

# *City of Brisbane*

## *Planning Commission Agenda Report*

**TO:** Planning Commission For the Meeting of 12/13/12

**FROM:** Ken Johnson, Associate Planner, via John Swiecki, Community Development Director

**SUBJECT:** **3708 Bayshore Boulevard;** Use Permit UP-9-12; Extension of Use Permit UP-6-11 (Previously UP-5-10, UP-5-08, UP-6-07 & UP-3-06) for a Contractor's Storage Yard; Sean Brennan of MK Pipelines, applicant; Gary and Peggy Fried, owners; Assessors Parcel Numbers 007-350-100 & 110.

**Request:** The applicant requests renewal of the Use Permit for a contractor's storage yard on the developed one third of the approximately one acre site at 3708 Bayshore Boulevard. The use was originally approved by the Planning Commission in 2006 and extended on approximately an annual basis since that time, with the latest approval being for a two year permit (due to expire in May 2013). These applications were under the property and business ownership of Joseph Gilmartin of Oro Holdings. The current applicant Sean Brennan of MK Pipelines has indicated that they would become the new owner of the site for the same use, but need greater certainty in the ongoing use of the site and he has therefore asked that there not be a sunset condition on the use permit. Aside from this requested removal of the sunset clause, the use is essentially the same as previously approved.

MK Pipelines has indicated that they are an underground utilities contractor and perform local public works projects. They currently employ 20 people and have 20 pieces of construction equipment, and 10 pick-up or utility trucks. The equipment generally moves from jobsite to jobsite and would rarely come back to the yard. Also, field crews are not dispatched from the yard, but go straight to their jobsites. On average field crews would return to the yard twice a week, with the exception of the "heavy haul" driver who would average up to two trips a day. Also, materials would not be stockpiled at the site but are delivered directly to jobsites. Approximately once a month special order materials may be fabricated at the site prior to going to the jobsite. Also, some overage from jobsites may be stored at the back of the site, behind the building.

The yard is currently screened by a chain-link fence with plastic slats, above which no materials are to be stored, except materials are allowed to be stored up to 15 ft in height behind the building.

The hours of operation would be between 7 am and 5:30 pm.

**Recommendation:** Conditionally approve Use Permit UP-9-12 per the agenda report, via adoption of Resolution UP-9-12 with Exhibit A, containing the findings and conditions of approval.



**Environmental Determination:** The use of an existing facility is considered categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per Section 15301 of the State CEQA Guidelines. The exceptions to the categorical exemptions referenced in Section 15300.2 do not apply. In particular, it should be noted that although the property is located within the jurisdiction of the San Bruno Mountain Habitat Conservation Plan (HCP), the use is located on a previously developed portion of the site adjoining Bayshore Boulevard.

**Applicable Code Sections:** Per Brisbane Municipal Code Sections 17.16.030.A.2, contractor's yards require use permit approval in the SCRO-1 Southwest Bayshore Commercial District. The findings required for Use Permit approval are contained in BMC Section 17.40.060.

**Analysis and Findings:** In order to approve the Use Permit request, the Planning Commission must determine whether the proposal is consistent with the general plan and whether the use applied for, under the circumstances, will not be detrimental to the health, safety, morals, comfort and general welfare of persons residing or working in the neighborhood, nor will it be injurious or detrimental to property or improvements in the neighborhood or the general welfare of the City.

General Plan Consistency—The property is designated for Subregional Commercial/Retail/Office. This designation includes personal services, which BMC Section 17.02.610 defines as including contractors. This use is consistent with General Plan Policy 8 which is to maintain and diversify the City's tax base. Also the site, including the conditions of Approval regarding site management, will be maintained in a manner consistent with several General plan policies. Per General Plan Policy 244 for the Southwest Bayshore subarea, the yard is already screened from Bayshore Boulevard by slatted fencing. To comply with Policies 117 and 240 and Program 83b regarding the San Bruno Mountain Area HCP, the Use Permit was originally approved subject to a condition that any weed removal on the property would be subject to a San Bruno Mountain HCP Site Activity Review. Also, grading or new development would require approval of an HCP Operating Program. Per Policy 50, the North County Fire Authority has previously requested that sufficient clearance be provided between the rear fence and the hillside above to allow passage for emergency personnel, see Condition of Approval H. Per General Plan Programs 134a and 228d, a Condition of Approval was also previously adopted, and is included herein as Condition H, to require compliance the National Pollution Discharge Elimination System, to project stormwater quality.

