


City of Brisbane

Planning Commission Agenda Report

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

FROM: Tim Tune, Senior Planner, via William Prince,  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

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 and 2008, 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.

Recommendation: Conditionally approve Use Permit UP-5-10 for one year per the staff memorandum with attachments, via adoption of Resolution UP-5-10 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 has supported the Planning Commission's recommendation that consideration should be given to amending the SCRO-1 District regulations to prohibit outdoor storage uses (see attached 6/11/07 City Council Minutes). 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 next year.

The subject use should not be detrimental to the neighborhood, 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. A landscaped yard would separate the two. A similar condominium project has been preliminarily proposed to the north, but that application remains incomplete.

Attachments:

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Draft Resolution with Findings and Conditions of Approval
Site Plan
Site Photos
6/11/07 City Council Minutes Excerpt

A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE
CONDITIONALLY APPROVING USE PERMIT UP-5-10 FOR A CONTRACTOR'S YARD
AT 3708 BAYSHORE BOULEVARD

H.4.3.

EXHIBIT A

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

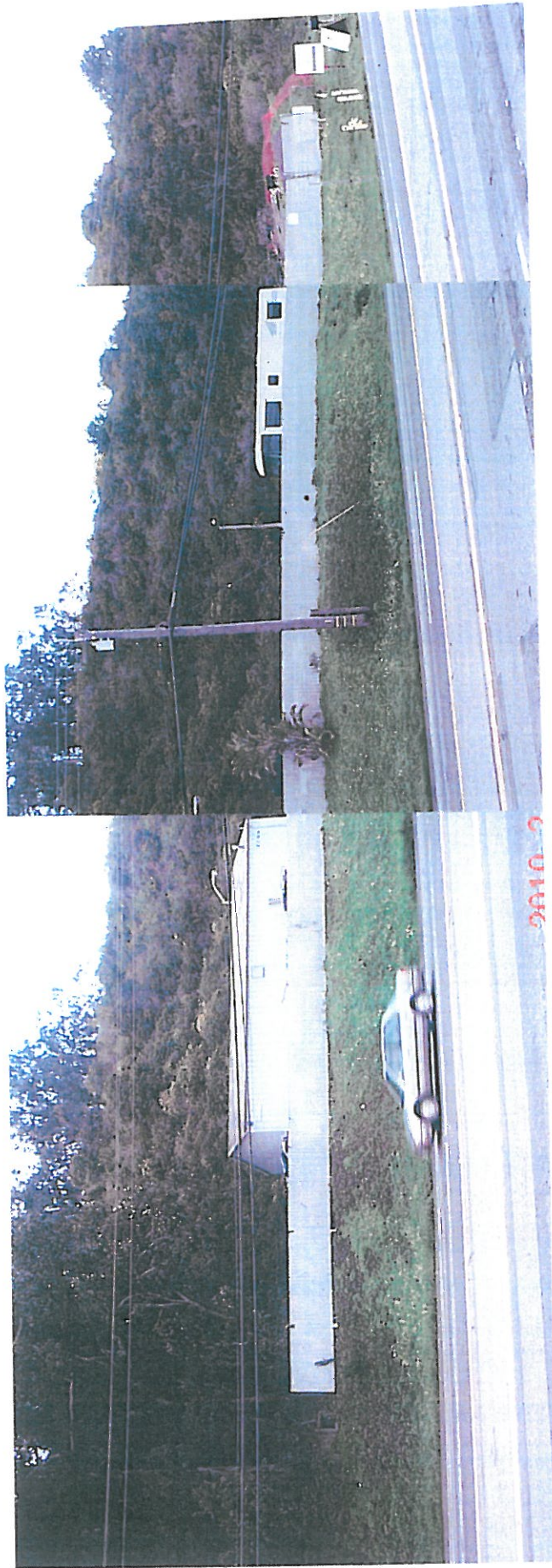
1. Approval of the use permit is consistent with the general plan and any applicable specific plan adopted by the city council, specifically the Subregional Commercial/Retail/Office land use designation and General Plan Policies 119, 240 & 244 and Program 83b, 134a & 228d.
2. The establishment, maintenance 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.
 - 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.



H.4.7.



H.4.8.



NEW BUSINESS

A. General Plan Update

1. Land Use Element - Southeast, Southwest, Northwest and Northeast Bayshore Subareas

Community Development Director Prince noted that although each of the four Bayshore subareas has unique characteristics, they all share the Bayshore Boulevard corridor, which connects the subareas with the rest of Brisbane. He observed that the northern and southern Bayshore subareas are major gateways to the City, and their respective land uses have a significant impact on visitors' perceptions of Brisbane's community character. In reviewing the General Plan policies and programs for these subareas, Community Development Director Prince suggested that the City Council consider how land uses enhance or detract from community character.

Community Development Director Prince showing slides depicting views of the Southeast, Southwest, Northwest, and Northeast Bayshore Subareas, and he pointed out the major features in each area. He referred to attachments to the staff report, listing the current land use designations, existing uses, and the permitted and conditional uses for the Bayshore Boulevard Subareas.

Community Development Director Prince said the Planning Commission reviewed the land use policies and programs for the Southeast Bayshore Subarea. He indicated that this subarea is almost entirely built out. He drew attention to the proposed new Program 236b, calling for a naturalistic gateway treatment and pedestrian overlook at the southern end of Bayshore Boulevard. Councilmembers expressed support for this addition.

CM Richardson recommended using the "City of Stars" motif in the gateway treatment.

