City of Brisbane
Memo

To: Honorable Mayor and City Council

From: Ingrid Padilla, City Clerk IP

Subject: Ordinance No. 622- An Ordinance of the City Of Brisbane Amending Various Sections Of Title 17, Zoning, Of The Brisbane Municipal Code To Implement Housing Element Program H.B.1.G, Clarify Office Use Definitions, and Streamline Rooftop Solar Energy System Permitting

Date: City Council Meeting of November 16, 2017

The Ordinance listed above was introduced at the City Council Meeting of November 2, 2017. No changes were made at the time.

It is on this agenda for consideration of adoption.

City of Brisbane
Agenda Report

TO: Honorable Mayor and City Council

FROM: Community Development Director via City Manager

SUBJECT: Proposed Ordinance No. 622 (Zoning Text Amendment RZ-2-17) - Municipal Code amendments to Title 17, Chapters 17.02, 17.19, and 17.32- definitions and solar streamlining

DATE: November 2, 2017

SUPPLEMENTAL REPORT

The Council's review of the draft Ordinance 622 was originally agendized for the October 12, 2017 Council meeting, at which time it was rescheduled for tonight's meeting due to time constraints. The October 12, 2017 agenda report is attached for the Council's reference.

Also attached is an amended exhibit showing the Ordinance in redline text, which replaces the redline text attachment of the October 12, 2017 agenda report.

Attachments:

1. Revised redline text for draft Ordinance 622
2. City Council agenda report of October 12, 2017

John Swiecki, Community Development Director

Clay Holstine, City Manager

Ord. 622 (RZ-2-17) Proposed Amendments: Redline Text

Black text = existing Municipal Code text
Red underline text = Proposed new Municipal Code text
~~Red strikeout~~ = Proposed deleted Municipal Code text

Chapter 17.02- Definitions

17.02.400 - Height.

A. Structures. As applied to structures, height means the vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped or vaulted roof. The reference datum shall be the lowest point of elevation of the finished grade between the building and the property line when the property line is five (5) feet or less from the building. When the property line is more than five (5) feet from the building, the reference datum shall be the lowest point of elevation of the finished grade between the building and a line five (5) feet from the building. When the finished grade results from fill, the reference datum shall be the lowest point of elevation of the natural grade prior to the placement of the fill. In the case of a stepped or terraced building, each segment of the building shall be separately measured and the height of the building shall be the maximum height of the highest segment.

1. The height of rooftop solar energy systems shall be measured from the midpoint of the solar panel to the reference datum, as described in BMC Section 17.02.400.A.

B. Signs. As applied to signs, height means the vertical distance measured from the lowest finished grade directly beneath the sign to the highest point at the top of the sign.

C. Fences and Walls. As applied to fences and walls, height means that side having the greatest distance as measured by a vertical line from the highest point of the fence or wall to a point directly below at finish grade. Where a fence is constructed upon or approximately parallel to and less than two (2) feet from a retaining wall, the fence shall be considered as part of the wall in measuring its height, which shall be the combined vertical distance of both the fence and the retaining wall.

17.02.723 – Single-Room Occupancy Unit.

Refer to "Multiple-Family Dwelling." Section 17.02.235.C.

Chapter 17.16 – SCRO-1 Southwest Bayshore Commercial District

17.16.030 - Conditional uses.

A. Allowable Conditional Uses. The following conditional uses, not otherwise permitted per Section 17.16.020(A), may be allowed in the Southwest Bayshore district, upon the granting of a use permit pursuant to Chapter 17.40 of this title and if conducted in accordance with the performance standards set forth in Section 17.16.050 of this chapter:

