

City of Brisbane

Agenda Report

TO: Mayor and City Council

FROM: Community Development Director and City Attorney

SUBJECT: Ordinance No. 563, Zoning Text Amendment RZ-4-11

DATE: For Council Meeting on October 4, 2011

City Council Goals:

To preserve and enhance livability and diversity of neighborhoods (#14).
To preserve the unique current character of Brisbane (#16).

Purpose:

To implement programs from the City's adopted Housing Element consistent with the requirements of state law by amending provisions of the Zoning Ordinance.

Recommendation:

Adopt Ordinance No. 563

Background and Discussion:

The proposed ordinance will make a variety of changes to the City's Zoning Ordinance, including changes to certain defined terms, changes to the zoning regulations for the Southwest Bayshore SCRO-1 District, changes to the findings for a design permit, and changes to actions by the Zoning Administrator. All of these changes are modifications required for implementation of the City's newly adopted Housing Element.

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:

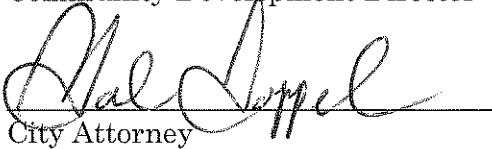
Ongoing implementation of the Housing Element, consistent with the timelines prescribed by the Housing Element and State law.

Attachments:

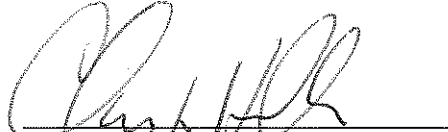
Ordinance No. 563



Community Development Director



City Attorney



City Manager

ORDINANCE NO. 563

AN ORDINANCE OF THE CITY OF BRISBANE AMENDING CHAPTER 17.02 OF THE MUNICIPAL CODE REGARDING HOUSING DEFINITIONS; CHAPTER 17.16 REGARDING 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 REGARDING DESIGN PERMITS PROVISIONS; AND SECTION 17.56.030 REGARDING ZONING ADMINISTRATOR ACTION ON APPLICATIONS.

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

SECTION 1: Section 17.02.240 is to be deleted and Sections 17.02.165, 17.02.235, 17.02.265, 17.02.285, 17.02.290, 17.02.370 and 17.02.420 of Chapter 17.02, Definitions, are amended to read as follows:

§17.02.165 – Convalescent home. “Convalescent home” means an establishment licensed by the state providing residential and health care services, for compensation, for persons recovering from illness or injury, or for persons with chronic illness or disability, such as the elderly who require assistance with basic daily activities.

§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) & (3). The term includes factory-built or manufactured housing, such as mobilehomes, but excludes trailers, campers, tents, recreational vehicles, hotels, motels, boarding houses and temporary structures.

A. "Dwelling group" means a group of two or more detached buildings located upon the same site, each of which contains one or more dwelling units.

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.

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 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 persons.

D. "Secondary dwelling unit" means a separate dwelling unit created upon a site within the R-1 or R-BA district that contains a single-family dwelling and for which a use permit has been granted pursuant to Chapter 17.43 of this title. Subject to the restrictions of this title, the secondary dwelling unit may be attached to or detached from the single-family dwelling.

E. "Single-family dwelling" means a dwelling unit constituting the only principal structure upon a single site (excluding any lawfully established secondary dwelling unit that may be located within the same structure on upon the same site). The term includes residential care facilities, licensed by the state to provide twenty-four (24) 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.

§17.02.265 – Emergency shelter. "Emergency shelter" is the same defined in subdivision (e) of Section 50801 of the California Health and Safety Code, and means housing with minimal supportive services that is limited to occupancy of up to six months by persons who are homeless, victims of domestic violence, individuals and households made temporarily homeless due to natural disasters (e.g., fires, earthquakes, etc.), or other persons requiring temporary housing, and no individual or household shall be denied emergency shelter because of inability to pay.

§17.02.285 – Family. "Family" means one or more persons, *related or unrelated*, occupying a dwelling unit and living together as a single housekeeping unit. The term shall not include a group of persons occupying a fraternity or sorority house, club, hotel, motel, *convalescent* home, group care home or institution of any kind.

