

# *City of Brisbane*

## *Planning Commission Agenda Report*

**TO:** Planning Commission For the Meeting of 1/14/10

**FROM:** Tim Tune, Senior Planner, via William Prince, Community Development Director

**SUBJECT:** **6 San Diego Court;** Design Permit DP-3-09; Renewal of Design Permit DP-4-06 for Single-Family Residence on Parcel “B” of Three-Lot Subdivision Approved through Density Transfer (formerly 6 Humboldt Court); Joel Diaz, applicant; Aidan Fahy, owner; APN 007-554-050

**Request:** The subject property was one of three parcels created through a three-lot subdivision approved by the Planning Commission and City Council via a density transfer. Residential buildings allowed through density transfer are subject to Design Permit approval. The Planning Commission approved Design Permit DP-4-06 for the middle parcel, located east of the hammerhead at the end of San Diego Court, on November 9, 2006. Because no Building Permit had been issued, that approval expired two years later. Renewal of the Design Permit is now requested.

This item was continued from the meeting of December 10<sup>th</sup> so the property owner (who had been out of the country) could be present to respond to questions from the Planning Commission regarding the proposed changes in the design. The owner has since designated Joel Diaz as his representative for this application. The applicant has further refined the design per the attached color rendering. The building will be stuccoed in an olive color with cream accents and brown trim (no wood siding). Concrete Spanish tile in red and orange hues will be used for the roof.

Questions were also posed by one of the neighbors regarding the appearance of the retaining walls at the end of San Diego Court. The City’s standard design for downslope retaining walls consists of I beams (steel “H” piling) with timber lagging (City Council Resolution No. 2000-18). Cutting of the uneven I-beams had been delayed to the wet season so as to avoid a potential fire hazard on the vacant slope below the retaining wall. The railing at the end of the hammerhead will be removed to provide access to the garage for the proposed house. The applicant proposes to backfill and landscape the area between the side retaining wall and house with the native species so the wall will not be visible. The City Engineer suggests that the Buckeye tree that was to be planted at the street corner be shifted below the existing retaining wall to screen it (see revised recommended Condition of Approval D).

**Recommendation:** Conditionally approve Design Permit DP-3-09 per the agenda report with attachments, via adoption of updated Resolution DP-3-09 with Exhibit A containing the findings and conditions of approval.

**Environmental Determination:** A Mitigated Negative Declaration (State Clearinghouse Number 200404115) was approved for this project by the Planning Commission on August 26, 2004.

**Applicable Code Sections:** Brisbane Municipal Code Section 17.12.050.C requires a Design Permit for any density transfer development in the R-BA Brisbane Acres Residential District. The findings required for Design Permit approval are contained in BMC Section 17.42.040.

**Background:** On September 9, 2004, the Planning Commission approved Tentative Parcel Map TPM-3-03 to subdivide the southern portion of Unrecorded Brisbane Acres Lot 34 into 3 lots, subject to the approval of a Use Permit for a density transfer from Unrecorded Brisbane Acres Lot 49. The City Council subsequently approved Use Permit UP-13-03 on January 18, 2005. Condition "C" of that approval stated, "Prior to issuance of the initial Building Permit for each lot, a Design Permit for the proposed building shall be approved by the Planning Commission per Brisbane Municipal Code Section 17.12.050.C. The purposes of the Design Permit are: (1.) to minimize the visual impact of the proposed development upon public views of the San Bruno Mountain State and County Park from City parklands or from extended lengths of City arterial or collector streets, and (2.) to assure the compatibility of the proposed development with adjacent and nearby development."

On May 15, 2006, the City Council approved Variance V-2-06 to allow this property 5 ft. side setbacks and a 10 ft. rear setback (a portion of which will be occupied by a required public access easement for a trail corridor above Annis Road). Because the Variance was approved for all 3 parcels as a project (unlike the Design Permits, which were approved for each house individually), the issuance of the Building Permit for the first house (at 2 San Diego Court) assured that the Variance approval would not expire for the other two parcels.

Note that unlike the property next door at 2 San Diego Court, the subject property is not located on the ridgeline that runs along San Diego Court above the site.

**Analysis and Findings:** 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 proposal is consistent with the site's General Plan land use designation of Residential 0-2 Dwelling Units per Acre, given the density transfer approved per General Plan Program 245b, consistent with the San Bruno Mountain Area Habitat Conservation Plan per General Plan Policies 81, 82, 118, 119 & 121 and Programs 83b, 91b, 122a & 122c. Per Policy 246b, the previously submitted soil report was reviewed by the City's consulting engineering geologist. Per Programs 86a & 245c, a trail easement was provided as an alternative to payment of in-lieu fees for park and recreation purposes.

Balance and Harmony. The Municipal Code requires that the proposal maintain a balance of scale, form and proportion; use design components that are harmonious and materials and colors that complement the project; and integrate well with elements of the site plan and of surrounding areas.

The proposed house is designed to somewhat step down the hillside from the street. It will be broken into two rectangular elements with a linear connection between them to reflect the lot's "L" shape. A tall entry feature is proposed at the street corner, while the garage will be tucked off the rear. The house will have rear balconies to add horizontal forms to offset the vertical emphasis of the back of the building.

The house will be stuccoed in an olive color with cream accents around the doorways and elsewhere to provide some contrast. The metal railings, door and window frames, shutters, planters and korbels will be brown. A Spanish concrete tile roof in red/orange hues is proposed.

The proposed color scheme will complement that of the existing houses in the vicinity, and some of the proposed details will relate well to the design of these neighboring buildings.

Compatibility with Adjacent Development. The orientation and location of buildings, structures, open spaces and other features must maintain a compatible relationship to adjacent development, according to the third required finding for approval of Design Permits. Although a Variance was previously granted to allow 5 ft. side setbacks (where 10 ft. would otherwise be standard), the proposed house will be located with greater setbacks. This will result in a larger separation between the proposed house and its existing/future neighbors. The house will also be located farther from San Diego Court, above, and Annis Road, below, than would otherwise required.

