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RESOLUTION UP-3-17/HCP-1-17

A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE CONDITIONALLY APPROVING USE PERMIT UP-3-17/ HABITAT CONSERVATION PLAN HCP-1-17 FOR A NEW SINGLE-FAMILY HOME AT 1093 SAN BRUNO AVENUE

WHEREAS, Bill Guan, of Xie Associates, applied to the City of Brisbane for Use Permit and Habitat Conservation Plan compliance review for demolition of an existing single-family dwelling and construction of a new single-family dwelling and site access improvements at 1093 San Bruno Avenue, such application being identified as UP-3-17/HCP-1-17; and

WHEREAS, on November 28, 2017, the Planning Commission conducted a hearing of the application, publicly noticed in compliance with Brisbane Municipal Code Chapters 1.12 and 17.54, 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 staff memorandum 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; pursuant to Section 15303(a) of the State CEQA Guidelines, as confirmed by the biological resources assessment prepared by Nomad Ecology, LLC, which is included in the administrative record for the project; and

WHEREAS, the Planning Commission of the City of Brisbane hereby makes the findings attached herein, as Exhibit A, in connection with the requested Use Permit and Habitat Conservation Plan compliance review;

NOW THEREFORE, based upon the findings set forth hereinabove, the Planning Commission of the City of Brisbane, at its meeting of November 28, 2017 did resolve as follows:

> Use Permit UP-3-17 and Habitat Conservation Plan compliance review HCP-1-17 is hereby approved, subject to the findings and conditions of approval attached herein as Exhibit A.
>
> The Operating Program for Management Unit 2-03-23 is hereby adopted, as contained herein as Exhibit B.

ADOPTED this 28th day of November, 2017, by the following vote:

AYES:

NOES:
ABSENT:

_____
Jameel Munir
Chairperson

ATTEST:

_____
JOHN A. SWIECKI, Community Development Director

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EXHIBIT A

Action Taken: Conditional Approval of Use Permit UP-3-17/Habitat Conservation Plan compliance review HCP-1-17, per the staff memorandum with attachments, via adoption of Resolution UP-3-17/HCP-1-17.

Findings:

Use Permit UP-3-17

1. Approval of the use permit is consistent with the 1994 Brisbane General Plan adopted by the City Council, in that the project is consistent with the General Plan's Subregional Commercial/Retail/Office land use designation, Southwest Bayshore subarea policies and programs, and other applicable General Plan policies and programs as detailed in the agenda report. No specific plan applies to the property.

2. The establishment, maintenance and operation of the single-family residential 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, in that adequate parking is provided on-site so as to minimize traffic impacts, and in that the building has been designed to reduce conflicts with uses on adjoining properties.

Habitat Conservation Plan Review HCP-1-17

1. The single-family residential development of the subject property (HCP Management Unit 2-03-23) complies with the terms of the San Bruno Mountain Area Habitat Conservation Plan Agreement and Section 10(a) Permit, given the conditions of approval and HCP Operating Program contained in this Resolution UP-3-17/HCP-1-17.

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Conditions of Approval:

Prior to Issuance of a Building Permit:

A. The applicant shall apply for a Certificate of Compliance from the Community Development Department to confirm whether the property was created in compliance with the Subdivision Map Act regulations in effect at the time of the property's creation.

B. The applicant shall obtain a demolition permit prior to proceeding with demolition of the existing structure on the site, subject to Bay Area Air Quality Management District review and authorization in regards to potential asbestos and other hazardous building materials management.

C. The applicant shall obtain a building permit and a grading permit prior to proceeding with construction. Plans submitted for the building and grading permits shall substantially conform to plans on file in the City of Brisbane Planning Department, with the following modifications:

   1. A final landscape plan shall be submitted demonstrating compliance with the requirements of Brisbane Municipal Code §17.16.040.G, to the satisfaction of the Community Development Director. The landscape plan shall incorporate water-conserving, non-invasive landscaping of sufficient size at maturity to provide screening of the structure in the rear yard from Bayshore Boulevard. Additionally, all protected trees to be removed shall be replaced at a minimum 1 x 1 ratio. The landscape plan shall be subject to review and acceptance by the HCP Plan Operator and the SF PUC, relative to landscaping within the 40 foot SF PUC easement, prior to final approval by the Community Development Director.

