

City of Brisbane

Planning Commission Agenda Report

TO: Planning Commission For the Meeting of 5/12/11

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

SUBJECT: 3708 Bayshore Boulevard; Use Permit UP-6-11, Extension of Use Permit UP-5-10 (Previously UP-5-08, UP-6-07 & UP-3-06) for Contractor's Storage Yard; Joseph Gilmartin, Oro Holdings, LLC, applicant & owner; APN 007-350-100 & -110

Request: The applicant requests renewal of the Use Permit, originally approved by the Planning Commission in 2006 and extended by the Planning Commission in 2007, 2008 and 2010, for a contractor's storage yard on the approximately 1/3-acre portion of the 1-acre site developed with a large storage building and paved parking lot. The hours of operation approved for the yard are from 7 a.m. to 5 p.m. Monday through Saturday. The site has one full-time employee with typically one to two drivers entering and exiting per day. The yard is screened by a chain-link fence with plastic slats, above which no materials are to be stored, except behind the building, for which a 15 ft. height limit was approved.

The Planning Commission reluctantly approved the previous extension in 2010 over concerns regarding inconsistent compliance with the previous conditions of approval. In response, the Commission amended Condition J to include, "The matter shall be scheduled for hearing by the Planning Commission per BMC Section 17.48.030 upon receipt of a substantiated complaint of failure to maintain the property in compliance with the conditions of approval." No complaints have since been received.

Recommendation: Conditionally approve Use Permit UP-6-11 for two years per the staff memorandum with attachments, via adoption of Resolution UP-6-11 with Exhibit A containing the findings and conditions of approval.

Environmental Determination: The use of an existing facility is considered categorically exempt from the provisions of the California Environmental Quality Act per Section 15301 of the State CEQA Guidelines. The exceptions to the use of this categorical exemption referenced in Section 15300.2 do not apply. In particular, it should be noted that although the property is located within the jurisdiction of the San Bruno Mountain Area Habitat Conservation Plan, the use is located on the previously developed portion of the site adjoining Bayshore Boulevard.

Applicable Code Sections: Per Brisbane Municipal Code Sections 17.16.030.A.2, contractor's yards require Use Permit approval in the SCRO-1 Southwest Bayshore Commercial District. The findings for approval of Use Permits are contained in BMC Section 17.40.060.

Analysis and Findings: In order to extend the Use Permit, the Planning Commission must determine whether the proposal is consistent with the general plan and whether the use applied for, under the circumstances, will not be detrimental to the health, safety, morals, comfort and general welfare of persons residing or working in the neighborhood, nor will it be injurious or detrimental to property or improvements in the neighborhood or the general welfare of the City.

The General Plan land use designation for the site is currently Subregional Commercial/Retail/Office. This designation includes personal services, which BMC Section 17.02.610 defines as including contractors. Per General Plan Policy 244 for the Southwest Bayshore subarea, the yard is already screened from Bayshore Boulevard by slatted fencing. To comply with Policies 119 & 240 and Program 83b regarding the San Bruno Mountain Area Habitat Conservation Plan, the Use Permit was originally approved subject to a condition requiring that a San Bruno Mountain HCP Site Activity Review must be approved for any weed removal, and any grading or new development of the property would require approval of an Operating Program (see pages V-2, V-11 & VII-157 of the HCP). Per Policy 50, the North County Fire Authority requests that sufficient clearance be provided between the rear fence and the hillside above to allow passage for emergency personnel. Per General Plan Programs 134a and 228d, conditions of approval were also adopted to require compliance with the National Pollution Discharge Elimination System to protect stormwater quality.

As part of the ongoing General Plan update, the City Council (6/11/07) has supported the Planning Commission's recommendation that consideration should be given to amending the SCRO-1 District regulations to prohibit outdoor storage uses. Specifically, Program 238a would be revised as Program LU 60a: "After adoption of the General Plan, review the Zoning District regulations to better define an appropriate mix of uses and address incompatible land use. Consider the elimination of outdoor sales and storage uses." The updated General Plan is not expected to be adopted until sometime after next year.

As part of the General Plan, the 2007-2014 Housing Element was adopted this January. It includes the following programs specifically regarding the SCRO-1 District:

Program H.B.1.g Allow "supportive housing single-room occupancy units" as a conditional use in the SCRO-1 District (per AB 2634).

Program H.D.1.c Revise the SCRO-1 District setback requirements to be similar to the R-3 District standards for residential uses, while specifying appropriate setbacks for commercial uses similar to those for the TC-1 District, with exceptions possible through Use Permit approval.

The time frame for adoption of these programs is by October 2012. The time frames for other programs regarding the Southwest Bayshore subarea (H.B.1.a, H.B.1.b, H.b.1.h, H.B.3.e, H.B.3.i, H.B.9.b, H.D.1.d, H.E.1.a, H.E.1.c & H.E.1.d) generally have similar time frames. The Zoning Ordinance amendments envisioned in these programs would not necessarily prohibit continuation of the subject use.

The subject use should not be detrimental to the neighborhood in the near term, given the conditions of approval with which the use has been complying (see attached photos). The adjoining properties are currently vacant. The subject property would be 40 to 60 ft. from the closest building of the 30-unit residential condominium complex approved on the property to the south, for which a Building Permit application is still in processing. A landscaped yard would separate the two. A similar condominium project has been preliminarily proposed to the north, but that application remains incomplete.

Given expectations for adoption of the General Plan update and subsequent rezoning, as well as future development of the surrounding properties, staff recommends that the Use Permit be renewed for two years. When the zoning of this property is updated to prohibit contractor's yards, the subject use will become nonconforming. This use could then be quickly amortized, because few improvements were needed to accommodate outdoor storage. The existing warehouse building, which predates adoption of the SCRO-1 District zoning, could continue to be used as such per BMC Section 17.38.010.