Compatibility with Adjacent Uses. Where a proposal abuts or is in close proximity to uses other than that proposed, the Municipal Code requires that the proposal take into account its effect on and maintain the quality of the other land uses. The subject property is bounded by a two-story nonconforming duplex (1100 Humboldt Road) across San Diego Court to the west, a two-to-three-story single-family residence with secondary dwelling unit (7 San Diego Court) to the northwest, a vacant parcel (the future residence at 8 San Diego Court) to the north, Annis Road to the east, a vacant parcel to the south (Unrecorded Brisbane Acres Lot 35) and a two-to-three-story single-family residence with secondary dwelling unit at 2 San Diego Court to the southwest.

Because the lands to the south (Unrecorded Brisbane Acres Lot 35) and east (the partially improved Annis Road private "right-of-way") are undeveloped, wildland fire hazard is a potential concern. The issue was addressed in the City's original approvals for the three-lot subdivision. In addition to the standard requirement for residential fire sprinklers, Use Permit UP-3-03 Condition of Approval G requires that "...all buildings within 50 feet of the southern

and eastern property lines of the project site shall be provided with the following:

- (1.) The underside of all balconies and stairs facing the southern or eastern property lines shall be protected by fire sprinklers.
- (2.) All windows facing the southern or eastern property lines shall be dual glazed.
- (3.) All operable windows facing the southern or eastern property lines and greater than five feet in any dimension shall be provided with exposure protection.
- (4.) All eaves facing the southern or eastern property lines greater than three feet in depth shall be protected with fire sprinklers. Eaves sprinklers, if properly positioned, may also provide for window exposure protection, as required by Item (3.), above."

Minimized Topographical and Visual Impacts. For hillside development, the Municipal Code requires that the proposal respect the topography of the site and be designed to minimize its visual impact, preserving any significant public views of San Francisco Bay, the Brisbane Lagoon and San Bruno Mountain State and County Park.

The proposed house will step down the hillside to minimize grading. The proposed elimination of the basement level will further reduce the amount of grading. Only one story will be visible from San Diego Court, with the full height of the building being visible from Annis Road. Although the house may be visible from the Bay Trail along the Lagoon and at Sierra Point, the existing eucalyptus trees on the surrounding properties will substantially screen the view. Because the house will be at a lower elevation than the existing houses at 2 San Diego Court and 1100 Humboldt Road, its visual impact upon public views of San Bruno Mountain should not be significant. The visual impact analysis for the ridgeline development at 2 Humboldt Court had determined that views of San Bruno Mountain State and County Park as seen from portions of the Community Park would be blocked by construction above a relative elevation of from 665.5 to 670.5 ft. (using the submitted topographical information). Construction above elevations 670.5-675 ft. would block views from the Bay Trail along the Lagoon. Views of the State and County Park from the Bay Trail on the north side of the Sierra Point peninsula would be blocked by construction above elevations 654.5-655.5 ft. The highest rooftop at 6 San Diego Court is proposed to reach a relative elevation of 651.3 ft. In comparison, Variance V-2-06 allowed the house at 2 San Diego Court to reach a maximum relative elevation of 675.5 ft.

Adequate Traffic Circulation and Parking. The Municipal Code requires that the site plan minimize the effects of traffic on abutting streets and within the project boundaries, through careful layout of the site with respect to location, dimensions of vehicular and pedestrian entrances and exit drives, and through the provision of adequate internal circulation and off-street parking facilities that are adequately surfaced, landscaped and lit.

The house is proposed to be provided with a two-car garage and two off-street parking spaces on a T-shaped parking pad in front of the house, because the driveway to the garage to the side of the house is too short to accommodate parking. This meets the standard requirement of two covered spaces plus two on/off-streets per single-family residence. In addition, a parking bay for

a parallel parking space will be provided in front of the future house next door per Tentative Parcel Map TPM-3-03 Condition of Approval H(5).

Facilities for Alternative Transit Modes. The Municipal Code encourages alternatives to automobile travel where appropriate, through the provision of facilities for pedestrians and bicycles, public transit stops and access to other means of transportation. Due to the narrow width and short length of San Diego Court, sidewalks are not being provided; although, the low level of vehicular traffic on the street should not be a deterrent to shared use of the roadway with bicycles and pedestrians.

Functional and Appropriate Landscaping. The Commission must find that the site provides open areas and landscaping to complement the buildings and structures. Landscaping must also be used to separate and screen service and storage areas, break up expanses of paved area and define areas for usability and privacy. Landscaping must be generally water conserving and appropriate to the location, with attention given to habitat protection and wildland fire hazard as appropriate.

Eight native-species trees are proposed to replace the trees (all non-native species) previously removed from the site. Given the wildland fire hazard in the vicinity, fire-resistive Coast Live Oak, California Buckeye, Western Redbud and Coffeeberry are proposed. No trees are proposed to be planted within the trail easement along the rear of the properties. This will help provide for a butterfly flight corridor to connect the Thomas Hill area to the upper slopes of San Bruno Mountain.

Noise Protection. The Municipal Code requires that the proposal take reasonable measures to protect against external and internal noise. The subject property is not within a traffic-noise-impacted area, so this finding is not applicable.

Glare Control. The Municipal Code requires that consideration be given to avoiding offsite glare from lighting and reflective building materials. Tentative Parcel Map TPM-3-03 Condition of Approval Z requires that the plans approved for Building Permit issuance shall specify low-level exterior lighting directed away from adjacent properties. Staff recommends that this be amended to also prohibit exterior lighting directed upward into the night sky. No highly-reflective glass or other exterior building materials are proposed.