As part of the ongoing General Plan update, the City Council (6/11/07) has supported the Planning Commission's recommendation that consideration should be given to amending the SCRO-1 District regulations to prohibit outdoor storage uses. Specifically, Program 238a would be revised as Program LU-60a to read, "After adoption of the General plan, review the Zoning District regulations to better define an appropriate mix of uses and address incompatible land use. Consider the elimination of outdoor sales and storage uses." However, since the use is consistent with the current General Plan and the schedule for the completion of the revised General Plan is uncertain, as is the specific policy language that may ultimately be adopted, this draft text is only provided by way of background. Should the policy language carry though in the future adoption of the revised General Plan and the zoning then is revised to eliminate such uses,

then per BMC Section 17.38 on Nonconforming uses would apply; in which case this use could continue and be maintained, but could not be expanded.

Also, while the southern portion of the SCRO-1 district, south of the mobile home park, was designated in the 2007-2014 Housing Element for rezoning to housing, this portion of the SCRO-1 district was to remain. Other Housing Element policies and programs called for some changes to the district, but these would not necessarily prohibit continuation of this use.

In summary, the subject use should not be detrimental to the neighborhood given the conditions of approval. The adjoining properties are currently vacant. The subject property would be 40 to 60 ft from the closest building of the 30 – unit condominium complex approved on the property to the south. A landscaped yard would separate the two. A similar condominium project has been preliminarily proposed to the north, but that application remains incomplete. Although there is potential development of the sites to the north and south to multi-family residential, staff views the proposed use as not having a significant impact on these properties, due to the low traffic volume and low levels of daily site activities, as characterized in the applicant's statement. Should this change, the Planning Commission would retain the right to revoke the permit, per BMC Section 17.48.

Finally, the application was distributed to the North County Fire Authority, Public Works, Police and Building Departments. The City Engineer/Public Works Director has requested that a Condition of Approval should be added to require an approximately 60 ft long concrete median in Bayshore Boulevard, to prevent illegal turning movements across the southbound traffic lanes. It is understood that the applicant has been in direct communication with the City Engineer regarding the details of this traffic control feature and this has been included as Condition B.

Attachments:

- Draft Resolution with Findings and Conditions of Approval
- Site Plan
- Site Photos



draft  
RESOLUTION UP-9-12

A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE  
CONDITIONALLY APPROVING USE PERMIT UP-9-12  
FOR A CONTRACTOR'S YARD  
AT 3708 BAYSHORE BOULEVARD

WHEREAS, Sean Brennan, the applicant, applied to the City of Brisbane for Use Permit approval for an extension of Use Permit UP-6-11 (previously UP-5-10, UP-5-8, UP-6-07 and UP-3-06) for a contractor's storage yard at 3708 Bayshore Boulevard, such application being identified as Use Permit UP-6-11; and

WHEREAS, on December 13, 2012, the Planning Commission conducted a hearing of the application, 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 agenda report relating to said application, the plans and photographs, the written and oral evidence presented to the Planning Commission in support of and in opposition to the application; and

WHEREAS, the Planning Commission finds that the proposed project is categorically exempt from the provisions of the California Environmental Quality Act; and

WHEREAS, the Planning Commission of the City of Brisbane hereby makes the findings attached herein as Exhibit A in connection with the Use Permit.

NOW THEREFORE, based upon the findings set forth hereinabove, the Planning Commission of the City of Brisbane, at its meeting of December 13, 2012, did resolve as follows:

Use Permit UP-9-12 is approved per the conditions of approval attached herein as Exhibit A.

