

K. Landscaping requirements.

1. Landscape Plan. All development proposals 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 replacement, irrigated landscapes of 1,000 square feet, or more, shall be subject to the Water Conservation in Landscaping Ordinance. Refer to Chapter 15.70.

L. **Ridgeline.** Development on any site through which a ridgeline runs as identified in Figure 17.02.695 shall be subject to design permit approval.

1. In addition to the required contents of application for design permit set forth in Section 17.42.020.A, story poles certified by a licensed architect, surveyor, civil engineer or contractor to represent the height of the proposed building shall be erected at the locations of its outer corners and roof peaks according to a plan pre-approved by the Community Development Director. The upper one foot length of each pole shall be painted OSHA yellow so as to be clearly visible from a distance.
2. In addition to the findings required for issuance of design permits set forth in Section 17.42.040, the Planning Commission shall find that the building's placement, height, bulk and landscaping will preserve those public views of the San Bruno Mountain State and County Park as seen from the Community Park and from the Bay Trail along the Brisbane Lagoon and Sierra Point shorelines that are found to be of community-wide value. Methods to accomplish

this may include varying the building's roofline to reflect the ridgeline's topography, orienting the building to minimize the impact of its profile upon public views, locating the building on the lower elevations of the site, and reducing the building's height below the maximum permitted in the district.

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

M. **Watercourses, wetlands and canyons.** Development of the site shall be setback from all watercourses, wetlands and canyons consistent with the sensitivity of the resource.

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

O. **Nonconforming residential structures and uses.** Nonconforming residential structures and nonconforming residential uses, as defined in Section 17.02.560, may be repaired, restored, reconstructed, enlarged or expanded in accordance with the provisions of Section 17.12.040.L.3 and Chapters 17.38 and 17.34 of this Title.

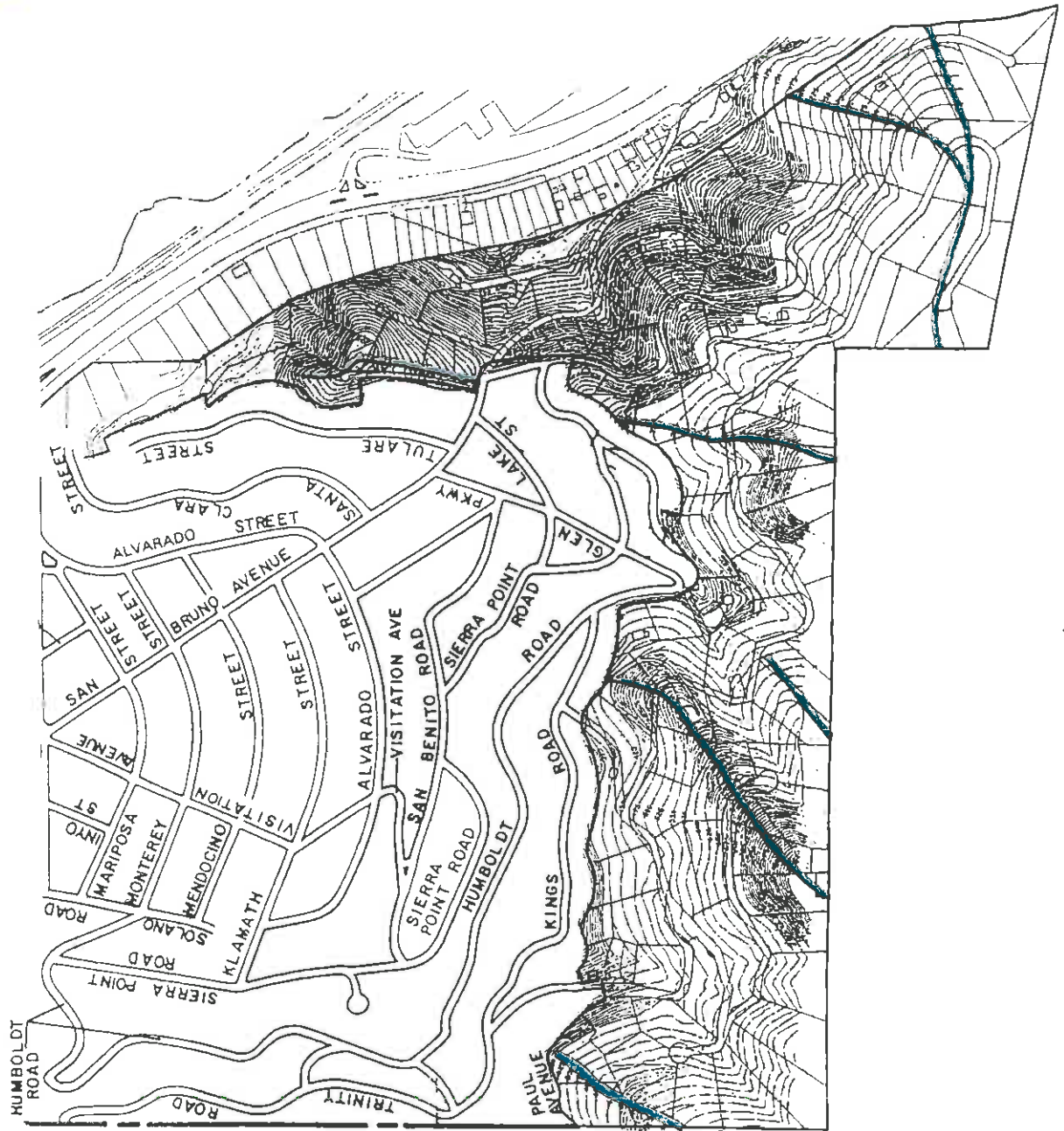
P. **Recycling Area Requirements.** For new subdivisions containing an area where solid waste is collected and loaded in a location which serves five or more living units, adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided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

