.070.

Terry O'Connell, Mayor

* * * *

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

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

Ingrid Padilla, City Clerk

File Attachments for Item:

I. Adopt a Resolution to Revise the Conflict of Interest Code to Include New Classifications or Categories of Public Officials



CITY COUNCIL AGENDA REPORT

Meeting Date: October 17, 2024

From: Thomas McMorrow, City Attorney and Ingrid Padilla, City Clerk

Subject: Adoption of a Revised Conflict of Interest Code to include New Classifications or Categories of Public Officials

Recommendation:

Adopt the attached resolution revising the City's Conflict of Interest Code

Background

The State's Political Reform Act's conflict of interest prohibitions apply only to certain "public officials" and only to governmental decisions that have a financial effect. The Act applies specifically to members of the City Council and the Planning Commission, city managers, city attorneys and other public officials, such as finance directors and others who manage public investments.

In addition, the Act requires cities to adopt a conflict of interest code and include therein which "other" officials within the a city must comply with the disclosure and disqualification provisions of the Act. The City Council has adopted, via resolution, the City's Conflict of Interest Code. See attached Resolution. Currently, the City has identified 39 classifications or categories of public officials.

City of Brisbane's Conflict of Interest Code

The City's Conflict of Interest Code is adopted by resolution and sets forth those "other" classifications or categories of public officials that are subject to the Act. There are currently 39 such classifications or categories, including the City Clerk, department heads and their deputies, the Police and Fire Chiefs and their command staff. As might be expected, these are classifications/categories where individuals make critical decisions for the City and/or make recommendations to the City Council and its commissions and committees.

The Regulations require cities to review their conflict of interest codes every two years. The City Council last reviewed the City's Conflict of Interest Code in 2022. Persons serving in newly added classifications and categories will be advised that they are subject to the Act and therefore required to file Form 700 that discloses their financial interests, resulting in their disqualification from participating in governmental decisions when those decisions effect their financial interests.

DISCUSSION

Staff recommends that the following classifications and categories below should be added to Appendix A that lists the various classifications and categories subject to the Conflict of Interest Code. Note that individuals are not currently serving in all classifications or categories.

- Human Resources Administrator
- Geographic Information System (GIS) Manager
- Sustainability Manager
- Deputy Fire Marshal
- Human Resources Director
- Legal Counsel

Attached is a resolution adopting a revised Conflict of Interest Code for designated classifications and categories.

Thomas R. McMorrow, City Attorney

Ingrid Padilla, City Clerk

Jeremy Dennis, City Manager

Attachment: Resolution adopting a revised Conflict of Interest Code

RESOLUTION NO. 2024-xx**A RESOLUTION OF THE CITY OF BRISBANE ADOPTING A REVISED CONFLICT OF INTEREST CODE FOR DESIGNATED POSITIONS**

Whereas, the Political Reform Act, (Government Code, Section 87100 et seq.) establishes conflict of interest disclosure and disqualification requirements for public officials, including specified employees and decision-making bodies; and

Whereas, the Political Reform Act requires state and local governmental agencies to adopt and promulgate conflict of interest codes for other classifications, other categories of public officials, and other advisory bodies, all of whom have decision making authority; and

Whereas, the Fair Political Practices Commission has adopted Regulations in Title 2, Section 18730 of the California Administrative Code, to implement the provisions of the Political Reform Act and by incorporating by reference the terms of the Regulations it will save time and money by minimizing the actions required of the City Council to keep its Conflict of Interest Code in conformity with the Political Reform Act; and

Whereas, Appendix A to this Resolution sets forth certain designated classifications and categories within the City of Brisbane; and

Whereas, individuals who are in those designated classifications and categories, and members of those designated advisory bodies (of which there are currently none), must file conflict of interest statements.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRISBANE AS FOLLOWS:

Section 1. The provisions of Title 2, Section 18730 of the California Administrative Code, attached as Exhibit 1, are hereby incorporated by reference and, together with the attached Appendix A, in which designated classifications and categories with decision making authority, along with their disclosure categories, are set forth, are hereby adopted as the Conflict of Interest Code for the City of Brisbane.

Section 2. Individuals in the designated classifications and categories shall file with the City Clerk, the City's filing officer, statements of economic interests.

Section 3. All of the resolutions of the City of Brisbane that are in conflict with this Resolution are hereby repealed.

Section 4. This resolution shall be in full force and effect 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 October 17, 2024.

AYES:

NOES:

ABSENT:

ABSTAIN:

Ingrid Padilla, City Clerk

Approved as to form:



Thomas McMorrow, City Attorney

APPENDIX A

Designated Positions	Disclosure Category
Administrative Management Analyst	All Categories
Administrative Services Director	All Categories
Assistant to the City Manager	All Categories
Associate Civil Engineer	All Categories
Associate Planner	All Categories
City Clerk	All Categories
Community Development Director	All Categories
Communications Manager	All Categories
Deputy Fire Marshal	All Categories
Deputy Building Official	All Categories
Deputy City Attorney	All Categories
Deputy City Clerk/Executive Assistant	All Categories
Deputy Finance Director	All Categories
Deputy Fire Chief	All Categories
Deputy Public Works Director	All Categories
Economic Development Director	All Categories
Financial Services Manager	All Categories
Fire Chief	All Categories
Geographic Information System Manager	All Categories
Harbormaster	All Categories
Human Resources Administrator	All Categories
Human Resources Director	All Categories
Information Technology & Systems Administrator	All Categories
Legal Counsel	All Categories
Management Analyst	All Categories
Marina Services Director	All Categories
Parks and Recreation Commissioners	All Categories
Parks and Recreation Director	All Categories
Police Chief	All Categories
Police Commander	All Categories
Principal Analyst	All Categories
Principal Planner	All Categories
Program Manager (San Mateo Countywide NPDES)	All Categories
Public Works Director/City Engineer	All Categories
Public Works Superintendent	All Categories
Public Works Supervisor	All Categories
Recreation Manager	All Categories
Recreation Supervisor	All Categories
Senior Civil Engineer	All Categories
Senior Management Analyst	All Categories
Senior Planner	All Categories
Special Assistant	All Categories

File Attachments for Item:

J. Adopt a Resolution to Amend the Master Pay Schedule to Meet the New Minimum Wage Requirement



CITY COUNCIL AGENDA REPORT

Meeting Date: October 17, 2024

From: Abby Partin, Human Resources Director

Subject: Approve Resolution to Amend the Master Pay Schedule to Meet the New Minimum Wage Requirement.

Community Goal/Result

Fiscally Prudent

Purpose

To meet the new state minimum wage effective January 1, 2025, and to ensure the community continues to receive excellent service by retaining and attracting exceptional employees in a financially prudent manner.

Recommendation

Adopt the resolution to amend the Master Pay Schedule to meet the minimum wage requirement.

Background and Discussion

On April 4, 2016, the California Legislature approved legislation amending the minimum wage phase-in requirements. This requires the minimum wage to be \$16.50 per hour effective January 1, 2025. This change affects three classifications: Habitat Restoration Lead Worker, Intern and Special Assistant, which includes starting rates currently below the \$16.50 per hour rate. Details regarding these classifications are as follows:

- The Habitat Restoration Lead Worker is a former grant funded classification historically to help restore the Brisbane Acres.
- The Intern is a classification that provides college students internship opportunities with the City during the summer to learn how departments interact/function and provide public sector experience.
- The Special Assistant is a classification generally used for temporary, limited duration assignments and/or special projects.

Staff recommends that the current starting salary for all three classifications move from \$16.00 to \$16.50 per hour. As the Habitat Restoration Lead Worker is a single step pay scale and the Intern and Special Assistant are a salary range instead of steps, there is no further adjustment other than the starting rate necessary.

Fiscal Impact

As there are no employees at the minimum rate of these classifications, there is no fiscal impact with this adjustment.

Measure of Success

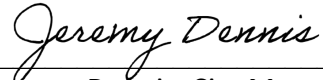
The City is able to hire and retain high quality workforce.

Attachments

Resolution 2024-__



Abby Partin, Human Resources Director



Jeremy Dennis, City Manager

RESOLUTION NO 2024- ____**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE
AMENDING THE MASTER PAY SCHEDULE FOR ALL EMPLOYEES**

WHEREAS, the City of Brisbane contracts with the California Public Employees' Retirement System (CalPERS) to provide retirement benefits for its employees; and

WHEREAS, pursuant to California Code of Regulations, Title 2, Section 570.5, CalPERS requires governing bodies of local agencies contracting with CalPERS to approve and adopt a publicly available pay schedule in accordance with public meeting laws; and

WHEREAS, the pay schedule must identify the position title for every employee position, the pay rate for each position title, and applicable time base for the pay rate; and

WHEREAS, the City Council of the City of Brisbane desires to approve and adopt a publicly available Master Pay Schedule, showing all established employee positions and pay rates, in accordance with the requirement of California Code of Regulations, Title 2 Section 570.5.

NOW, THEREFORE, the City Council of the City of Brisbane resolves as follows:
The Master Pay Schedule is approved as set forth in Exhibit "B" and is incorporated by reference as though fully set forth herein.

Terry O'Connell, Mayor

I hereby certify that the foregoing Resolution No. 2024-__ was duly and regularly adopted at a regular meeting of the Brisbane City Council on October 17, 2024, by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Ingrid Padilla, City Clerk

