

City of Brisbane

Planning Commission Agenda Report

TO: Planning Commission For the Meeting of 6/9/11

FROM: Tim Tune, Senior Planner, via John Swiecki, Community Development Director

SUBJECT: 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.

Request: Amendments to the R-BA Brisbane Acres Residential District chapter of the Zoning Ordinance regarding density transfer and clustered development are proposed to implement Housing Element Programs H.H.2.b, H.H.2.c and H.H.2.d. Additional changes would simplify and clarify the required lot dimensions, setback requirements, floor area ratio standard, height regulations, landscaping requirements and ridgeline development provisions.

The draft ordinance would also rezone the 2,500+/- sq. ft. portion of the property at (1100-1110) San Bruno Avenue, abutting McLain Road, from the SCRO-1 District to the R-BA District, within which the remainder of the property is located. This would correct the property's current split-zoned status. Please see the attached Assessor's Parcel Maps and Zoning Map details.

Recommendation: Recommend that the City Council adopt the draft ordinance, via adoption of Resolution RZ-3-11.

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).

Background: Density transfer (also referred to as transfer of development rights or TDR) is the process by which the right to develop one property is transferred to another so that the first property can be preserved in its existing state. In the Brisbane Acres, it is used to allow owners of property high on the mountain, far away from existing infrastructure and with potential habitat value to derive economic value from their property without the City having to purchase the land as open space.

The original density transfer provisions in the Brisbane Acres were adopted in the 1980 Zoning Ordinance. For each 20,000 sq. ft. of land dedicated as permanent open space on the upper slopes and canyons, one additional dwelling unit can be permitted on sites in the less steep, lower areas, closer to roads and utilities, beyond what would otherwise be allowed.

Density transfer was recognized as one means of being consistent with the goal of the San Bruno Mountain Area Habitat Conservation Plan (adopted in 1983) to protect 40% of the Brisbane Acres Administrative Parcel as Conserved Habitat (see attached).

The density transfer provisions were clarified and made more specific in 2003 per 1999-2006 Housing Element Program H18b to encourage their use. The new provisions identified the City's 2001 Open Space Plan as the guide to be used by the Planning Commission in determining that portion of the Brisbane Acres with open space value from which units could be transferred (see attached Open Space Plan Figure 6). The receptor sites were specifically required to be at least 20,000 sq. ft. in area, and the type of development permitted was restricted to single-family dwellings only (plus any secondary dwelling units that would have been allowed for the receiving site).

New standards were established for sites receiving transfer units: they could be subdivided into lots not less than 5,000 sq. ft. in area, and if the lot area were exactly 5,000 sq. ft., the required front and rear setbacks would be 10 ft. (instead of the 10 to 20 ft. standard) and the required side setbacks would be 5 ft. (instead of the 10 to 15 ft. standard). In addition to the Use Permit required under the original provisions, a Design Permit was also required for all units.

In 2005, the City approved its first density transfer project via Use Permit UP-13-03 and Tentative Parcel Map TPM-3-03. A 43,647 sq. ft. property near the southeast ridge of San Bruno Mountain was accepted as dedicated open space. In exchange, the 2 units that this property could be theoretically developed with under the R-BA District zoning were transferred to the 26,903 sq. ft. property above the southern intersection of Humboldt and Sierra Point Roads. A portion of this property was dedicated as a new public street (San Diego Court), and the remainder was subdivided into 3 lots: 6,061 sq. ft. Parcel A, developed with a single-family residence and secondary dwelling unit; 6,153 sq. ft. Parcel B, on which a single-family residence is currently under construction; and 5,394 sq. ft. Parcel C, which has yet to be developed with the single-family residence allowed under the Use Permit.

Due to the irregular configuration of the original property and the requirement that its private accessway be upgraded to public right-of-way standards, it was not possible to subdivide the property into standard 50 ft. by 100 ft. lots. It soon became apparent that, before the required Design Permits could be approved for the individual residences, Variances would be needed to fit reasonably-sized homes on the parcels. This was because the parcels fell somewhere between the setback exceptions provided for exactly 5,000 sq. ft. lots (10 ft. front and rear setbacks and 5

ft. side setbacks) and the 100-110 ft. wide by 140+ ft. deep lots expected under the standard setbacks (10-20 ft. front setbacks, 20 ft. rear setbacks and 10 to 15 ft. side setbacks). As a result, the Planning Commission granted Variances allowing 5 ft. side setbacks for the two narrower parcels and 7.4 ft. side setbacks for the widest parcel, and 10 ft. rear setbacks were allowed for all three parcels. This action was affirmed by the City Council on appeal. This project can be used as a case study to identify the need for revisions to the R-BA District development standards.

On January 18, 2011, the City Council adopted the 2007-2014 Housing Element, including Programs H.H.2.b, H.H.2.c and H.H.2.d. The Planning Commission conducted study sessions regarding implementation of these programs on February 10, March 10 & 24, April 28 and May 12.

Staff Analysis: The proposed revisions (see attached Redline Version) would amend the R-BA District development regulations and density transfer provisions and add new provisions regarding clustered development, as part of the implementation of General Plan/Housing Element policies and programs. The draft ordinance would also amend the Zoning Map to address a split-zoned property at San Bruno Avenue and McLain Road.

Density Transfer. Housing Element Program H.H.2.c identified the need to clarify that the number of density transfer units that would be allocated from multiple sites would be based upon the total area of those sites, and not each site individually [for example, if two 30,000 sq. ft. sites were offered for dedication as open space, the transfer units would be calculated as $(30,000 + 30,000)/2 = 3$ and not as $30,000/20,000 + 30,000/20,000 = 2$]:

Program H.H.2.c Clarify the R-BA District's density transfer provisions so that if multiple properties are acquired for dedication as open space through density transfer, the combined area would be used to calculate the number of transfer units, not each property individually (BMC Section 17.12.050.A.1).

