

City of Brisbane

Planning Commission Agenda Report

TO: Planning Commission For the Meeting of 9/8/11

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

SUBJECT: **3836 Bayshore Boulevard;** Design Permit DP-3-11 and Use Permit UP-12-11; Showroom/Office/Warehouse with Two 3-Bedroom Dwelling Units Above and Uncovered or Carport Parking Spaces in Lieu of Garage/Carport Parking Spaces; Joseph Xu, applicant; Lun Hong Wong, owner; APN 007-553-180

REQUEST: In 2009, the Planning Commission conditionally approved Design Permit DP-6-07 and Use Permits UP-8-07 & UP-9-07 for three 758.5 gross sq. ft., 2-bedroom dwelling units atop 1,558 sq. ft. of showroom and 492 sq. ft. of incidental warehouse for KWW Kitchen Cabinets & Bath. KWW had previously operated its retail/wholesale sales and warehousing of kitchen and bathroom tile and cabinets out of existing storage sheds at the front of the property per Use Permit UP-13-05. Access and parking for the commercial use would be provided in front. Parking for the residential units would be provided on existing pavement currently occupied by an existing shed and garage at the middle of the property. The Commission revised the requirement for garage spaces for the multi-family units, accepting 6 spaces covered under carports out of the 14 required for the entire property. The existing 2,199+/- sq. ft. 3-bedroom single-family dwelling at the middle of the property (3833 Bayshore Boulevard, retroactively approved per Use Permit UP-7-88) would remain.

Issuance of the Building Permit for the approved project was delayed, due to in part to adoption of the new Building Code which included new accessibility requirements for rental residential projects of 3 or more units (see attached Applicant's Statement). In the meantime, the Design Permit and Use Permits expired in March. The applicant has revised the proposal to reconfigure the residential units as two 1,168.5 sq. ft., 3-bedroom units, with 5 carport parking spaces out of a total of 14, and has reapplied for Design Permit and Use Permit approval. Otherwise, the Building Permit would be almost ready to be issued (see attached Status of DP-6-07/UP-8-07/UP-9-07 Conditions of Approval).

The Commission's previous finding that the proposed development is consistent with the Agreement with Respect to the San Bruno Mountain Area Habitat Conservation Plan and the Section 10(a) Permit remains valid. As was required by the previous conditions of approval (attached), a habitat easement has been recorded (Document No. 2011-054336) over the rear 25 ft. of the property.

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RECOMMENDATION: Deny Design Permit DP-3-11 and Use Permit UP-12-11, per the agenda report with attachments, via adoption of Resolution DP-3-11/UP-12-11 with Exhibit A containing the findings, including a finding of inconsistency with the 2007-2014 Housing Element.

ENVIRONMENTAL DETERMINATION: A Mitigated Negative Declaration (State Clearinghouse #2008121114) was approved by the Planning Commission for the original project, after the applicant agreed to incorporate several mitigation measures into the project.

To comply with the Bay Area Clean Air Plan and other air quality standards (as well as policies promoting transportation alternatives), the applicant agreed to implement Bay Area Air Quality District grading dust emission control practices (Condition K) and to provide a bike rack to encourage employees and residents to use this alternative to the automobile for transportation (Condition E.4).

Because the site is in an area of susceptibility to seismically-induced landsliding and liquefaction, the applicant agreed to submit a soils engineering report and engineering geology report for the project, include its recommendations in the project, and have a qualified professional inspect and certify the foundation grading to assure that the reports' recommendations have been properly implemented (Condition J). The Soil and Foundation Investigation is attached.

Due to the project's location within a traffic noise corridor, the applicant agreed to submit an acoustical analysis report to show how the project's apartment units would be designed to limit exterior noise to 45 dB inside any habitable room (Condition P).