Screening of Exterior Appurtenances. The Municipal Code requires that attention be given to the screening of utility structures, mechanical equipment, trash containers and rooftop equipment. Tentative Parcel Map TPM-3-03 Conditions of Approval CC and DD require that details for public utility meter screening and designated storage space for trash and recycling bins be included on the plans approved for Building Permit issuance.

Appropriate and Effective Signage. The finding regarding the appropriateness of any signage is not applicable to these projects.

Employee Outdoor Space. The finding regarding the needs of employees for outdoor space is not applicable to these projects.

Attachments:

- Draft Resolution with Findings and Conditions of Approval
- Project Description
- Amended Parcel Map
- Updated Color Rendering
- Expired Building Permit Plans (Excerpts)
- TPM-3-03 Conceptual Landscaping Plan
- Open Space Plan Figure 4: Ridgelines
- Staff's Photographs
- Conditions of Approval for Variance V-2-06 (as Amended by the City Council), Use Permit UP-13-03, Tentative Parcel Map TPM-3-03 and Design Permit DP-4-06 (Expired)

updated draft  
RESOLUTION DP-3-09

A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE  
CONDITIONALLY APPROVING DESIGN PERMIT DP-3-09  
FOR A SINGLE-FAMILY RESIDENCE  
ON PARCEL "B" OF A THREE-LOT SUBDIVISION  
APPROVED THROUGH DENSITY TRANSFER  
AT 6 SAN DIEGO COURT

WHEREAS, Aidan Fahy, the property owner, applied to the City of Brisbane for Design Permit approval of a single-family residence on Parcels "B" of a three-lot subdivision of a portion of Unrecorded Brisbane Acres Lot 34, approved through a density transfer, such application being identified as Design Permit DP-3-09; and

WHEREAS, on December 10, 2009 and January 14, 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, the plans and photographs, the written and oral evidence presented to the Planning Commission in support of and in opposition to the application; and

WHEREAS, a Mitigated Negative Declaration (State Clearinghouse Number 200404115) was previously approved for the project on August 26, 2004; and

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

NOW THEREFORE, based upon the findings set forth hereinabove, the Planning Commission of the City of Brisbane, at its meeting of January 14, 2010, did resolve as follows:

Design Permit Application DP-3-09 is approved per the conditions of approval attached herein as Exhibit A.

ADOPTED this fourteenth day of January, 2010, by the following vote:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
THERESA MATURO  
Chairperson

ATTEST:

\_\_\_\_\_  
WILLIAM PRINCE, Community Development Director

## **EXHIBIT A**

**Action Taken:** Conditionally approve Design Permit DP-3-09 per the agenda report with attachments, via adoption of Resolution DP-3-09.

### **Findings:**

1. The proposed development is consistent with the General Plan, as detailed in the agenda report.
2. The proposal maintains a balance of scale, form and proportion, and uses design components that are harmonious and materials and colors that complement the project, and the proposal integrates well with elements of the site plan and of surrounding areas, as detailed in the agenda report.
3. The orientation and location of buildings, structures, open spaces and other features maintain a compatible relationship to adjacent development, as detailed in the agenda report.
4. Given that the proposal is in the vicinity of vacant wildlands, the plans take into account their effect on and maintain the quality of these lands, as detailed in the agenda report.
5. The proposal respects the topography of the site and are designed to minimize its visual impact, as detailed in the agenda report. Significant public views of San Francisco Bay, the Brisbane Lagoon and San Bruno Mountain State and County Park are preserved, as detailed in the agenda report.
6. In so far as applicable to the subject project and given the conditions of approval, the site plan minimizes the effects of traffic on abutting streets through careful layout of the site with respect to location, dimensions of vehicular and pedestrian entrances and exit drives, and through the provision of adequate off-street parking; there is an adequate circulation pattern within the boundaries of the development; and parking facilities are adequately surfaced, landscaped and lit, as detailed in the agenda report.
7. The appropriateness of encouraging alternatives to travel by automobile, through the provision of facilities for pedestrians and bicycles, public transit stops and access to other means of transportation, is limited for this site, due to the narrow width and short length of the street on which the site is located.
8. In so far as applicable to the subject project and given the conditions of approval, the site provides open areas and water-conserving landscaping appropriate to the location to complement the building, separate and screen service and storage areas, break up expanses of paved area and define areas for usability and privacy, with attention given to habitat protection and wildland fire hazard, as detailed in the agenda report.
9. The finding regarding noise is not applicable to this project.



10. Consideration has been given to avoiding offsite glare from lighting and reflective building materials, per the conditions of approval.
11. Attention is given to the screening of utility structures, mechanical equipment, trash containers and rooftop equipment, per the conditions of approval.
12. The finding regarding signage is not applicable to this project.
13. The finding regarding employee outdoor space is not applicable to this project.

**Conditions of Approval:**

- A. The plans submitted for Building Permit issuance shall comply with current California Building, Mechanical, Plumbing, Electrical and Energy Codes (2007).
- B. No portion of the 2-compact-car parking pad (excluding the driveway) shall encroach into the public right-of-way without approval of the Public Works Department.
- C. A means of clearly delineating the private driveway from the public street at the end of the San Diego Court hammerhead shall be indicated on the Building Permit plans to the satisfaction of the Public Works Department.
- D. Consistent with Tentative Parcel Map TPM-3-03 Conditions of Approval S and X, prior to the issuance of the Building Permit, detailed landscaping and water-conserving irrigation plans shall be submitted for approval by the Community Development Director. The landscaping plans shall include drought-resistant, non-highly-flammable, non-invasive or native species, and shall specify the removal of any existing invasive, non-native plant species. Foundation plantings shall be provided to help screen the structure along the northwest side. Landscaping within 30 ft. of the southern property line shall be fire-resistive as approved by the Fire Chief and Community Development Director. Landscaping within 30 ft. of the southern property line and within 15 ft. of any building shall be irrigated. No trees shall be planted within the public trail easement across the rear of the parcel. Landscape screening for the retaining wall at the street shall be specified, with the final location of the Buckeye tree subject to the approval of the Public Works Director.
- E. Consistent with Use Permit UP-13-03 Condition of Approval G, any building within 50 feet of the southern and eastern property lines shall be provided with the following:
  - (1.) The underside of all balconies and stairs facing the southern or eastern property lines shall be protected by fire sprinklers.
  - (2.) All windows facing the southern or eastern property lines shall be dual glazed.
  - (3.) All operable windows facing the southern or eastern property lines and greater than five feet in any dimension shall be provided with exposure protection.