This issue would be addressed by some simple changes to the existing language in first sentence of BMC Section 17.12.050.A.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* ~~in~~ the site *or sites* from which the transfer units are taken which is permanently dedicated to open space.

Housing Element Program H.H.2.d pointed out that the Open Space Plan overlooked the potential habitat value of the "paper streets" in the upper Brisbane Acres, which were inadvertently left unshaded on the Plan's Figure 6 (see attached annotated copies):

Program H.H.2.d Clarify the R-BA District's density transfer provisions to recognize the density transfer value of undeveloped "paper streets" in the upper Brisbane Acres, once it can be established that they are not subject to claims of access rights by necessity from any remaining private property owners in the upper Brisbane Acres, even though the Open Space Plan did not specifically designate them as having open space value (BMC Section 17.12.050.A.2).

This would be fixed by amending the last paragraph of BMC Section 17.12.040.A.2 to add the language from this program.

Additional revisions to the density transfer provisions would:

- Delete repetitious portions of Section 17.12.050.A.5, as well as confusing terminology that may give the impression that multi-family development could be permitted through density transfer (Sections 17.12.040.B, 17.12.040.F & 17.12.050.A.4).
- Clarify that design review is intended to be the last step in the density transfer approval process (Sections 17.12.050.B & C).

Clustered Development. Clustering is similar in concept to density transfer, except that the dedication of open space would take place on site, with the remainder of the property being reconfigured into smaller lots while maintaining a combined density of one unit per 20,000 sq. ft. consistent with the R-BA District minimum. Like density transfer, clustering is recognized in the HCP as one of the accepted means of being consistent with the goal of protect 40% of the Brisbane Acres Administrative Parcel as Conserved Habitat (see attached excerpt). There currently are no provisions in the R-BA District regulations regarding clustered development.

Program H.H.2.b calls for allowing adjustments to the R-BA District development regulations to accommodate the clustering of units on large sites so they can be closer to existing streets and utilities than would otherwise be permitted under the standard lot size, setback and other requirements:

Program H.H.2.b Revise the zoning ordinance regulations to permit clustered development in the Brisbane Acres subarea, consistent with the San Bruno Mountain Area Habitat Conservation Plan, to place housing development where it can be best served by infrastructure and public safety services.

Clustered development could also be used as a means to set aside steep slopes as open areas, consistent with General Plan Program 31b, and to protect portions of sites with habitat value per Policy 81 and Program 83b.

The draft provisions, modeled on the density transfer regulations, are proposed to be added as Section 17.12.055 (attached). Given the changes proposed below to the setback standards for the R-BA District, the clustering provisions would only add adjustments to the lot area, width and depth standards for qualifying projects. This would allow large properties to be subdivided so as to set aside a minimum 40% of the site as protected open areas, while reducing the required lot sizes and dimensions to accommodate the otherwise permitted units on a portion of the site closest to existing infrastructure.

Miscellaneous Development Regulations. As noted in the Background section above, the San Diego Court density transfer project served as an example of the complications that can rise from the current density transfer provisions and other existing standards in the R-BA District regulations. Although not specifically addressed in the Housing Element, such changes would be consistent with General Plan Policy 6's directive to "set clear and definitive standards." The proposed revisions are to:

- Provide for exceptions to the standards for lot area and dimensions for lots resulting from density transfer or clustered development, subject to the 5,000 sq. ft. minimum lot area requirement (Section 17.12.040.A.1 & C). This allows for flexibility in configuring new lots, as was done with the San Diego Court density transfer project.
- Adopt a uniform front setback of 10 ft. (Section 17.12.040.D.1). Since practically all of the Brisbane Acres has a slope of 15% or more, it would make sense to eliminate the exception that is more the rule.
- Simplify side setbacks, similar to the R-1, R-2 and R-3 Districts, to accommodate substandard lots, density transfers and clustering (Sections 17.12.040.D.2 & 17.12.050.A.5.b). Currently, the minimum side setback drops from 15 ft. for a 110 ft. or wider lot to 10.9 ft. for a 109 ft. wide lot, then gradually decreases to 10 ft. for a 100 ft. or narrower lot, unless it is a 5,000 sq. ft. density transfer lot, in which case it drops again to 5 ft. The proposed side setback would be a simple 10% of the lot width, with a maximum of 15 ft. and a minimum of 5 ft. This is consistent with Variance V-2-06 granted by the Planning Commission and City Council for the density transfer project approved on San Diego Court.
- Revise the rear setback to be the same as that in the R-1, R-2 and R-3 Districts, to accommodate substandard lots, density transfers and clustering (Sections 17.12.040.D.3 & 17.12.050.A.5.b). This is consistent with Variance V-2-06 granted by the Planning Commission and City Council for the density transfer project approved on San Diego Court. Note that the 25% lot coverage limit remains the same, preventing overbuilding (Section 17.12.040.E & 17.12.050.A.5.c).

- 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

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

fire codes. Based upon these existing provisions, Subsection 3 of the proposed ridgeline provisions would state:

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.