1. Commercial recreation/commercial gym and health facilities;
2. Contractor's yards;
3. Convalescent homes;
4. Cultural facilities;
5. Duplex dwelling units;
6. Educational facilities;
7. Emergency shelters with more than twelve (12) beds;
8. Financial institutions;
9. Food production;
10. Group care homes;
11. Hotels;
12. Large family day care homes;
13. Light fabrication;
14. Live/work developments;
15. Media studios;
16. Medical facilities;
17. Meeting halls;
18. Mobilehome parks in compliance with Section 17.32.110;
19. Motels;
20. Multiple-family dwellings and dwelling groups;
21. Offices;
22. Outdoor sales and rental;
23. Personal services;
24. Places of worship;
25. Printing;
26. Product showrooms;
27. Research and development, where the planning director determines, as a result of a risk analysis performed in accordance with Policy No. 166.1 of the general plan, that the use of hazardous materials will not constitute a major component of the research and development activities to be conducted on the site. Research and development involving cannabis is additionally subject to the requirements in Chapter 17.33;
28. Restaurants;
29. Retail sales and rental;
30. Single-family dwellings;
31. Storage;
32. Veterinary clinics;
33. Warehousing;
34. Single-room occupancy units.

Chapter 17.19 - TC-1 Crocker Park Trade Commercial District

17.19.020 - Permitted uses.

The following uses are permitted uses in the Crocker Park district, if conducted in accordance with the performance standards set forth in Section 17.19.050 of this chapter:

A. Commercial gyms and health facilities;
B. Food production;
C. Light fabrication;
D. Media studios;
E. Offices;
F. Personal services;
G. Printing;
~~H. Professional services;~~
H.~~I.~~ Research and development, unless the use is classified as a conditional use pursuant to Section 17.19.030(J);
I.~~J.~~ Restaurants;
J. ~~K.~~ Retail sales and rental;
K. ~~L.~~ Warehousing (excluding freight forwarders).

Chapter 17.32 – General Use Regulations

17.32.060 - Exceptions—Height limit.

A. Chimneys which do not exceed three (3) feet in width or depth may exceed the height limit by no more than five (5) feet except as required to comply with the California Building Code.

B. Where cupolas, flag poles, monuments, radio and other towers, water tanks, church steeples, mechanical appurtenances and similar structures are permitted in a district, height limits therefore may be exceeded upon the securing of a use permit. Wireless telecommunications facilities shall be subject to the height exception procedures set forth in Section 17.32.035.

C. Rooftop solar energy systems may exceed the maximum building height limit of the applicable zoning district in accordance with the following procedures:

1. Rooftop solar energy systems, including those for water heating as well as photovoltaic purposes, that do not extend more than twenty-four (24) inches above the roofline of the structure on which they are mounted measured from the exterior roofing material to the highest point of the panel, ~~to be installed atop existing buildings~~ are exempt from maximum building height limits in all zoning districts.

2. Rooftop solar energy systems that extend more than twenty-four (24) inches above the roofline of the structure on which they are mounted, measured from the exterior roofing material to the highest point of the panel, may exceed the height limit through approval of an administrative permit by the zoning administrator. If the zoning administrator determines that the granting of the permit would not result in a specific adverse impact upon the public health and safety, the zoning administrator shall give written notice of the intended approval to property owners and occupants on both sides of, to the rear of and directly across the street from the site on which the system is proposed to be located. The notice shall generally describe the nature, design and location of the proposed system and advise the recipients that they may submit written comments on the intended decision by a certain date, which shall be not less than ~~ten (10)~~ twenty-one (21) days from the date of mailing the notice. The notice shall also advise the recipients that they have the right to appeal a decision of the zoning administrator to the planning commission. The zoning administrator shall send a copy of the final decision on the application to each person who has submitted written comments within the time prescribed in the notice.

D. Exceptions to the height limit to accommodate accessibility improvements (such as elevators and wheelchair van garage spaces) may be allowed upon the granting of an accessibility improvement permit by the zoning administrator, following the conduct of a hearing with ten (10) days notice thereof being given to property owners and occupants on both sides of, to the rear of and directly across the street from the site. The zoning administrator may issue the accessibility improvement permit if he or she finds and determines that:

1. The exception is necessary to meet special needs for accessibility of a person having a disability which impairs his or her ability to access the property.