Appendix A

City of Brisbane Master Pay Schedule

Approved per Resolution No. 2024-XX

Job Classification	Hourly Grade A	Hourly Grade B	Hourly Grade C	Hourly Grade D	Hourly Grade E	Monthly	Fixed Hourly	Hourly Range	Effective Date	Bargaining Group	FLSA Status
Accounting Assistant I	\$ 29.20	\$ 30.67	\$ 32.21	\$ 33.82	\$ 35.51				7/1/2024	General Employees	Non-Exempt
Accounting Assistant II	\$ 32.15	\$ 33.76	\$ 35.46	\$ 37.22	\$ 39.09				7/1/2024	General Employees	Non-Exempt
Accounting Systems Analyst	\$ 44.15	\$ 46.48	\$ 48.80	\$ 51.24	\$ 53.80				7/1/2024	General Employees	Non-Exempt
Administrative Assistant	\$ 38.63	\$ 40.57	\$ 42.59	\$ 44.72	\$ 46.96				7/1/2024	General Employees	Non-Exempt
Administrative Management Analyst	\$ 49.18	\$ 51.62	\$ 54.22	\$ 56.91	\$ 59.77				7/1/2024	Confidential Employee	Exempt
Administrative Services Director	\$ 99.29	\$ 104.24	\$ 109.46	\$ 114.93	\$ 120.69				7/1/2024	Confidential Management	Exempt
Assistant Engineer I	\$ 44.99	\$ 47.24	\$ 49.60	\$ 52.09	\$ 54.68				7/1/2024	General Employees	Non-Exempt
Assistant Engineer II	\$ 49.49	\$ 51.94	\$ 54.56	\$ 57.28	\$ 60.15				7/1/2024	General Employees	Non-Exempt
Assistant City Manager	\$ 114.18	\$ 119.88	\$ 125.88	\$ 132.17	\$ 138.79				7/1/2024	Confidential Management	Exempt
Assistant to the City Manager	\$ 76.08	\$ 79.88	\$ 83.89	\$ 88.07	\$ 92.48				7/1/2024	Executive Management	Exempt
Assistant Fire Marshal	\$ 85.40	\$ 89.67	\$ 94.15	\$ 98.86	\$ 103.80				7/1/2024	Brisbane Fire Management	Exempt
Associate Civil Engineer	\$ 58.92	\$ 61.86	\$ 64.95	\$ 68.21	\$ 71.62				7/1/2024	Mid-Management/Professional	Exempt
Associate Planner	\$ 52.06	\$ 54.67	\$ 57.41	\$ 60.27	\$ 63.29				7/1/2024	General Employees	Non-Exempt
Building Permit Technician	\$ 39.42	\$ 41.39	\$ 43.46	\$ 45.64	\$ 47.91				7/1/2024	General Employees	Non-Exempt
Cashier	\$ 16.96	\$ 17.81	\$ 18.70	\$ 19.63	\$ 20.61				7/1/2024	Unrepresented	Non-Exempt
C/CAG Stormwater Program Director	\$ 77.84	\$ 81.73	\$ 85.82	\$ 90.12	\$ 94.62				7/1/2024	Mid-Management/Professional	Exempt
City Clerk	\$ 61.56	\$ 64.65	\$ 67.88	\$ 71.28	\$ 74.83				7/1/2024	Executive Management	Exempt
City Manager	\$ -	\$ -	\$ -	\$ -	\$ -		\$ 151.44		6/24/2024	Unrepresented	Exempt
Code Enforcement Officer	\$ 41.98	\$ 44.08	\$ 46.28	\$ 48.59	\$ 51.03				7/1/2024	General Employees	Non-Exempt
Communications Digital and Media Coordinator	\$ 39.42	\$ 41.39	\$ 43.46	\$ 45.64	\$ 47.91				7/1/2024	General Employees	Non-Exempt
Communications Manager	\$ 57.52	\$ 60.54	\$ 63.72	\$ 67.07	\$ 70.60				7/1/2024	Mid-Management/Professional	Exempt
Community Development Director	\$ 96.01	\$ 100.81	\$ 105.87	\$ 111.16	\$ 116.72				7/1/2024	Executive Management	Exempt
Community Development Technician	\$ 39.42	\$ 41.39	\$ 43.46	\$ 45.64	\$ 47.91				7/1/2024	General Employees	Non-Exempt
Community Services Officer	\$ 34.37	\$ 36.59	\$ 38.42	\$ 40.34	\$ 42.35				7/1/2024	General Employees	Non-Exempt
Council Member	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 400.00			7/1/2024	Elected Position	
Crossing Guard	\$ 16.96	\$ 17.81	\$ 18.70	\$ 19.63	\$ 20.61				7/1/2024	Unrepresented	Non-Exempt
Deputy City Clerk/Executive Assistant	\$ 46.29	\$ 48.60	\$ 51.03	\$ 53.59	\$ 56.26				7/1/2024	Confidential	Exempt
Deputy Director of Public Works	\$ 86.96	\$ 91.31	\$ 95.88	\$ 100.68	\$ 105.70				7/1/2024	Mid-Management/Professional	Exempt
Deputy Finance Director	\$ 77.84	\$ 81.73	\$ 85.82	\$ 90.12	\$ 94.62				7/1/2024	Mid-Management/Professional	Exempt
Director of Marina/Aquatics Services	\$ 63.73	\$ 66.92	\$ 70.27	\$ 73.78	\$ 77.47				7/1/2024	Executive Management	Exempt
Engineering Technician	\$ 43.36	\$ 45.54	\$ 47.81	\$ 50.18	\$ 52.71				7/1/2024	General Employees	Non-Exempt
Executive Administrative Assistant	\$ 40.05	\$ 42.04	\$ 44.14	\$ 46.35	\$ 48.67				7/1/2024	General Employees	Non-Exempt
Facility Attendant	\$ 19.87	\$ 20.86	\$ 21.91	\$ 23.01	\$ 24.15				7/1/2024	Unrepresented	Non-Exempt
Finance Director	\$ 95.02	\$ 99.77	\$ 104.76	\$ 110.02	\$ 115.49				7/1/2024	Confidential Management	Exempt
Financial Services Manager	\$ 67.23	\$ 70.59	\$ 74.12	\$ 77.84	\$ 81.73				7/1/2024	Mid-Management/Professional	Exempt
Fire Captain	\$ 46.95	\$ 49.29	\$ 51.77	\$ 54.35	\$ 57.07				7/1/2024	IAFF Local 2400	Non-Exempt
Fire Prevention Officer	\$ 55.01	\$ 60.78	\$ 63.81	\$ 66.99	\$ 70.35				7/1/2024	IAFF Local 2400	Non-Exempt
Fire Trainee	\$ -	\$ -	\$ -	\$ -	\$ -		\$ 27.36		7/1/2024	IAFF Local 2400	Non-Exempt
Firefighter	\$ 39.29	\$ 41.25	\$ 43.32	\$ 45.46	\$ 47.74				7/1/2024	IAFF Local 2400	Non-Exempt
Firefighter II	\$ 43.22	\$ 45.38	\$ 47.65	\$ 50.01	\$ 52.52				7/1/2024	IAFF Local 2400	Non-Exempt
Firefighter/Paramedic	\$ 39.29	\$ 41.25	\$ 43.32	\$ 45.46	\$ 47.74				7/1/2024	IAFF Local 2400	Non-Exempt
Firefighter/Paramedic II	\$ 43.22	\$ 45.38	\$ 47.65	\$ 50.01	\$ 52.52				7/1/2024	IAFF Local 2400	Non-Exempt
Geographic Information System Manager	\$ 57.52	\$ 60.54	\$ 63.72	\$ 67.07	\$ 70.60				7/1/2024	Mid-Management/Professional	Exempt
Habitat Restoration Lead Worker	\$ -	\$ -	\$ -	\$ -	\$ -		\$ 16.50		1/1/2025	Unrepresented	Non-Exempt
Harbormaster	\$ 54.22	\$ 56.92	\$ 59.77	\$ 62.76	\$ 65.90				7/1/2024	Mid-Management/Professional	Exempt
Head Lifeguard	\$ 23.83	\$ 25.03	\$ 26.27	\$ 27.60	\$ 28.96				7/1/2024	Unrepresented	Non-Exempt
History Project Asst	\$ 40.33	\$ 42.35	\$ 44.46	\$ 46.68	\$ 49.02				7/1/2024	Unrepresented	Non-Exempt
Human Resources Administrator	\$ 79.43	\$ 83.40	\$ 87.57	\$ 91.95	\$ 96.55				7/1/2024	Confidential	Exempt
Human Resources Director	\$ 93.25	\$ 97.91	\$ 102.81	\$ 107.95	\$ 113.35				7/1/2024	Confidential Management	Exempt
Human Resources Technician	\$ 39.42	\$ 41.39	\$ 43.46	\$ 45.64	\$ 47.91				7/1/2024	General Employees	Non-Exempt
Information Technology & Systems Administrator	\$ 59.27	\$ 62.24	\$ 65.35	\$ 68.61	\$ 72.06				7/1/2024	Mid-Management/Professional	Exempt
Intern	\$ -	\$ -	\$ -	\$ -	\$ -			\$16.50 - \$23.00	1/1/2025	Unrepresented	Non-Exempt
Lifeguard	\$ 18.08	\$ 18.99	\$ 19.93	\$ 20.93	\$ 21.96				7/1/2024	Unrepresented	Non-Exempt
Management Analyst (Part-time)	\$ 44.59	\$ 46.83	\$ 49.16	\$ 51.62	\$ 54.20				7/1/2024	Unrepresented	Non-Exempt

Job Classification	Hourly Grade A	Hourly Grade B	Hourly Grade C	Hourly Grade D	Hourly Grade E	Monthly	Fixed Hourly	Hourly Range	Effective Date	Bargaining Group	FLSA Status
Marina Maintenance Worker I	\$ 33.81	\$ 35.49	\$ 37.26	\$ 39.13	\$ 41.09				7/1/2024	General Employees	Non-Exempt
Marina Maintenance Worker II	\$ 37.18	\$ 39.03	\$ 40.99	\$ 43.02	\$ 45.18				7/1/2024	General Employees	Non-Exempt
Marina Maintenance Worker I (Part-time)	\$ 34.47	\$ 36.19	\$ 38.00	\$ 39.92	\$ 41.91				7/1/2024	Unrepresented	Non-Exempt
Marina Maintenance Worker II (Part-time)	\$ 37.90	\$ 39.83	\$ 41.78	\$ 43.86	\$ 46.09				7/1/2024	Unrepresented	Non-Exempt
Marina Services Director	\$ 59.57	\$ 62.55	\$ 65.68	\$ 68.95	\$ 72.41				7/1/2024	Executive Management	Exempt
Office Assistant	\$ 30.98	\$ 32.48	\$ 34.10	\$ 35.81	\$ 37.62				7/1/2024	General Employees	Non-Exempt
Office Assistant (Part-Time)	\$ 31.55	\$ 33.11	\$ 34.77	\$ 36.53	\$ 38.35				7/1/2024	Unrepresented	Non-Exempt
Office Specialist	\$ 36.32	\$ 38.13	\$ 40.05	\$ 42.04	\$ 44.14				7/1/2024	General Employees	Non-Exempt
Office Specialist (Part-Time)	\$ 37.05	\$ 38.89	\$ 40.84	\$ 42.88	\$ 45.03				7/1/2024	Unrepresented	Non-Exempt
Park/Beach/Recreation Commissioner	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 100.00			7/1/2024	Appointed Position	
Parks & Recreation Director	\$ 91.55	\$ 96.14	\$ 100.94	\$ 105.98	\$ 111.29				7/1/2024	Executive Management	Exempt
Parks/Facilities Maintenance Worker I	\$ 33.81	\$ 35.49	\$ 37.26	\$ 39.13	\$ 41.09				7/1/2024	General Employees	Non-Exempt
Parks/Facilities Maintenance Worker I (Part-Time)	\$ 34.47	\$ 36.19	\$ 38.00	\$ 39.92	\$ 41.91				7/1/2024	Unrepresented	Non-Exempt
Parks/Facilities Maintenance Worker II	\$ 37.18	\$ 39.03	\$ 40.99	\$ 43.02	\$ 45.18				7/1/2024	General Employees	Non-Exempt
Payroll/Utility Billing Technician	\$ 39.42	\$ 41.39	\$ 43.46	\$ 45.64	\$ 47.91				7/1/2024	General Employees	Non-Exempt
Planning Commissioner	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 100.00			7/1/2024	Appointed Position	
Police Chief	\$ 112.05	\$ 117.65	\$ 123.52	\$ 129.72	\$ 136.19				7/1/2024	Police Chief	Exempt
Police Commander	\$ 101.01	\$ 106.07	\$ 111.38	\$ 116.95	\$ 122.79				7/1/2024	Police Commander	Exempt
Police Officer	\$ 51.34	\$ 53.91	\$ 56.60	\$ 59.43	\$ 62.40				7/1/2024	Brisbane Police Officers Association*	Non-Exempt
Police Officer - 40 hour shift (Detective/SRO)	\$ 53.91	\$ 56.60	\$ 59.43	\$ 62.40	\$ 65.52				7/1/2024	Brisbane Police Officers Association*	Non-Exempt
Police Corporal	\$ 56.47	\$ 59.30	\$ 62.26	\$ 65.37	\$ 68.64				7/1/2024	Brisbane Police Officers Association*	Non-Exempt
Police Sergeant	\$ 61.85	\$ 64.95	\$ 68.19	\$ 71.60	\$ 75.18				7/1/2024	Brisbane Police Officers Association*	Non-Exempt
Police Trainee	\$ -	\$ -	\$ -	\$ -	\$ -		\$ 37.99		7/1/2024	Unrepresented	Non-Exempt
Pre-School Teacher	\$ 19.99	\$ 21.00	\$ 22.05	\$ 23.16	\$ 24.32				7/1/2024	Unrepresented	Non-Exempt
Principal Analyst	\$ 68.79	\$ 72.24	\$ 75.84	\$ 79.62	\$ 83.61				7/1/2024	Confidential	Exempt
Principal Planner	\$ 73.26	\$ 76.92	\$ 80.77	\$ 84.81	\$ 89.05				7/1/2024	Mid-Management/Professional	Exempt
Program Manager - SMCWPPP	\$ 72.46	\$ 76.10	\$ 79.90	\$ 83.90	\$ 88.10				7/1/2024	Mid-Management/Professional	Exempt
Public Service Aide	\$ 17.79	\$ 18.69	\$ 19.61	\$ 20.58	\$ 21.62				7/1/2024	Unrepresented	Non-Exempt
Public Works Director/City Engineer	\$ 112.42	\$ 118.03	\$ 123.92	\$ 130.13	\$ 136.64				7/1/2024	Executive Management	Exempt
Public Works Inspector	\$ 55.47	\$ 58.25	\$ 61.16	\$ 64.21	\$ 67.43				7/1/2024	General Employees	Non-Exempt
Public Works Lead Maintenance Worker	\$ 44.62	\$ 46.85	\$ 49.18	\$ 51.65	\$ 54.22				7/1/2024	General Employees	Non-Exempt
Public Works Maintenance Worker I	\$ 33.81	\$ 35.49	\$ 37.26	\$ 39.13	\$ 41.09				7/1/2024	General Employees	Non-Exempt
Public Works Maintenance Worker I (Part-time)	\$ 34.47	\$ 36.19	\$ 38.00	\$ 39.92	\$ 41.91				7/1/2024	Unrepresented	Non-Exempt
Public Works Maintenance Worker II	\$ 37.18	\$ 39.03	\$ 40.99	\$ 43.02	\$ 45.18				7/1/2024	General Employees	Non-Exempt
Public Works Superintendent	\$ 72.12	\$ 75.72	\$ 79.51	\$ 83.49	\$ 87.66				7/1/2024	Mid-Management/Professional	Exempt
Public Works Supervisor	\$ 55.12	\$ 57.88	\$ 60.77	\$ 63.81	\$ 67.00				7/1/2024	Mid-Management/Professional	Exempt
Public Works Team Leader	\$ 50.00	\$ 52.63	\$ 55.41	\$ 58.33	\$ 61.39				7/1/2024	Mid-Management/Professional	Exempt
Receptionist	\$ 30.94	\$ 32.48	\$ 34.10	\$ 35.81	\$ 37.62				7/1/2024	General Employees	Non-Exempt
Receptionist (Part-time)	\$ 31.55	\$ 33.11	\$ 34.77	\$ 36.53	\$ 38.35				7/1/2024	Unrepresented	Non-Exempt
Recreation Leader	\$ 19.96	\$ 20.96	\$ 22.01	\$ 23.10	\$ 24.26				7/1/2024	Unrepresented	Non-Exempt
Recreation Leader Aide	\$ 16.96	\$ 17.81	\$ 18.70	\$ 19.63	\$ 20.61				7/1/2024	Unrepresented	Non-Exempt
Recreation Manager	\$ 67.83	\$ 71.21	\$ 74.77	\$ 78.52	\$ 82.44				7/1/2024	Mid-Management/Professional	Exempt
Recreation Program Coordinator	\$ 34.32	\$ 36.62	\$ 38.45	\$ 40.37	\$ 42.38				7/1/2024	General Employees	Non-Exempt
Recreation Supervisor	\$ 50.11	\$ 52.63	\$ 55.25	\$ 58.01	\$ 60.91				7/1/2024	Mid-Management/Professional	Exempt
Regional Compliance Program Manager	\$ 57.52	\$ 60.54	\$ 63.72	\$ 67.07	\$ 70.60				7/1/2024	Mid-Management/Professional	Exempt
Reserve Police Officer	\$ 36.67	\$ 38.51	\$ 40.43	\$ 42.45	\$ 44.58				7/1/2024	Unrepresented	Non-Exempt
Senior Accounting Assistant	\$ 36.42	\$ 38.25	\$ 40.16	\$ 42.18	\$ 44.27				7/1/2024	General Employees	Non-Exempt
Senior Civil Engineer	\$ 72.46	\$ 76.10	\$ 79.90	\$ 83.90	\$ 88.10				7/1/2024	Mid-Management/Professional	Exempt
Senior Human Resources Analyst	\$ 54.94	\$ 57.68	\$ 60.57	\$ 63.60	\$ 66.77				7/1/2024	Confidential	Exempt
Senior Management Analyst	\$ 53.85	\$ 56.54	\$ 59.37	\$ 62.34	\$ 65.45				7/1/2024	Mid-Management/Professional	Exempt
Senior Planner	\$ 61.96	\$ 65.05	\$ 68.31	\$ 71.74	\$ 75.31				7/1/2024	Mid-Management/Professional	Exempt
Senior Recreation Leader	\$ 25.61	\$ 26.89	\$ 28.23	\$ 29.64	\$ 31.13				7/1/2024	Unrepresented	Non-Exempt
Sustainability Manager	\$ 57.52	\$ 60.54	\$ 63.72	\$ 67.07	\$ 70.60				7/1/2024	Mid-Management/Professional	Exempt
Special Assistant	\$ -	\$ -	\$ -	\$ -	\$ -			\$16.50-\$145.00	1/1/2025	Unrepresented	Non-Exempt
Spe Coun-Maj Dev Pro	\$ -	\$ -	\$ -	\$ -	\$ -		\$ 175.04		7/1/2024	Confidential Management	Exempt
Swim Instructor	\$ 19.72	\$ 20.71	\$ 21.75	\$ 22.84	\$ 23.98				7/1/2024	Unrepresented	Non-Exempt
Van Driver	\$ 18.55	\$ 19.49	\$ 20.47	\$ 21.50	\$ 22.57				7/1/2024	Unrepresented	Non-Exempt