§17.02.285 – Family day care home. "Family day care home" means an establishment operated by the provider in the provider's own home as a accessory use incidental to the residential occupancy and licensed by the state to provide care, protection and supervision to children for periods of less than twenty-four (24) hours per day while the parents or guardians are away, and includes the following:

A. "Small family day care home" means a family day care home for eight (8) or fewer children, including children under the age of ten (10) years who reside at the home;

B. "Large family day care home" means a family day care home for nine (9) to fourteen (14) children, including children under the age of ten (10) years who reside at the home.

§17.02.370 – Group care home. "Group care home" means an establishment licensed by the state to provide twenty-four (24) hour nonmedical care for seven (7) or more 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 "dwelling, single-family" for six (6) or fewer persons.

§17.02.420 – Hotel. “Hotel” means a building or group of buildings containing guest rooms or suites offered, for compensation, to the general public as transient lodging accommodations. The term includes motel, inn, motor court, bed and breakfast establishment or similar use, but excludes single-room-occupancy dwelling units operated as supportive housing.

SECTION 2: Chapter 17.16, SCRO-1 Southwest Bayshore Commercial District, is amended to read as follows:

Chapter 17.16
SCRO-1 SOUTHWEST BAYSHORE COMMERCIAL DISTRICT

Sections:

- 17.16.010 - Purposes of chapter.
- 17.16.020 - Permitted uses.
- 17.16.030 - Conditional uses.
- 17.16.040 - Development regulations.
- 17.16.050 - Performance standards.
- 17.16.060 - Special findings.
- 17.16.070 - Night operations.
- 17.16.080 - Parking.
- 17.16.090 - Signs.
- 17.16.100 – Design Review.
- 17.16.110 - Visual impact analysis.

§17.16.010 - Purposes of chapter. The general plan designates several areas of the city for subregional commercial/retail/office use (SCRO). The SCRO-1 Southwest Bayshore commercial district (hereinafter referred to as the Southwest Bayshore district) is one of such planning areas and is included in the zoning ordinance codified in this title to achieve the following purposes:

- A. To create a zoning district for the Southwest Bayshore area that provides for orderly development consistent with the land use policies for that area as set forth in the city's general plan;
- B. To encourage a mix of subregional uses and the opportunity to include mixed-uses and residential uses when appropriate;
- C. To ensure that future development will be conducted in a manner that will adequately address the environmental constraints in the Southwest Bayshore district, as identified in the general plan;
- D. To address historical issues of incompatible land uses; and

E. To protect the community health and safety by establishing permit requirements, performance standards, and special findings for the establishment of uses in the Southwest Bayshore district.

§17.16.020 –Permitted uses.

A. The following are permitted uses in the SCRO-1 district:

1. Emergency shelters in compliance with Section 17.16.040.

§17.16.030 - Conditional uses.

A. Allowable Conditional Uses. The following conditional uses, not otherwise permitted per Section 17.16.020.A, may be allowed in the Southwest Bayshore district, upon the granting of a use permit pursuant to Chapter 17.40 of this title and if conducted in accordance with the performance standards set forth in Section 17.16.050 of this chapter:

1. Commercial recreation/commercial gym and health facilities;
2. Contractor's yards;
3. Convalescent homes;
4. Cultural facilities;
5. Duplex dwelling units;
6. Educational facilities;
7. Emergency Shelters with more than 12 beds
8. Financial institutions;
9. Food production;
10. Group care homes;
11. Hotels;
12. Large family day care homes;
13. Light fabrication;
14. Live/work developments;
15. Media studios;
16. Medical facilities;
17. Meeting halls;
18. Mobilehome parks in compliance with Section 17.32.110;
19. Motels;
20. Multiple-family dwellings and dwelling groups;

21. Offices;
22. Outdoor sales and rental;
23. Personal services;
24. Places of worship;
25. Printing;
26. Product showrooms;
27. Research and development, where the planning director determines, as a result of a risk analysis performed in accordance with Policy No. 166.1 of the general plan, that the use of hazardous materials will not constitute a major component of the research and development activities to be conducted on the site;
28. Restaurants;
29. Retail sales and rental;
30. Single-family dwellings;
31. Storage;
32. Veterinary clinics;
33. Warehousing;

B. Mixed Uses. A combination of any residential and nonresidential uses listed in subsection A of this section, or in Section 17.16.020, may be allowed as a mixed use within the same structure or upon the same site when specifically authorized by the use permit granted for each individual conditional use and upon such additional conditions as the approving authority may deem necessary or appropriate to insure the compatibility of such mixed uses.