Attachments:

Draft Resolution RZ-3-11 with Draft Ordinance, Figure 17.02.695, Zoning Map Detail and Assessor's Parcel Maps Detail
Redline Version of Draft Revisions
San Bruno Mountain Area Habitat Conservation Plan Excerpt: Operating Program for Brisbane Acres Administrative Program
Open Space Plan Figure 6
Open Space Plan Figure 6 Annotated to Highlight "Paper Streets"
Open Space Plan Figure 6 Annotated to Highlight Privately Owned Parcels that Might Claim Rights to "Paper Streets" as Access
Schematic Comparing 20' Height Limit within Front 20' of Properties with 20% vs. 40% Slope
Open Space Plan Figure 4
General Plan Policies & Programs: Ridgeline Protection/Property Rights
Map of Potential Public Viewing Locations
Storypole Examples

draft
RESOLUTION NO. RZ-3-11

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BRISBANE
RECOMMENDING ZONING TEXT/MAP AMENDMENT RZ-3-11 TO THE CITY COUNCIL,
SUCH TEXT AMENDMENTS PERTAINING TO
CITY OF BRISBANE MUNICIPAL CODE TITLE 17, ZONING, CHAPTER 17.02, DEFINITIONS,
AND CHAPTER 17.12, R-BA BRISBANE ACRES RESIDENTIAL DISTRICT,
AND SUCH MAP AMENDMENT PERTAINING TO ASSESSOR'S PARCEL NO. 007-560-120

WHEREAS, 2007-2014 Housing Element Programs H.H.2.b, H.H.2.c and H.H.2.d call for revisions and clarifications to the R-BA District regulations regarding clustered development and density transfer; and

WHEREAS, 1994 General Plan Policy 6 direct the City to set clear and definitive standards for all rules and regulations; and

WHEREAS, the property at (1100-1110) San Bruno Avenue is split-zoned, with the 2,500+/- sq. ft. portion (APN 007-560-120) abutting McLain Road being within the SCRO-1 District while the majority of the site is within the R-BA District; and

WHEREAS, on June 9, 2011, the Planning Commission held a public hearing on the draft ordinance; and

WHEREAS, the minutes of the Planning Commission meeting of June 9, 2011, are attached and incorporated by reference as part of this resolution; and

WHEREAS, 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.

NOW, THEREFORE, based upon the evidence presented, both written and oral, the Planning Commission of the City of Brisbane hereby RECOMMENDS that the City Council adopt the attached ordinance.

JAMEEL MUNIR
Chairman

I hereby certify that the foregoing Resolution No. RZ-3-11 was duly and regularly passed and adopted by the Brisbane Planning Commission at a regular meeting thereof held on June 9, 2011, by the following roll call vote:

AYES:
NOES:
ABSENT:

JOHN SWIECKI
Community Development Director

**DRAFT
ORDINANCE NO. ____**

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 Exhibits B and C, 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.

* * *

H.2.20.

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

EXHIBIT A

Figure 17.02.695

Ridgelines



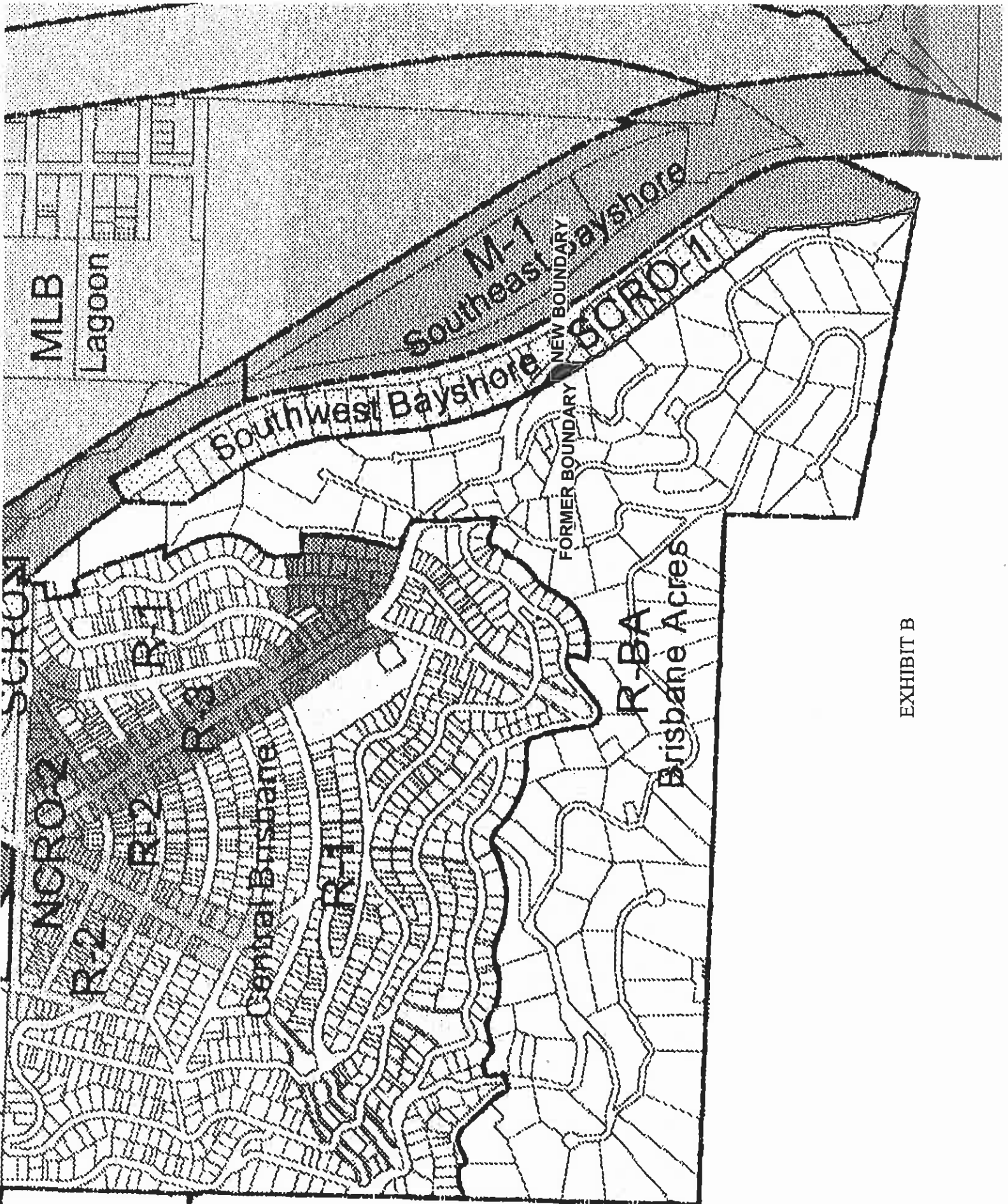


EXHIBIT B

TAX CODE AREA

EXHIBIT C



H. 2. 24.

- △ BRISBANE ACRES UNREC.
- HIGHWAY LOTS UNREC.
- PARCEL MAP VOL. 50/25

REDLINE VERSION OF RECOMMENDED REVISIONS

(additions to the current regulations shown in *italics* and deletions shown in ~~strikethrough~~)