Job Classification	Hourly Grade A	Hourly Grade B	Hourly Grade C	Hourly Grade D	Hourly Grade E	Monthly	Fixed Hourly	Hourly Range	Effective Date	Bargaining Group	FLSA Status
Water Quality Technician	\$ 37.18	\$ 39.03	\$ 40.99	\$ 43.02	\$ 45.18				7/1/2024	General Employees	Non-Exempt

File Attachments for Item:

K. City Council Consideration of R-BA Zoning District Issues Including Protection of City-Owned Open Space, Public Street Standards and Related Development Standards, Ownership of Non-Public Roadways, And Solar Shading

(These issues were raised in the City Council's consideration of 2024-RZ- 1 on September 5, 2024 but the issues were largely collateral to the item itself; City staff has placed these issues on the agenda for Council consideration.)



CITY COUNCIL AGENDA REPORT

Meeting Date: October 17, 2024

From: John Swiecki, Community Development Director

Subject: Consideration of Non-SB 9 Issues Related to Open Space Protection, Street Standards and Roadway Ownerships, and Solar Shading in the Brisbane Acres (RBA) Zoning District

Prior to and during the September 5th public hearing on 2024-RZ-1, a number of issues unrelated to the draft ordinance and SB 9 implementation were raised. To minimize confusion and add clarity to the City Council's review process, these issues have been separated out for discussion in this staff report. Consideration of 2024-RZ-1 is the subject of a separate item on tonight's City Council agenda.

RECOMMENDATION

Provide direction to staff as deemed appropriate by the City Council.

DISCUSSION

Several RBA issues raised to date include:

Mechanisms for protection of city owned open space lots in Brisbane Acres

City Legal Counsel has provided a memorandum addressing mechanisms available for protection of public lands in the Brisbane Acres (see Attachment 1) and they are summarized below.

In 2019, City Council approved a Declaration of Restrictions that limits the use of the 47 properties that the City has acquired in the Brisbane Acres priority preservation area (PPA) for open space. The City Clerk's office is assembling the numerous deeds so that the legal descriptions of these parcels may be attached to the Declaration and then recorded with the County so that the Declaration is "of record". It is anticipated that this will occur by the end of the year. The Declaration of Restrictions is provided as Attachment 2 and a map of City owned properties is shown on Attachment 3. Once that Declaration is recorded it would take a unanimous vote of the City Council to subsequently release this restriction.

Other options for open space preservation include:

- a. Conveying a conservation easement on the properties to a land trust or other non-profit organization
- b. Conveying the properties in “fee” to a land trust or another public entity,
- c. Changing the General Plan land use designation and zoning of these properties to Open Space.

Note that the change of the General Plan designation and rezoning to Open Space was not recommended by Legal Counsel, due to potential exposure to claims of “taking” by the remaining private land owners within the PPA.

Limits of public vs. private streets in the Brisbane Acres

A question was raised as to the limits of public streets versus private streets and who owns the private streets. Attachment 4 shows the approximate extents of public and private streets in the Brisbane Acres and vicinity, illustrating that most of those in the Brisbane Acres have remained in private ownership. This includes three owners in the Brisbane Acres as shown on the County’s GIS system, Tobie-Martin LLC, USA Guofu Inv. Inc. and Henry Yeung. Currently, the County GIS system does not show an owner for the road segment of Margaret Rd, immediately above Kings Rd. To determine the ownership of that segment, the City would need to engage a title company to conduct further research. Attachment 4 also shows undeveloped roadway lots often referred to as “paper streets”.

Street standards & safety for emergency ingress/egress

BMC Section 17.01.060 requires that, “All infrastructure improvements necessary for providing service to the existing or proposed structure or use have been constructed or installed in accordance with applicable city standards as determined by the city engineer.” Additionally, BMC Chapter 12.24 includes a prohibition against private streets and provides minimum street standards. The street standards apply to new development in the R-1 and R-BA districts whether the development is accomplished via SB 9 or not. Thus, any new development must be served by a public road. In the case of a private road being dedicated to the City, the length of the road necessary to connect to an existing public street would need to be brought to current City standards.

While some segments of Brisbane’s public streets in the upper areas of the R-1 district may not be improved to current standards, given their age, they are maintained by the City and provide adequate access and egress for emergency response. Also, as new development or major remodels of residences occur along these public streets, where they do not meet current

standards, the street segment along that property frontage is required to be brought up to current code. This would include a minimum 20-foot roadway width along those segments, thus providing easier passing points for vehicles.

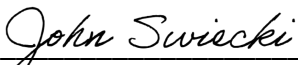
On a related note, at the September 5 meeting the City Council inquired as to the cost of constructing a roadway. The City Engineer estimated the cost of rural road construction in the range of \$1M-\$3M per mile. The high degree of variability is based on site and roadway specific conditions such as roadway configuration, topography, soil conditions and grading which can drastically impact cost.

Solar Shading Protection

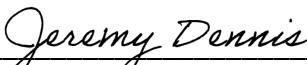
Questions were raised at the September 5 City Council meeting regarding the protection of rooftop solar systems from shade cast from adjoining development. Brisbane does not have an ordinance protecting solar systems from shade from neighboring structures or trees. Developing such an ordinance would be challenging given Brisbane's topography and the need to balance the City's tree preservation objectives with solar access protection. Should the Council wish to allocate staff resources to this project, a referral to the Planning Commission would be recommended.

ATTACHMENTS

1. City Legal Counsel's memorandum
2. 2019 Declaration of Restrictions
3. Map of City Owned Properties in the Brisbane Acres
4. Map of Private and Public Roadways



John Swiecki, Community Development Director



Jeremy Dennis, City Manager

LEGAL MEMORANDUM CONCERNING POTENTIAL ADDITIONAL PROTECTIONS OF CITY OWNED PROPERTIES IN THE BRISBANE ACRES

From: Michael Roush, Legal Counsel

Date: October 3, 2024

City Owned Properties

The City owns 47 properties within the Priority Preservation Area (PPA), in the Brisbane Acres. Most of these correspond to what is called the “Upper Acres” in the City’s 2001 Open Space Plan. Three of those parcels are designated as City water tank sites, with a water tank on one of them. The other 44 properties that have been acquired by the City in the PPA are for habitat preservation and open space purposes. An additional four sites were also acquired from within the R-1 Residential district immediately adjacent to the PPA, at the end of Paul Ave, also for open space purposes. The City also owns a fourth water tank site within the “Lower Acres” at the end of Glen Parkway, above Firth Park. A map showing this area and the properties owned by the City, including the Water Tank Properties, is attached.

Current Restrictions Imposed When Properties Were Acquired.

Of the 47 properties within the PPA, 29 were acquired with federal or state funding. The deeds that conveyed these properties to the City restrict the use of those properties to habitat preservation and open space purposes. Those uses may not be changed without first obtaining the approval of the funding organization.

Declaration of Restrictions.

In 2019, Council approved a Declaration of Restrictions that restricts the use of these properties to habitat preservation and open space. The declaration was prepared by staff in response to a Council question as to whether all of these properties, including, presumably, the 29 acquired with federal or state funding as well as any other similarly situated properties the City acquires could be restricted such that the properties would remain undeveloped in perpetuity and their use restricted to habitat preservation and open space purposes. This Declaration is to be recorded so that it is “of record”. The Declaration has not yet been recorded because it involves assembling nearly 50 deeds so that the legal descriptions may be attached to the Declaration. The City Clerk’s Office is in the process of assembling those deeds and it is expected the Declaration will be recorded by the end of the year. Although a future City Council would have the authority to amend or terminate the Declaration of Restrictions, the Declaration itself provides that such amendment or termination would need a unanimous vote of the City Council.

Other Means of Protection.

Notwithstanding these current protections of City owned properties, questions have been raised whether there are other or additional means to prevent these properties from being used for other

than habitat preservation and open space. Three come to mind, with the first two being similar. These are:

- a conservation easement
- conveyance of the properties to a land trust or another public entity.
- change the General Plan land use designation and zoning of these properties to Open Space.

Conservation Easements: A conservation easement is a recorded agreement between a property owner and certain qualified public or private entities to protect the character of the land. Civil Code, sections 815-816. The intent of a conservation easement is to protect the natural, scenic, agricultural, or historic character of the property subject to the easement by restricting the use of the property for the purpose for which the easement is granted. Often this type of easement is granted to a non-profit organization such as a land trust. A land trust is a private, non-profit organization that actively works to conserve land by undertaking or assisting in acquiring land or conservation easements.

If the City were to grant a conservation easement on its properties to such an organization, the use of the properties for any purpose other than those identified in the easement would be prohibited.

A drawback is that there is typically a cost to the grantor of the easement (here, the City). The organization that holds the easement has a fiduciary responsibility to ensure that the property is being used for purposes consistent with the easement's purpose. This means, at a minimum, the organization must inspect and monitor the property routinely and in order to carry out that responsibility in perpetuity, there is typically a cost. That cost is often paid up front in the form of an endowment that generates sufficient funds to pay for the ongoing cost to inspect, monitor, and, if necessary, to undertake remedial work on the property to ensure its continued use as habitat preservation and open space. The cost will depend on the number of parcels and/or the size of the area in question, as well as the level of service expected of the organization.

Moreover, implicit in the decision to choose a particular organization as the easement holder, the City would need to be confident that the organization has demonstrated stability and has personnel and other resources to maintain its oversight of the easement in the long term.

Conveyance of the Properties in Fee to a Land Trust or a Public Entity: Somewhat akin to creating a conservation easement on the properties, the City could convey its properties to a land trust or a public entity and place restrictions on the use of the properties in the conveyance documents. This is similar to the restrictions the State and the federal government placed in the deeds to the City when State or federal money was used to purchase certain properties.

Such restrictions would likely remove the possibility that the properties could be used for any other purposes. Similar to finding an organization to undertake its fiduciary responsibilities associated with holding a conservation easement, the City would want a stable organization with sufficient resources and personnel to inspect and maintain the properties in perpetuity. As with an organization holding the conservation easement, an

organization holding the properties in fee would likely require an endowment to ensure funds would be available to carry out its fiduciary duties.

Although transferring the properties, with restrictions, to another public entity, such as San Mateo County, is also a possibility, that assumes such entity would have an interest in accepting such properties and, if it did, whether it too would require an endowment for the long-term maintenance of the properties.

Finally, currently the City undertakes efforts to maintain these properties to control non-native species and to reduce fire hazards. If the properties were conveyed in fee to a third party, the City would certainly expect the same degree of effort to control non-native species and to reduce fire hazards, but the City would lose direct control over those efforts.

Changing the Land Use Designation/Zoning. Currently, for purposes of the City's General Plan and zoning regulations, all properties within Brisbane Acres are designated for residential land use. The City could use its police powers to amend the land use regulations such that the land use designation of the properties within Brisbane Acres, or portions thereof such as properties within the Priority Preservation Area, would be limited to open space. Land uses not consistent with open space would not be permitted.

If that were to occur, and since such land use designation would apply not only to City owned parcels but also to privately owned parcels, it is likely that the owners of private property would claim that such designation deprived them of substantially all economic use of their properties and therefore the designation constituted a "taking" of their properties for which the City must pay compensation, thereby exposing the City to millions of dollars in claims. Accordingly, because of the unknown cost to the City, which could be significant, changing the land use designation to open space is not a recommended course of action.

RESOLUTION NO. 2019-22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE AUTHORIZING THE
EXECUTION AND RECORDING OF A DECLARATION OF RESTRICTIONS CONCERNING
PROPERTIES THE CITY OF BRISBANE OWNS IN THE UPPER AREA OF BRISBANE ACRES

WHEREAS, the City is the owner of properties located in the City of Brisbane, in an area commonly known as the Upper Area of Brisbane Acres ("the Properties").