C. Night Operations. Night operations associated with the conduct of any uses listed in subsection A of this section (except residential uses) shall require a use permit when subject to the provisions of Section 17.16.070 of this chapter.

§17.16.040 - Development regulations. 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.

B. Density of Development. The minimum lot area for each dwelling unit on a site shall be as follows:

1. Single-family dwellings: seven thousand five hundred (7,500) square feet;
2. Duplex dwellings: three thousand seven hundred fifty (3,750) square feet;

3. Multiple-family dwellings and dwelling groups: one thousand five hundred (1,500) square feet;

4. Mixed use or live/work development: dwelling unit density shall be determined by the use permit.

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

1. Width: fifty (50) feet;

2. Depth: no requirement.

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

1. Front setback:

a. Residential/ Mixed Use: ten (10) feet

b. Commercial Uses: twenty-five (25) feet for commercial uses;

c. Exception: The setbacks may be reduced to zero (0) 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: five (5) feet

b. Commercial Uses: fifteen 15 feet

c. Exception: The Planning Commission may approve exceptions to the side setback regulations through the granting of a Use Permit.

3. Rear setback: ten (10) feet.

E. Lot Coverage. The maximum coverage by all structures on any lot shall be seventy percent (70%).

F. Height of Structures. The maximum height of any structure shall be thirty-five (35) feet.

G. Landscaping Requirements.

1. Not less than ten percent (10%) of the lot area shall be improved with landscaping.

2. Plant materials shall be drought resistant and non-invasive as required by the planning director. Where landscaping is located adjacent to unimproved hillside

3. Landscaping required under this section, including replacement landscaping, shall be installed according to detailed plans approved by the planning director. The landscape plans shall be consistent with the following objectives:

- a. Use of plants that are not invasive;
 - b. Use of water conserving plants; and
 - c. Use of plants and other landscape features that are appropriate to the context.
4. 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.

H. Screening Requirements.

1. Outside storage of pallets or containers used for transportation and delivery of items related to the uses conducted on the site shall not be located in any required setback from a street and shall be screened from off-site view to the extent it is reasonable to do so.
2. The off-site visibility of exterior equipment such as heating and ventilation units, above-ground storage tanks, compactors and compressors, shall be mitigated through such measures as may be reasonable under the circumstances, including, but not limited to, the installation of screening, fencing, painting, or landscaping, or any combination of the foregoing.
3. The screening requirements set forth in subsections 1 and 2 of this section are not intended to be exclusive and the approving authority may require, as a condition of the use permit, such other and additional screening measures as it deems necessary or appropriate to mitigate any potential adverse visual and audible impacts created by the intended use.

I. 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 commercial or institutional buildings, residential buildings having five or more living units, 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 any existing development for which building permit applications are submitted within a 12-month period collectively adding 30 percent or more to the existing floor area of the development project. For existing developments occupied by multiple tenants, this requirement shall apply to building permit applications submitted by any tenant within a 12-month period collectively adding 30 percent

or more to the existing floor area of that portion of the development which said tenant leases. Such recycling areas shall, at a minimum, be sufficient in capacity, number, and distribution to serve that portion of the development project which said tenant leases.

J. Emergency shelters:

Development standards for emergency shelters shall be the same as for residential development in the district, except density of development regulations, and emergency shelters that meet the following requirements are exempt from the requirement of a design permit and use permit:

1. No emergency shelter shall be allowed to be located within 300 feet of another emergency shelter.
2. The required setbacks for new development shall be:
 - a. Front setback: ten (10) feet; except that the front setback may be reduced to zero (0) 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.
 - c. Side setback: five (5) feet; except that the Planning Commission may approve exceptions to the side setback regulations through the granting of a Use Permit.
 - e. Rear setback: ten (10) feet.
3. A maximum of 12 persons (12 beds) to be served nightly.
4. Each resident shall be provided personal living space.
5. Bathrooms and bathing facilities shall be provided, adequate for the number of residents.
6. Laundry facilities or services shall be provided on site, adequate for the number of residents.
7. The length of stay for individual clients shall not exceed 6 months, or as allowed by state law.
8. Staff and services shall be provided to assist residents to obtain permanent shelter and income.
9. For security, the facility shall provide outdoor lighting of common areas, entries, parking areas, pathways, in compliance with BMC Section 17.16.050.E.
10. For security, the shelter shall be adequately staffed 24 hours a day, 7 days a week.
11. Parking shall be as specified in BMC Chapter 17.34.
12. Outdoor activities, such as recreation, eating, and staging for drop-off, intake, and pick-up, may be conducted at the facility, between the hours of 5 am and 10 pm. A night operations use permit is

required for outdoor activities between the hours of 10 pm and 5 am, as provided for in BMC Section 17.16.070.