ADOPTED this thirteenth day of December, 2012, by the following vote:

AYES:  
NOES:  
ABSENT:

JAMEEL MUNIR  
Chairman

ATTEST:

JOHN SWIECKI, Community Development Director



## **EXHIBIT A**

**Action Taken:** Conditionally approve Use Permit UP-9-12 per the agenda report with attachments, via adoption of Resolution UP-9-12, as amended.

### **Findings:**

1. Approval of the use permit is consistent with the general plan and any applicable specific plan adopted by the city council, as detailed in the staff memorandum.
2. The establishment, maintenance and operation of the use applied for, under the circumstances, will not be detrimental to the health, safety, morals, comfort and general welfare of persons residing or working in the neighborhood, nor will it be injurious or detrimental to property or improvements in the neighborhood or the general welfare of the City, as detailed in the agenda report.

### **Conditions of Approval:**

#### **Prior to occupancy:**

- A. The applicant shall obtain a Business License through the City Finance Department.
- B. The applicant shall install an approximately 60 foot long median in Bayshore Boulevard to the satisfaction of the City Engineer and shall obtain any required permits for this work through the Public Works Dept. prior to construction.

#### **On-going/Post Occupancy:**

- C. The Use Permit is for approval of a contractor's storage yard, limited to the existing 18,000 sq ft +/- of the property already improved with a building and paved yard.
- D. Hours of operation shall be restricted to 7 am and 5:30 pm, daily.
- E. No potentially hazardous or flammable materials shall be stored at the site without the approval of the North County Fire Authority (NCFA), and all materials shall be stored in compliance with the California Fire Code, as administered by the NCFA. No pesticides or herbicides shall be stored at the site without the approval of the HCP Plan Operator.
- F. All Best Management Practice improvements necessary to prevent stormwater pollution per NPDES shall be implemented and maintained to the satisfaction of the Public Works Dept., including, but not limited to, the following:
  1. All outdoor equipment and materials storage areas shall be designed to limit potential pollutants to contact runoff. Storage shall occur only on paved and contained areas. The pavement should be checked periodically for cracks and fractures, which should be sealed to prevent leakage.
  2. Any non-hazardous liquids, such as latex-based paint, shall be stored indoors, unless otherwise approved by the Public Works Dept.
  3. Wastewater from any vehicle/equipment washing operations shall not be discharged to the storm drain system. Any wastewater discharges to the sanitary system are subject to approval by the Public works Dept.

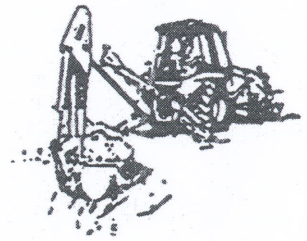
4. No vehicle/equipment maintenance shall be performed outdoors, but shall be in a protected area that does not allow for ground contamination.
- G. No grading, paving vegetation removal or new construction shall be permitted except in compliance with the Brisbane Municipal Code (including Section 17.01.060.A.1) and the San Bruno Mountain Area Habitat Conservation Plan (HCP), which is administered through the San Mateo County Parks Dept.. A San Bruno Mountain Area HCP Site Activity Review shall be obtained from the County prior to any weed removal on undeveloped portions of the property.
- H. Clearance for emergency access shall be provided between the rear fence and the hillside to the satisfaction of the North County Fire Authority (NCFA), subject to approval of a San Bruno Mountain Area HCP Site Activity Review.
- I. No off-site storage or parking is authorized under this Use Permit and these activities shall be on the paved portions of the site.
- J. The site shall be maintained to keep adequate parking open for use by employees and keep emergency vehicle access open.
- K. Access for emergency vehicles shall be maintained for a minimum width of 20 ft from the street to within 50 ft. of at least two sides of the building and within 150 ft of the other sides of the building, to the satisfaction of the NCFA.
- L. No signage is approved as part of this permit. Signage may be installed following application and approval of a sign permit, per BMC Chapter 17.36.
- M. The property shall be maintained free of litter.
- N. The fence shall be maintained so that it is good repair. If replacement of the existing fence is needed, the fence shall comply with the requirements of BMC section 17.32.050, which require that chain link fences are to be black or green vinyl coated and that barbed wire or similar materials are not allowed. The slats would also be required to match the replacement fence, subject to Planning Director approval.
- O. This Use Permit is subject to the revocation procedures established in Brisbane Municipal Code Chapter 17.48, should the use not comply with its conditional of approval or in any way prove to be a nuisance, injurious or detrimental to the property or improvements in the neighborhood or to the general welfare of the City. In such a case, the matter would be scheduled for hearing by the Planning Commission, per BMC Section 17.48.030, upon receipt of a substantiated complaint of failure to maintain the property in compliance with the conditions of approval.