   2. Plans submitted for grading permit review shall be subject to standard review procedures by the Department of Public Works.

D. A one-time habitat conservation fee shall be paid to the City for habitat acquisition in lieu of designation of 40% of the parcel as conserved habitat. This mitigation shall be computed by multiplying the "mitigation fee land area" (40% of the property acreage) by the "mitigation fee market value" (the highest or most recent per square foot sales price, whichever is greater) within Administrative Parcel 2 -03-02 purchased by the City for purposes of open space preservation, as adjusted for inflation. This fee shall be paid prior to issuance of a grading permit from the City of Brisbane.

E. The applicant shall obtain an encroachment permit from the Department of Public Works for all proposed construction activity and private improvements within the public right-of-way. Requirements for specific street improvements shall be subject to the discretion of the City Engineer.

F. The property owner shall enter into standard landscape maintenance agreements with the City.

G. An agreement shall be recorded between the owner and the City whereby the owner waives the right to protest the inclusion of the property within an underground utility district.

H. Plans submitted for the building permit shall include a professionally-prepared acoustical analysis report, showing that the proposed design will limit exterior noise to 45 dB in any habitable room per applicable California Building Code requirements. Closed windows and fresh air supply systems or air conditioning may be required per the report.

I. Plans submitted for the building permit shall include details to the satisfaction of the Planning Director as to how any exterior mechanical equipment shall be sound insulated to effectively mitigate sound emissions distinctly detectable from any off-site location and shall be screened, fenced, painted or landscaped to mitigate off-site visibility.

J. The property owner shall execute a Declaration of Restrictions as required by Brisbane Municipal Code Section 17.32.035.B acknowledging the approved single-family use of the property.

K. A final soils/geotechnical report prepared by an engineer licensed to perform geotechnical analysis shall be submitted for approval by the City Engineer. The report shall provide recommendations for site grading operations, a building foundation analysis, stability of existing on-site ground slopes and calculation of any required pavement sections. The building permit plans shall be approved by the soils engineer consistent with the approved soils report and shall be subject to the recommendations of the approved report.

L. As required by the Plan Operator (San Mateo County), the property owner shall become a signatory to the San Bruno Mountain Area Habitat Conservation Plan Agreement by signing an "Agreement to Comply with Terms and Conditions of the Agreement with Respect to the San Bruno Mountain Area Habitat Conservation Plan and Section 10(a) Permit" and shall record a Declaration of Covenants and Restrictions per Exhibit G of the Agreement with Respect to the San Bruno Mountain Area Habitat Conservation Plan, which shall include the requirement to participate in the HCP funding program.

<u>Other Conditions</u>

M. Consistent with the biological resources assessment prepared by Nomad Ecology, LLC, the following restrictions shall apply to demolition and construction activity on the site:

   1. Tree removal, structure removal, or ground disturbing activities shall be conducted outside of the nesting season (before Feb. 1 or after Aug. 31) to avoid impacts to nesting birds, if feasible.

   2. If project activities occur during the breeding season (February 1 to August 31), preconstruction surveys for nesting birds shall be conducted consistent with the methodology contained in the biological resources assessment. If no active nests are found, work activities may continue.

   3. If work proceeds during breeding season, and a nesting bird survey prepared in compliance with Condition of Approval M.2 above finds active nests on the project site, work limits and buffers will be adjusted per the recommendations contained in the biological resources assessment. If buffers are established and it is determined that project activities are resulting in nest disturbance, work shall cease immediately and CDFW and USFWS Migratory Bird Permit Office shall be contacted for further guidance.

4. Prior to demolition activity and tree removal, a qualified biologist shall conduct a visual inspection of features for potential roosting features and sign of roosting bats no more than three (3) days prior to disturbance of such features. The survey methodology shall comply with the requirements of the biological resources assessment. If no sign of bats roosting is observed, work may proceed. If bats are detected during the survey or during work activities all work will stop in the immediate vicinity of the roost, CDFW will be contacted, and the following additional conditions shall be implemented consistent with the biological resources assessment.
5. If active roosts are detected during the survey of suitable bat habitat and any bat exclusion is required from the work area, the City of Brisbane will coordinate with CDFW. If eviction is necessary and approved by CDFW it should occur between October and March, to avoid maternity season. Exclusion is to be done selectively and only to the extent necessary to prevent morbidity or mortality in the colony.

N. All demolition, grading, and on-site construction within the 40 foot easement owned by the San Francisco Public Utilities Commission shall conform to the restrictions, limitations, and requirements of the SFPUC. No activity on the site may proceed without written authorization from the SF PUC to the City of Brisbane to confirm that the proposed work complies with all performance criteria and standards as may be required by the SF PUC.

O. Prior to any tree removal, tree protection measures for all trees to be preserved shall be installed consistent with the recommendations of the arborist report prepared by Ellyn Shea, subject to written confirmation from the arborist to the City of Brisbane.

P. All grading shall be contained on the site and shall comply with the provisions of Brisbane Municipal Code Chapter 15.01, San Mateo Countywide Stormwater Pollution Prevention program best management practices, and the Bay Area Air Quality Management District's standard construction dust control measures.

Q. Prior to construction of the building foundation, the soils engineer shall submit a Final Grading Observation Report to the City summarizing conformance of the grading operations to the soils report.

R. Prior to issuance of the occupancy permit, all site landscaping and invasive plant species removal shall be completed, consistent with the adopted HCP Operating Program for Management Unit 2-03-23, subject to site inspection by the Plan Operator and/or Community Development Department staff.

S. Any prehistoric Native American cultural resources found during the course of construction shall be conserved in accordance with State and Federal requirements (refer to Appendix K of the State CEQA Guidelines and page 248 of Vol. II, 1994 Brisbane General Plan EIR).

T. All utilities shall be undergrounded, subject to the discretion of the City Engineer per BMC Section 17.32.030.

U. The height, location and design of fencing shall maintain sufficient openness to allow passage of butterflies while remaining consistent with building code requirements, subject to review by the Plan Operator and final approval by the Community Development Director.

V. The property owner shall abide by the provisions of the adopted Operating Program for HCP Management Unit 2-03-23, the Habitat Conservation Plan, Habitat Conservation Plan Agreement and Section 10(a) Permit.

W. At time of final inspection, the HCP Plan Operator shall be notified of the issuance of the Certificate of Occupancy in order to begin the annual assessment. Upon occupancy, the Landowner shall pay an annual assessment to the San Bruno Mountain Conservation Fund. The annual assessment shall be as provided in HCP Chapter V-B.

X. The required covered and uncovered parking spaces shall not be used or converted to any other use that would impair their basic use as parking for motor vehicles per Brisbane Municipal Code Chapter 17.34.

Y. The garage door shall be automatic sectional roll-up design per Brisbane Municipal Code Chapter 17.34.

Z. All glass shall be nonreflective, and all exterior lighting shall be located so as not to cast glare upward or onto surrounding streets or properties.

AA. Water and sanitary sewer service and storm drainage details shall be subject to approval by the City Engineer.

BB. Drawings depicting all work completed and proposed shall be provided to the satisfaction of the City. Exposure of covered work may also be required to demonstrate compliance with building code requirements.

CC. The permittees agree to indemnify, defend and hold the City and its officers, officials, boards, commissions, employees and volunteers harmless from and against any claim, action or proceeding brought by any third party to attack, set aside modify or annul the approval, permit or other entitlement given to the applicant, or any of the proceedings, acts, or determinations taken, done or made prior to the granting of such approval, permit, or entitlement.

DD. Minor modifications may be approved by the Planning Director in conformance with all requirements of the Municipal Code.

EE. The Use Permit approval shall expire two years from its effective date (at the end of the appeal period) if a Building Permit has not been issued for the approved project or if the Building Permit, once issued, is allowed to expire prior to final inspection.

EXHIBIT B

HCP Operating Program

2-03-23. 1093 San Bruno Avenue (APN # 007-553-160). This Management Unit comprises a 0.48 acre parcel developed with a small single-family home that is planned to be demolished to accommodate construction of a new single-family home and associated driveway, parking pad, and site landscaping.

Obligations: The landowner/developer has the following obligations:

1. Habitat Conservation Fee. A one-time habitat conservation fee shall be paid to the City for habitat acquisition in lieu of designation of 40% of the parcel as conserved habitat. This mitigation shall be computed by multiplying the "mitigation fee land area" (40% of the property acreage – approximately 0.192 acre, 8,364 square feet) by the "mitigation fee market value" (the highest or most recent per square foot sales price), whichever is greater) within Administrative Parcel 2 -03-02 (upper acres) purchased by the City for purposes of open space preservation, as adjusted for inflation. This fee shall be paid prior to issuance of a grading permit from the City of Brisbane.