2. Visual impacts of the accessibility improvements exceeding the height limit will be minimized.

3. The accessibility improvements will not create any significant adverse impacts upon adjacent properties in terms of loss of privacy, noise or glare.

4. The accessibility improvements will be constructed in a sound and workmanlike manner, in compliance with all applicable provisions of the building and fire codes.

City of Brisbane
Agenda Report

TO: Honorable Mayor and City Council

FROM: Community Development Director via City Manager

SUBJECT: Proposed Ordinance No. 622 (Zoning Text Amendment RZ-2-17) - Municipal Code amendments to Title 17, Chapters 17.02, 17.19, and 17.32- definitions and solar streamlining

DATE: October 12, 2017

City Council Goals:

To provide for effective and efficient delivery of City services. (Goal #1)

Purpose:

To update various sections within Title 17, Zoning, of the Brisbane Municipal Code (BMC) to implement Housing Element Program H.B.1.g regarding single-room occupancy units, clarify existing office use definitions, and streamline rooftop solar energy system installations by exempting flush-mounted rooftop solar energy systems from building height limitations.

Recommendation:

That the City Council introduce Ordinance No. 622.

Background:

Earlier this year, the Planning Commission considered several "clean-up" zoning text amendments (Zoning Text Amendment case RZ-2-17) to implement Housing Element program H.B.1.g, eliminate internal inconsistencies in the Zoning Ordinance regarding office use definitions, and follow-up implementation related to previously adopted solar system permit streamlining policies. Following a public hearing on May 11, 2017, the Planning Commission voted unanimously to recommend approval of these zoning text amendments to the City Council.

The proposed zoning text amendments are summarized in the Discussion section below and discussed in detail in the May 11, 2017 Planning Commission agenda report, attached for the Council's reference. The minutes of the May 11, 2017 Planning Commission meeting and Planning Commission Resolution RZ-2-17 are also attached.

Discussion:

The draft Ordinance before the Council tonight reflects the Commission-recommended zoning text amendments with a modification to Section 17.16.030 - Conditional uses in the SCRO-1 zoning district, which was updated to reflect recently approved text amendments to Section 17.16.030 regarding cannabis-related research and development regulations (Ord. 617, adopted September 7, 2017).

Title 17 Amendments

In summary, the proposed Zoning Code amendments include:

- **Housing Element Program H.B.1.g Implementation**
  Amends the SCRO-1 District to explicitly permit single-room occupancy (SRO) housing units as a conditional use as directed by the adopted Housing Element program H.B.1.g.

  Although SRO units are included in the definition of "multi-family dwellings" (BMC Section 17.02.235.C), to fully implement this program and comply with the provisions of State law it is recommended that "single-room occupancy unit" be specifically defined within BMC Chapter 17.02 and called out as a conditionally permitted use in the SCRO-1 District.

- **Chapter 17.19 – Clarify Office Use Designations in the TC-1 District**
  Eliminates "Professional Services" as a permitted use in the TC-1 District.

  Based on staff's review of prior Zoning Ordinance iterations, "Professional Services", a permitted use in the TC-1 District, is a legacy term whose definition was removed from the Zoning Ordinance without an accompanying amendment to remove it elsewhere in the Zoning Ordinance. "Professional Services" uses are encompassed within the existing definition of "Office," a permitted use in the TC-1 District (refer to the definition of "Office" in BMC Section 17.02.575).

- **Chapter 17.32 – Height Exemption for Flush-Mounted Rooftop Solar Systems**
  Exempts flush-mounted rooftop solar energy systems from building height maximums.

  Flush-mounted rooftop solar systems measuring no more than 24 inches from the roof of a structure would be exempt from building height maximums. Rooftop systems exceeding 24 inches above the structure's roof would remain subject to the maximum building height of the applicable zoning district. Such systems that exceed the building height maximum would be subject to the existing Height Exception Permit process. Exempting flush-mounted rooftop solar energy systems from the maximum building height requirements would be consistent with Statewide mandates to streamline solar permitting requirements, and the community's expressed interest in encouraging the installation of solar energy systems on both residential and commercial structures.