CHAPTER 17.02 DEFINITIONS

§17.02.695 Ridgeline. “Ridgeline” means a line connecting the points of highest elevation ~~at the top of and parallel to the lines of the hills comprising~~ *constituting a part of the* San Bruno Mountain *as identified on Figure 17.02.695 [insert the modified version of Figure 4 from the City of Brisbane Open Space Plan].*

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 |
| <i>17.12.055</i> | <i>Clustered development</i> |
| 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 ~~or 17.43~~ 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 ~~use~~ permit granted pursuant to Chapter 17.43 of this Title, ~~or one or more additional dwelling units in connection with a density transfer authorized by a use permit granted pursuant to Subsection 17.12.050 of this Chapter.~~

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:** ~~Twenty (20) feet, with the exception that where the lot has a slope of fifteen percent (15%) or greater, the minimum front setback may be reduced to 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. Fifteen (15) feet, with the exception that a lot having a width of less than one hundred ten (110) feet may have a side setback reduced to ten percent (10%) of the lot width, but in no event less than ten (10) feet or the minimum setback required by the Uniform Building Code, whichever is greater.~~
3. **Rear setback:** ~~Ten (10) feet. Twenty (20) 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. ~~In the case of single family dwellings, where the size of the lot is three thousand seven hundred (3,700) square feet or less, one covered parking space designed to accommodate a full-size automobile shall be excluded from the calculation of floor area ratio and the five thousand five hundred (5,500) maximum square footage specified herein; provided, however, such exclusion shall not exceed a total area of two hundred (200) 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. ~~Structures shall be located below ridgelines in a manner that will preserve public views of the San Bruno Mountain State and County Park. 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 ~~in~~ 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 area of land having* 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 ~~lot~~ *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* ~~The density of development of such site shall be no less than~~ five thousand (5,000) square feet ~~per unit~~ *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* ~~on~~ 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.

- ~~5. If the density transfer includes a proposed subdivision of the site receiving the transfer units, the subdivision shall comply with all of the following additional requirements:~~
- ~~a. No lot shall have an area of less than 5,000 square feet.~~
 - ~~b. If the area of any lot is 5,000 square feet, the minimum front and rear setbacks for such lot shall be 10 feet and the minimum side setbacks for such lot shall be 5 feet.~~
 - ~~c. The maximum coverage on any lot shall be 25%.~~

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 ~~In addition to~~ 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.

REVISED OPERATING PROGRAM FOR ADMINISTRATIVE PARCEL 2-03

Planning Area: Southeast Ridge (2)

Administrative Parcel: Brisbane Acres (03)

Location and description: Brisbane Acres is an area of 154 acres located above the existing town of Brisbane and consisting of steep slopes containing brush and grassland. It is bordered on the west by the transmission line, on the north by Brisbane, on the east by Bayshore Boulevard and on the south by the County Park and South Slope Parcels. It has been divided into two major management units: Unit 2-03-01 was chosen for its proximity to existing development, while Unit 2-03-02 is the area closest to the parklands and as such is considered the more sensitive of the two (See Figures 2-03 A-C).

As development comes forward for individual lots within Administrative Parcel 2-03, each lot is assigned a subsequent management unit number. Submanagement Units developed are shown in Figures 2-03-03 A to 2-03-09 A.

Ownership: The area consists of more than one hundred single lots which are owned by numerous individuals.

Project: The area is currently zoned for single family residences. Persons purchasing lots in Brisbane Acres had the intention of developing single family homes on them, however, because of the steep terrain many portions of Brisbane Acres are undevelopable (Figure 2-03 F).

Status: Management Units 2-03-01 and 2-03-02 are unplanned. Management Units 2-03-03, 2-03-04, 2-03-05, 2-03-08, 2-03-09 are planned for single family residences. Management Unit 2-03-06 is planned for a City operated Water Tank. Management Unit 2-03-07 is planned for a office/light industrial building.

Biological Issues: Many portions of Brisbane Acres is habitat for the both the Callippe and the Mission blue (See Figures 2-03 D-E). In addition, many range limit and endemic plants exist there, and the area is known habitat for the rare plant *Helianthella castanea*, although this plant was not found during the 1980-81 Biological Study.

Impact: Development of Brisbane Acres will destroy habitat now supporting the Callippe, Mission Blue and range limit/endemic plants, and habitat where a rare plant may occur.

HCP Objectives – Specific Conservation Needs: Because steep slopes and limited access somewhat preclude the introduction of habitat enhancement measures, the approach of the HCP in this case will be to protect the interface between development and open space, mitigate development effects in and around developed areas, leave the open space untreated and protect the area from vandalism. If development proceeds in Brisbane Acres, the open space adjoining development areas will have to be protected by creating an interface between the two. This interface will initially be in the form of fencing to keep grading within prescribed boundaries and finally in the form of a fire break vegetation

surrounding development areas. Development impacts could be reduced by reclaiming cut and fill slopes with native species, including Callippe and Mission Blue host plants, and by using measures to control water runoff in order to prevent erosion. Where appropriate, host plant relocation and plan revision. may also be used to mitigate impact.