2. HCP Funding Program. Upon occupancy of the home, the landowner shall pay an annual assessment to the San Bruno Mountain Conservation Fund consistent with the funding program described in HCP Chapter V-B.

3. Pesticide Control. The Landowner cannot perform aerial or large-scale spraying of pesticides without prior approval of the Plan Operator.

General Plan Compliance Analysis
1093 San Bruno Avenue

GENERAL PLAN POLICY/PROGRAM	PROJECT COMPLIANCE
Southwest Bayshore Subarea Policies	
Program 238c: Require visual impact analysis for all construction on steep slopes.	A visual impact analysis of this project is included as an attachment to this agenda report, which finds that the building will be located low on the hillside relative to the ridgelines above, that its stepped profile will mitigate its perceived height from both San Bruno Avenue and Bayshore Boulevard, and that both existing and proposed landscaping will screen the building and to blend it into the surrounding hillside.
Subarea Policy 241 and General Plan Programs 149e, 152a & 152c: Require soils and geotechnical analysis	A preliminary soils and geotechnical analysis has been prepared for the project that provides engineering recommendations for the foundation and structure design based on the soil and geologic conditions at the subject property. The preliminary report finds no history of landslide activity on the site and determines that the project is feasible as designed. Per Conditions of Approval J and M, the final geotechnical report shall be subject to review and acceptance by the City Engineer and the engineer of record shall observe site grading and foundation design plans to confirm compliance with the final report's recommendations.
Policy 243 (and General Plan Policies 183 & 184 and Programs 184a, 184b & 184c): Requires new development to reduce intrusion of traffic noise	An acoustical study will be required prior to building permit issuance to confirm the structure is designed to reduce intrusion of traffic noise (Condition of Approval H).
Policy 244 (and General Plan Program 35a): Use landscape and/or other materials to mitigate noise and screen buildings from Bayshore Boulevard.	A conceptual landscaping plan is provided (Sheet A1.3 of the applicant's plans, attached) that calls for preservation of a mature, protected California buckeye and planting of a new tree in the rear yard to screen the structure from Bayshore Boulevard. The Planning Commission may wish to consider requiring additional large shrub or small trees to be included in the final landscape plan adjacent to the property's foundation to provide additional screening of the structure without limiting views of the home. This recommendation is included in Condition of Approval C.1.
Community Character and Land Use	
Policy 16: Acknowledge the mountain setting and the proximity to the Bay as central factors in forming the physical character of the City. Policy 17 Preserve the ridgelines and hilltops in their open state.	The proposal will not block views of the Bay from above, nor will it break the natural ridgeline of the Mountain, as discussed in the visual impact analysis (Attachment 4).
Policy 18: Respect the topography of the Mountain in design and construction.	The location of the home within the existing flatter portion of the site and stepped design of the home will reduce the amount of grading necessary on this sloped site. Per the applicant's grading plan, a relatively balanced volume of 75

