

# *City of Brisbane*

## *Planning Commission Agenda Report*

TO: Planning Commission For the Meeting of 3/10/11

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

SUBJECT: Zoning Text/Map Amendment RZ-3-11: Study Session on Density Transfer and Clustered Development Provisions

**Request:** Potential amendments to the R-BA Brisbane Acres Residential District chapter of the Zoning Ordinance and to the Zoning Map were preliminarily discussed at the study session on February 10<sup>th</sup>. At the Commission's request this study session has been scheduled to address the density transfer and clustered development provisions of the R-BA District regulations.

A subsequent study session will address other potential changes to R-BA District regulations regarding the height regulations and ridgeline development provisions. Staff will then recommend that the Planning Commission formally initiate the zoning text/map amendment process, so a public hearing can be scheduled on the proposed amendments.

**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 changes in the development standards for density transfer projects.

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. There currently are no provisions in the R-BA District regulations regarding clustered development.

**Staff Analysis:** 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 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, attached):

*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:

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 necessity from any remaining private property owners in the upper Brisbane Acres.*

Housing Element 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.*

As noted above, clustering of development is one of the measures specifically identified in the HCP Operating Program for the Brisbane Acres Administrative Parcel to demonstrate consistency with the HCP's goal of protecting 40% of the Brisbane Acres as conserved habitat (see attached HCP excerpt). It could also be consistent with General Plan Program 31b as a means to set aside steep slopes as open areas and Policy 81 and Program 83b to protect portions of sites with habitat value.

The draft clustering provisions, modeled on the density transfer regulations, are preliminarily proposed to be added as Section 17.12.055 (attached). Given the changes suggested below to the side and rear 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.

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 preliminarily proposed revisions are to:

- 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 preliminarily 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.
- Provide for exceptions to the lot width and depth standards for lots resulting from density transfer, subject to the 5,000 sq. ft. minimum lot area requirement (as is proposed for clustered development). This allows for flexibility in configuring new lots, as was done with the San Diego Court density transfer project.
- Delete repetitious portions of the density transfer provisions (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).

**Attachments:**

Redline Version of Preliminary Draft Revisions to BMC Chapter 17.12

San Diego Court Density Transfer Maps and Site Plans

Open Space Plan Figure 6

San Bruno Mountain Area Habitat Conservation Plan Excerpt: Operating Program for  
Brisbane Acres Administrative Program

**redline version of preliminary draft revisions to**

**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	<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. 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.

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. 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 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 4 of the Open Space Plan 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 white so as to be clearly visible from a distance.*
- 2. *In addition to the findings required for issuance of design permit set forth in Section 17.42.040, the Planning Commission must find that the building's placement, height and bulk will minimize impacts to public views of the San Bruno Mountain State and County Park as seen from the Bay Trail along the Brisbane Lagoon and Sierra Point shorelines.*

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 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 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.
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 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 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 minimum lot area shall be* ~~The density of development of such site shall be no less than~~ five thousand (5,000) square feet ~~per unit~~. 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.*
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.