At this time it is recommended that the open space be left untreated and, if necessary, patrolled in order to control vandalism.

Operating Program for Management Units 2-03-01 and 2-03-02

Obligations: Landowners have the following obligations:

1. Compliance with mitigation measures set forth in the Operating Program for Management Units 2-03-01 and 2-03-02..
2. Compliance with the Planning Assistance requirements set forth in the Operating Program for Management Units 2-03-01 and 2-03-02.
3. Participating in the regulatory provisions and Funding Program of this HCP.
4. Prior to any grading and/or development project and/or the removal or damage of or use of pesticides on vegetation in excess of 500 square feet in any calendar year in the Brisbane Acres:
 - (a) an environmental assessment must be prepared. Any such environmental assessment must describe the impacts on habitat of the Mission Blue and Callippe Silverspot and must discuss mitigation measures. Notice of development and/or grading proposals and copies of all environmental documents must be sent to the California State Department of Fish and Game, the U.S. Fish and Wildlife Service and the Plan Operator, and
 - (b) the Landowner must demonstrate that approval of the grading and/or development proposal is consistent with protecting 40% of the Brisbane Acres as Conserved Habitat. The Landowners may demonstrate consistency through the use of one or more of the following mitigation measures:
 - (i) dedication of habitat easements, open space in fee and/or transfer of allowed density to other parcels in the Brisbane Acres
 - (ii) acquisition of off-site parcels for dedication as permanent Conserved Habitat
 - (iii) clustering of development
 - (iv) imposition of landscaping restrictions on undeveloped portions of sites to retain natural vegetation
 - (v) voluntary merging of parcels to permit clustered development and habitat protection
 - (vi) grading plans which are designed to minimize habitat destruction
 - (vii) development siting standards to preserve broad corridors of natural habitat
 - (viii) reclamation plans for temporarily disturbed areas.
5. Require through C C & Rs that future owners observe general provisions regarding protection of Conserved Habitat
6. Submit the final grading plan used to obtain a grading permit and a revegetation plan to the Plan Operator for review. The plan shall provide for temporary fencing to protect all adjacent Conserved Habitat.

City of Brisbane
Open Space Plan

Figure 6
Brisbane Acres
Priorities Composite

Note: location of parcels on aerial photo is approximate
Areas shown between numbered parcels are not road easements or right-of-ways, but are private unrecorded parcels



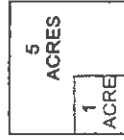
Developed parcels (wider outline)



Parcels with one or more significant resources (light texture)