- (4.) All eaves facing the southern or eastern property lines greater than three feet in depth shall be protected with fire sprinklers. Eaves sprinklers, if properly positioned, may also provide for window exposure protection, as required by Item (3.), above.
- F. The plans submitted for Building Permit approval shall specify low-level exterior lighting directed away from adjacent properties and not upward into the night sky, and shall exclude highly-reflective glass, roofing and other exterior building materials.
- G. Details for the screening of any public utility meters shall be included on the plans approved with the Building Permit to the satisfaction of the Community Development Director.
- H. Details for screened storage space for trash and recycling bins for each house shall be included on the plans approved with the Building Permit to the satisfaction of the Community Development Director.
- I. Prior to issuance of a Certificate of Occupancy, the signed "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 the Declaration of Covenants and Restrictions per Exhibit G of the Agreement with Respect to the San Bruno Mountain Area Habitat Conservation Plan, including the requirement to participate in the HCP funding program, shall be recorded by the County of San Mateo. Refer to Tentative Parcel Map TPM-3-03 Conditions of Approval FF & GG for additional HCP requirements.
- J. Per the HCP Operating Program for Management Unit 2-03-15, payment of the annual assessment for the San Bruno Mountain Conservation fund shall begin upon issuance of the Certificate of Occupancy.
- K. Grading shall not exceed 250 cu. yds. without Planning Commission review prior to issuance of a Grading Permit. All grading shall comply with the provisions of Brisbane Municipal Code Chapter 15.01, National Pollution Discharge Elimination System Program best management practices, and Bay Area Air Quality Management District's standard dust control measures (see Variance V-2-06 Condition of Approval E and Tentative Parcel Map TPM-3-03 Condition of Approval M).
- L. The garage shall have an automatic sectional roll-up garage doors with manual release mechanism.
- M. Prior to issuance of Certificates of Occupancy, a report on the relative success of the mitigation measures shall be forwarded to the Planning Commission for its information.

- N. The required 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 Section 17.34.020.A.
- O. The conditions of approval of Use Permit UP-13-03, Tentative Parcel Map TPM-3-03 (as modified by Use Permit UP-13-03) and Variance V-2-06 shall continue to apply.
- P. Minor modifications may be approved by the Planning Director in conformance with all requirements of the Municipal Code.
- Q. This Design Permit shall expire two years from its effective date (at the end of the appeal period) if a Building Permit has not yet been issued for the approved project.

### Project Description

|                     |   |  |
|---------------------|---|--|
| General Plan:       | Residential: 0-2 dwelling units per acre                              |  |
| Zoning:             | R-BA Brisbane Acres Residential District                              |  |
| Lot Area:           | 6,153 sq. ft.   |  |
| Slope:              | 28%   |  |
| Lot Coverage:       | <u>Maximum</u><br>25% (1,538 sq. ft.)                                 | <u>Proposed</u><br>25% (1,538 sq. ft.) |
| Floor Area Ratio:   | 0.72 (4,430 sq. ft.)  | 0.45 (2,771 sq. ft.)                   |
| Setbacks--          | <u>Minimum</u>  | <u>Proposed</u>                        |
| Front*:             | 10 ft.  | 11 ft.                                 |
| North Side:         | 5 ft.**   | 7 ft.                                  |
| South Side:         | 5 ft.**   | 6.5 ft.                                |
| Rear:               | 10 ft.**  | 23 ft.                                 |
| Maximum Height—     |   |  |
| 10+ Ft. from Front: | 35 ft.  | 34 ft. 11 in.                          |
| <10 Ft. from Front: | 20 ft.  | n/a                                    |
| Parking--           |   |  |
| Required:           | 2 covered spaces plus 2 on/off-street spaces                          |  |
| Proposed:           | 2 standard-size garage spaces plus 2 compact uncovered on-site spaces |  |

\*Per Variance V-2-06 Condition of Approval B, the front setback extends along the frontage on the primary segment of San Diego Court; the frontage on the secondary segment ("hammerhead") is considered a side setback.