§17.12.050 Density transfer

A. In order to facilitate preservation of lands in the R-BA District with significant environmental resources, one or more additional dwelling units within the R-BA District, in addition to the dwelling unit otherwise permitted on a particular site, may be constructed under the conditions set forth in this Section 17.12.050. As used herein, the additional dwelling units are called "transfer units." The density transfer shall comply with all of the following requirements:

Figure 17.02.695

Ridgelines



G.1.16.

Action Minutes
Introduction of Ord. 562

- I. Approve the plans and specifications, and authorize publication of the Notice Inviting Bids for the Pavement Maintenance 2011
- J. Approve Co-sponsorship of 2012 Live at Mission Blue Chamber Concert Series

CM/Agency Boardmember Conway asked that Consent Calendar Item C be removed for clarification. CM/Agency Boardmember Richardson made a motion, seconded by CM/Agency Boardmember Conway, to approve Consent Calendar Items A, B, D, F, G, H, I & J as proposed. The motion was carried unanimously by all present.

- C. Adopt Resolution No. 2011-42 agreeing to enter into contract with the California State Department of Boating and Waterways accepting the grant funds of \$100,000

After Councilmember questions and clarification of Harbormaster Warburton, CM Conway made a motion, seconded by CM Lentz, to adopt the resolution as proposed. The motion was carried unanimously by all present.

- E. Approve Fourth Addendum to Agreement to Pay Processing Costs and authorize the City Manager to execute the Addendum on behalf of the City

This item was continued to a future Council Meeting.

PUBLIC HEARING

- A. Consider introduction of Ordinance No. 562 amending the Brisbane Municipal Code Title 17, Section 17.02.695, Ridgeline Definition, and Chapter 17.12, R-BA Brisbane Acres Residential District, and Rezone APN 007-560-120 from the SCRO-1 Southwest Bayshore Commercial District to the R-BA Brisbane Acres Residential District

Community Development Director Swiecki outlined the information in the staff report. After initial Councilmember questions and clarifications, Mayor Bologoff opened the public hearing.

Jamie Dunn spoke of her concerns with taking existing homeowners into consideration, the safety of hillside sliding, protecting views, and concerns with fire danger,

Dr. Sabharwal proposed changes to the ordinance and spoke of his proposal to develop his property.

After further Councilmember questions and discussion, CM Waldo made a motion, seconded by CM Lentz, to introduce the ordinance as proposed. The motion was carried unanimously by all present.

- B. Consider introduction of Ordinance No. 563 amending the Brisbane Municipal Code Title 17: Chapter 17.02, various definitions related to housing; Chapter 17.16, SCRO-1 Southwest Bayshore Commercial District standards to allow for convalescent homes, large family day care homes and dwelling groups by use permit and emergency shelters by-right, to change the setback standards, and to change the lighting performance standards; Chapter 17.42, Design Permits provisions on

Agenda Report
Introduction of Ord. 562
at City Council
9/19/11

Height Limits

It is further recommended that the 20 foot height limit within the front 20 ft. of downslope lots would be tied to the elevation of the center of the street rather than to the finished grade 20 feet from the front property line. Application of the current method of measurement (especially on steep slopes) can result in much of the house being located below street level, with other unintended consequences such as flat roofs and increased excavation to comply with current requirements. The proposed approach would preserve the original intent of the height restriction to maintain a pedestrian scale for development along the streetscape. Allowing the front entrance to the house to be located at street level helps create a sense of neighborliness and helps provide "eyes on the street" in relatively remote portions of the district.

Other

The development regulations for lot dimensions would be clarified to coordinate with the minimum lot area standard of 20,000 square feet. Exceptions to the 20,000 sq. ft. minimum lot area permitted in the R-BA District for density transfer and clustered development would be made explicit to allow for flexibility in configuring new lots. TDR credit for paper streets with habitat value would be recognized. Regulations pertaining to secondary dwelling units will be made consistent with other Code provisions. Code sections pertaining to HCP compliance would be expanded to better describe procedural requirements. Additionally, landscaping requirements would be amended to make clearer their relationship with the HCP and endangered butterfly species.

Ridgeline/Watercourse Provisions

The current zoning provisions require structures to be located below ridgelines without providing guidance as to how a ridgeline is defined. Past experience has shown the level of subjectivity and lack of consistency in the definition of ridgeline is problematical for the community, property owners, decisionmakers and staff. It is recommended that the definition of "ridgeline" be amended to refer directly to a map based upon Figure 4 of the City of Brisbane Open Space Plan. This would make clear which properties in the R-BA District are subject to the ridgeline regulations.

Additionally, the ridgeline development provisions would be made much more specific. Design Permit approval would be required for ridgeline properties. In addition to the standard application submittal requirements, applicants specifically would be required to erect "story poles" certified by a qualified licensed professional to represent the height of the proposed building at its corners and roof peaks. This would provide the public and the Planning Commission a physical guide to evaluate the potential visual impacts upon public views of the San Bruno Mountain State and County Park, specifically when viewed the Community Park and from the Bay Trail along the Brisbane Lagoon and Sierra Point shorelines. Guidance would further be provided suggesting methods to minimize a building's impact upon public views of the Mountain, such as by varying the 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 shortening the building below the height limit. The ordinance would further clarify that existing structures on ridgelines would only be subject to design review when proposed alteration or expansion would raise the roofline or increase lot coverage.

Required setbacks from canyon watercourses and wetlands in the R-BA District for any development or temporary disturbance would be specified. A 30 ft. setback in each direction from the center line of any watercourse and a 20 ft. setback from the boundary of any wetlands would be required, consistent with the standard set by Section 13.06.180.C in the "Storm Water Management and Discharge Control" chapter of the Municipal Code.

Environmental Determination:

A Negative Declaration was adopted by the City Council January 18, 2011, for the 2007-2014 Housing Element, including Programs H.H.2.b, H.H.2.c and H.H.2.d which the proposed ordinance would implement. For minor zoning amendments where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to the California Environmental Quality Act (CEQA). This general rule is contained in State CEQA Guidelines Section 15061(b)(3).

Fiscal Impact:


None.

Measure of Success:

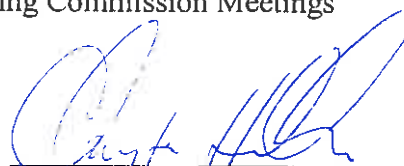
Simplified processing of housing proposals in the R-BA District, consistent with the requirements of the adopted Housing Element, state law and the San Bruno Mountain Area Habitat Conservation Plan.