	cubic yards of soil cut is proposed to accommodate the structure within the hillside, and 80 cubic yards of soil fill will be utilized for the new driveway and parking pad area. New retaining walls associated with the parking pad will range from 1-3.5 feet in height.
Program 37a: Require that unrecorded lots be surveyed and a parcel map recorded before permitting new improvements to be constructed or existing improvements intensified on the property.	Condition of approval A, a certificate of compliance shall be required prior to development of the site to confirm compliance with the Subdivision Map Act.
Policy C.33: Maximize safe pedestrian facilities and access to all areas of the City, as reasonable and feasible. Policy C.34: Require pedestrian amenities with new development and expansion of existing uses, as appropriate.	The existing pedestrian pathway along the property's San Bruno Avenue frontage will be retained and improved, subject to design specifications and standards required by the City Engineer to be incorporated into the plans submitted for building permit.
Policy 137: Conserve pre-historic resources in accordance with State and Federal requirements.	Condition of approval S requires any prehistoric or Native American cultural resources found during the course of construction to be conserved in accordance with State and Federal requirements.
Programs 156d: Take advantage of technology to require built-in fire safety systems using appropriate materials and technology.	A building permit is required for the project. Current California Building Code requires residential fire sprinklers are required for the project.
Habitat Conservation Plan	
Programs 83b, 122a, b, & c, and Policy 119, 123, 123a: Comply with the provisions of the Habitat Conservation Plan and the Agreement with respect to the San Bruno Mountain Area Habitat Conservation Plan.	A biological resources assessment of the site has been conducted (Attachment 5), and an HCP Operating Program has been drafted and circulated for review by the Plan Operator (San Mateo County), the US Fish & Wildlife Service, and the State Department of Fish & Wildlife (included as Exhibit B to Resolution UP-3-17/HCP-1-17). The Operating Program does not require the dedication of any conserved habitat on the site, due to the property's history of disturbance and isolated location relative to high quality and permanently conserved habitat in the upper Brisbane Acres (Program 123b). Instead, consistent with the HCP's Operating Program for Administrative Parcel 2-03, the proposed development will be subject to landscaping restrictions to require removal of invasive species, retain natural vegetation, and prohibit the planting of invasive species (Condition of Approval C.1), and will require payment of a mitigation fee to the City for habitat acquisition (Condition of Approval D).

Visual Impact Analysis:
1093 San Bruno Avenue

General Plan subarea Program 238c requires development within the SCRO land use designation to submit a visual impact analysis for development on steep slopes. The SCRO-1 zoning district regulations (BMC §17.16.110) further requires the visual impact analysis to consider the project's relationship to steep slopes; public view corridors; views of San Francisco Bay and San Bruno Mountain; materials and lighting pertaining to light and glare; treatment of roofs; and the screening of mechanical equipment.

Project's Relationship to Steep Slopes

- As shown in the topographic survey, the property slopes down (eastward) from San Bruno Avenue towards Bayshore Boulevard, and features two relatively level pads where the existing driveway and home are located in roughly the middle of the lot. The overall slope of the property measured per BMC Section 17.02.730 is 29%. The applicant proposes demolition of the existing 650 square foot, single-story home and construction of a new 3,838 square foot, two-story home located roughly in the same area of the property as the existing home in the middle portion of the site. Proposed grading to accommodate the footprint of the structure and new driveway is limited to a balance of 75 cubic yards (CY) of soil cut and 80 CY of soil fill and would require only low retaining walls ranging from 1-3.5 feet in height from grade.

Project's Impact to Public View Corridors and Views of San Francisco Bay and San Bruno Mountain

- The subject property is not located on a mapped ridgeline and therefore will not impede off-site views of San Bruno Mountain.
- As demonstrated by the applicant's grading plan and building elevations, the two-story structure would step down the hillside eastward toward Bayshore Boulevard. The elevation of the roof (el. 84') would sit approximately one foot below the elevation of the adjacent centerline of San Bruno Avenue (el. 85', per the topographic survey). This will preserve views of San Francisco Bay from properties above the subject site, and will additionally minimize visibility of the structure from pedestrians and vehicles traveling on San Bruno Avenue.
- Similarly, views of the structure from Bayshore Boulevard (approximately 128 feet east and 40 feet below the lower level building pad) would be mitigated due to the stepped design of the structure up the hillside and screening provided by the existing California buckeye (protected tree to be preserved), and proposed additional landscaping in the side and rear yards.

Project Materials and Lighting

- As demonstrated by the applicant's building elevations and renderings, exterior materials will include white stucco siding, steel balcony railings, wood trim at doors and windows, and metal-finished doors at the garage and main entry. The proposed roof will be constructed with single-ply roofing membrane in dark gray. These natural materials will not result in off-site glare and will be screened from off-site views by proposed landscaping in the side and rear yards. Conditions of approval Z further requires that all glass materials be nonreflective and that all exterior lighting be downlit and not result in off-site light or glare. No exterior mechanical equipment is proposed.

Visual Impact Analysis:
1093 San Bruno Avenue

Site Views from Public View Corridors



Visual Impact Analysis:
1093 San Bruno Avenue

Applicant's Renderings of Proposed Structure from Bayshore Boulevard



2-PROPOSED BUILDING, VIEW FROM SOUTH BAYSHORE BLVD



2-PROPOSED BUILDING, VIEW FROM NORTH BAYSHORE BLVD