

*City of Brisbane*  
*Agenda Report*

**TO:** Mayor and City Council  
**FROM:** Community Development Director and City Attorney  
**SUBJECT:** Ordinance No. 562, Zoning Text Amendment RZ-3-11  
**DATE:** For Council Meeting on October 4, 2011

**City Council Goals:**

To develop plans and pursue opportunities to enhance open space (#7)  
To develop plans and pursue opportunities to protect natural resources (#8)  
To preserve and enhance livability and diversity of neighborhoods (#14).  
To preserve the unique current character of Brisbane (#16).

**Purpose:**

To update the Zoning Ordinance to simplify and clarify the R-BA Brisbane Acres Residential District's development regulations and density transfer provisions and to adopt new clustered development provisions; to rezone certain property to eliminate its current split zoning status.

**Recommendation:**

Adopt Ordinance No. 562

**Background and Discussion:**

The proposed ordinance will revise the zoning regulations for the Brisbane Acres Zoning District. Among other things, the ordinance will clarify the provisions relating to clustered development to make them consistent with the adopted Habitat Conservation Plan. The proposed ordinance was introduced at the regular Council meeting on September 19, 2011. No revisions to the draft ordinance were made at that time.

**Fiscal Impact:**

None

**Measure of Success:**

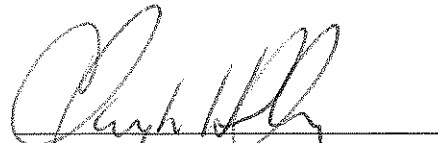
Simplified processing of housing proposals in the R-BA District, consistent with the requirements of the adopted Housing Element and the HCP.

**Attachments:**

Ordinance No. 562



Community Development Director



City Manager



City Attorney

**ORDINANCE NO. 562**

**AN ORDINANCE OF THE CITY OF BRISBANE AMENDING SECTION 17.02.695, RIDGELINE, AND CHAPTER 17.12, R-BA BRISBANE ACRES RESIDENTIAL DISTRICT, OF THE MUNICIPAL CODE, AND AMENDING THE ZONING MAP REGARDING APN 007-560-120**

The City Council of the City of Brisbane hereby ordains as follows:

**SECTION 1:** Section 17.02.695 of Chapter 17.02, Definitions, is amended to read as follows:

**§17.02.695 Ridgeline.** "Ridgeline" means a line connecting the points of highest elevation of the hills comprising San Bruno Mountain as identified on Figure 17.02.695.

Figure 17.02.695 is attached as Exhibit A.

**SECTION 2:** Chapter 17.12, R-BA Brisbane Acres Residential District, is amended to read as follows:

**CHAPTER 17.12  
R-BA BRISBANE ACRES  
RESIDENTIAL DISTRICT**

**Sections:**

17.12.010	Purposes of Chapter
17.12.020	Permitted uses
17.12.030	Conditional uses
17.12.040	Development regulations
17.12.050	Density transfer
17.12.055	Clustered development
17.12.060	Parking
17.12.070	Signs

**§17.12.010 Purposes of Chapter**

In addition to the objectives set forth in Section 17.01.030, the R-BA Brisbane Acres Residential District (hereinafter referred to as the "R-BA District") for the subarea of the City designated in the General Plan as Brisbane Acres is included in the Zoning Ordinance to achieve the following purposes:

- A. To provide a district for single-family dwellings.
- B. To ensure that new residential development addresses the unique environmental constraints of the R-BA District, including the requirements of the San Bruno Mountain Area Habitat Conservation Plan, limited infrastructure improvements, steep grades, and risk of wildland fire.
- C. To ensure adequate light, air, space, quiet, and privacy for single-family residential uses.
- D. To implement and promote the goals and policies of the General Plan so as to guide and manage residential development in the City in accordance with such Plan.

**§17.12.020 Permitted uses**

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

- A. Single-family dwellings.
- B. Accessory structures and uses incidental to a permitted use.
- C. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this Title.
- D. Small family day care homes.
- E. Secondary dwelling units, when authorized by a permit granted pursuant to Chapter 17.43 of this Title.

**§17.12.030 Conditional uses**

The following conditional uses may be allowed in the R-BA District, upon the granting of a use permit pursuant to Chapter 17.40 of this Title:

- A. Group care homes.
- B. Large family day care homes.