13. The facility may provide the following:

- a. Kitchen facilities;
- b. Dining area;
- c. Recreation room;
- d. Training and counseling support services;
- e. Child care facilities
- f. Other facilities or services that are accessory to an emergency shelter.

14. Prior to commencing operation, the emergency shelter provider must have a written management plan, which shall be provided to the Planning Director. The management plan must include provisions for staff training, resident identification process, neighborhood outreach, policies regarding pets, the timing and placement of outdoor activities, provisions for residents' meals (including special dietary needs), medical care, mental health care, dental care, temporary storage of residents' personal belongings, safety and security, provisions in case of area-wide emergencies, screening of residents to ensure compatibility with services provided at the facility, plans to help secure other provisions for those who may not be part of the shelter's target population, computer access for residents, and training, counseling and social service programs for residents, as applicable.

§17.16.050 – Performance Standards. All uses in the Southwest Bayshore district shall be conducted in accordance with the following performance standards:

A. All routine aspects of the day-to-day operations of a business, including the storage of materials and products, shall be conducted entirely within an enclosed structure, with the exception of the following:

1. Outdoor activities specifically authorized by the use permit;
2. Parking of operable vehicles related to the authorized uses conducted on the site;
3. Shipments and deliveries incidental to the conduct of the primary use on the site.
4. Emergency shelter outdoor activities as set forth in Section 17.16.040.J.12.

B. The site shall be kept free of trash and debris and all receptacles for collection and recycling shall be completely screened from view at street level.

C. Sound insulation housing or baffles, or other reasonable measures, shall be installed in conjunction with heating and ventilating equipment or other machinery when necessary to effectively mitigate sound emissions distinctly detectable from any off-site location.

D. Odors from any use shall not be generally or distinctly detectable from any off-site location.

E. Lighting shall be designed to avoid excessive glare as viewed from offsite locations and in compliance with the California Green Building Standards Code. Lighting shall also be stationary, shielded or otherwise directed away from direct view of the light source as viewed from adjacent properties and public rights of way, and of intensity compatible with the neighborhood.

F. Site development shall minimize disturbance of existing natural slopes to the extent feasible, maintain public view corridors of the San Francisco Bay and San Bruno Mountain, minimize rooftop glare, and screen exterior mechanical equipment.

§17.16.060 – Special findings. In addition to the findings required for approval of a use permit as set forth in Section 17.40.060, no use permit shall be granted for any conditional use in the Southwest Bayshore district unless the approving authority also makes such of the following findings as may be applicable to the application:

A. Adequate measures have been taken to protect workers and residents from the twenty-four (24) hour noise generated by traffic on Bayshore Boulevard.

B. The design for projects with residential uses has incorporated measures to buffer the units from potential adverse impacts from nearby and adjacent non-residential uses.

C. The design for projects with residential uses includes outdoor areas, such as courts, yards or decks, securely separated from the street.

D. The improvements have been designed in a manner that will make adequate provision for on-site parking and traffic circulation and safe ingress to and egress from the site.

E. The improvements have been designed to be compatible with the topography and soils of the hillside.

§17.16.070 – Night operations.

A. Definitions. For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them as set forth below:

1. "Existing business" means a business or other use that is legally operating within the Southwest Bayshore district as of February 9, 2000, in accordance with all zoning regulations applicable thereto, and pursuant to a business license duly issued by the city.
2. "Night operations" means any activity conducted between the hours of ten (10:00) p.m. and five (5:00) a.m. of the following day.

B. Requirement for Use Permit to Conduct Night Operations. Except as otherwise provided in subsection C of this section, no business or other use, with the exception of residential uses, shall engage in the conduct of night operations at any location within the Southwest Bayshore district unless a use permit for such night operations has been granted pursuant to this chapter.

C. Continuation of Night Operations by Existing Businesses. An existing business which has lawfully been conducting night operations prior to February 9, 2000, may continue to conduct such night operations on the same site and shall be exempted from the requirement to obtain a use permit pursuant to this section. This exemption shall not apply to any relocation of the night operations to a different site, nor may the exemption be assigned or transferred by the existing business to a different business establishment or use, whether conducted on the same site or elsewhere.

D. Approving Authority. Applications for a use permit to conduct night operations shall be acted upon by the planning commission and shall be governed by the provisions of Chapter 17.40 of this title, as supplemented by this section.

E. Findings for Use Permit Approval. In addition to the findings required for approval of a use permit, as set forth in Section 17.40.060 and elsewhere in this section, no use permit shall be granted for the conduct of night operations in the Southwest Bayshore district unless the planning commission also finds and determines that the night operations conducted by the applicant will not create noise, glare or other effects that are likely to create a sleep disturbance for the occupants of neighboring residential properties.

F. Use Permit Conditions. Without limiting the authority of the Planning Commission to impose conditions on the granting of a use permit pursuant to Section 17.40.070, a use permit authorizing the conduct of night operations in the Southwest Bayshore district may contain limitations on the days and hours of operation, restrictions on the nightly volume of vehicle trips, restrictions on the type of vehicles or equipment that may be operated at night, requirements for special devices and measures for abatement of noise and glare, and requirements for mitigation monitoring and periodic mandatory review. The planning commission shall have continuing jurisdiction over every use permit issued pursuant to this section and may at any time, if the original findings required for issuance of the use permit can no longer be made, modify or amend any of the use permit conditions, or impose new and additional conditions, or revoke the use permit.

§17.16.080 - Parking. Off-street parking facilities shall be provided for each use on the site in accordance with the requirements set forth in Chapter 17.34 of this title.

§17.16.090 - Signs. Signs allowed in the Southwest Bayshore district are as specified in Chapter 17.36 of this title.

§17.16.100 - Design review. The construction of any principal structure in the Southwest Bayshore district, except a single-family or duplex dwelling or emergency shelter as set forth in Section 17.16.040.J, shall be subject to the granting of a design permit in accordance with the provisions of Chapter 17.42 of this title and any applicable design guidelines adopted by the city.

§17.16.110- Visual impact analysis. All projects, including single-family and duplex dwellings, but excluding emergency shelters as set forth in Section 17.16.040.J, shall submit a visual impact analysis, in accordance with guidelines approved by the planning commission, to address the following design issues: relationship to steep slopes; public view corridors; view of San Francisco Bay and San Bruno Mountain; material and lighting, especially as pertains to light and glare; treatment of roofs and the screening of mechanical equipment.

SECTION 3: Chapter 17.42, Design Permits, is amended to read as follows:

**Chapter 17.42
DESIGN PERMITS**

Sections:

- 17.42.010 – Requirement for design permit.
- 17.42.020 – Application for design permit.
- 17.42.030 – Public hearing by planning commission--Notice.
- 17.42.040 – Findings required for issuance of design permit.
- 17.42.045 – Special findings.
- 17.42.050 – Action by planning commission.
- 17.42.060 – Expiration of design permit--Extensions.
- 17.42.070 – Amendment of design permit—Minor modifications.
- 17.42.080 – Appeals to city council.

§17.42.010 – Requirement for design permit.

A. Except as otherwise provided in subsection B of this section, a design permit shall be required for the construction of any new principal structure or the substantial modification of an existing principal structure for which no design permit has previously been issued. As used herein, the term "substantial modification" means an alteration or expansion of the exterior and/or interior of the structure to the extent of significantly

modifying its basic design, elevations, size, appearance, or relationship to adjacent properties or structures, as determined by the planning director.

B. No design permit shall be required for the construction or substantial modification of any single-family dwelling, secondary dwelling unit, duplex, or accessory structure, unless part of a dwelling group totaling three (3) or more units or part of a mixed use development, or a design permit for such structure has been required as a condition of a development approval granted by the city. No design permit shall be required for the construction or substantial modification of an emergency shelter of twelve (12) beds or less, as set forth in Section 17.16.040.J.

§17.42.020 – Application for design permit.

A. Contents of Application. Application for a design permit shall be filed with the planning director on such form as the planning director shall prescribe. The application shall be accompanied by legible and reproducible sets of completely dimensioned, scaled site development and architectural plans, with bar scales, showing such of the following items as the planning director deems appropriate in order to evaluate and process the application:

1. Existing and/or proposed structures with floor plans (with the use of each room/space labeled), roof plans, and elevations of all sides of the existing and/or proposed structures, identifying colors and materials as appropriate, indicating the height from natural grade on each elevation of the tallest points of the structure (cross-sections may also be required based upon the complexity of the design), and including UBC type of construction;
2. For covered projects as defined by Section 15.80.030, green building documentation per Section 15.80.060(A) sufficient to be approved per Section 15.80.060(C).
3. Accurately dimensioned property lines, setbacks, structures on adjacent properties (and their uses), streets, easements, existing and proposed utilities, and building coverage and lot area calculations;
4. Location of existing trees by size (circumference measured twenty-four (24) inches above grade) and type, indicating those proposed for removal;
5. Conceptual landscaping plans showing species, common name, size and number of plantings, with description of proposed plantings (height at maturity, time to maturity, color, drought/wind/salt tolerance, and deciduousness), calculation of the total square footage of proposed irrigated landscaped area and explanation of proposed method of irrigation;
6. Existing and proposed parking facilities, including the dimensions of parking spaces, number and location of spaces designated as compact or handicapped spaces, and a calculation of the number of parking spaces required by this title or any other applicable regulations;

7. Paving details, improved street width (curb-to-curb), sidewalks, and driveway cuts;
8. Existing and proposed topography of the property (at five (5) foot intervals), clearly indicating any proposed grading and filling and the amounts in cubic yards of proposed excavation, fill and removal from the site. If requested by the planning director, a soils report and/or geotechnical study shall also be furnished;
9. Drainage details, exterior lighting, trash enclosures, signs, fences and method of screening exterior mechanical equipment (including rooftop air-conditioning units, transformers and public utilities);
10. Material and color samples and colored rendering of the project;
11. Photographs of the Site. Photomontages of the proposal may also be required dependent upon the visual significance of the proposal.

B. Application Fee. The application shall be accompanied by the payment of a processing fee in such amount as established from time to time by resolution of the city council. In addition to the processing fee, the applicant shall also deposit such amounts as the planning director may require from time to time to cover the cost of any environmental investigations or reports, geotechnic and engineering reports, review of green building documentation, and such other investigations and reports that may be required by the city in connection with the processing of the application.

§17.42.030 – Public hearing by planning commission. The planning commission shall conduct a public hearing on the application for a design permit. Notice of the public hearing shall be given not less than ten (10) days nor more than thirty (30) days prior to the date of the hearing by mailing, postage prepaid, a notice of the time and place of the hearing to the applicant and to all persons whose names appear on the latest available assessment roll of the county as owning property within three hundred (300) feet of the boundaries of the site which is the subject of the permit application. Notice of the public hearing shall also be posted at each location within the city where agendas for planning commission meetings are routinely posted.

§17.42.040 – Findings required for issuance of design permit. The planning commission may grant a design permit as applied for or in modified form if, on the basis of the application and the evidence submitted, the commission finds and determines that the proposed development is consistent with the general plan and any applicable specific plan and the commission also makes such of the following findings as may be applicable to the proposed development:

- A. The proposal's scale, form and proportion, are harmonious, and the materials and colors used complement the project.
- B. The orientation and location of buildings, structures, open spaces and other features integrate well with each other and maintain a compatible relationship to adjacent development.

- C. Proposed buildings and structures are designed and located to mitigate potential impacts to adjacent land uses.
- D. The project design takes advantage of natural heating and cooling opportunities through building placement, landscaping and building design to the extent practicable, given site constraints, to promote sustainable development and to address long term affordability.
- E. 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.
- F. The site plan minimizes the effects of traffic on abutting streets through careful layout of the site with respect to location, dimensions of vehicular and pedestrian entrances and exit drives, and through the provision of adequate off-street parking. There is an adequate circulation pattern within the boundaries of the development. Parking facilities are adequately surfaced, landscaped and lit.
- G. The proposal encourages alternatives to travel by automobile where appropriate, through the provision of facilities for pedestrians and bicycles, public transit stops and access to other means of transportation.
- H. The site provides open areas and landscaping to complement the buildings and structures. Landscaping is also used to separate and screen service and storage areas, break up expanses of paved area and define areas for usability and privacy. Landscaping is generally water conserving and is appropriate to the location. Attention is given to habitat protection and wildland fire hazard as appropriate.
- I. The proposal takes reasonable measures to protect against external and internal noise.
- J. Consideration has been given to avoiding off-site glare from lighting and reflective building materials.
- K. Attention is given to the screening of utility structures, mechanical equipment, trash containers and rooftop equipment.
- L. Signage is appropriate in location, scale, type and color, and is effective in enhancing the design concept of the site.
- M. Provisions have been made to meet the needs of employees for outdoor space.

§17.42.045 – Special findings.

A. The planning commission may deny a design permit for a proposed housing development project, or approve it upon the condition that the project be developed at a lower density, even though the project complies with applicable general plan and zoning standards and design review criteria in effect at the time the application is determined to be complete, subject to both of the following findings, supported by substantial evidence in the record:

1. The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density.
2. There is no feasible method to satisfactorily mitigate or avoid the adverse impact, other than through disapproval or approval upon the condition that the project be developed at a lower density.

B. In addition to the findings above, the planning commission may deny a design permit for a proposed housing development project for very low, low-, or moderate-income households or condition approval in a manner that renders development of such a project infeasible, subject to at least one of the following findings, supported by substantial evidence in the record:

1. The city has met or exceeded its share of the regional housing need allocation for the planning period for each of the income categories proposed for the housing development project as identified in the housing element.
2. The development project as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.
3. The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households.
4. The development project is proposed on land which does not have adequate water or wastewater facilities to serve the project.
5. The development project is inconsistent with both the zoning ordinance and general plan land use designation as of the date the application was deemed complete, and the project is not proposed for a site that is identified as suitable for very low, low-, or moderate-income households in the housing element and is inconsistent with the density specified in the housing element.

C. As used in this section, a "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 of the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use

designation shall not constitute a specific, adverse impact upon the public health or safety.

D. Any disapproval or conditional approval of a design permit for a proposed housing development project for very low, low-, or moderate-income households shall not discriminate on the basis of any of the reasons prohibited by California Government Code Section 65008.

§17.42.050 – Action by planning commission.

A. The planning commission may either grant or deny the application for design permit and may grant the permit subject to such conditions as the planning commission deems necessary or appropriate in order to make the findings prescribed by Section 17.42.040.

B. The design permit shall become effective upon the expiration of fifteen (15) days following the date on which the design permit was granted by the planning commission, unless an appeal has been taken to the city council pursuant to Chapter 17.52 of this title.

§17.42.060 – Expiration of design permit--Extensions.

A. A design permit granted pursuant to this chapter shall expire twenty-four (24) months from the date on which such permit became effective, unless prior to such expiration date a building permit for the structure which is the subject of the permit is issued and construction is commenced.

B. A design permit may be extended by the planning commission for a period or periods of time not exceeding thirty-six (36) months. The application for extension shall be filed prior to the expiration date of the permit 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. A public hearing shall be conducted on the application for extension and notice thereof shall be given in the same manner as prescribed in Section 17.42.030 of this chapter. Extension of a design permit is not a matter of right and the approving authority may deny the application or grant the same subject to conditions.

§17.42.070 – Amendment of design permit—Minor modifications.

A. Amendments or modifications to a design permit shall require approval by the planning commission, except that 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.

§17.42.080 – Appeals to city council. Any determination or decision by the planning commission under this chapter may be appealed to the city council in accordance with the procedure set forth in Chapter 17.52 of this title.

SECTION 4: Section 17.56.030 of Chapter 17.56, Zoning administrator – Action on applications, is amended to read as follows:

**Chapter 17.56
ADMINISTRATION**

§17.56.030 – Zoning administrator—Action on applications.

A. Except as otherwise provided in this chapter, the zoning administrator shall hear and decide the following:

1. Applications for zoning conformance;
2. Applications for variances;
3. Applications for minor modifications;
4. Applications for certain sign permits, in accordance with the provisions of Chapter 17.36 of this title;
5. Applications for administrative permits for wireless telecommunication facilities, in accordance with the provisions of Section 17.32.032 of this title;
6. Applications for administrative permits for solar energy systems, in accordance with the provisions of Section 17.32.060.C; and
7. Applications for accessibility improvement permits,, in accordance with the provisions of Sections 17.32.060.D, 17.32.070.A.1.f and 17.32.080; and
8. Applications for large family day care homes, per State Health and Welfare Code Sections 1597.46(a)(3) and 1597.465
9. Applications for amendments or modifications to a design permit, per Section 17.42.070.

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.

SECTION 5: 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 6: 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 7: 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