WHEREAS, the City acquired some of the Properties with federal or state funds and, in connection with those acquisitions, the funding agreements and/or deeds that conveyed the Properties to the City have restrictions as to the use of the Properties such that the Properties may not be used for purposes other than habitat preservation and open space.

WHEREAS, as to the other Properties that the City owns or other properties within Brisbane Acres that the City may acquire in the future for habitat preservation or open space purposes, City intends that such Properties, like the other Properties acquired with federal or state funds, be restricted such that the Properties may be used only for habitat preservation or open space purposes.

NOW THEREFORE, the City Council of the City of Brisbane resolves as follows:

Section 1. The City Council approves the attached Declaration of Restrictions as to the Properties, authorizes the Mayor to sign it and directs the City Clerk to record this document in the Official Records of San Mateo County.

Section 2. In the future, should the City acquire other properties in the Upper Area of Brisbane Acres for habitat preservation or open space purposes, the Mayor is authorized to sign and the City Clerk is directed to record the appropriate and necessary documents, as may be approved as to form by the City Attorney, such that the Declaration of Restrictions shall apply equally to such properties.

Section 3. This Resolution shall take effect immediately upon its adoption.


 Madison Davis
 Mayor

I, the undersigned, hereby certify that the foregoing Resolution No. 2019-22 was duly and regularly passed and adopted by the Brisbane City Council at a regular meeting held on June 6, 2019 by the following vote:

AYES: Councilmembers Cunningham, Lentz, O'Connell and Mayor Davis

NOES: None

ABSENT: Councilmember Conway


 Ingrid Padilla
 City Clerk

RECORDING FOR THE BENEFIT OF,
REQUESTED BY
AND RETURN TO:

CITY OF BRISBANE/CITY CLERK
50 PARK PLACE
BRISBANE, CA 94005

EXEMPT FROM FEE PURSUANT TO
GOVERNMENT CODE SECTION 6103/27383

DECLARATION OF RESTRICTIONS

This Declaration is made by the City of Brisbane, a municipal corporation, 50 Park Place, Brisbane, CA, 94005, ("City") concerning properties that the City owns within an area of the City commonly known as the Upper Area of Brisbane Acres.

Recitals

A. City is the owner of properties located in the City of Brisbane, County of San Mateo, State of California, more particularly described in Exhibit "A", attached hereto and incorporated herein by reference ("the Properties").

B. City acquired some of the Properties with federal or state funds and, in connection with those acquisitions, the funding agreements and/or deeds that conveyed the Properties to the City have restrictions as to the use of the Properties such that the Properties may not be used for purposes other than habitat preservation and open space.

C. As to the other Properties that the City owns or other properties within Brisbane Acres that the City may acquire in the future, City intends that such Properties, like the other Properties acquired with federal or state funds, be restricted such that the Properties may be used only for habitat preservation or open space.

D. To better carry out that intent, the City Council on June 6, 2019 adopted Resolution 2019-22 approving this Declaration of Restrictions as to the Properties, authorizing the Mayor to sign it and directing the City Clerk to record this document in the Official Records of San Mateo County.

NOW, THEREFORE, in consideration of the recitals and for purposes of restricting the use of the Properties in perpetuity solely for habitat preservation and open space purposes, the City declares as follows:

1. The Properties are restricted in perpetuity solely for habitat preservation and open space purposes.

2. Should other property within the Upper Area of Brisbane Acres be acquired by the City for habitat preservation or open space purposes, the City shall ensure that this Declaration of Restrictions applies equally to such property.

2. This Declaration shall be recorded in the office of the County of San Mateo Recorder.

3. This Declaration is binding on the successors and assigns of the City.

4. This Declaration shall be construed and enforced pursuant to the laws of the State of California. Should any legal action be brought to enforce any provision herein, the prevailing party in such action shall be entitled to attorneys' fees and court costs as may be fixed by the court.

5. This Declaration shall not be revoked or amended in any way without the unanimous vote of the City Council of the City of Brisbane.

IN WITNESS WHEREOF, this Declaration is executed by the City as of the ____ day of _____, 2019, at Brisbane, California.

"CITY"

APPROVED AS TO FORM:

CITY OF BRISBANE



Thomas McMorrow
City Attorney



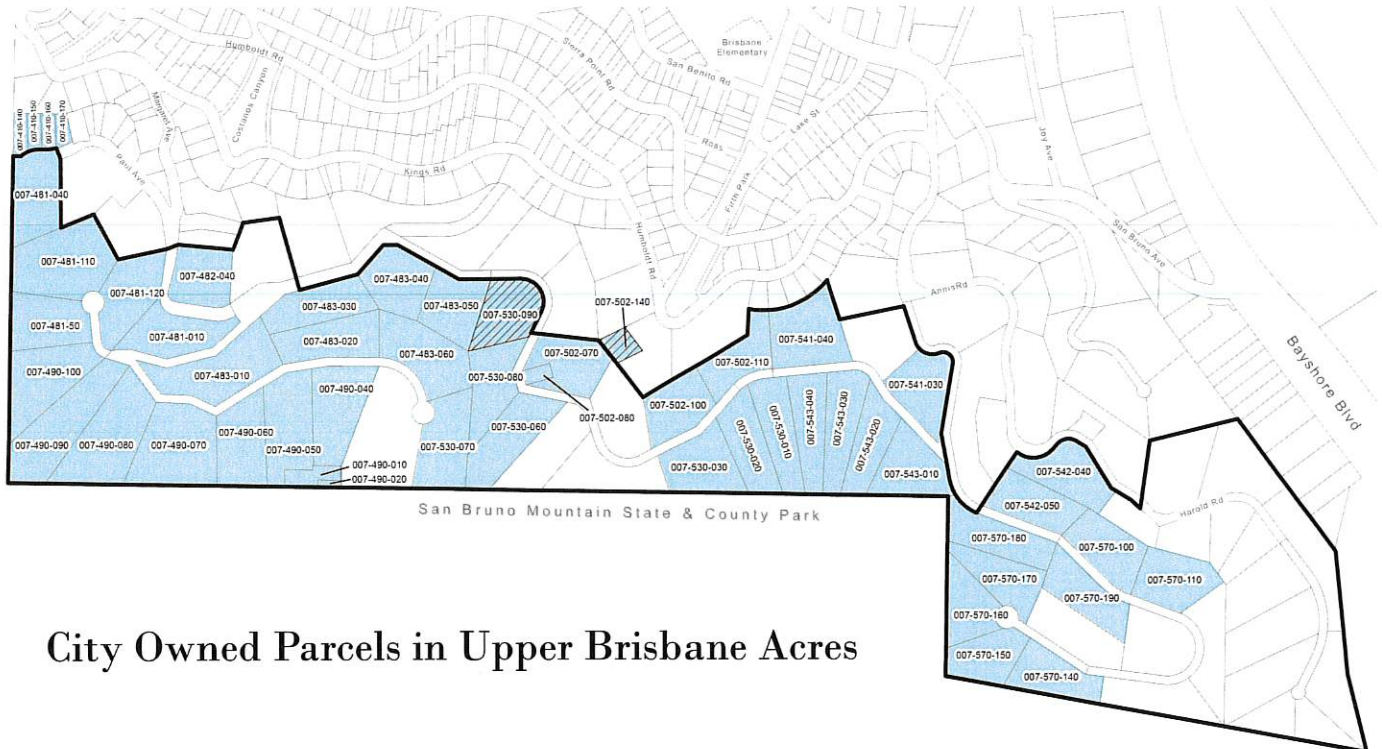
Madison Davis
Mayor

Attest:



Ingrid Padilla
City Clerk

EXHIBIT A

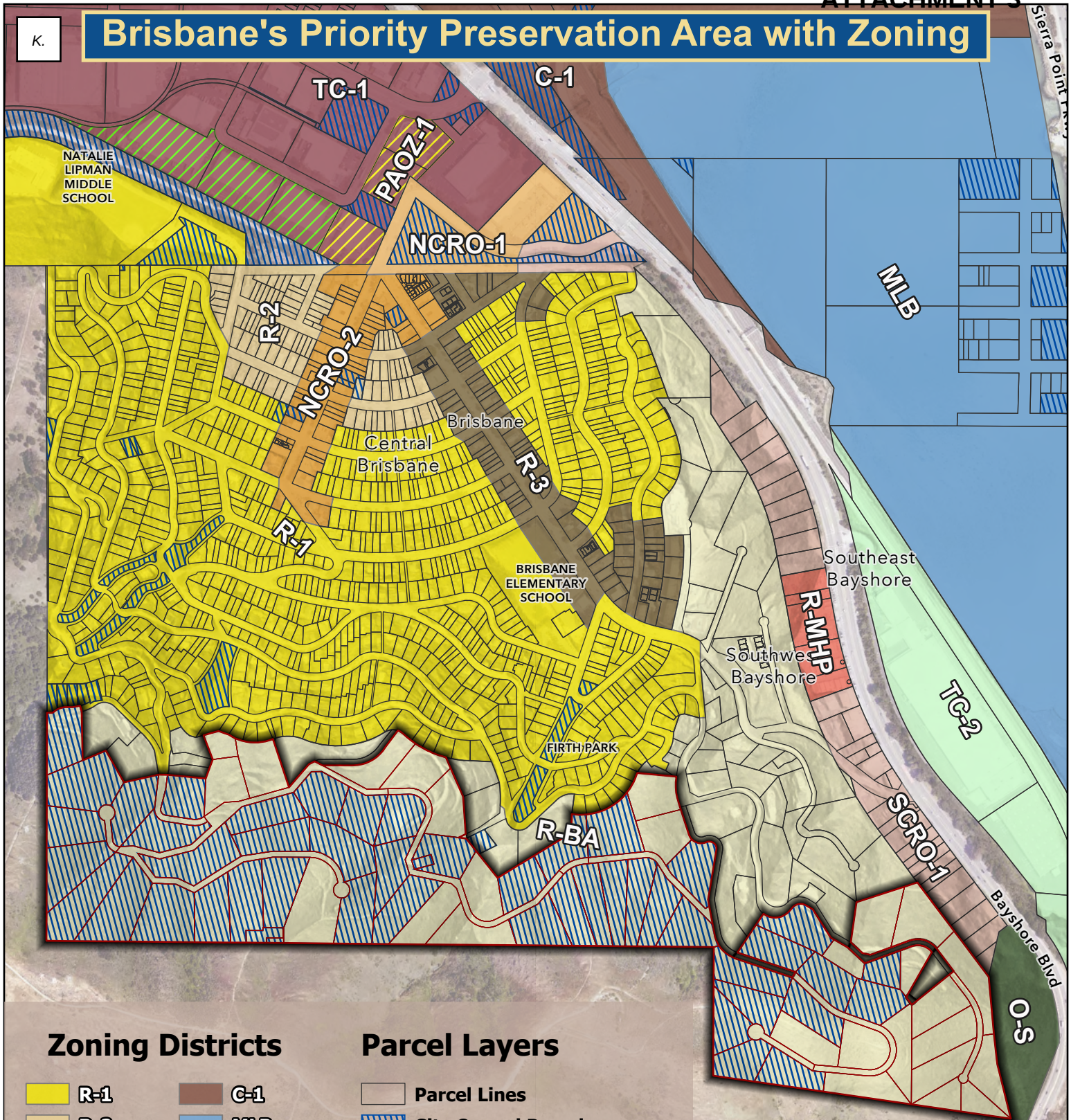


City Owned Parcels in Upper Brisbane Acres

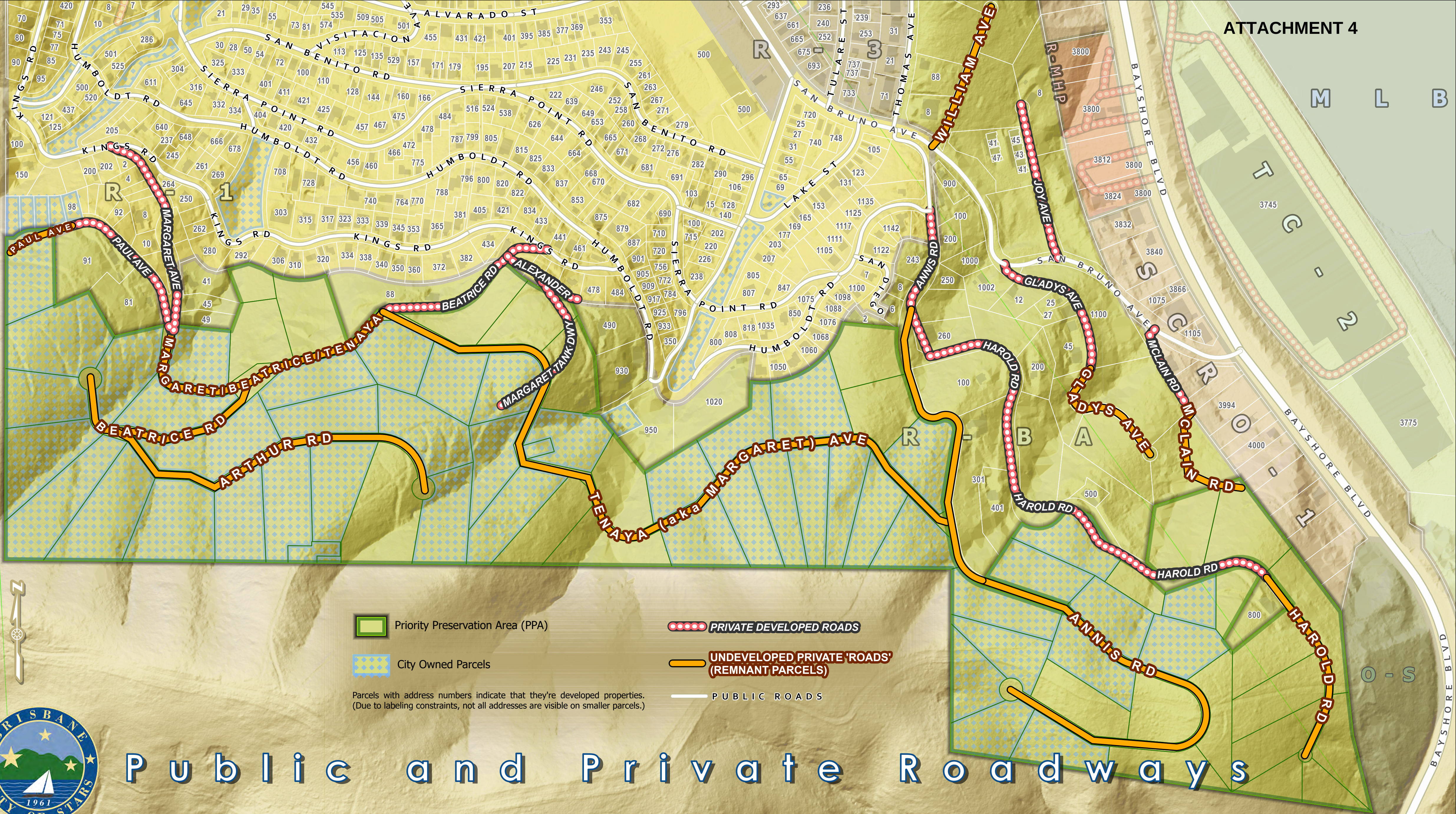
-  Priority Preservation Area per 2001 Open Space Plan
 City Owned Property
 Water Tank Property
 Parcel Lines



Brisbane's Priority Preservation Area with Zoning



K.



Public and Private Roadways

Parcels with address numbers indicate that they're developed properties.
(Due to labeling constraints, not all addresses are visible on smaller parcels.)

File Attachments for Item:

L. 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 on and discussed at the City Council Meeting of September 5, 2024; the public hearing was closed but the item continued to a future date.)



CITY COUNCIL AGENDA REPORT

Meeting Date: October 17, 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

This matter has been continued from the City Council meetings of June 6, July 18 and September 5, 2024. City Council continued the matter from September 5 for staff to address the questions of timing on noticing as provided in the draft ordinance, along with several Brisbane Acres (RBA) related issues which are unrelated to the draft ordinance. These RBA issues have been moved to a separate discussion item on tonight's agenda so they can be considered independently of 2024-RZ-1. The September 5 City Council draft meeting minutes and report are attached for reference (Attachments 2 and 3), which includes weblinks to the previous reports.

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. The draft ordinance, text and map, are provided as Attachment 1.

DISCUSSION

As noted above, at the September 5 meeting it was suggested that notice to neighboring property owners be provided earlier in the process for SB 9 projects. The procedures for notices to neighboring property owners of SB 9 projects are provided in Section 17.05.100 - Noticing of the draft ordinance (see Attachment 1). The recommended procedures include a provision for the City to provide a courtesy notice to the property owners located adjacent and directly across the street from an SB 9 project upon approval of a building permit for either a two unit development or and unit constructed pursuant to an urban lot split. Since state law requires that SB 9 applications are ministerial, a project that complies with the law does not require public notice or a hearing. As such, the notice was intended as a courtesy communication informing neighbors of forthcoming construction.

In evaluating the timing of the courtesy notice, City Legal Counsel notes the following:

"...Typically applications that are deemed ministerial, such as building permit applications, do not require notice of the City's receipt or approval thereof to the public. A question has been raised whether such notice could be provided for SB 9 applications and, if so, at what point in the application process.

First, providing notice of SB applications to members of the public may prove frustrating because, even if there were concerns about the application, there is no discretionary review process for such applications and the public may perceive that, if an application is not revised, its comments are falling on deaf ears and its concerns not being addressed.

Second, if such notice is to be provided, when should it be sent out? It might be premature to send out such notice when the City first receives the application because it is usually the case that staff will need additional information from the applicant before the application is deemed complete. If notice were sent out upon the initial receipt the application, then would an additional notice not be required each time the application were revised? This would seem to be a burdensome obligation to place on staff.

Notice could be provided when the application was deemed complete but for what purpose since, as set forth above, review is ministerial. Similarly, notice could be provided when the application was approved but, again, what purpose would that serve other than letting the public know that some development activity on a particular site would likely occur in the future.

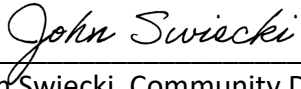
If notice is to be provided, it should be only one time and that would be when the application is first received. That would enable members of the public to be aware of the application, provide an opportunity to ask questions and/or voice concerns, but the obligation to monitor the progress of the application would be on the public. This strikes a fair balance."

While staff believes notification as recommended by the Planning Commission is appropriate, it is within the Council's discretion to modify this provision as it sees fit. Given the ministerial nature of SB 9 applications, regardless of the timing, any notice will clearly specify the nature of the application and that the notice is for informational purposes only.

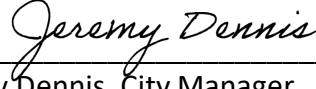
ATTACHMENTS

1. Draft Ordinance (text and map)
2. City Council September 5, 2024 Draft Minutes

3. September 5, 2024 City Council Report (with links to other Council and Planning Commission Reports)



John Swiecki, Community Development Director



Jeremy Dennis, City Manager

ATTACHMENT 1

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.

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.

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.

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

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.

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:

- 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.
- 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:

APPROVED AS TO FORM:

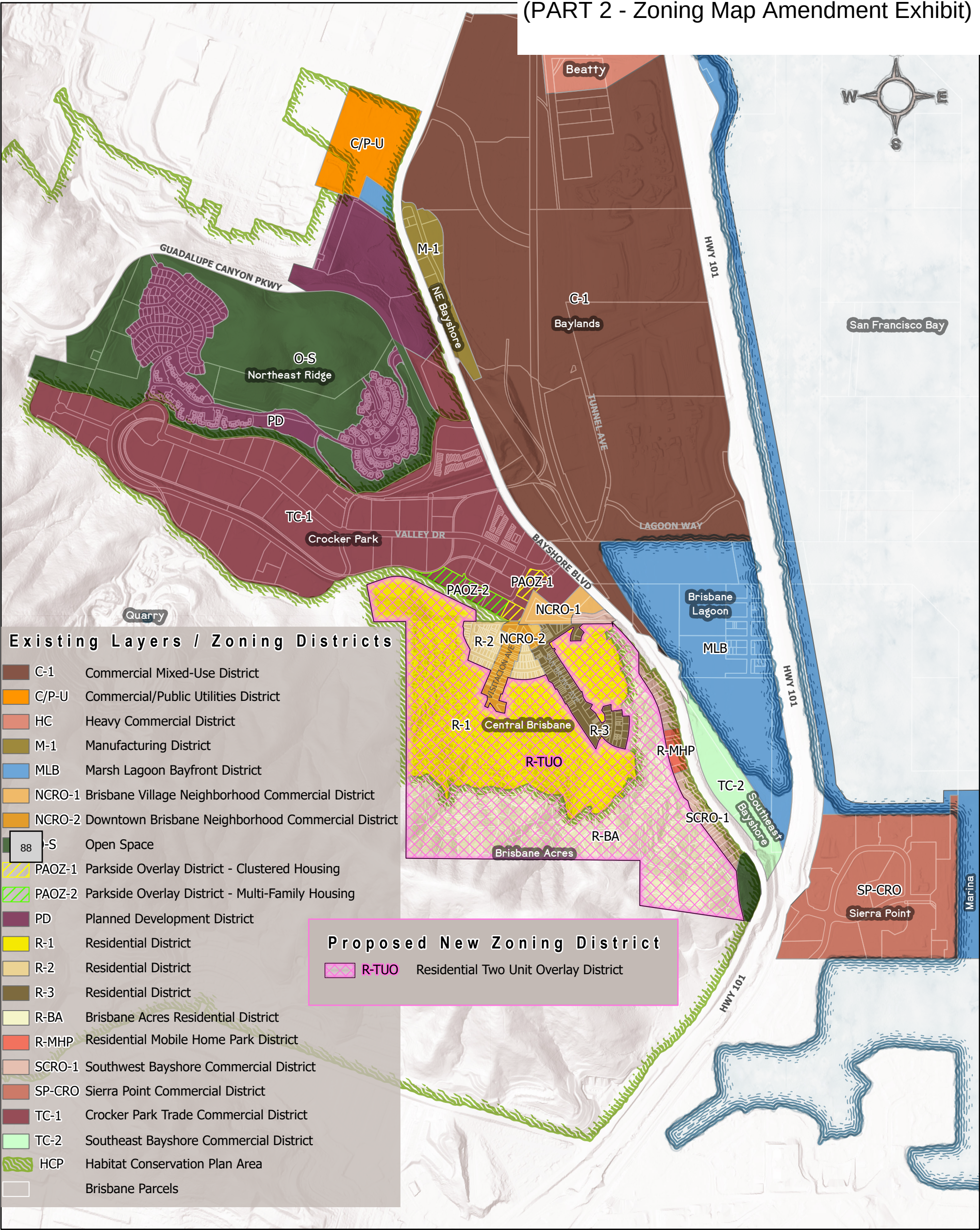
City Clerk

City Attorney

L.

Proposed New Zoning District

ATTACHMENT 1
(PART 2 - Zoning Map Amendment Exhibit)



Q. Proclaiming September as National Preparedness Month

Mayor O'Connell proclaimed September 2024 as National Preparedness Month and encouraged all Brisbane residents to increase their knowledge and awareness of proper safety measures to follow before, during, and after a disaster.

Deputy Fire Chief Abelson accepted the proclamation on behalf of North County Fire Authority.

CONTINUED PUBLIC HEARING

R. 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 and July 18, 2024.)

Community Development Director Swiecki presented a graphic to explain what happens in Brisbane with the proposed ordinance and without the proposed ordinance.

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

Peter Sutherland shared his concerns about road safety and the quality of soil in the acres.

Stephen Goodwin shared his public health and safety concerns about the proposed Ordinance.

Rachel asked what the federal protections for the trees are.

Tom Heinz commented there is strength in numbers to join the other cities against SB 9.

Sherry Goodwin submitted petitions signed by 224 members of the public not to approve the Ordinance and have the public decide on the issue through an election.

Linda Salmon commented that the residents need protection from earthquakes, mudslides and fires.

DeeDee Porter commented that she signed the petition to prevent overdevelopment in the area above Kings Road and that she should have read up more on the proposed ordinance, SB 9 and SB 1037. She added that the ordinance does not mandate that we develop the Acres and that SB 9 cannot be implemented in areas that do not have infrastructure. The ordinance will also help protect the City more and not lessen restrictions. All of this is public opposition is to SB 9 and not the council's proposed ordinance.

Michele Salmon asked the Council to read the Open Space Ecology Committee letter regarding this issue and delay the vote for two more weeks.

Prem Lall asked for more information about the trust-like option for Open Space.

Paul Bouscal agrees with developing plans to protect the Acres.

Leesa Greenlee agrees with developing plans to protect the Acres if it is just a matter of semantics. She also shared her concerns about Margaret Road.

Ron Coloma commented that Council should preserve the property rights of property owners in the lower acres.

Michele Salmon, Peter Sutherland, Dana Dillworth and Paul Bouscal added follow up comments.

Councilmember Cunningham made a motion, seconded by Councilmember Davis, to close the public hearing. The motion passed unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, Mackin, and Mayor O'Connell.

Noes: None

Absent: None

Abstain: None

After a brief break, Council continued the public hearing Item R to a future City Council meeting in order for staff to provide more information to Council on zoning district issues including protection of City-owned open space, public street standards and related development standards, ownership of non-public roadways, and solar shading.

S. 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 and July 18, 2024.)

Due to the late hour, Continued Public Hearing Item S was not discussed and will be continued to a future meeting.

STAFF REPORTS

T. City Manager's Report on Upcoming Activities

City Manager Dennis reported on an upcoming event.

MAYOR/COUNCIL MATTERS

U. Update on Vacancy on the Open Space Ecology Committee and IDEA Committee

City Clerk Padilla reported that Committee Member Glenn Fieldman from OSEC and Miyoko Nida from the IDEA Committee had resigned from their committees. Councilmembers directed Clerk Padilla to begin recruitment to fill these two seats and other expiring seats in 2025. Interviews will be scheduled January of 2025.

V. Update on the City Council Meeting 2024 Schedule

Councilmembers approved the remaining schedule for the City Council Meetings of 2024, which includes the following:

October 3, 2024 Proposed Special Meeting Best Practices/Code of Conduct Workshop

October 17, 2024 Regular Meeting

November 7, 2024 Regular Meeting

November 21, 2024 Special Meeting (Mayoral Rotation) & Regular Meeting

December 5, 2024 Regular Meeting

December 12, 2024 Special Meeting for the City Council Reorganization

December 19, 2024 Meeting Cancellation

**CITY COUNCIL AGENDA REPORT****Meeting Date:** September 5, 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

This matter has been continued from the City Council meetings of June 6 and July 18 2024. To further explain the requirements of SB 9 (which is currently in effect and will remain in effect whether or not 2024-RZ-1 is adopted) city-prepared Frequently Asked Questions (FAQS) have been updated and are available at [2024-RZ-1 | Brisbane, CA \(brisbaneca.org\)](https://www.brisbaneca.org/2024-RZ-1) The previous City Council report and related Planning Commission reports are attached for reference and contain a detailed analysis of the proposed amendment.