**§17.12.040 Development regulations**

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

- A. **Lot area.**
  - 1. The minimum area of any lot shall be twenty thousand (20,000) square feet, except as otherwise provided in Sections 17.12.050 and 17.12.055 of this Chapter.

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

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

C. **Lot dimensions.**

1. In addition to the minimum lot area standard per Section 17.12.040.A, the minimum dimensions of any lot shall be as follows:

<u>Width</u>	<u>Depth</u>
110 feet	140 feet

2. Exceptions may be approved as part of the use permit required for density transfer in Section 17.12.050 or clustered development in Section 17.12.055 of this Chapter.

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

1. **Front setback:** Ten (10) feet.
2. **Side setback:** Ten percent (10%) of the lot width, but in no event more than fifteen (15) feet or less than five (5) feet.
3. **Rear setback:** Ten (10) feet.

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

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

G. **Height of structures.**

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

2. For a distance of twenty (20) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however,
  - a. residential structures on sites sloping down from the adjacent street may be constructed to a height of twenty (20) feet above the elevation of the center of the street; and
  - b. garages may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street when permitted by Section 17.32.070 of this Title and so long as the total height of the garage and any permitted living area underneath does not exceed thirty-five (35) feet from finish grade.

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

I. **HCP compliance.** All development within the R-BA District shall comply with the requirements of the San Bruno Mountain Area Habitat Conservation Plan (HCP).

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

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

**K. Landscaping requirements.**

1. Landscape Plan. All development proposals 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:



1. One (1) transfer unit may be allocated to the site receiving the density transfer for each 20,000 square feet of land of the total area of the site or sites from which the transfer units are taken which is permanently dedicated to open space. No transfer units shall be allocated for any remaining portion less than 20,000 square feet. The method of retaining the dedicated land in permanent open space shall be approved by the City Council upon recommendation of the Planning Commission and shall be implemented before any building or grading permit is issued for development on the site receiving the transfer units. Where dedicated open space is proposed to remain in private ownership, the applicant and property owner shall execute an agreement with the City for the continued maintenance of the open space, to be recorded with the County of San Mateo prior to issuance of any grading or building permits.
  
2. The site from which the transfer units are taken must be found to have value as open space based upon one or more of the following considerations:
  - a. contiguous with San Bruno Mountain State and County Park;
  - b. contains intact native vegetation;
  - c. contains endangered butterfly habitat;
  - d. contains permanent or semi-permanent wetlands;
  - e. forms a portion of a significant watercourse;
  - f. does not adjoin developed parcels on more than one side.

In making this determination, the Planning Commission and the City Council shall be guided by the City's Open Space Plan. The density transfer value of undeveloped "paper streets" in the upper Brisbane Acres may be recognized, once it is established that they are not subject to claims of access rights by easement or necessity from any remaining private property owners in the upper Brisbane Acres.

3. The site receiving the transfer units must be found suitable for development with increased density based on all of the following considerations:
  - a. has a total area of not less than 20,000 square feet;
  - b. does not contain any of the features of value for open space as described in subsections (A) (2) (a) through (e) of this section;

- c. is adjacent to or relatively near existing development and infrastructure.
4. The type of development permitted on the site receiving the transfer units shall be single family dwellings only. The site shall be subdivided into lots with a minimum lot area of five thousand (5,000) square feet subject to the maximum density permitted per Sections 17.12.040.A, 17.12.040.B and 17.12.050.A.1. One secondary dwelling unit may be allowed per twenty thousand (20,000) square feet of the site receiving the transfer units if otherwise in compliance with the requirements of Chapter 17.43, but no additional secondary dwelling units shall be allocated to that site as part of the density transfer.

B. A use permit granted by the City Council shall be required for all density transfers pursuant to this Section. The use permit shall first be considered by the Planning Commission which shall make its recommendation to the City Council. In addition to the findings for issuance of a use permit prescribed by Section 17.40.060 of this Title, the approving authority shall find and determine that:

1. The transfer units will be sited, designed and constructed to avoid adverse effects upon environmentally sensitive areas both on and off site, such as disturbance of watercourses and hazardous geologic conditions;
2. The site receiving the transfer units will be served by infrastructure that meets City standards, as determined by the Director of Public Works;
3. The site receiving the transfer units will have adequate parking and vehicular circulation; and
4. The proposed development of the site receiving the transfer units will be compatible with adjacent and nearby development and is designed to minimize its visual impact.