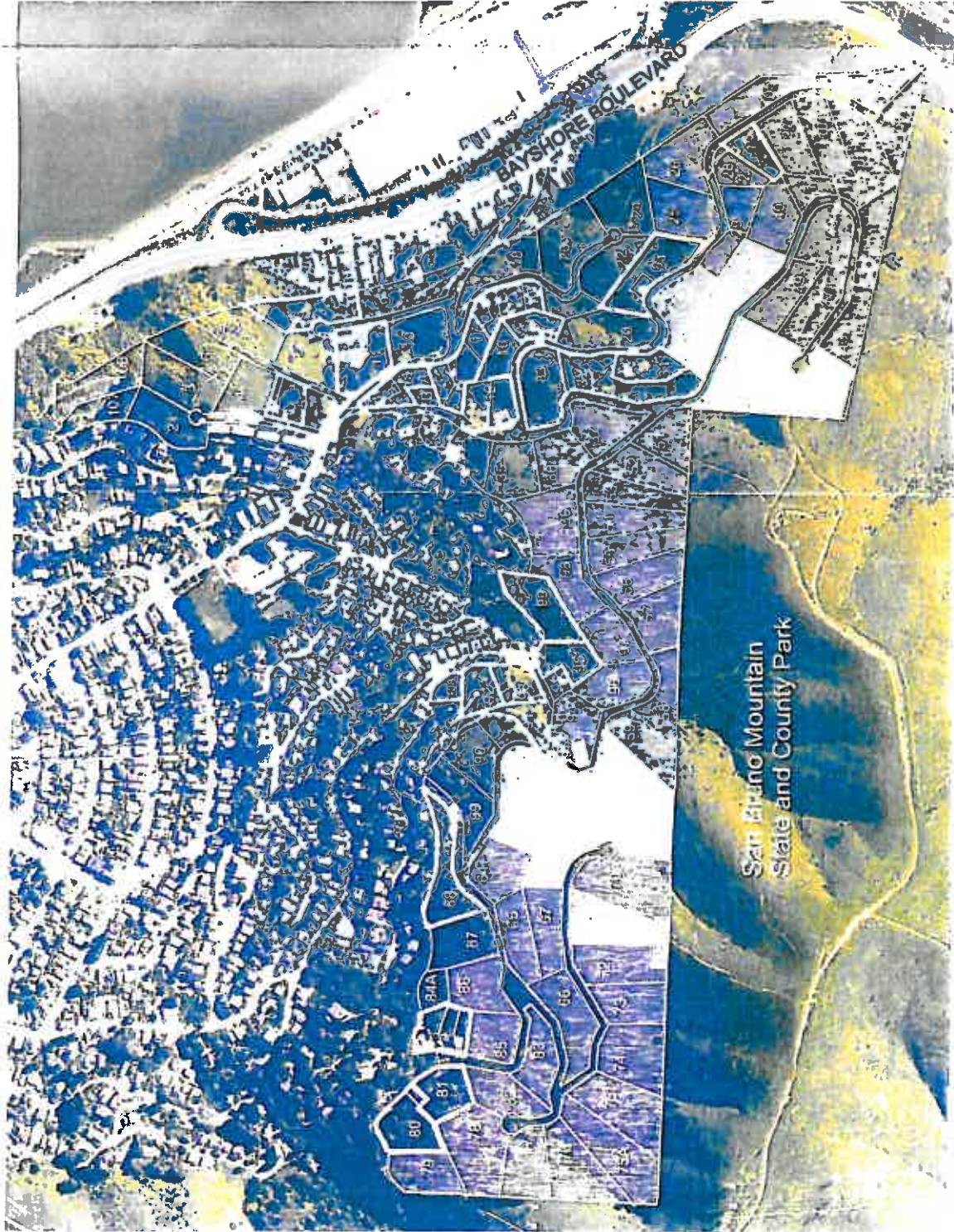
City-owned parcels have lighter shading

Note: parcels with development on two or more sides are not prioritized



NORTH

Scale in Feet



City of Brisbane
Open Space Plan

Figure 6
Brisbane Acres
Priorities Composite

Note: location of parcels on aerial photo is approximate

Areas shown between numbered parcels are not road easements or right-of-ways, but are private unrecorded parcels



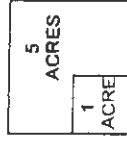
Developed parcels (wider outline)



Parcels with one or more significant resources (light texture)

City-owned parcels have lighter shading

Note: parcels with development on two or more sides are not prioritized



Scale in Feet



"Paper Streets"

City of Brisbane
Open Space Plan

Figure 6
Brisbane Acres
Priorities Composite

Note: location of parcels
on aerial photo is approximate

Areas shown between numbered
parcels are not road easements or
right-of-ways, but are private
unrecorded parcels



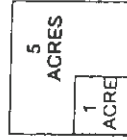
Developed parcels
(wider outline)



Parcels with one or
more significant
resources (light texture)

City-owned parcels
have lighter shading

Note: parcels with development
on two or more sides are not prioritized



Scale in Feet



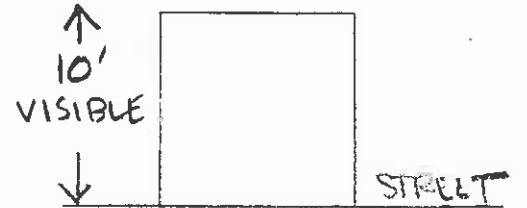
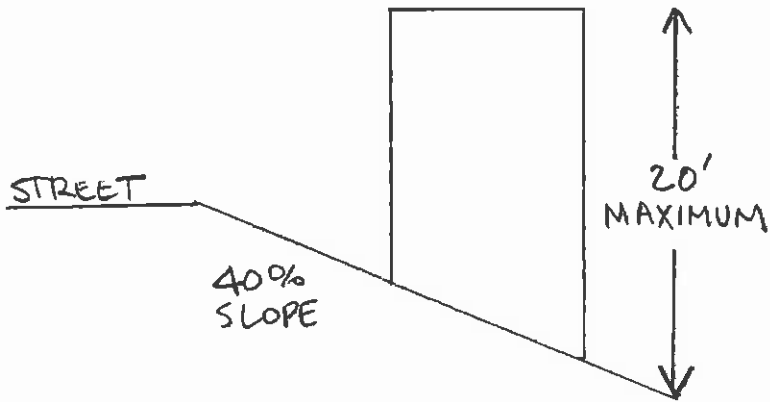
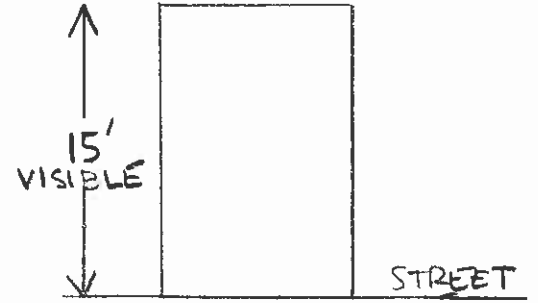
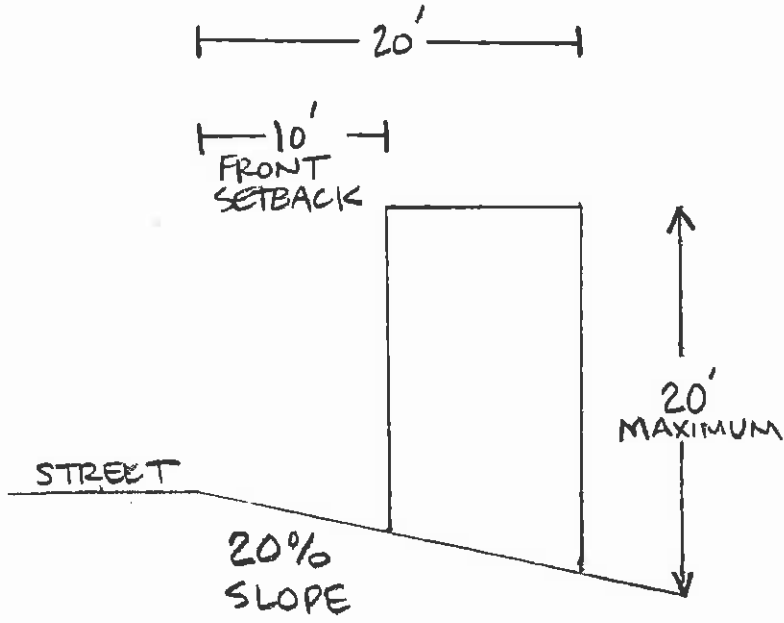
NORTH



Parcels still in private ownership that might claim rights to
"paper streets" as access

SIDE VIEW

STREET VIEW



City of Brisbane
Open Space Plan

Figure 4
Brisbane Acres
Butterfly Habitat/
Ridgelines

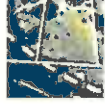
Note: location of parcels on aerial photo is approximate