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 of the July 18 2024 City Council report.

ATTACHMENTS

1. July 18 2024 City Council Report

John Swiecki

John Swiecki, Community Development Director*Jeremy Dennis*

Jeremy Dennis, City Manager



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 \(brisbaneca.org\)](https://www.brisbaneca.org/Draft-Ordinances), and the SB 9 specific webpage, [2024-RZ-1 | City of Brisbane, CA \(brisbaneca.org\)](https://www.brisbaneca.org/2024-RZ-1)

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 \(brisbaneca.org\)](https://www.brisbaneca.org/2024-RZ-1) 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

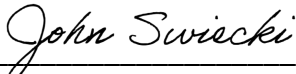
None.

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~~ **PROVIDED ABOVE AS ATTACHMENT 1 TO 10/17/24 REPORT**
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

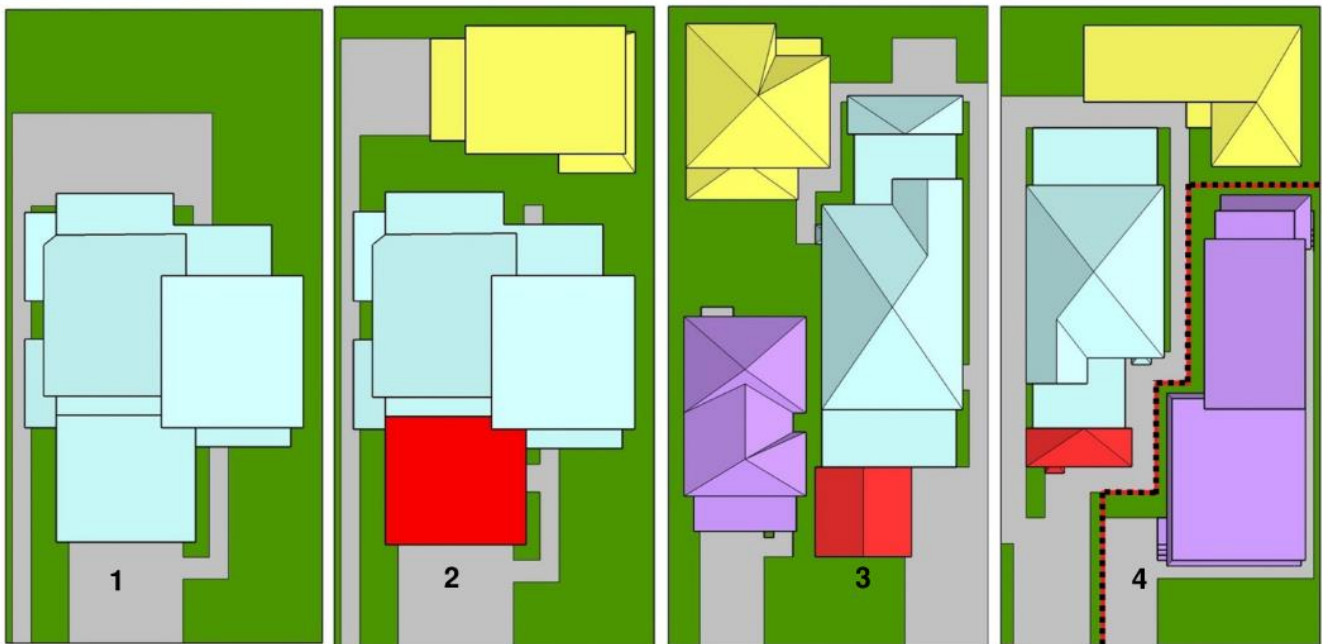
For FAQs and additional illustrations, see [2024-RZ-1 | City of Brisbane, CA \(brisbaneca.org\)](https://www.brisbaneca.org/2024-RZ-1)

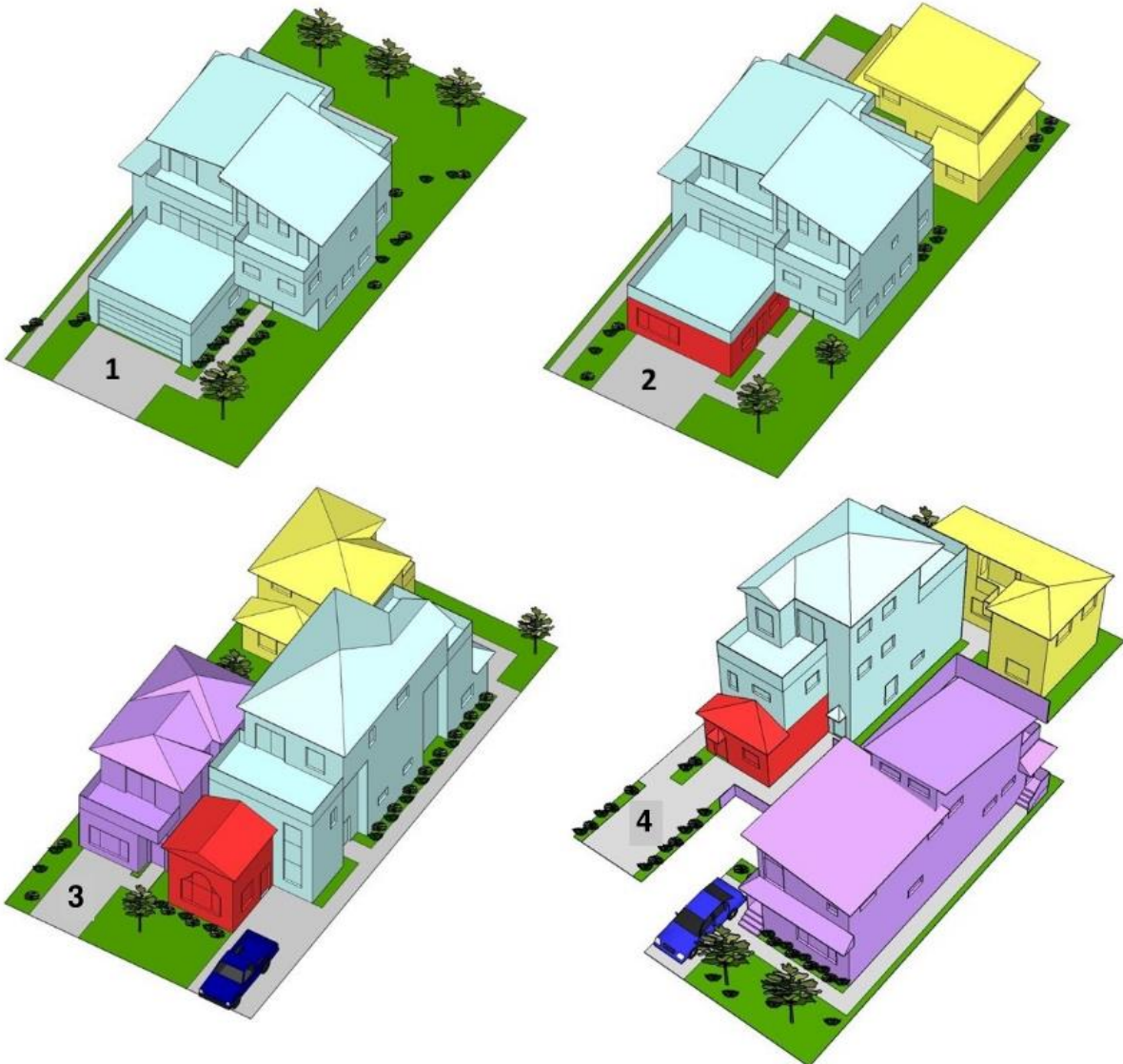
Selected R-1 Buildout Scenarios

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**

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.

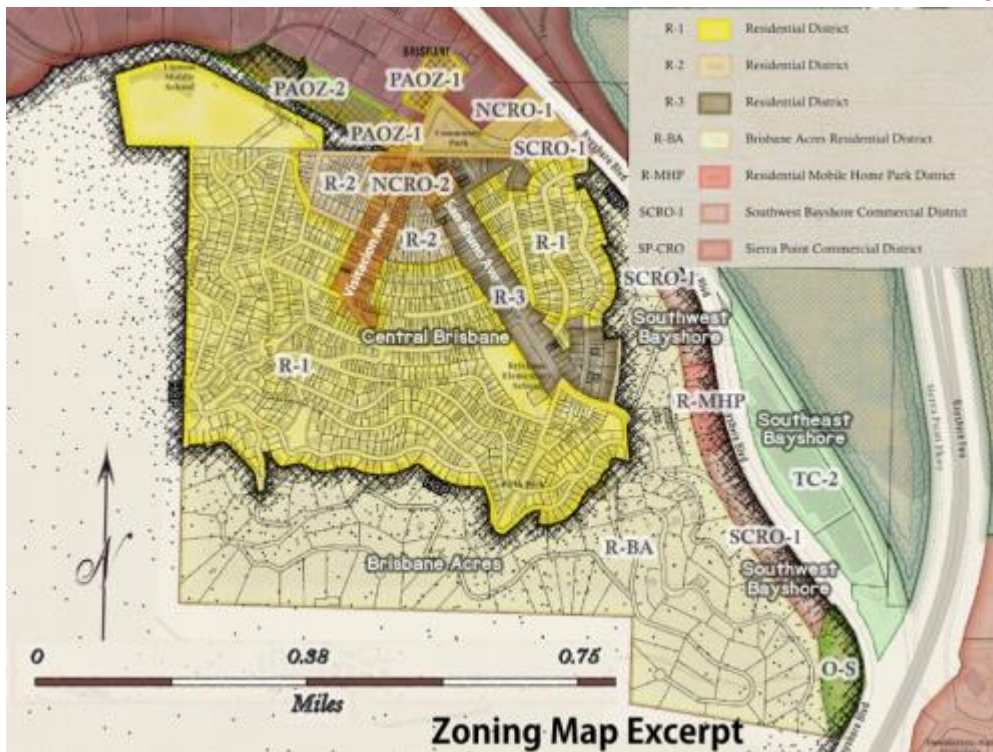
An "urban lot split" is a ministerial split of one single family residential lot into two lots pursuant to the provisions of SB 9. Each resultant lot may have a two unit development or a combination of primary dwelling units and JADUs or ADUs. In any case, the maximum development that may occur over 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 \(brisbaneca.org\)](https://www.brisbaneca.org/UrbanLotSplits&TwoUnitDevelopments)

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](#).

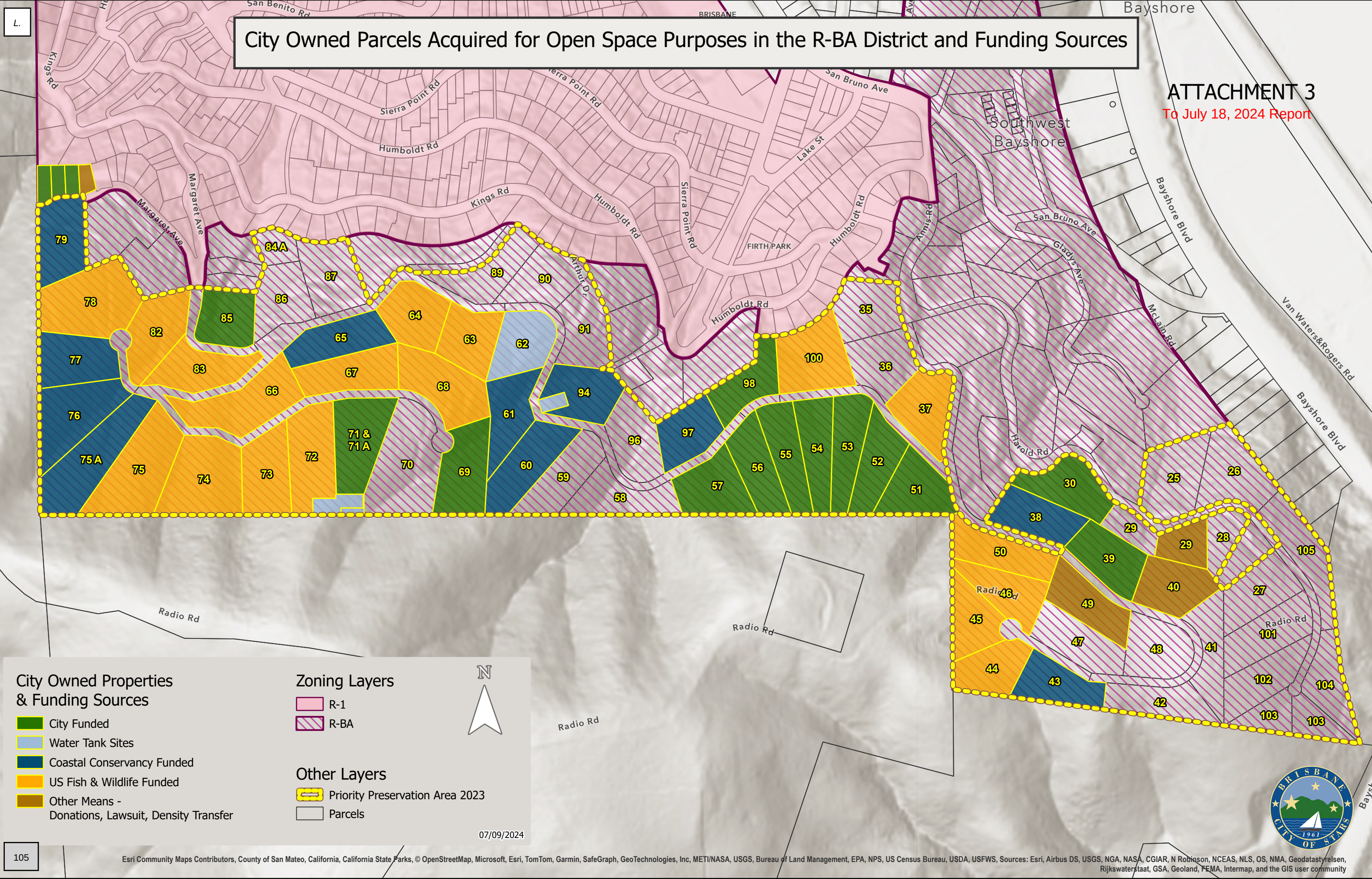
ATTACHMENT 2
To July 18, 2024 Report

Website hyperlinks:

- a) [Draft Ordinances | City of Brisbane, CA \(brisbaneca.org\)](https://www.brisbaneca.org/draft-ordinances)
- b) [2024-RZ-1 | City of Brisbane, CA \(brisbaneca.org\)](https://www.brisbaneca.org/2024-RZ-1)

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

ATTACHMENT 3
To July 18, 2024 Report





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.