# MK Pipelines, Inc.

ST. LC 856827

2400 Taraval Street  
San Francisco, CA 94116



November 5, 2012

City of Brisbane

Re: 3708 Bayshore Blvd.

To Whom It May Concern:

MK Pipelines would like to apply for a conditional use permit for the above named property. Per Section 17.16.030 the proposed use is allowable per Section 2 i.e. Contractors Yards.

MK Pipelines is an underground utilities contractor and we perform public works on the peninsula for a range of school districts and municipalities. We currently employ about 20 people and have 20 pieces of construction equipment to service these people and 10 various pick-up trucks/utility trucks and dump trucks. Our equipment generally moves from job site to job site and rarely would need to come back to "home base" except for some routine repairs or maintenance or if there was some down time awaiting other projects to begin. Our field crews are not dispatched from the yard and go straight to the job site and on average would need to return to the yard possibly twice a week. The heaviest traffic user for the yard would be the heavy haul driver and the maximum average would possibly be two moves a day in or out of the yard. MK Pipelines hours of operation are between 7am to 5:30pm.

Materials are not stockpiled in the yard for dispatch to the project site as all materials for our work are delivered directly to the jobsite for which they are required so the materials storage that will be required is just the overage from these job sites that get returned at jobs end. Some special order materials or materials that need to be fabricated prior to being sent to the job site may be sent to the yard but this would be once in a month event.

MK Pipelines will be the owner/user of the property and we do not either now or any time in the future plan to let or sublet any part of the property as we do require all of the space to continue our own operations. We therefore ask for a conditional use permit and ask that it be an open ended one as per all other permits in the area and not a two yearly permit as this does not give us enough security to proceed with basing our business. We understand that poor housekeeping led to the issuance of a two yearly permit of the previous tenants but we can assure you that will not be the case with MK Pipelines as we plan to be a good neighbor and addition to the community. We plan to have our business based there for as long as the area zoning will allow.

Sincerely,

Sean Brennan  
MK Pipelines, Inc.

To whom it may concern:

We, Gary and Peggy Fried, the owners of 3708 Bayshore Blvd, Brisbane, CA, as of 10/30/12, authorize Sean Brennan and Malachy Kerrigan, owners of MK Pipelines, to submit to the city of Brisbane, an application for conditional use permit relating to the above property on our behalf. Please contact Sean Brennan directly with any questions relating to the use of the property, 415-740-0030.

Sincerely,

*Gary Fried*  
Gary Fried  
10-30-12  
10/30/12

*Peggy Fried*  
Peggy Fried  
10/30/12  
10/30/12

F.2.8



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fnd

EQUIPMENT

STORAGE AREA  
MATRIPS

PAVED AREA  
- 2.5' x 10'

PAGE 1106

NOTES ON

ENTRANCE

505

Bayshore Blvd.

SCALE 1" = 20'

# SITE PLAN





VICINITY MAP/AERIAL  
3708 Bayshore Blvd.

F.2.10

0 80 160 320 Feet







**AERIAL PHOTO**  
**3708 Bayshore Blvd**

F. 2.11

0 12.5 25 50 Feet







F.2.12





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F.2.14