If the density transfer requires any other permits or discretionary approvals, except for the design permit required by Section 17.12.050.C, the applications for such permits or approvals shall be filed and processed concurrently with the application for the density transfer use permit.

C. As a condition of approval of the use permit referred to in Section 17.12.050.B, a design permit shall be required for any density transfer.

## §17.12.055 Clustered Development

A. Consistent with the San Bruno Mountain Area Habitat Conservation Plan's goal of protecting forty percent (40%) of the Brisbane Acres as conserved habitat, adjustments to the minimum lot area, lot width and lot depth standards referred in Section 17.12.040.C may be granted under the conditions set forth in this Section 17.12.055.

1. One unit shall be permitted for each 20,000 square feet of the total area of the site. In addition, one secondary dwelling unit may be allowed for each 20,000 square feet of the total area of the site, if otherwise in compliance with the requirements of Chapter 17.43. Permitted units shall not be clustered as multiple-family dwellings.
2. A minimum of forty percent (40%) of the total area of the site shall be permanently dedicated as conserved habitat. The method of retaining the dedicated land as conserved habitat shall be approved by the City Council upon recommendation of the Planning Commission and shall be implemented before any building or grading permit is issued for development on the site receiving the transfer units. Where dedicated land is proposed to remain in private ownership, the applicant and property owner shall execute an agreement with the City for the continued maintenance of the conserved habitat, to be recorded with the County of San Mateo prior to issuance of any grading or building permits.
3. The site shall be subdivided into lots no less than five thousand (5,000) square feet in area. Street right-of-way shall be provided in compliance with City standards.
4. No clustered development shall be allowed on any site less than forty thousand (40,000) square feet in area.

B. A use permit granted by the City Council shall be required for all clustered developments pursuant to this Section. The use permit shall first be considered by the Planning Commission which shall make its recommendation to the City Council. In addition to the findings for issuance of a use permit prescribed by Section 17.40.060 of this Title, the approving authority shall find and determine that:

1. The units in the clustered development will be sited, designed and constructed to avoid adverse effects upon environmentally sensitive areas both on and off site, such as disturbance of watercourses and hazardous geologic conditions;
2. The units in the clustered development will be sited adjacent to or relatively near existing infrastructure, and extension of such

infrastructure to serve the clustered development will meet City standards, as determined by the Director of Public Works;

3. The clustered development will have adequate parking and vehicular circulation; and
4. The clustered development will be compatible with adjacent and nearby development and is designed to minimize its visual impact.
5. The use permit will be subject to such conditions as will assure that native vegetation is satisfactorily provided, improved and/or maintained within the area dedicated as conserved habitat.

Applications for subdivision and any other permits or discretionary approvals, except for the design permit required by Section 17.12.055.C, shall be filed and processed concurrently with the application for the clustered development use permit.

C. As a condition of approval of the use permit referred to in Section 17.12.055.B, a design permit shall be required for the units in any clustered development.

#### **§17.12.060 Parking**

All uses in the R-BA District shall comply with the parking regulations set forth in Chapter 17.34 of this Title.

#### **§17.12.070 Signs**

All advertising signs in the R-BA District shall comply with the sign regulations set forth in Chapter 17.36 of this Chapter.

**SECTION 3:** The Zoning Map of the City of Brisbane is amended per the attached Exhibit B, as follows: The parcel of land identified as Assessor's Parcel No. 007-560-120 shall be rezoned from SCRO-1 Southwest Bayshore Commercial District to R-BA Brisbane Acres Residential District.

**SECTION 4:** Where a use permit, design permit, building permit or variance approval has been issued through final action by the City prior to the effective date of this Ordinance, the holder of such permit or approval may proceed to construct the improvements or establish the use authorized by such permit or approval and the same shall be exempted from any conflicting regulations that may be contained in this Ordinance.

**SECTION 5:** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such

decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

**SECTION 6:** This Ordinance shall be in full force and effect thirty days after its passage and adoption.

\* \* \*

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney