

City of Brisbane

Agenda Report

TO: Honorable Mayor and City Council

FROM: Community Development Director via City Manager

SUBJECT: Ordinance No. 558, Zoning Text Amendment RZ-2-11 to Amend Brisbane Municipal Code Title 17 Regarding Definitions, Height Limits and Requests for Reasonable Accommodations for Housing for Persons with Disabilities

DATE: Meeting of March 21, 2011

City Council Goals:

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

Purpose:

To update the Zoning Ordinance to further provide for reasonable accommodations for housing for persons with disabilities as required by State law. Amendments are proposed to provide an Accessibility Improvement Permit procedure for height limit exceptions similar to the existing procedure for setback exceptions, and to provide an additional procedure by which general exceptions to the Zoning Ordinance could be approved to provide for reasonable accommodations.

Recommendation:

Introduce Ordinance No. 558.

Background:

California Government Code Section 65583(c)(3) requires that the Housing Element include a program which will:

Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

Consistent with State law, the recently adopted 2007-2014 Housing Element contains the following program regarding constraints on providing housing for persons with disabilities:

Program H.B.3.d Adopt a general provision to allow ministerial approval by the Community Development Director, subject to a minimal fee, of exceptions to the Zoning Ordinance for reasonable accommodation for housing for persons with disabilities per Government Code Section 65583(c)(3), and specifically amend the height limit exceptions in the zoning ordinance to allow for approval of Accessibility Improvement Permits for elevators and accessible-van garages needed by persons with disabilities to exceed the applicable height limit.

The recommended ordinance is intended to implement this Housing Element program.

Discussion:

Setback exception procedures to accommodate accessibility improvements for persons with disabilities are already provided in Municipal Code. The recommended height limit exception for accessibility improvements would generally follow this same format. The Zoning Administrator would hold noticed public hearings at which height limit exceptions could be granted to accommodate accessibility improvements such as elevators and wheelchair van garage spaces, if it can be found that the exception is necessary to meet special accessibility needs, any visual impacts will be minimized, adverse impacts upon adjacent properties will be avoided, and construction will be in compliance with building and fire codes.

To address any other possible requests for “reasonable accommodations,” a procedure is recommended to meet special needs that cannot be addressed through the height limit and setback exceptions, utilizing the same Accessibility Improvement Permit process.

A number of “clean-up” revisions to the existing height limit exceptions are further recommended. The chimney height exception would be raised to comply with Building Code requirements. The exception for “radio and other towers” would be amended to reference provisions for wireless telecommunications facilities (cell towers) elsewhere in the Municipal Code. A simplified height exception procedure for solar energy systems installed atop existing buildings would be adopted. Either superseded or conflicting height exceptions still on the books for various types of institutional buildings, buildings in non-residential districts, downslope garages and carports, and gable or hipped roofs would be deleted.

The approval process for requests for reasonable accommodations and height limit exceptions for accessibility improvements and solar panels would require notice to property owners and occupants on both sides of, to the rear of and directly across the street from the subject site. The Zoning Code definition of “adjacent” is recommended to be revised accordingly.

As a matter of information, the Planning Commission considered the proposed amendment at its February 10, 2011 meeting and unanimously recommended approval. Planning Commission staff report, minutes and resolution are attached for information.

Environmental Determination:

A Negative Declaration was adopted by the City Council January 18, 2011, for the 2007-2014 Housing Element, including Program H.B.3.d which the proposed ordinance would implement. The alteration of existing facilities and the construction of small structures are categorically exempt from the California Environmental Quality Act per State CEQA Guidelines Sections 15301 and 15303. The exceptions to the use of these categorical exemptions referenced in Section 15300.2 do not apply.

Fiscal Impact:

None.

Measure of Success:

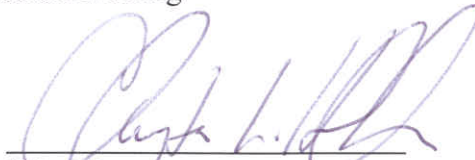
Simplified processing of zoning exceptions to accommodate persons with disabilities consistent with the requirements of state law.

Attachments:

- Redline Version of Recommended Changes to BMC Sections 17.02.025, 17.32.060 & 17.32.080
- Draft Ordinance No. 558
- Planning Commission Resolution RZ-2-11
- Planning Commission Minutes for 2/10/11 Meeting (excerpt)
- Agenda Report for 2/10/11 Planning Commission Meeting



Department Head



City Manager