As mitigation for potential traffic conflicts, the applicant agreed to install "No Left Turn" signs at the outbound driveway lanes, a raised median in Bayshore Boulevard along the frontage of the property, and a left/U-Turn queue at the intersection of Bayshore Boulevard and Van Waters Road, with necessary signal changes (Condition H). The applicant also agreed to provide a fair share contribution toward signalization of the Bayshore Boulevard/San Bruno Avenue intersection, as well as to limit the size of the proposed warehouse to minimize potential large-truck traffic that might attempt unsafe maneuvers to enter/exit the site (Condition I).

The revised project currently proposed contains one fewer residential unit and 703 sq. ft. less of showroom/warehouse floor area than that originally proposed. As a result, the project's impacts would be slightly reduced. There have been no substantial changes in circumstances for the project that would result in significant effects not discussed before. This mixed-use project would support the goals of the 2010 Bay Area Clean Air Plan and would be consistent with the Bay Area Air Quality Management District's 2010 CEQA Air Quality Guidelines. According to BAAQMD's Surface Streets Screening Tables for San Mateo County (May 2011), Bayshore Boulevard's less than 23,000 average daily trip rate generates traffic emissions below BAAQMD's Adopted Air Quality CEQA Thresholds of Significance (6/2/10) for this project.

Accordingly, per Section 15162 of the State CEQA Guidelines, a subsequent Negative Declaration is not required for this project.

APPLICABLE CODE SECTIONS: Mixed-use structures require Design Permit approval per Brisbane Municipal Code Sections 17.16.100 and 17.42.010. All buildings in the SCRO-1 Southwest Bayshore Commercial District District are also subject to visual impact analysis per BMC Section 17.16.110. Duplex dwelling units, offices, product showrooms, warehouses, and mixed uses (a combination of residential and non-residential uses) require Use Permit approval in the SCRO-1 District per BMC Section 17.16.030.

BMC Section 17.34.010 contains the parking requirements for residential and commercial uses. This section specifically requires that all of the parking spaces for duplex dwelling units be within a garage (enclosed on 3 sides per BMC Section 17.02.034). BMC Section 17.34.115 provides for modification to the parking regulations via approval of a Use Permit. The applicable findings for such Use Permits are found in BMC Sections 17.40.060 and 17.34.115.A & B.

ANALYSIS AND FINDINGS: The proposed project involves different planning applications, requiring different sets of findings, detailed as follows.

Design Permit--To approve a Design Permit, the Planning Commission must make the findings required by Brisbane Municipal Code Section 17.42.040:

General Plan Consistency. The proposed development must be consistent with the General Plan and any applicable specific plan. The 1994 General Plan land use designation for the site is Subregional Commercial/Retail/Office. Retail, residential and warehouse uses are all permitted under this designation. Compliance with General Plan Policies 17 & 19 and Programs 17a & 238c (regarding public views of San Francisco Bay and San Bruno Mountain State and County Park), Policies 66 & 198 & Programs 55c, 60b, 62b, 100c, 194c, 198a, 198b & 198c (alternatives to travel by automobile), Policies 81.1 & 89 (outdoor open areas), Policies 119 & 240 and Program 83b (San Bruno Mountain Area Habitat Conservation Plan), Policies 133, 262 & 319 & Programs 134a, 228d & 245d (stormwater pollution), and Policy 244 (Bayshore Boulevard landscape screening) are detailed below.

In January of this year, the City Council amended the General Plan to include the 2007-2014 Housing Element. To comply with State law requirements for zoning to accommodate the City's share of the Regional Housing Needs Allocation for residential units at a density high enough to potentially be affordable to lower income households, the Housing Element calls for a new R-SWB District (to include this site) which would require a minimum lot size of 23,800 sq. ft. on which a minimum of 16 units would be permitted. Although the required Land Use Element amendments to the General Plan (per Housing Element Programs H.B.1.d & H.E.1.c; see attached) and Zoning Ordinance amendments to the Municipal Code (per Programs H.B.1.a,