Areas shown between numbered parcels are not road easements or right-of-ways, but are private unrecorded parcels

Developed parcels
(wider outline)



Prominent ridgelines
(white dashed line)

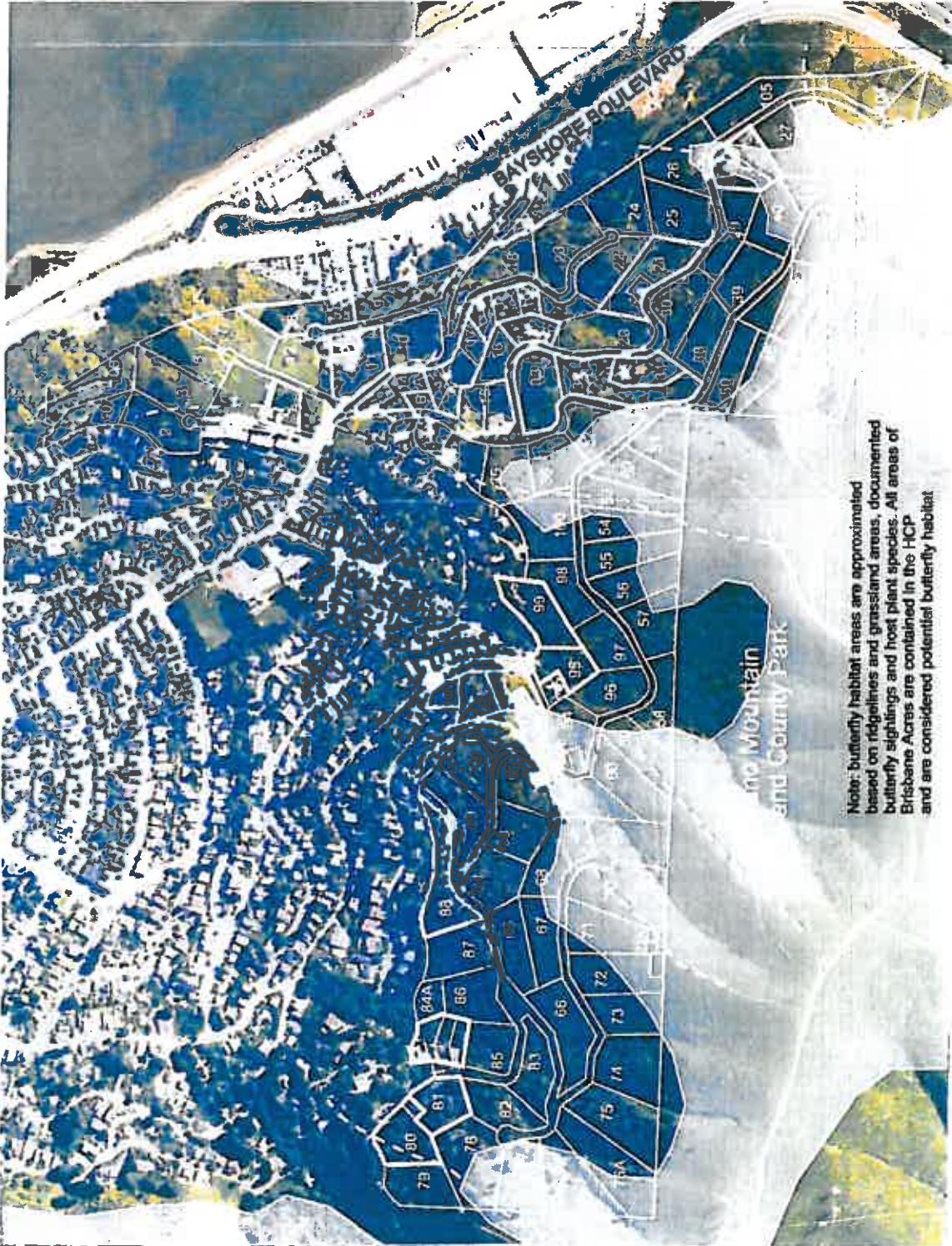


Documented butterfly
habitat (lighter shaded areas)



NORTH

Scale in Feet



**GENERAL PLAN POLICIES & PROGRAMS
RIDGELINE PROTECTION/PROPERTY RIGHTS**

Policy 17: Preserve the ridgelines and hilltops in their open state.

Program 17a: Prohibit land use changes that would result in development that would break the natural ridgeline.

Program 17b: Adopt hillside development standards that protect against ridgeline development through regulation of the siting of structures, location of access, landscape requirements and other pertinent factors.

Program 19a: Identify and map vistas and view corridors of community-wide value to be preserved and enhanced.

Policy 83: Maintain the visual beauty of the Mountain, the ridgelines, hilltops, wildlife and plant habitat including the Brisbane Acres.

Policy 6: Set clear and definitive standards for all rules and regulations.

Policy 16: Acknowledge the mountain setting and the proximity to the Bay as central factors in forming the physical character of the City.

Program 16a: In making land use decisions, consider the proximity of open space on San Bruno Mountain and public views of and access to the Bay as issues to be addressed.

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.

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.

Policy 4: Acknowledge the fundamental rights of citizens to freely act and to use their own property, except to the extent government rules or regulations are necessary for the public health and safety and for protection of the environment.

Policy 5: Use the least intrusive rules and regulations consistent with overall governmental needs and State and Federal law.

Policy 20: Retain diversity of development and individual expression in residential and commercial development, especially in Central Brisbane.

Central Brisbane Subarea Policy 253: Encourage diversity and individual expression in residential and commercial construction.