\*\*Per Variance V-2-06

**Variance V-2-06 (as Amended by the City Council)**

**Conditions of Approval:**

- A. The following minimum side setbacks shall apply to the proposed houses, garages and decks:
- |          |                        |
|----------|------------------------|
| Parcel A | 5 ft.                  |
| Parcel B | 5 ft.                  |
| Parcel C | 7.4 ft. (7 ft., 5 in.) |
- The minimum rear setback for all three parcels shall be 10 ft.
- B. No portion of a house other than the garage may be located less than 10 ft. from the primary frontage of the new public street right-of-way (within the front setback). The second floor over the garage on Parcel A shall be revised to comply.
- C. For a distance of 10 ft. from the primary street frontage lot line, the height of any structure shall not exceed 20 ft. as measured from finish grade. See Condition of Approval D for additional restrictions on Parcel A.
- D. All portions of the house on Parcel A shall not exceed the maximum relative elevation of 675.5 ft. per the submitted plans, 355.5 ft. based upon staff's calculations (a height of 29 ft. above grade—refer to page I.1.43 of the Agenda Report for the meeting of 4/13/06), subject to the additional restrictions imposed by Condition of Approval C.
- E. Grading of more than 250 cu. yds. per site shall require submittal of grading plans for Planning Commission review as part of the Design Permit approval prior to issuance of Building Permits.
- F. The houses shall comply with all other applicable zoning regulations, including the 10 ft. front setback for houses (excluding garages) and the 0.72 floor area ratio (including the floor area of garages and covered patios).
- G. The conditions of approval of Use Permit UP-13-03 and Tentative Parcel Map TPM-3-03 (as modified by Use Permit UP-13-03) shall continue to apply.
- H. Minor modifications may be approved by the Planning Director in conformance with all requirements of the Municipal Code.
- I. The Variance shall expire two years from their effective date (at the end of the appeal period) if a Building Permit has not yet been issued for the approved project.
- J. The applicant shall grant to the City a public access easement, not less than 1,437.5 square feet in total area, for a public trail corridor along the rear of the three lots shown on the Final Parcel Map of the Property, the exact boundaries and dimensions of such easement to be approved by the Director of Community Development and the Director of Public Works/City Engineer. The grant of easement shall be prepared or approved by the City Attorney and the Director of Public Works/City Engineer is authorized to accept such easement on behalf of the City.

**Use Permit UP-13-03 Conditions of Approval**  
**City Council Resolution 2004-51**

- A. The property owner shall abide by the provisions of the Revised Operating Program for HCP Management Units 2-03-15 and 2-03-16, the Habitat Conservation Plan, Habitat Conservation Plan Agreement and Section 10(a) Permit.
- B. Concurrent with approval of the Final Parcel Map, APN 007-570-190 shall be formally offered in fee to the City of Brisbane, and the applicant shall submit a cash bond for clearing any invasive species on the property in an amount equal to the lowest responsible bid obtained by the City from contractors experienced in exotics control on San Bruno Mountain.
- C. Prior to issuance of the initial Building Permit for each lot, a Design Permit for the proposed building shall be approved by the Planning Commission per Brisbane Municipal Code Section 17.12.050.C. The purposes of the Design Permit are: (1.) to minimize the visual impact of the proposed development upon public views of the San Bruno Mountain State and County Park from City parklands or from extended lengths of City arterial or collector streets, and (2.) to assure the compatibility of the proposed development with adjacent and nearby development.
- D. The Use Permit shall expire if a Final Parcel Map has not been filed with the City prior to expiration of the Tentative Parcel Map or any time extensions thereof granted per BMC Section 16.16.270.
- E. Prior to approval of the Final Parcel Map:
  - (1.) The originally proposed private street shall be revised as a 40 ft. wide public right-of-way to be offered for dedication.
  - (2.) The originally proposed building sites shall be reconfigured so that each, excluding the area of the public right-of-way dedicated in fee, is at least 5,000 sq. ft. in area.
  - (3.) Tentative Parcel Map TPM-3-03 Conditions of Approval D.(1.), E., H.(1.), H.(6.), P. and Q. regarding private streets shall be disregarded, the reference to "any new private street" in Condition H. shall be revised to refer to "the new public street," the references to "public utility easement" in Conditions H.(5.) and R. shall be revised to refer to "public right-of-way," and the reference to "new private street" in Condition V. shall be revised to refer to "new public street."
- F. The grading plans approved by the Planning Commission (per Tentative Parcel Map TPM-3-03 Condition of Approval J) shall be revised to reflect the 40 ft. wide public right-of-way approved by the City Council.
- G. Tentative Parcel Map TPM3-03 Condition of Approval W shall be superseded by the following requirement that all buildings within 50 feet of the southern and eastern property lines of the project site shall be provided with the following:
  - (1.) The underside of all balconies and stairs facing the southern or eastern property lines shall be protected by fire sprinklers.
  - (2.) All windows facing the southern or eastern property lines shall be dual glazed.
  - (3.) All operable windows facing the southern or eastern property lines and greater than five feet in any dimension shall be provided with exposure protection.
  - (4.) All eaves facing the southern or eastern property lines greater than three feet in depth shall be protected with fire sprinklers. Eaves sprinklers, if properly positioned, may also provide for window exposure protection, as required by Item (3.), above.

**Tentative Parcel Map TPM-3-03 Conditions of Approval**  
**Planning Commission Resolution TPM-3-03/UP-13-03**

- A. Approval of the Tentative Parcel Map shall be contingent upon approval of Use Permit Application UP-13-03 by the City Council. The Tentative Parcel Map shall be subject to any and all conditions imposed upon the Use Permit, assuming the Use Permit is approved, in which case approval of the Final Parcel Map shall be concurrent with the City's formal acceptance of Brisbane Acres Lot 49 Unrecorded as dedicated open space. If the Use Permit application is denied, this approval of the Tentative Parcel Map shall be void.
- B. The approval of this tentative map shall be subject to the following standard conditions per Brisbane Municipal Code Section 16.16.180:
- (1.) The City reserves the right to require the subdivider to provide easements for public utilities as needed.
  - (2.) Prior to recordation of the Final Parcel Map, an improvement plan for public improvements prepared by a registered civil engineer shall be submitted to the City. The improvements shall be required when a Building or Grading Permit is issued for any of the lots per BMC Section 16.04.070 or as approved by agreement between the subdivider and the City per BMC Sections 16.04.070 & 16.16180.D. This requirement shall be noted on the Final Parcel Map per Brisbane Municipal Code Section 16.04.060.
  - (3.) Prior to recordation of the final map, the subdivider shall submit to the City for approval a schedule of development.
  - (4.) The City reserves the right to require full replacement of existing curb, gutter and sidewalk improvements along the frontage of the subdivision.
- These conditions may be modified by the City Engineer in conformance with the Brisbane Municipal Code. The standard conditions established by Brisbane Municipal Code Section 16.16.180 E, F & I are waived. The standard conditions established by Brisbane Municipal Code Section 16.16.180.G & H shall be modified per Condition of Approval Y.
- C. Prior to approval of a Final Parcel Map, the applicant shall enter into a Development Agreement approved by the City Council regarding improvements to the intersection of Humboldt and Annis Roads. In the event that the Municipal Code is not amended to allow new private streets, the Development Agreement shall provide, instead, for improvement of Annis Road to City standards as required by the Municipal Code in effect at the time.
- D. Prior to approval of a Final Parcel Map, compliance with the Brisbane Municipal Code's requirements for new private streets in effect at that time shall be subject to confirmation by the Community Development Director and Public Works Director per BMC Section 16.16.300.
- (1.) If the Municipal Code is amended to allow new private streets, the proposed shared access easements shall be included on the Final Parcel Map. The new private street shall be subject to a recorded agreement between the property owners and the City to require maintenance of the private street by the property owners and giving the City authority to enforce such maintenance obligations and any applicable "no parking" restrictions. The agreement shall provide for the provision of guest parking per Condition of Approval H.(5.), which shall be posted by the property owner as available for 72-hour maximum use by the guests only of all residential units served by the easement. The agreement shall also prohibit the owners from changing any portion of the approved private street to a different use or from extending the private street to serve additional properties without prior consent of the City Council. Any additional approvals that may be required by the Municipal Code at that time to allow such access shall be obtained prior to or concurrent with approval of the Final Parcel Map.
  - (2.) In the event that the Municipal Code is not amended to allow new private streets, separate driveways from Annis Road shall be provided for each lot as required by the Municipal Code.