A key recommendation from the Planning Commission regarding the Height Exception Permit process was to increase the minimum noticing period from 10 days to 21 days to allow neighbors receiving notice of the requested height exception additional time to provide comments to the City.

Fiscal Impact:

None.

Measure of Success:

Adoption of zoning text amendments to implement adopted Housing Element programs, eliminate internal inconsistencies in the Zoning Ordinance, and streamline the processing of rooftop solar energy system permits.

Attachments:

1. Draft Ordinance No. 622
2. ~~Table of redlined text~~
3. Planning Commission Resolution RZ-2-17
4. Planning Commission agenda report and minutes from May 11, 2017 meeting

John Swiecki, Community Development Director

Clay Holstine, City Manager

DRAFT
ORDINANCE NO. 622

AN ORDINANCE OF THE CITY OF BRISBANE AMENDING VARIOUS SECTIONS OF TITLE 17, ZONING, OF THE BRISBANE MUNICIPAL CODE TO IMPLEMENT HOUSING ELEMENT PROGRAM H.B.1.G, CLARIFY OFFICE USE DEFINITIONS, AND STREAMLINE ROOFTOP SOLAR ENERGY SYSTEM PERMITTING

The City Council of the City of Brisbane hereby ordains as follows:

SECTION 1: Section 17.02.400 in Chapter 17.02 – Definitions of the Municipal Code is amended to read as follows:

17.02.400 - Height.

A. Structures. As applied to structures, height means the vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped or vaulted roof. The reference datum shall be the lowest point of elevation of the finished grade between the building and the property line when the property line is five (5) feet or less from the building. When the property line is more than five (5) feet from the building, the reference datum shall be the lowest point of elevation of the finished grade between the building and a line five (5) feet from the building. When the finished grade results from fill, the reference datum shall be the lowest point of elevation of the natural grade prior to the placement of the fill. In the case of a stepped or terraced building, each segment of the building shall be separately measured and the height of the building shall be the maximum height of the highest segment.

1. Rooftop solar energy systems shall be measured from the midpoint of the solar panel to the grade reference datum, as described in BMC Section 17.02.400.A.

B. Signs. As applied to signs, height means the vertical distance measured from the lowest finished grade directly beneath the sign to the highest point at the top of the sign.

C. Fences and Walls. As applied to fences and walls, height means that side having the greatest distance as measured by a vertical line from the highest point of the fence or wall to a point directly below at finish grade. Where a fence is constructed upon or approximately parallel to and less than two (2) feet from a retaining wall, the fence shall be considered as part of the wall in measuring its height, which shall be the combined vertical distance of both the fence and the retaining wall.

SECTION 2: A new Section 17.02.723 is added to Chapter 17.02 – Definitions of the Municipal Code to read as follows:

17.02.723 – Single-Room Occupancy Unit.

Refer to "Multiple-Family Dwelling," Section 17.02.235.C.

SECTION 3: Section 17.16.030 in Chapter 17.16 – Scro-1 Southwest Bayshore Commercial District of the Municipal Code is amended to read as follows:

17.16.030 - Conditional uses.

A. Allowable Conditional Uses. The following conditional uses, not otherwise permitted per Section 17.16.020(A), may be allowed in the Southwest Bayshore district, upon the granting of a use permit pursuant to Chapter 17.40 of this title and if conducted in accordance with the performance standards set forth in Section 17.16.050 of this chapter:

1. Commercial recreation/commercial gym and health facilities;
2. Contractor's yards;
3. Convalescent homes;
4. Cultural facilities;
5. Duplex dwelling units;
6. Educational facilities;
7. Emergency shelters with more than twelve (12) beds;
8. Financial institutions;
9. Food production;
10. Group care homes;
11. Hotels;
12. Large family day care homes;
13. Light fabrication;
14. Live/work developments;
15. Media studios;
16. Medical facilities;
17. Meeting halls;
18. Mobilehome parks in compliance with Section 17.32.110;
19. Motels;
20. Multiple-family dwellings and dwelling groups;
21. Offices;
22. Outdoor sales and rental;
23. Personal services;
24. Places of worship;
25. Printing;
26. Product showrooms;
27. Research and development, where the planning director determines, as a result of a risk analysis performed in accordance with Policy No. 166.1 of the general plan, that the use of hazardous materials will not constitute a major component of the research and development activities to be conducted on the site. Research and development involving cannabis is additionally subject to the requirements in Chapter 17.33;
28. Restaurants;
29. Retail sales and rental;
30. Single-family dwellings;
31. Storage;
32. Veterinary clinics;
33. Warehousing;
34. Single-room occupancy units.

B. Mixed Uses. A combination of any residential and nonresidential uses listed in subsection A of this section, or in Section 17.16.020, may be allowed as a mixed use within the same structure or upon the same site when specifically authorized by the use permit granted for each individual conditional use

Attachment 1

and upon such additional conditions as the approving authority may deem necessary or appropriate to insure the compatibility of such mixed uses.

C. Night Operations. Night operations associated with the conduct of any uses listed in subsection A of this section (except residential uses) shall require a use permit when subject to the provisions of Section 17.16.070 of this chapter.

SECTION 4: Section 17.19.020 in Chapter 17.19 – TC-1 Crocker Park Trade Commercial District of the Municipal Code is amended to read as follows:

17.19.020 - Permitted uses.

The following uses are permitted uses in the Crocker Park district, if conducted in accordance with the performance standards set forth in Section 17.19.050 of this chapter:

A. Commercial gyms and health facilities;
B. Food production;
C. Light fabrication;
D. Media studios;
E. Offices;
F. Personal services;
G. Printing;
H. Research and development, unless the use is classified as a conditional use pursuant to Section 17.19.030(J);
I. Restaurants;
J. Retail sales and rental;
K. Warehousing (excluding freight forwarders).

SECTION 5: Section 17.32.060 in Chapter 17.32 – General Use Regulations of the Municipal Code is amended to read as follows:

17.32.060 - Exceptions—Height limit.

A. Chimneys which do not exceed three (3) feet in width or depth may exceed the height limit by no more than five (5) feet except as required to comply with the California Building Code.

B. Where cupolas, flag poles, monuments, radio and other towers, water tanks, church steeples, mechanical appurtenances and similar structures are permitted in a district, height limits therefore may be exceeded upon the securing of a use permit. Wireless telecommunications facilities shall be subject to the height exception procedures set forth in Section 17.32.035.

C. Rooftop solar energy systems may exceed the maximum building height limit of the applicable zoning district in accordance with the following procedures:

1. Rooftop solar energy systems, including those for water heating as well as photovoltaic purposes, that do not extend more than twenty-four (24) inches above the roofline of the structure on which they are mounted, measured from the exterior roofing material to the highest point of the panel, are exempt from maximum building height limits in all zoning districts.

2. Rooftop solar energy systems that extend more than twenty-four (24) inches above the roofline of the structure on which they are mounted, measured from the exterior roofing material to the

highest point of the panel, may exceed the height limit through approval of an administrative permit by the zoning administrator. If the zoning administrator determines that the granting of the permit would not result in a specific adverse impact upon the public health and safety, the zoning administrator shall give written notice of the intended approval to property owners and occupants on both sides of, to the rear of and directly across the street from the site on which the system is proposed to be located. The notice shall generally describe the nature, design and location of the proposed system and advise the recipients that they may submit written comments on the intended decision by a certain date, which shall be not less than twenty-one (21) days from the date of mailing the notice. The notice shall also advise the recipients that they have the right to appeal a decision of the zoning administrator to the planning commission. The zoning administrator shall send a copy of the final decision on the application to each person who has submitted written comments within the time prescribed in the notice.