Attachments:

- Draft Resolution with Findings and Conditions of Approval
- Site Plan
- Site Photos

draft
RESOLUTION UP-6-11

A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE
CONDITIONALLY APPROVING USE PERMIT UP-6-11 FOR A CONTRACTOR'S YARD
AT 3708 BAYSHORE BOULEVARD

WHEREAS, Joe Gilmartin, Oro Holdings, LLC, the applicant, applied to the City of Brisbane for an extension of Use Permit UP-5-10 (previously UP-5-08, UP-6-07 and UP-3-06) for a contractor's storage yard at 3708 Bayshore Boulevard, such application being identified as Use Permit UP-6-11; and

WHEREAS, on May 12, 2011, the Planning Commission conducted a hearing of the application, at which time any person interested in the matter was given an opportunity to be heard; and

WHEREAS, the Planning Commission reviewed and considered the agenda report relating to said application and the written and oral evidence presented to the Planning Commission in support of and in opposition to the application; and

WHEREAS, the Planning Commission finds that the proposed project is categorically exempt from the provisions of the California Environmental Quality Act; and

WHEREAS, the Planning Commission of the City of Brisbane hereby makes the findings attached herein as Exhibit A in connection with the Use Permit.

NOW THEREFORE, based upon the findings set forth hereinabove, the Planning Commission of the City of Brisbane, at its meeting of May 12, 2011, did resolve as follows:

Use Permit Application UP-6-11 is approved per the conditions of approval attached herein as Exhibit A.

ADOPTED this twelfth day of May, 2011, by the following vote:

AYES:

NOES:

ABSENT:

JAMEEL MUNIR
Chairman

ATTEST:

JOHN SWIECKI, Community Development Director

EXHIBIT A

Action Taken: Conditionally approve Use Permit Application UP-6-11 per the agenda report with attachments, via adoption of Resolution UP-6-11.

1. Approval of the use permit is consistent with the general plan and any applicable specific plan adopted by the city council, specifically the Subregional Commercial/Retail/Office land use designation and General Plan Policies 119, 240 & 244 and Program 83b, 134a & 228d.
2. The establishment, maintenance and operation of the use applied for, under the circumstances, will not be detrimental to the health, safety, morals, comfort and general welfare of persons residing or working in the neighborhood, nor will it be injurious or detrimental to property or improvements in the neighborhood or the general welfare of the City, as detailed in the agenda report.

Conditions of Approval:

- A. This Use Permit is approved for contractor's storage limited to the existing +/-18,000 sq. ft. of the property already improved with a building and paved yard. Hours of operation shall be restricted to 7 a.m. to 5 p.m. Monday through Saturday. No operations on Sundays are permitted. No stacks of materials stored outside shall exceed 6 ft. in height, except that behind the building, materials may be stored to a height of 15 ft. No vehicles or equipment shall be stored in the driveway outside the yard.
- B. No potentially hazardous or flammable materials shall be stored at the site without the approval of the North County Fire Authority, and all materials shall be stored in compliance with the California Fire Code as administered by the North County Fire Authority. No pesticides or herbicides shall be stored at the site without the approval of the HCP Plan Operator.
- C. All Best Management Practice improvements necessary to prevent stormwater pollution per NPDES shall be implemented and maintained to the satisfaction of the Public Works Department, including the following:
 1. All outdoor equipment and materials storage areas shall be designed to limit the potential pollutants to contact runoff. Storage shall occur only on paved and contained areas. The pavement should be checked periodically for cracks and fractures, which should be sealed to prevent leakage.
 2. Any non-hazardous liquids, such as latex-based paint, shall be stored indoors, unless approved otherwise by the Public Works Department.

(continued)

3. Wastewater from any vehicle/equipment washing operations shall not be discharged to the storm drain system. Any wastewater discharges to the sanitary sewer are subject to approval by the Public Works Department.
 4. No vehicle/equipment maintenance shall be performed outdoors.
- D. No grading, paving, vegetation removal or new construction shall be permitted except in compliance with the Brisbane Municipal Code (including BMC Section 17.01.060.A.1) and the San Bruno Mountain Area Habitat Conservation Plan. A San Bruno Mountain Habitat Conservation Plan Site Activity Review shall be obtained prior to any weed removal on undeveloped portions of the property.
- E. Clearance shall be provided between the rear fence and the hillside to the satisfaction of the North County Fire Department, subject to approval of a San Bruno Mountain HCP Site Activity Review.
- F. No off-site storage is authorized under this Use Permit.
- G. A minimum of two parking spaces shall be maintained on the site. No on-street or off-site parking is authorized under this Use Permit.
- H. Access for emergency vehicles shall be maintained for a minimum width of 20 ft. from the street to within 50 ft. of at least two sides of the building and within 150 ft. of the other sides of the building to the satisfaction of the North County Fire Authority.
- I. No signage is approved as part of this permit. Application for Sign Review approval shall be submitted to install any signs not otherwise exempt by the Municipal Code.
- J. This Use Permit is subject to the revocation procedures established in Brisbane Municipal Code Chapter 17.48 should the use not comply with its conditions of approval or in any way prove to be a nuisance, injurious or detrimental to property or improvements in the neighborhood or to the general welfare of the City. The matter shall be scheduled for hearing by the Planning Commission per BMC Section 17.48.030 upon receipt of a substantiated complaint of failure to maintain the property in compliance with the conditions of approval.
- K. This Use Permit shall expire two years from its effective date (at the end of the appeal period) and may be renewed through application to the Planning Commission prior to the expiration date, if the required findings can be made. No precedent is set by any renewal, so that no future extension may be guaranteed should the General Plan be updated to prohibit this type of use.



I.2.8.