- E. Any new private street shall be located within a 30 ft. wide public utility easement to be shown on the Final Parcel Map. Encroachments into the easement shall be subject to the approval of the City Engineer.
- F. Recordation of a Parcel Map shall be required prior to issuance of any building/grading permit for Lots 1, 2 & 3.
- G. Prior to issuance of a Building/Grading Permit and 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.
- H. Prior to issuance of a Building Permit, improvement plans for any new private street allowed under Condition of Approval D.(1.) shall be submitted and approved by the City Engineer. Such plans shall provide the following:
  - (1.) A shared private accessway shall have a minimum 20 ft. paved width, with graded shoulders to the full 30 ft. width of the public utility easement as approved by the City Engineer, in compliance with all other applicable Municipal Code requirements for shared access in effect at that time.
  - (2.) Implementation of the recommendations of the drainage report prepared by the registered civil engineer.
  - (3.) Curbs and gutters, with all sheet flow from the accessway captured and 'hard piped' to City's underground collection system.
  - (4.) Compliance with the standards of the 2001 California Fire and Building Codes and Brisbane Municipal Code, including turning radius standards for the accessway and its connection to Humboldt Road, required hammerhead, 15% maximum grade and a 9.1% angle of departure.
  - (5.) A 24 ft. by 8 ft. guest parking bay between driveways to Lots 1 and 2 within the public utility easement, with permeable pavement as approved by the City Engineer.
  - (6.) A decorative pavement treatment, as approved by the City Engineer and Community Development Director, for the first 15 ft. of the private accessway, with planting of a tree along the street frontage, of species, size and location subject to the approval of the City Engineer and Community Development Director.
- I. Prior to issuance of a Building Permit, the plans shall include water and sanitary sewer service and storm drainage details as required by the City Engineer. A minimum 5 ft. separation shall be provided between water and sanitary sewer services to the satisfaction of the City Engineer. All site drainage collected from roof leaders must be collected and brought to the street or to the City's storm drain system in a piped, underground system to the satisfaction of the City Engineer. All hard-piped laterals to catch basin inlets/manholes shall have a minimum 12" nominal diameter and storm drain mains in any public utility easement shall be a minimum 15" nominal diameter.
- J. Approval of the Tentative Parcel Map shall constitute Planning Commission approval of the proposed grading per BMC Section 15.01.081. Prior to issuance of a Grading Permit, an engineering geology report shall be submitted per BMC Section 15.01.096 to the satisfaction of the City Engineer. The Building Permit plans shall be approved by the geological engineer consistent with the approved engineering geology report and shall be subject to the recommendations of the approved report. Prior to construction of the building foundations, the



geological engineer shall submit a Final Grading Observation Report to the City summarizing conformance of the grading operations to the soils report.

- K. Prior to issuance of a Grading Permit, the applicant shall submit completed National Pollution Discharge Elimination System Permit Impervious Surface Data Collection Worksheet and Operation & Maintenance Information for Stormwater Treatment Measures forms.
- L. The plans approved per the Grading Permit shall provide for the preservation of the two pines at the northwest corner of the property and the eucalyptus at the southwest corner of the property (see Condition X). A condition of any Grading or Building Permit shall require that any trees removed shall be replaced with California Buckeye, Coast Live Oak and California Bay trees, minimum 15-gallon size, at a 1:1 ratio. No trees shall be removed between February 15 and August 1 unless it has been determined by a biological survey that the trees are not inhabited by nesting raptors. The replacement trees shall be subject to a standard landscape maintenance agreement with the City to the satisfaction of the City Attorney (see Condition T).
- M. All grading shall comply with the provisions of Brisbane Municipal Code Chapter 15.01, National Pollution Discharge Elimination System Program best management practices, and Bay Area Air Quality Management District's standard dust control measures. Interim and final erosion and sediment control plans shall be prepared, approved and implemented per BMC Sections 15.01.093-094, natural vegetative ground cover shall be maintained per BMC Section 15.01.260, and best management practices for storm water discharge shall be employed per BMC Section 13.04.620(c). The erosion control groundcover seeding mix shall be subject to approval by the San Bruno Mountain Area Habitat Conservation Plan Operator to assure compatibility with the HCP. Straw mulch or erosion control blankets may be specifically required to control erosion and straw wattles to control sediment.
- N. 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).
- O. Subject to approval of Use Permit Application UP-13-03 and prior to issuance of the initial Building Permit for each lot, a Design Permit for the proposed building shall be approved by the Planning Commission per Brisbane Municipal Code Section 17.12.050.C. The purposes of the Design Permit are: (1.) to minimize the visual impact of the proposed development upon public views of the San Bruno Mountain State and County Park from City parklands or from extended lengths of City arterial or collector streets, and (2.) to assure the compatibility of the proposed development with adjacent and nearby development.
- P. If the new private street is approved by the City Council, front setbacks shall be measured from the private street/public utility easement boundary; rear setbacks shall be measured from the Annis Road property boundary; side setbacks shall be measured from all other property lines.
- Q. Any retaining walls for the new private street exceeding 6 ft. in exposed height shall be designed to minimize their visual impact to the satisfaction of the Community Development Director by treating the surface of the wall with coloring, texture, architectural features, trelliswork, landscape screening or other means to visually divide the retaining wall into horizontal sections of no more than 6 ft.
- R. All garages shall be designed to accommodate 2 standard-size parking spaces and shall include an automatic sectional roll-up garage door with manual release mechanism. The private driveway for each lot shall be at least 16 ft. long and 16 ft. wide. Portions of the private driveways may encroach into the public utility easement, only if and as approved by the City Engineer.