Attachments:

Redline Version of Recommended Revisions
Draft Ordinance No. 562 with Exhibits A, B & C
Planning Commission Resolution RZ-3-11
Planning Commission Minutes for 6/9/11 & 6/23/11 Meetings (excerpt)
6/9/11 Comments from John Reiter and Jamie Dunn
Agenda Reports for 6/9/11 & 6/23/11 Planning Commission Meetings



Department Head



City Manager

excerpt
BRISBANE PLANNING COMMISSION
Action Minutes of June 23, 2011
Regular Meeting

OLD BUSINESS

2. **PUBLIC HEARING: Zoning Text/Map Amendment RZ-3-11** to Amend Brisbane Municipal Code Title 17, Section 17.02.695, Ridgeline Definition, and Chapter 17.12, R-BA Brisbane Acres Residential District, and to Rezone Assessor's Parcel No. 007-560-120 from the SCRO-1 Southwest Bayshore Commercial District to the R-BA Brisbane Acres Residential District; City of Brisbane, applicant.

Senior Planner Tune presented the agenda report.

Chairman Munir reopened the public hearing.

Dana Dillworth objected to changing the setback standards district-wide, rather than just for density transfer and clustered development projects. She said that each site should be evaluated to determine its habitat value.

In response, Senior Planner Tune explained that the recommended setbacks were the same as in all of the other residential districts. He noted that habitat value is addressed on a parcel-by-parcel basis through the Habitat Conservation Plan process, as stated in BMC Section 17.12.040.I.

Commissioner Cunningham requested that Section 17.12.040.I be expanded to include a brief description of the HCP's purpose and its review process.

Michele Salmon suggested that the proposed setback from waterways be specified to apply in each both directions from the centerline. She noted that new springs reveal themselves, so Section 17.12.040.M should not be limited to wetlands identified in the Open Space Plan. She recommended that no disturbances, including temporary, should be permitted within 20 ft. of a wetland.

A motion to close the public hearing made by Chairman Munir and seconded by Commissioner Cunningham was approved 4-0 (Commissioner Reinhardt absent).

At the direction of the Commission, staff said that it will revise Sections 17.12.040.I & M of the draft ordinance as suggested.

Commissioner Parker made the motion to recommend that the City Council adopt the proposed zoning text/map amendment with the noted revisions. The motion was seconded by Commissioner Do and approved 4-0 (Commissioner Reinhardt absent).

excerpt
BRISBANE PLANNING COMMISSION
Action Minutes of June 9, 2011
Regular Meeting

NEW BUSINESS

2. **PUBLIC HEARING: Zoning Text/Map Amendment RZ-3-11** to Amend Brisbane Municipal Code Title 17, Section 17.02.695, Ridgeline Definition, and Chapter 17.12, R-BA Brisbane Acres Residential District, and to Rezone Assessor's Parcel No. 007-560-120 from the SCRO-1 Southwest Bayshore Commercial District to the R-BA Brisbane Acres Residential District; City of Brisbane, applicant.

Commissioner Do returned to the chambers. Chairman Munir noted that, although he lives in the district, he did not have a conflict of interest regarding this item, based upon the City Attorney's opinion. Commissioner Cunningham noted that her property abutted and partially extended into the district, but she, too, did not have a conflict of interest, according to the City Attorney. Commissioner Do noted that she lives within 500 ft. of the subject property, but did not have a conflict of interest regarding the item.

Senior Planner Tune presented the agenda report. He responded to questions from Chairman Munir regarding the proposed change in the downslope height limit within the front 20 ft. of the property. He also responded to questions regarding street standards and the development potential remaining in the R-BA District.

Chairman Munir opened the public hearing.

Michele Salmon expressed concerns regarding how views from the Mountain could be blocked by development. She noted potential problems in enforcing habitat easements and CC&Rs in regards to fencing, landscaping, fire management and funding. She questioned why the proposed ordinance did not expand upon the existing provisions regarding watercourses, wetlands, canyons and trails.

Terry O'Connell cautioned that the ridgeline restrictions should not be relaxed just to limit the City's legal exposure. She pointed out shortcomings in the habitat protections at the Northeast Ridge in terms of maintenance, enforcement and long-range funding.

Tom Heinz said that 5 ft. setbacks would jam buildings together.

Tami Quan opposed further development in the canyons.

A motion to close the public hearing made by Chairman Munir and seconded by Commissioner Cunningham was approved 4-0 (Commissioner Reinhardt absent).

Chairman Munir noted for the record the correspondence received from Jamie Dunn and Carol Burns/John Reiter.