Height Limit: 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

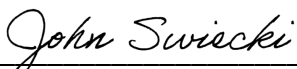
None.

MEASURE OF SUCCESS

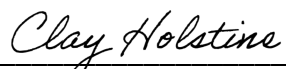
To provide clear provisions in the BMC in compliance with SB 9 (2021).

ATTACHMENTS

1. ~~Draft Ordinance Establishing the R-TUO Zoning District~~ Provided separately
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



John Swiecki, Community Development Director



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 statute 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

WHEREAS, 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.

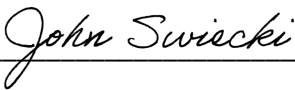
ADOPTED this ninth day of May, 2024, by the following vote:

AYES: Funke, Lau, Patel, and Sayasane

NOES: NA

ABSENT: Gooding

ATTEST:



JOHN SWIECKI, Community Development Director


PAMALA SAYASANE, Vice Chairperson
for ALEX LAU, Chairperson

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:

M. Consider Adoption of a Resolution of the City Council of the City of Brisbane Amending the Community Health and Safety Element of the General Plan to Incorporate the City of Brisbane's 2021 Local Hazard Mitigation Plan into the Element

(The purpose of this item is to amend the Community Health and Safety Element of the General Plan to reflect the most recently adopted Local Hazard Mitigation Plan to comply with State Assembly Bill 2140. This project is exempt from environmental review under CEQA Guidelines Section 15061(b)(3).)



CITY COUNCIL AGENDA REPORT

Meeting Date: October 17, 2024

From: John Swiecki, Community Development Director

Subject: **General Plan Amendment 2024-GPA-1;** General Plan Text Amendment to the Health and Safety Element to update the year of the most recently adopted Local Hazard Mitigation Plan; and finding that this project is categorically exempt from environment review under CEQA Guidelines Section 15061(b)(3).

Community Goal/Result

Safe Community

Purpose

To amend the Community Health and Safety Element (Safety Element) of the General Plan to reflect the most recently adopted Local Hazard Mitigation Plan (LHMP) to comply with State Assembly Bill 2140.

Recommendation

Adopt the attached draft resolution.

Background

In 2006, the state adopted Assembly Bill (AB) 2140 which added provisions specifying what is to be included in a local hazard mitigation plan and required linkage between the local jurisdiction's LHMP and the Safety Element of the General Plan for federal funding eligibility. AB 2140 requires the City to adopt an LHMP as part of the General Plan Safety Element in order to qualify for certain funding through the California Disaster Assistance Act (CDAA). Additional background information is provided with Attachment 4.

The City Council last amended the Safety Element on February 7, 2019 to incorporate, by reference, the 2016 LHMP. Ongoing amendments to the LHMP are scheduled for 5 years intervals and in 2020, a coalition of San Mateo County cities and special districts updated of the 2016 version of the San Mateo County Hazard Mitigation Plan. It was completed and collectively approved by FEMA and the California Office of Emergency Services (CalOES) approved it in October of 2021. Brisbane's City Council adopted that update to the LHMP on November 18, 2021.

In June of this year, the Local Hazard Mitigation Planning Unit of the Recovery, Hazard Mitigation Planning Branch of the California Governor's Office of Emergency Services informed the City that our General Plan needs to be updated to reflect the adopted, 2021 LHMP in order to retain eligibility for emergency funding reimbursement.

The Planning Commission considered the proposed amendment on September 12, 2024 and unanimously (3-0 vote) recommended that the City Council approve it. A copy of the Commission's resolution is provided as Attachment 3. The Planning Commission's agenda report is provided as a link under Attachment 4 and a reference copy of Brisbane's LHMP is also linked as Attachment 5.

Discussion

The City's Safety Element already includes a reference to the LHMP, as updated in 2019, but in order to maintain eligibility for federal funding authorized under AB 2140, the Safety Element must directly reference to the most recently adopted, 2021 LHMP.

The following change is proposed under Section X.1 of the Safety Element:

At the time of this writing, the latest Hazard Mitigation Plan was adopted in ~~2015~~ 2021 and it is scheduled for updates on a 5-year basis. This plan may also be referred to as the Local Hazard Mitigation Plan (LHMP), since, while it is a county-wide plan, it is also specific to the individual jurisdictions.

The footnotes referencing the LHMP, as well as the Emergency Management Plan, would be updated as well for clarity. An excerpt of the proposed redlines is included as Attachment 2.

Fiscal Impact

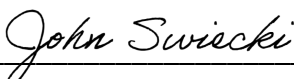
No direct impact. Amending the Safety Element allows the City to maintain eligibility for funding under the California Disaster Assistance Act.

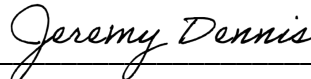
Measure of Success

Provide for a Safety Element that references the adopted LHMP consistent with state law.

Attachments

1. Draft City Council Resolution
2. Redline Excerpt of Proposed Amendments to Brisbane's Safety Element
3. Planning Commission Resolution 2024-GPA-1
4. [Planning Commission Agenda Report from September 12, 2024](#) (hyperlink)
5. [Local Hazard Mitigation Plan](#) (2021) (hyperlink)


 John Swiecki, Community Development Director


 Jeremy Dennis, City Manager

**Draft
RESOLUTION _____****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE
AMENDING THE COMMUNITY HEALTH AND SAFETY ELEMENT OF THE GENERAL PLAN
TO INCORPORATE THE CITY OF BRISBANE’S 2021 LOCAL HAZARD MITIGATION PLAN
INTO THE ELEMENT**

WHEREAS, Section X.1, Emergency Preparedness of the Safety Element, in the Community and Safety Element of the General Plan (“Safety Element”) currently makes reference to a 2016 Local Hazard Mitigation Plan (“LHMP”); and

WHEREAS, consistent with the federal Disaster Mitigation Act of 2000, State Assembly Bill (AB) 2140 requires cities to reference the most recently adopted Local Hazard Mitigation Plan (LHMP) into the Safety Element, by either cross reference or by integration of the two documents, in order to qualify for the maximum amount of disaster aid through the California Disaster Assistance Act; and

WHEREAS, the City of Brisbane adopted the 2021 LHMP on November 18, 2021, as part of the San Mateo County Hazard Mitigation Plan, dated October 2021, and was subsequently approved by the Federal Emergency Management Agency (FEMA) and the California Office of Emergency Services (CalOES); and

WHEREAS, the 2021 LHMP provides guidance and insight to the hazards that exist in the City of Brisbane and suggests possible mitigation measures; and

WHEREAS, on September 12, 2024, the Planning Commission considered all pertinent testimony, written and oral, and adopted Planning Commission Resolution 2024-GPA-1, recommending that the City Council adopt an amendment to the Safety Element in General Plan, by amending Section X.1 Emergency Preparedness, which includes reference of the adopted 2021 LHMP as part of the Safety Element; and

WHEREAS, the City Council held a public hearing on the amendment to Safety Element on October 17, 2024, and considered the testimony presented and reviewed the Planning Commission's recommendation and the Planning Commission’s minutes of its meeting, which is incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Brisbane finds as follows:
Section 1.

- A. The adoption of the amendment to the Safety Element is exempt from the California Environmental Quality Act by General Rule, per State CEQA Guidelines Section 15061(b)(3), in that CEQA applies only to projects which have the potential for causing a significant effect

on the environment and this proposed action would have no possibility for such significant effect;

- B. The amendment to Section X.1, the Emergency Preparedness section of the Safety Element, as described above and as set forth on the attached Exhibit A, has been prepared consistent with State law;
- C. The amendment to the Emergency Preparedness section of the Safety Element does not make substantive changes to goals, policies, programs, standards, or maps of the Safety Element, but is to incorporate by reference, the City of Brisbane's 2021 LHMP.
- D. The amendment to the Emergency Preparedness section of the Safety Element supersedes that previously adopted section; and

Section 2. The General Plan of the City of Brisbane is amended by the amendment to X.1, Emergency Preparedness of the Safety Element as set forth on the attached Exhibit A.

Section 3. This resolution shall be effective immediately upon its adoption.

Terry O-Connell, Mayor
City of Brisbane

* * * *

I, the undersigned, hereby certify that the foregoing Resolution _____ was adopted at a regular meeting of the Brisbane City Council on October 17, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Ingrid Padilla, City Clerk
City of Brisbane

Approved as to form:

Thomas R. McMorro, City Attorney

X.1 EMERGENCY PREPAREDNESS

Emergency preparedness is critical for the well-being of Brisbane. Even though it is a small city, Brisbane's location in the San Francisco Bay Area puts it at risk for potential disasters, such as airplane crashes, major fires and hazardous materials incidents, in addition to earthquakes, landslides and floods. With limited access points and the physical barriers created by the Bay and the Mountain, it is necessary for the City to think carefully and plan well for the safety of its citizens.

Brisbane has developed an Emergency Operations Plan, also referred to as an Emergency Management Plan⁽⁹⁾. That plan is updated regularly and provides procedures and establishes responsibilities for managing both manmade and natural disasters. It provides directions on evacuating the City, providing shelter and basic necessities, and on emergency communications and field responses. The Emergency Management Plan works in concert with a number of multi-agency mutual aid plans and with local volunteer efforts.

One such multi-agency effort is in the preparation of the [County-wide Hazard Mitigation Plan](#)⁽¹⁰⁾. That plan responds to the federal mandates for emergency readiness provided in the Disaster Mitigation Act of 2000. The Hazard Mitigation Plan was prepared through a coalition of San Mateo county cities and special districts, to pool resources and create a uniform and coordinated hazard mitigation strategy across the county. That coordinated effort also helps ensure eligibility for federal grant funding. Individual agencies are responsible for participation in the preparation and adoption of their respective sections by all the jurisdictional partners, the plan is then subject to approval by the California Office of Emergency Services (CalOES) and the Federal Emergency Management Agency (FEMA). The latest Hazard Mitigation Plan was adopted in 2021 and it is scheduled for updates on a 5-year basis. This plan may also be referred to as the Local Hazard Mitigation Plan (LHMP), since, while it is a county-wide plan, it is also specific to the individual jurisdictions.

An Emergency Operations Center (EOC) has been built into City Hall. Regular training sessions and drills are conducted at the EOC using the Emergency Operations Plan. Field exercises are also held to maintain a state of readiness. (Refer to Safety background report (SA-1) for more information.)

The following policies address Emergency Preparedness:

Policy 148 Maintain the Emergency Operations Plan and continue to participate in the maintenance of the County-wide Hazard Mitigation plan as the central planning and management tools for disaster preparedness, response and recovery.

Program 148a: Through continuing participation in the coalition of San Mateo County cities and special districts, maintain the Local Hazard Mitigation Plan (LHMP) consistent with State Assembly Bill 2140 and applicable subsequent state and/or federal legislation. The [LHMP](#) is

included by reference as part of this General Plan element and should be consulted when addressing known hazards to ensure the general health and safety of people within Brisbane.

FOOTNOTES

2. SA-1, p. 12
3. In addition to debris flows mapped by the U.S. Geological Survey in 1983, local incidents during the winter of 1982 were identified at the following locations: behind the building at 180 West Hill Place; from Harold Road to McLain Road at San Bruno Avenue; from Costanos Canyon to 405 Sierra Point Road; above Kings Road at San Mateo Lane; Sierra Point Canyon above Kings Road; from the Glen Parkway tank down Firth Canyon and through Firth Park to San Bruno Avenue; down Old Quarry Road to San Francisco Avenue; and numerous other locations on the Mountain. Source: Vince Marsili, City of Brisbane Public Works Department, 1994.
4. GP-5
5. The background report on Water (UT-3) contains a detailed description of the water systems and water quality in the planning area.
6. UT-2, Figure 2
7. A detailed description and analysis of the planning area's sewer system is contained in the Sewer System Evaluation background report (UT-2).
8. The Storm Drain background report contains detailed descriptions and analysis of the watersheds and storm water systems in the planning area.
9. The Emergency Operations Plan (EOP) is available on the City's website.
10. The Local Hazard Mitigation Plan (LHMP) is a large regional and cross-jurisdictional effort to plan for the reduction of risk from natural and man-made disasters as well as other hazards. It assesses hazard vulnerabilities and identifies mitigation actions to reduce the level of injury, property damage, and community disruption that might otherwise result from such events.

The Department of Emergency Management led the LHMP update, in coordination with County departments, all twenty cities (including Brisbane), and regional special districts. Please visit the County of San Mateo's website for additional information and resources related to the LHMP. Volume One and Volume Two of the most recent LHMP are available from the City's website.