- S. Prior to the issuance of a Building Permit for each lot, detailed landscaping and water-conserving irrigation plans shall be submitted for approval by the Planning Director. The landscaping plans shall include drought-resistant, non-highly-flammable, non-invasive or native species, and shall specify the removal of any existing invasive, non-native plant species. Foundation plantings shall be provided to effectively screen the structures, so that they blend with the natural landscape. The landscaping plans shall provide for a fire buffer per Condition X and for replacement of any existing trees to be removed per Condition L.
- T. Prior to issuance of a Building Permit for each lot, the property owner shall enter into a standard landscape maintenance agreement with the City to the satisfaction of the City Attorney, amended to require that the lots be maintained free of invasive non-native plants (see Condition L) and that the fire buffer be maintained on Lot 3 (see Condition X).
- U. Prior to issuance of building permits, a fire sprinkler engineer shall confirm that the water pressure and quantity will be sufficient to meet NFPA 13-D standards for single-family homes to the satisfaction of the Fire Department.
- V. Subject to approval of the new private street, prior to the issuance of building permits and to the satisfaction of the Fire Department, the plans shall include:
  - (1.) Extension of the water main and installation of an approved fire hydrant as required by BMC Section 15.44.150;
  - (2.) Street address numbers per BMC Section 15.44.095 installed at the Humboldt Road entrance to the new private street and on the structures.
- W. All buildings within 50 feet of the southern property line of Lot 3 shall be provided with the following:
  - (1.) The underside of all balconies and stairs facing the southern property line shall be protected by fire sprinklers.
  - (2.) All windows facing the southern property line shall be dual glazed.
  - (3.) All operable windows facing the southern property line and greater than five feet in any dimension shall be provided with exposure protection.
  - (4.) All eaves facing the southern property line greater than three feet in depth shall be protected with fire sprinklers. Eaves sprinklers, if properly positioned, may also provide for window exposure protection, as required by Item (3.), above.
- X. Landscaping within 30 ft. of the southern property line of Lot 3 shall be fire-resistive as approved by the Fire Chief and Community Development Director. The portion located adjacent to any building shall be irrigated for a width of at least 15 ft., except where any building is less than 15 ft. from the property line, in which case it shall be irrigated to the property line. The existing eucalyptus tree at the southwest corner of the lot may remain within the 30 ft. buffer, but the irrigated, fire-resistive landscaping along the building shall then continue around the tree's dripline to the lot's northwestern border.
- Y. Prior to issuance of a Building Permit for each lot, if the building permit is issued within 4 years of approval of the tentative parcel map, an in-lieu fee of \$6,657 for park and recreational purposes shall be paid per dwelling. This fee shall be waived if a public access easement for a public trail corridor long the eastern side of the existing property to be subdivided, not less than 1,437.5 sq. ft. in total area, has been offered by the applicant prior to recordation of the Final Parcel Map and has been accepted by the City Council.

- Z. The plans issued for Building Permits shall specify low-level exterior lighting directed away from adjacent properties and exclusion of highly-reflective glass and other exterior building materials.
- AA. All utilities shall be underground.
- BB. Prior to the issuance of a Building Permit and subject to the approval of the City Attorney, the property owner shall execute an agreement including a covenant running with the land and enforceable by the City whereby the owner waives the right to protest the inclusion of the property within an underground utility district.
- CC. Details for the screening of any public utility meters shall be included on the plans approved with the building permit to the satisfaction of the Planning Director.
- DD. Details for designated storage space for trash and recycling bins for each house shall be included on the plans approved with the building permit to the satisfaction of the Planning Director.
- EE. Prior to final Building Permit inspection for the first house to be completed, a report on the relative success of the mitigation measures shall be forwarded to the Planning Commission for its information.
- FF. At time of final inspection for each house, the San Mateo County Parks and Recreation Division (Ms. Dale Ball) shall be notified of the issuance of the Certificate of Occupancy in order to begin the annual assessment of San Bruno Mountain Area Habitat Conservation Plan fees. Upon occupancy, the owner of each lot shall pay an annual assessment of \$20.00 (1982 dollars), adjusted for inflation each year, to the San Bruno Mountain Conservation Fund per HCP Chapter V-B.
- GG. The property owner shall abide by the provisions of the Revised Operating Program for HCP Management Units 2-03-15 and 2-03-16, the Habitat Conservation Plan, Habitat Conservation Plan Agreement and Section 10(a) Permit.
- HH. The property owner shall be responsible for ongoing operation and maintenance of permanent structural stormwater controls.
- II. The required 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 Section 17.34.020.A.
- JJ. Minor modifications may be approved by the Planning Director in conformance with all requirements of the Municipal Code.
- KK. The Tentative Parcel Map shall expire two years (24 months) from its effective date (at the end of the 10 day appeal period), if a Final Parcel Map has not been filed with the City. Time extensions of the Tentative Parcel Map may be granted per BMC Section 16.16.270.