Housing Element Program H.H.2.a Work with responsible agencies to protect identified environmentally sensitive areas, including, but not limited to, wetlands, riparian habitat, critical wildlife habitat, geologically hazardous areas, areas subject to flooding, visually prominent or sensitive areas, and electric transmission line corridors.

Brisbane Acres Subarea Policy 245:
Grading and excavation should be minimized and exposed retaining walls avoided. Landforms should retain the natural topographic character of the Mountain.

H.2.43.

Policy 22: Provide clear performance standards in the Municipal Code for the physical character of all land use developments on private property.

Program 22e: Establish clear and defined performance standards in the Zoning Ordinance for buildings and signs visible from the hillsides of Central Brisbane. Standards should address light and glare, the treatment of roofs and the screening of mechanical equipment.

Program 22f: Consider amendments to the Zoning Ordinance to establish standards for protecting the character of the existing residential Central Brisbane subarea, including attention to scale, juxtapositions, views, natural topography and ecological protection.

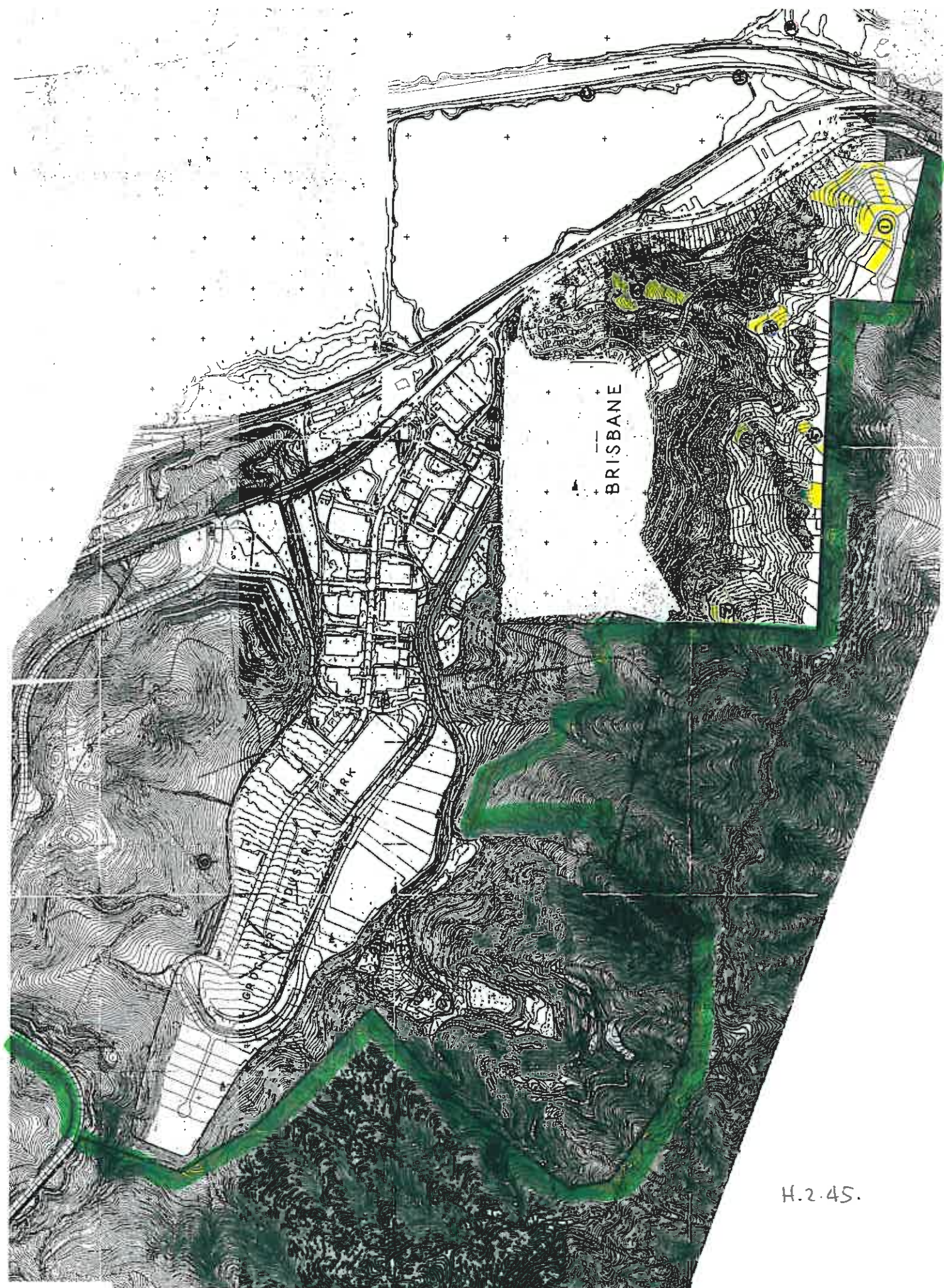
Southwest Bayshore Subarea Program 238c: Require visual impact analysis for all construction on steep slopes.

Central Brisbane Subarea Program 255b: Study regulatory approaches to view and solar protection while protecting foliage and tree cover.

*Quarry Subarea Program 275a:
Environmental review for all specific
plans shall include a visual impact
analysis which shall include an
evaluation of the impacts of building
heights, including the impact of views
of the development from Central
Brisbane and the Northeast Ridge.*

**Northwest Bayshore Subarea Policy
310.1:** Environmental review for all
specific plans shall include a visual
impact analysis which shall include
an evaluation of the impacts of
building heights, including the
impact of the proposal on view
corridors.

*Baylands Subarea Program 330a:
Environmental review for all Specific
Plans shall include a visual impact
analysis which shall include an
evaluation of the impacts of building
heights, including the impact of the
proposal on view corridors.*



BRISBANE

PARK

H.2.45.



H.2.46.



H. 2.47.