Redline Excerpt of Proposed Amendments to Brisbane's Safety Element

X.1 EMERGENCY PREPAREDNESS

Emergency preparedness is critical for the well-being of Brisbane. Even though it is a small city, Brisbane's location in the San Francisco Bay Area puts it at risk for potential disasters, such as airplane crashes, major fires and hazardous materials incidents, in addition to earthquakes, landslides and floods. With limited access points and the physical barriers created by the Bay and the Mountain, it is necessary for the City to think carefully and plan well for the safety of its citizens.

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Program 148a: Through continuing participation in the coalition of San Mateo County cities and special districts, maintain the Local Hazard Mitigation Plan (LHMP) consistent with State

Assembly Bill 2140 and applicable subsequent state and/or federal legislation. The [LHMP](#) is included by reference as part of this General Plan element and should be consulted when addressing known hazards to ensure the general health and safety of people within Brisbane.

FOOTNOTES

1. ~~SA-1, p. 11~~
2. SA-1, p. 12
3. In addition to debris flows mapped by the U.S. Geological Survey in 1983, local incidents during the winter of 1982 were identified at the following locations: behind the building at 180 West Hill Place; from Harold Road to McLain Road at San Bruno Avenue; from Costanos Canyon to 405 Sierra Point Road; above Kings Road at San Mateo Lane; Sierra Point Canyon above Kings Road; from the Glen Parkway tank down Firth Canyon and through Firth Park to San Bruno Avenue; down Old Quarry Road to San Francisco Avenue; and numerous other locations on the Mountain. Source: Vince Marsili, City of Brisbane Public Works Department, 1994.
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7. A detailed description and analysis of the planning area's sewer system is contained in the Sewer System Evaluation background report (UT-2).
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10. The Local Hazard Mitigation Plan (LHMP) is a large regional and cross-jurisdictional effort to plan for the reduction of risk from natural and man-made disasters as well as other hazards. It assesses hazard vulnerabilities and identifies mitigation actions to reduce the level of injury, property damage, and community disruption that might otherwise result from such events.

The Department of Emergency Management led the LHMP update, in coordination with County departments, all twenty cities (including Brisbane), and regional special districts. Please visit the County of San Mateo's website for additional information and resources related to the LHMP. Volume One and Volume Two of the most recent LHMP are available from the City's website.

RESOLUTION 2024-GPA-1

A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE
RECOMMENDING THAT THE CITY COUNCIL
AMEND THE COMMUNITY HEALTH AND SAFETY ELEMENT OF THE GENERAL PLAN
TO REFLECT THE MOST RECENTLY ADOPTED, 2021 LOCAL HAZARD MITIGATION PLAN

WHEREAS, Section X.1, Emergency Preparedness of the Safety Element, in the Community and Safety Element of the General Plan (Safety Element) currently makes reference to a 2016 Local Hazard Mitigation Plan (LHMP); and

WHEREAS, consistent with the federal Disaster Mitigation Act of 2000, State Assembly Bill (AB) 2140 requires cities to reference the most recently adopted LHMP into the Safety Element of the General Plan, by either cross reference or by integration of the two documents, in order to qualify for the maximum amount of disaster aid through the California Disaster Assistance Act; and

WHEREAS, in 2020, a coalition of San Mateo County cities and special districts, including the City of Brisbane, updated the county-wide Hazard Mitigation Plan, dated October 2021, with each member participating in the preparation and adopting their respective local sections; and

WHEREAS, the City of Brisbane adopted the 2021 LHMP on November 18, 2021, as part of the San Mateo County Hazard Mitigation Plan, dated October 2021, and was subsequently approved by the Federal Emergency Management Agency (FEMA) and the California Office of Emergency Services (CalOES); and

WHEREAS, the 2021 LHMP provides guidance and insight to the hazards that exist in the City of Brisbane and suggests possible mitigation measures; 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; and

WHEREAS, the Planning Commission's recommended update to the Emergency Preparedness section of the Safety Element and the minutes of the Planning Commission meeting of [MEETING DATE] are attached and incorporated by reference as part of this resolution; and

WHEREAS, the Planning Commission finds that the proposed amendment is exempt from the California Environmental Quality Act by General Rule, per State CEQA Guidelines Section 15061(b)(3), in that CEQA applies only to projects which have the potential for causing a significant effect on the environment and this proposed action would have no possibility for such significant effect; and

NOW, THEREFORE, BE IT RESOLVED, 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 update to the Community Health and Safety Element of the General Plan, which would include reference to the adopted 2021 LHMP as part of the Safety Element.

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 twelfth day of September 2024, by the following vote:

AYES: Funke, Gooding, & Lau

NOES:

ABSENT: Patel & Sayasane



Alex Lau
Chairperson

ATTEST:



JOHN A SWIECKI, Community Development Director

File Attachments for Item:

N. 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 on the City Council Meeting of September 5, 2024 but not discussed at this time.)



MEMO

Meeting Date: 10/17/24

From: Ingrid Padilla, City Clerk

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

The following public hearing item was continued at the City Council Meetings of June 6, 2024, July 18, 2024, and September 5, 2024 and was not discussed:

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, July 18, 2024, and September 5, 2024.)

Attachments: 1. Staff Report from the City Council Meeting of July 18, 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 \(brisbaneca.org\)](https://www.brisbaneca.org/2024-RZ-2), and the omnibus specific webpage, [2024-RZ-2 | City of Brisbane, CA \(brisbaneca.org\)](https://www.brisbaneca.org/2024-RZ-2)

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 \(brisbaneca.org\)](https://www.brisbaneca.org/draft-ordinances)
 - b. [2024-RZ-2 | City of Brisbane, CA \(brisbaneca.org\)](https://www.brisbaneca.org/2024-RZ-2)
4. Draft Ordinance
5. City Council Agenda Report, June 6, 2024
(includes links to Planning Commission reports and minutes)



John Swiecki, Community Development Director



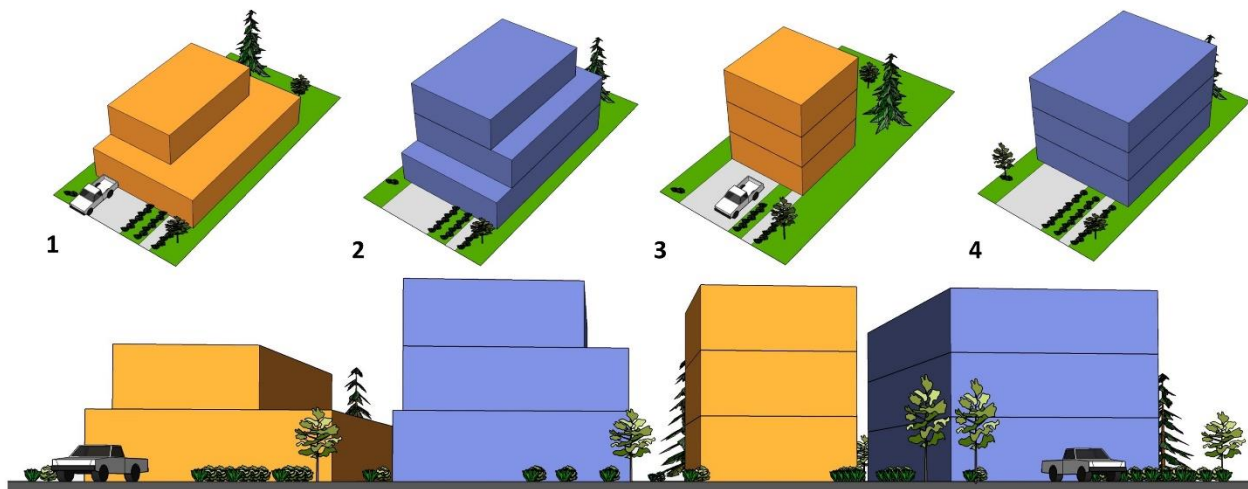
Jeremy Dennis, City Manager

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?

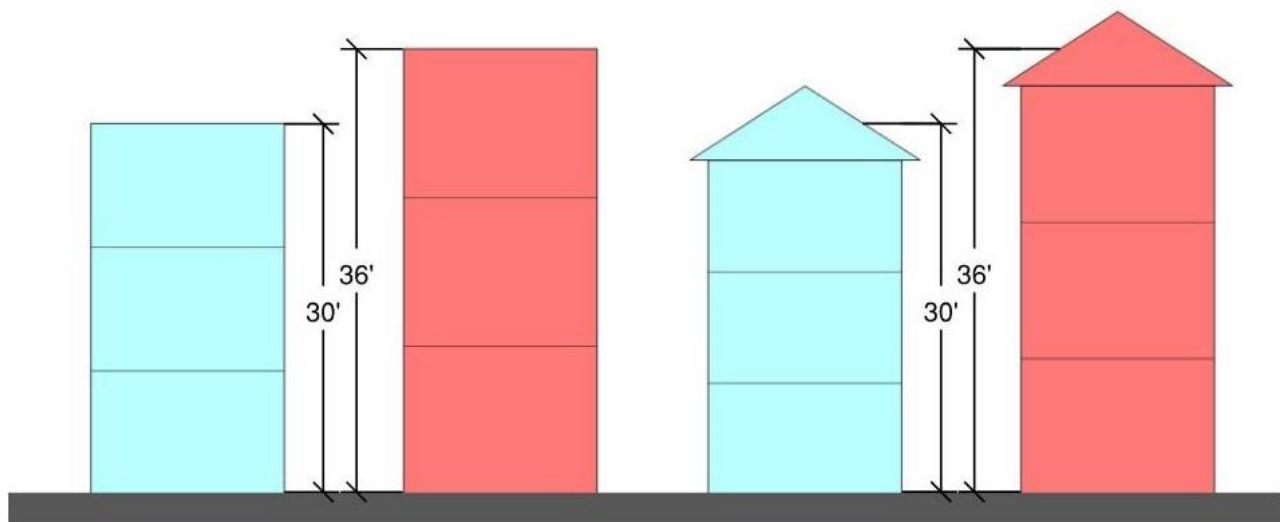
SB 478 requires that a local agency allow a FAR of at least 1.0 for 3 to 7 unit developments and 1.25 for 8 to 10 unit developments, to provide for more infill housing. The [R-2 and R-3 residential districts](#) allow for multifamily development, but the FAR for both districts is currently 0.72. Following 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.

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 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 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 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.
	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			See various exceptions in Chapter 17.47.
	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.			See the exception for garages in the front setback in Table 17.47.050.A
Articulation	Front: outside walls greater than 20 ft by 20 ft	30 percent			Articulation requirements are as a cumulative area.
	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			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: interior side outside walls	NA			
	Rear: Rear outside wall	30 percent			Exempt from articulation requirements: • Single story 2 car garages. • Accessory structures not exceeding a floor

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:

- 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.
- 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:

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 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 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.
	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			See the exception for garages in the front setback in Table 17.47.050.A

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.
	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			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			
	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.

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 than 20,000 square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.01.060 of Chapter 17.01 of this title. 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.
	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	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.

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.

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 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)

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.)

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.)

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.

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.

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	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.
- 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.

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

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.

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:

APPROVED AS TO FORM:

City Clerk

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

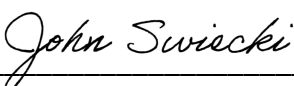
None.

MEASURE OF SUCCESS

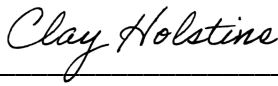
To provide clear provisions in the BMC.

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, Community Development Director



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.

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 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 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 to 400 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.
	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			See the exception for garages in the front setback in Table 17.47.050.A
	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			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 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			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 or 15 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		

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.
	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			Exempt from articulation requirements: • Single story 2 car garages. • Accessory structures not exceeding a floor area of 120 square feet.

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 than 20,000 square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.01.060 of Chapter 17.01 of this title. 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.
		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.	
	The maximum height of any structure within twenty (20) feet from the front lot line, .	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	See other exception for garages in the front setback in Table 17.47.050.A

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.
	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	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.

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. ~~H~~ 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:

- Preservation of protected trees and rare plants to the greatest extent possible;
- Use of plants that are compatible with the natural flora and fauna, and are not invasive to the HCP area;
- 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.

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)

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.)

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.)

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.~~

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.

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.

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 Sections 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

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.

**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 to 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.

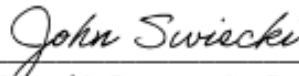
ATTACHMENTS:

- 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. Countywide Assignments and Subcommittee Reports



CITY *of* BRISBANE

Council Subcommittee Update

From September 28th, 2024, to October 11th, 2024

Public Art Advisory Committee

10/8

Cunningham, Davis

The Committee reviewed the 19 proposals received for the Stairway Project and came prepared with their top choices for the space. The Committee utilized the Selection of Public Art Criteria list created by NinedotArt to determine whether the art will fit with Brisbane's character as well as be unexpected, integrated and diverse. Using a proposal ranking sheet, the Committee decided on two artists to recommend to the City Council on November 7th – Angela Duckett for mosaics on risers and McGrath Arts for lighting and railing. As lighting and railing are part of infrastructure of the project, this will need to be integrated from the beginning and the artist will work closely with Public Works. The mosaics on the risers will be installed after public input and design work later. It was confirmed that grant funds to pay for railings and lighting (say \$20k) would be allowed to be used for the artistic railings and lighting that may cost \$50K and the remainder would be funded through the Public Art fund.

Upcoming Subcommittees:

Public Art Advisory Committee

10/14 5:15pm

Cunningham, Davis