In response to comments from the Commission, staff agreed to clarify the definition of "ridgeline" by referencing the figure by name and including on it the rest of Central Brisbane with streets identified by name.

Commissioner Parker requested that Section 17.12.040.A.1 identify the density transfer and clustered development provisions by name.

In response to comments from Ms. Salmon, Senior Planner Tune noted that the design review approach in the ridgeline provisions would give the Planning Commission more authority to regulate development. He explained that the basic intent was to preserve public views of San Bruno Mountain State and County Park, but not necessarily views from the Park. He also pointed out that recorded habitat conservation easements would give the City more control than CC&Rs, with the details being worked out at the Use Permit/Design Permit/HCP stage of the project.

In response to concerns expressed by Commissioner Parker, Senior Planner Tune pointed out that the minimum lot width and depth for density transfer and clustered development proposals would be subject to compliance with the 5,000 sq. ft. minimum lot size.

Commissioner Cunningham requested additional information regarding watercourses and trails in the Brisbane Acres.

Chairman Munir made the motion to continue the public hearing to the meeting of June 23rd. The motion was seconded by Commissioner Cunningham and approved 4-0 (Commissioner Reinhardt absent).

RZ-3-11
6/9/11 Meeting
Page 6

- Delete the floor area ratio exception for 3,700 sq. ft. lots (Section 17.12.040.F), since there are no lots that small in the R-BA District.
- Amend the 20 ft. height limit within the front 20 ft. of the lot (Section 17.12.040.G.2) to tie the height limit to the elevation of the center of the street. Due to the steeper slopes typically found in the Brisbane Acres, the current approach could result in the majority of the height of a building actually being below street level on downslope lots, as illustrated by the attached schematic comparing the effect of this 20 ft. height limit within the front 20 ft. of properties with 20% and 40% slopes. The proposed approach would preserve the original intent of the height restriction to maintain a pedestrian scale for development along the streetscape, while avoiding such unintended consequences as flat roofs and increased excavation.

Ridgelines. Brisbane Municipal Code Section 17.12.040.L currently states, “Structures shall be located below ridgelines in a manner that will preserve public views of the San Bruno Mountain State and County Park.” This language combines concepts found in General Plan Policy 19 and Program 17a (see attached).

Past Practice--With no other option provided by the R-BA District ridgeline regulations, Variances have been required for any development on a lot through which a ridgeline passes, if any portion of the proposed building would block views of San Bruno Mountain State and County Park from various public facilities, including the Community Park and the Bay Trail along the Brisbane Lagoon and at Sierra Point.

This Variance process has relied upon Figure 4 of the Open Space Plan (attached) for determining the location of ridgelines, even though neither the General Plan (Programs 19a & 93h), the Municipal Code (Section 17.02.695) nor the Open Space Plan (pages iii, 7 & 12) identify this as the purpose of Figure 4. The ridgelines identified in Figure 4 include the Mountain’s main ridgeline which runs through southeast Brisbane Acres toward Sierra Point, as well as 5 lesser ridgelines that bracket Costanños Canyon, the two upper branches of Firth Canyon, and the Gladys Ravine. According to Figure 4, at least 2 of these ridgeline extend beyond the borders of the Brisbane Acres subarea into Central Brisbane.

It should be noted that while the Open Space Plan (page 11) preliminarily considered “scenic and aesthetic conditions” in its analysis of the open space values of the Brisbane Acres subarea, there has been no formal attempt to identify the “vistas and view corridors of community-wide value” referenced in General Plan Program 19a (attached). BMC Section 17.12.040.L’s general dictum to “preserve public views” could be interpreted as providing little room to consider the relative significance of various views.

For development proposals at 8 Thomas Avenue, 88 Thomas Avenue and 2 San Diego Court, staff prepared detailed estimates of the heights at which public views would presumably not be

H. 2. to.

G. 1. 23

blocked from specified angles and viewing locations to give an indication of what construction might or might not block the full range of existing or potential views. For these proposals, the Planning Commission sought a balance between preserving public views and private property rights through the Variance approval process (see attached General Plan Policies and Programs). Implicit in this approach is the possibility that there might be a specific elevation determined administratively below which development would not be subject to public review.