### **Design Permit DP-4-06 Conditions of Approval**

- A. The plans submitted for Building Permit issuance shall comply with the 25% lot coverage limit and 0.72 floor area ratio. Included in the lot coverage and floor area ratio calculations is any finished surface with at least 7 ft. of clearance located under a deck, landing or stairway that is supported at two opposing ends (as opposed to being supported on one side or two contiguous sides).
- B. Parking decks may be located anywhere within the front setback (excluding within 5 ft. of the side property line), but no other elevated decks are permitted within 5 ft. of the front or side property line. Stairs on grade, sidewalks and other flatwork constructed of noncombustible materials may be located anywhere within the front or side setback.
- C. The plans submitted for Building Permit issuance shall specify the treatment of any retaining walls exceeding 6 ft. in height within the required setbacks so as to comply with Brisbane Municipal Code Section 17.32.050.B.1.
- D. No portion of the parking pad (excluding the driveway) for 6 Humboldt Court shall encroach into the public right-of-way without approval of the Public Works Department.
- E. A means of clearly delineating the private driveway from the public street at the end of the Humboldt Court hammerhead shall be indicated on the Building Permit plans for 6 Humboldt Court to the satisfaction of the Public Works Department.
- F. Consistent with Tentative Parcel Map TPM-3-03 Conditions of Approval S and X, prior to the issuance of Building Permits, detailed landscaping and water-conserving irrigation plans shall be submitted for approval by the Community Development Director. The landscaping plans shall include drought-resistant, non-highly-flammable, non-invasive or native species, and shall specify the removal of any existing invasive, non-native plant species. Foundation plantings shall be provided to help screen the structure along the northwest side. Landscaping within 30 ft. of the southern property line of Parcel "B" (6 Humboldt Court) shall be fire-resistive as approved by the Fire Chief and Community Development Director. Landscaping within 30 ft. of the southern property line of Parcel "B" (6 Humboldt Court) and within 15 ft. of any building on either site shall be irrigated. No trees shall be planted within the public trail easement across the rear of the parcels.
- G. Prior to issuance of Building Permits, the property owners shall enter into standard landscape maintenance agreements with the City amended to the satisfaction of the City Attorney to require maintenance of the required replacement trees for those previously removed and continued removal of any invasive non-native plants.
- H. Consistent with Use Permit UP-13-03 Condition of Approval G, any building within 50 feet of the southern and eastern property lines of Parcel "B" (6 Humboldt Court) and within 50 feet of the eastern property line of Parcel "C" (8 Humboldt Court) shall be provided with the following:
  - (1.) The underside of all balconies and stairs facing the southern or eastern property lines shall be protected by fire sprinklers.
  - (2.) All windows facing the southern or eastern property lines shall be dual glazed.
  - (3.) All operable windows facing the southern or eastern property lines and greater than five feet in any dimension shall be provided with exposure protection.
  - (4.) All eaves facing the southern or eastern property lines greater than three feet in depth shall be protected with fire sprinklers. Eaves sprinklers, if properly positioned, may also provide for window exposure protection, as required by Item (3.), above.
- I. The plans submitted for Building Permit approval shall specify low-level exterior lighting directed away from adjacent properties and not upward into the night sky (also see Tentative Parcel Map TPM-3-03 Condition of Approval Z).

- J. Prior to the issuance of a Building Permit and subject to the approval of the City Attorney, the property owners shall execute agreements including a covenant running with the land and enforceable by the City whereby the owner waives the right to protest the inclusion of the property within an underground utility district.
- K. Details for the screening of any public utility meters shall be included on the plans approved with the building permit to the satisfaction of the Community Development Director.
- L. Details for screened storage space for trash and recycling bins for each house shall be included on the plans approved with the building permit to the satisfaction of the Community Development Director.
- M. Prior to issuance of a Building/Grading Permit and as required by the Plan Operator (San Mateo County), the property owners shall become signatories 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 the 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. Prior to issuance of Certificates of Occupancy, the Agreements and Declarations shall be recorded by the County of San Mateo. Refer to Tentative Parcel Map TPM-3-03 Conditions of Approval FF & GG for additional HCP requirements.
- N. Per the HCP Operating Program for Management Unit 2-03-15, payment of the annual assessment for the San Bruno Mountain Conservation fund shall begin upon issuance of a Certificate of Occupancy for each house.
- O. Grading shall not exceed 250 cu. yds. per site without Planning Commission review prior to issuance of a Grading Permits. All grading shall comply with the provisions of Brisbane Municipal Code Chapter 15.01, National Pollution Discharge Elimination System Program best management practices, and Bay Area Air Quality Management District's standard dust control measures (see Variance V-2-06 Condition of Approval E and Tentative Parcel Map TPM-3-03 Condition of Approval M).
- P. All garages shall have an automatic sectional roll-up garage door with manual release mechanism.
- Q. Prior to issuance of Certificates of Occupancy, a report on the relative success of the mitigation measures shall be forwarded to the Planning Commission for its information.
- R. The required 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 Section 17.34.020.A.
- S. The conditions of approval of Use Permit UP-13-03, Tentative Parcel Map TPM-3-03 (as modified by Use Permit UP-13-03) and Variance V-2-06 shall continue to apply.
- T. Minor modifications may be approved by the Planning Director in conformance with all requirements of the Municipal Code.
- U. Each Design Permit shall expire two years from its effective date (at the end of the appeal period) if a Building Permit has not yet been issued for its respective approved project.

