


City of Brisbane

Planning Commission Agenda Report

TO: Planning Commission For the Meeting of 4/1/10

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

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

Update: At its meeting of March 11, 2010, the Planning Commission continued the public hearing for this item to provide the applicant the opportunity to respond to the Commission's questions regarding maintenance of the use in compliance with the conditions of approval. The Commission also directed staff to return with revised draft Conditions of Approval J & K and potential findings for denial. These are attached.

The applicant was not able to attend the last meeting due a family matter. He has said that he wants to be responsive to the Commission's concerns, whether that entails cleaning up the site further, hauling away materials for scrap, or revising the conditions of approval.

Should the Commission deny the Use Permit application, it would not be necessary to initiate revocation proceedings, because the previous Use Permit UP-5-08 has already expired. Instead, the applicant would be given a reasonable length of time (typically 60 days) to discontinue the contractor's storage yard use of the property, if he does not appeal the denial to the City Council. If the applicant fails to remove the use in a timely manner, the matter would be taken to the City Council to initiate abatement proceedings per Brisbane Municipal Code Section 17.58.020.

Attachments:

Revised Draft Resolution with Findings and Conditions of Approval
Alternative Draft Resolution with Findings for Denial
Planning Commission Agenda Report for 3/11/10 Meeting

Revised Draft
RESOLUTION UP-5-10

A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE
CONDITIONALLY APPROVING USE PERMIT UP-5-10 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-5-08 (previously 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-5-10; and

WHEREAS, on March 11 and April 1, 2010, the Planning Commission conducted hearings 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 reports 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 April 1, 2010, did resolve as follows:

Use Permit Application UP-5-10 is approved per the conditions of approval attached herein as Exhibit A.

ADOPTED this first day of April, 2010, by the following vote:

AYES:
NOES:
ABSENT:

JAMEEL MUNIR
Chairperson

ATTEST:

JOHN SWIECKI, Interim Community Development Director

EXHIBIT A

Action Taken: Conditionally approve Use Permit Application UP-5-10 per the agenda reports with attachments, via adoption of Resolution UP-5-10.

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 one year 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.

Alternative Draft
RESOLUTION UP-5-10

A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE
DENYING USE PERMIT UP-5-10 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-5-08 (previously 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-5-10; and

WHEREAS, on March 11, 2010, 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 April 1, 2010, did resolve as follows:

Use Permit Application UP-5-10 is denied.

ADOPTED this first day of April, 2010, by the following vote:

AYES:
NOES:
ABSENT:

JAMEEL MUNIR
Chairperson

ATTEST:

JOHN SWIECKI, Interim Community Development Director

EXHIBIT A

Action Taken: Deny Use Permit Application UP-5-10 per the agenda reports with attachments, via adoption of Resolution UP-5-10.

1. Approval of the use permit would be inconsistent with General Plan Policy 244, "Develop a screening program using landscape and/or other materials to mitigate noise and screen buildings from Bayshore Boulevard," because previous attempts through conditions of approval to screen the use have not proven effective due to the lack of adequate compliance and the high visibility of the site.
2. The establishment, maintenance and operation of the use applied for, under the circumstances, would potentially be detrimental to the health, safety, morals, comfort and general welfare of persons residing or working in the neighborhood, or injurious or detrimental to property or improvements in the neighborhood or the general welfare of the City, in that the appearance of the contractor's yard detracts from appearance of the area along one of the major thoroughfares through Brisbane in violation of Brisbane Municipal Code Section 17.16.050.A.1.