The City Attorney notes the difficulty in making Variance findings. In the context of ridgeline development, the inability to make the findings could result in a takings claim, if the applicant were prevented from building a home on his or her property. The Planning Commission may be confronted with an undesirable choice between finding a justification for the Variance findings (when the factual basis to do so may not always be present) or subjecting the City to a takings claim if the application is simply denied. This is the type of situation where some accommodation on both sides may produce the best result (e.g. modification of the plans to mitigate the impact on the ridgeline) but Variances do not normally provide this kind of flexibility.

Proposed Approach--A more direct approach would be to require Design Permit approval, instead of a Variance, for any new structures on properties through which ridgelines run as identified in a version of Figure 4 modified as a direct insert into the Zoning Ordinance (see attached draft Figure 17.02.695). The definition of "ridgeline" would be amended to refer directly to this inserted figure. This design review approach would be consistent with General Plan Program 19b: "Consider amendments to the Zoning Ordinance to provide for site plan review to assure that identified vistas and public view corridors remain accessible for public enjoyment. The review should evaluate building placement, height and bulk." Design review is already required for density transfer projects in the R-BA District (BMC Section 17.12.050.C).

Under this approach, the Planning Commission, with staff's recommendations and community input through the public hearing process, would determine the "vistas and view corridors of community-wide value" referenced in General Plan Program 19a (attached). This would provide the Commission with more flexibility than the current BMC Section 17.12.040.L's general dictum to "preserve public views," which lacks the nuance of General Plan Policy 19, from which it was apparently derived:

Policy 19: In the context of respecting private property rights, make every effort to preserve and enhance public views of the Mountain and the Bay.

Based upon the panoramic photomontages of views from the Bay Trail along the east side of the Brisbane Lagoon, the Bay Trail at the northwest corner of Sierra Point, the Community Park, Firth Park and Mission Blue Center prepared by staff (see attached map), it became apparent that views from some public sites are so limited (Firth Park) or distant (Mission Blue Center) as to not be of "community-wide value." Thus, the proposed ordinance would focus attention on

those public views of the State and County Park as specifically seen from the Community Park and from the Bay Trail along the Brisbane Lagoon and Sierra Point shorelines.

In addition to the standard Design Permit application submittal requirements in BMC Section 17.42.020, applicants would be specifically required to erect story poles certified by a qualified licensed professional to represent the height of the proposed building at its corners and roof peaks. This would provide the public and the Planning Commission something concrete to visually assess in terms of its impact upon "vistas and view corridors of community-wide value." Once the story poles have been erected, the locations at the Community Park and Bay Trail from which the project could best be seen can be determined, so staff can take photographs to document the views that the Planning Commission will consider. This practical approach has proven to be effective in reviewing past proposals for ridgeline development, particularly in comparison to other means of theoretically projecting the potential visual impact of a proposal.

Proposed BMC Subsection 17.12.040.L.2 would supplement the Design Permit finding already required in BMC Section 17.42.040.D:

D. For hillside development, the proposal respects the topography of the site and is designed to minimize its visual impact. Significant public views of San Francisco Bay, the Brisbane Lagoon and San Bruno Mountain State and County Park are preserved.

To provide applicants guidance in designing their projects in advance of the public review process, this subsection would also cite methods to minimize a building's impact upon public views of the Mountain, such as by varying the 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 shortening the building below the height limit.

Nonconforming Ridgeline Structures--As for existing structures located on properties through which a ridgeline runs, the R-BA District regulations would be revised to clarify those instances in which design review would be required. In the Nonconforming Uses and Structures Chapter of the Municipal Code, BMC Section 17.38.080.A prohibits a nonconforming structure from being "...altered, enlarged or expanded so as to increase the degree of noncompliance or otherwise increase the discrepancy between existing conditions and the requirements..." of the Zoning Ordinance. BMC Section 17.38.090.A allows that a nonconforming residential structure damaged by natural calamity to the extent that less than 75% of its floor area need be repaired or replaced may be reconstructed to its original size and configuration, as long as all of the new construction complies with applicable building, health and fire codes. If damaged by 75% or more of its floor area, the nonconforming structure may be restored to its original floor area, number of units, setbacks and parking, without otherwise having to comply with the zoning regulations, as long as all of the new construction complies with applicable building, health and