Community Development Director Prince reviewed and discussed the proposed revisions to the Southwest Bayshore policies and programs. He said the Planning Commission considered limiting outdoor uses and better signage regulations to improve the visual appearance of the area. He directed attention to the new Policy 238 and the revision to Program 238a prohibiting new outdoor sales and storage uses. He noted this change would mean that the existing propane sales business and outdoor lumber and materials storage yards would become nonconforming and could not be expanded in the future.

CM Conway commented that the last sentence in Program 238a might be more appropriate as part of Policy 238. Councilmembers suggested having the City Attorney review the language and determine where it should be included.

CM Bologoff noted that Policy 238 talks about "upgrading existing buildings," and he asked

what upgrades were intended. Community Development Director Prince said the language is the same as that in Policy 324 for the Northeast Bayshore Subarea. He explained that the intent is to encourage upgrading the existing buildings and site as part of any new projects.

CM Bologoff expressed concern about a business at the southern end of Bayshore near Sierra Point selling merchandise from an outdoor table. City Manager Holstine said the staff will check on the legality of that use. Councilmembers agreed that outdoor sales uses should be discouraged.

CM Richardson asked if industrial uses would continue to be allowed in the Southeast and Southwest Bayshore Subareas, and she questioned whether industrial uses were compatible with the naturalistic gateway treatment recommended for the Southeast Bayshore Subarea. City Manager Holstine responded that industrial uses are allowed in the Southwest Bayshore Subarea.

Mayor Waldo drew attention to the proposed new Program 238d calling for a pedestrian-scale sign program and asked for more details. Community Development Director Prince said the intent would be to encourage more monument signs as new businesses open. He noted the goal is to enhance the appearance of the subarea over time. Mayor Waldo recommended rewording the program to reflect this intent.

CM Conway commented that the concept of a green belt, as articulated in Program 238c, might be more applicable to the Northwest Bayshore Subarea. He noted the shell mound area already serves as an open space buffer between Brisbane and South San Francisco. Community Development Director Prince said the staff was not able to identify potential buffer areas in the Southwest Bayshore Subarea. CM Conway recommended moving Program 238c to the Northwest Bayshore Subarea.

Mayor Waldo expressed support for the proposed revisions to Policy 243.

Community Development Director Prince reviewed the policies and programs proposed for the Northwest Bayshore Subarea. He said this subarea has some development potential, although there are some physical constraints. He noted that the Planning Commission was particularly concerned about maintaining an open space buffer between this area and neighboring communities. He drew attention to the new Policy 310.3, regarding clustered development.

Community Development Director Prince stated that the General Plan does not address the possibility of residential development in the Northwest Bayshore Subarea, but a floor area ratio has been established to govern the intensity of commercial development. He advised that if residential use is allowed, the General Plan should define the maximum allowable density. He welcomed direction from the City Council on this issue. He added that the Council might want to determine maximum densities after all the subareas have been reviewed.

CM Conway commented that a mixed-use or live-work residential development might be acceptable in the Northwest Bayshore Subarea.

CM Bologoff recalled that there were past discussions about transit-oriented housing on the Levinson parcel, and he said he was not opposed to this idea.

Councilmembers indicated they preferred to wait until all the subareas in the Land Use Element have been reviewed before setting residential density levels.

CM Conway expressed support for the proposed revisions to the policies and programs for the Northwest Bayshore Subarea. He suggested adding bike lanes to new Policy 315.1, and Councilmembers agreed.

Community Development Director Prince drew attention to the policies and programs for the Northeast Bayshore Subarea. CM Conway questioned the deletion of the reference to hillside erosion from Policy 328.1. Community Development Director Prince said the correct wording should be: "Require improvement of drainage and correction of hillside erosion on Bayshore Boulevard and Industrial Way with new development."

Mayor Waldo welcomed comments from members of the public regarding the Bayshore Subareas.

Dana Dillworth, Brisbane, noted that the main obstruction to views at the gateway area in the Southeast Bayshore Subarea is shrubs, and she recommended looking at landscaping plans to make sure plantings do not block views.

Ms. Dillworth questioned whether industrial uses should be permitted in the trade-commercial areas. She noted that "light industrial" connotes manufacturing, but "industrial" could also be interpreted as facilities like coal gasification plants and other undesirable uses.

With respect to Policies 240, 318, and 319, which encourage conservation, Ms. Dillworth recommended more study about what needs to be conserved. She suggested conducting a formal study to identify resources and characterize each area before determining allowable uses.

Ms. Dillworth said there were two articles in the Sunday newspaper that she wanted the City Council to consider. One article about traveling in Italy indicated that use of take-out foods was being prohibited in Saint Mark's Square because of litter impacts. Ms. Dillworth noted that this problem can be seen in the trash that accumulates along the fence at Bayshore and Geneva. She stated that part of sustainability involves containing by-products of uses to prevent damage to the environment.

Ms. Dillworth said the second newspaper article was a review of a book called *The Silence of the*

Songbirds, which deals with the substantial decrease in songbird species over the past forty years. She noted that the absence of birds and other natural pollinators makes agriculture more dependent on use of chemicals and fertilizer.

CM Conway welcomed specific policy recommendations. Ms. Dillworth said she would find out what San Francisco was doing and report back.

Ms. Dillworth stated that Rosie Jenks, an expert in stormwater management, has been invited to speak at the next Citizens Advisory Group meeting. She encouraged Councilmembers and members of the public to attend.

Ms. Dillworth recommended taking a more proactive stance to protect resources and habitat. She suggested starting with a study of the issues and then adopting policies and programs that can be implemented within the next few years.

ADJOURNMENT

There being no further business, CM Bologoff made a motion, seconded by CM Conway, that the meeting be adjourned. The motion was carried unanimously by all present and the meeting was adjourned at 8:45 p.m. with no announcements.

ATTEST:

Sheri Marie Schroeder
City Clerk