D. Exceptions to the height limit to accommodate accessibility improvements (such as elevators and wheelchair van garage spaces) may be allowed upon the granting of an accessibility improvement permit by the zoning administrator, following the conduct of a hearing with ten (10) days notice thereof being given to property owners and occupants on both sides of, to the rear of and directly across the street from the site. The zoning administrator may issue the accessibility improvement permit if he or she finds and determines that:

1. The exception is necessary to meet special needs for accessibility of a person having a disability which impairs his or her ability to access the property.

2. Visual impacts of the accessibility improvements exceeding the height limit will be minimized.

3. The accessibility improvements will not create any significant adverse impacts upon adjacent properties in terms of loss of privacy, noise or glare.

4. The accessibility improvements will be constructed in a sound and workmanlike manner, in compliance with all applicable provisions of the building and fire codes.

SECTION 6: Where a use permit, design permit or variance approval has been issued through final action by the City prior to the effective date of this Ordinance, or where such planning permit approval is not required and a complete building permit application has been submitted prior to the effective date of this Ordinance, the holder of such use permit, design permit or variance approval or complete building permit application may proceed to construct the improvements or establish the use authorized by such permit or approval and the same shall be exempted from any conflicting regulations that may be contained in this Ordinance.

SECTION 7: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

SECTION 8: This Ordinance shall be in full force and effect thirty days after its passage and adoption.

* * *

Attachment 1

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the _____ day of _____, 2017, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Mayor Lori Liu

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

Michael Roush

_____
City Attorney

RESOLUTION NO. RZ-2-17

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BRISBANE
RECOMMENDING APPROVAL OF ZONING TEXT AMENDMENT RZ-2-17
TO THE CITY COUNCIL
AMENDING VARIOUS SECTIONS OF TITLE 17, ZONING, OF THE BRISBANE MUNICIPAL CODE
TO IMPLEMENT HOUSING ELEMENT PROGRAM H.B.1.G, CLARIFY OFFICE USES DEFINITIONS, AND
STREAMLINE ROOFTOP SOLAR ENERGY SYSTEM PERMITTING

WHEREAS, the City Council adopted the 2015-2022 Housing Element on April 2, 2015, which contained Program H.B.1.G, committing the City to adopting zoning regulations to allow single-room occupancy units as a conditionally permitted use in the Southwest Bayshore Commercial (SCRO-1) District no later than December 1, 2017; and

WHEREAS, the term "Professional Services" is listed as a permitted use in the Crocker Park Commercial (TC-1) District, without being defined elsewhere in the Zoning Ordinance, when the uses encompassed by that term are included in the definition of "Office" uses, which is listed as a permitted use in the TC-1 District and is defined in BMC Section 17.02.575; and

WHEREAS, the City Council adopted Ordinance 596 in July 2015 containing a solar permit streamlining policy for small residential rooftop solar energy systems that limited the pool of eligible systems to be streamlined based on compliance with the building height limit, leaving many residential properties ineligible for streamlining and subject to permit processing delays and additional fees; and

WHEREAS, on May 11th, 2017, the Planning Commission held a public hearing on the draft Ordinance containing all above-referenced zoning text amendments; and

WHEREAS, the minutes of the Planning Commission meeting of May 11th, 2017 are attached and incorporated by reference as part of this resolution; and

WHEREAS, the project is consistent with the City's General Plan and per State CEQA Guidelines Section 15183(a)--this proposal falls within a class of projects which are consistent with existing zoning or general plan policies for which an EIR was certified and shall therefore not require further review; and

WHEREAS, the exception to CEQA Guidelines Section 15183(a) requiring environmental review as might be necessary to examine project specific significant effects does not apply.

NOW, THEREFORE, based upon the evidence presented, both written and oral, the Planning Commission of the City of Brisbane hereby RECOMMENDS that the City Council adopt the attached ordinance.

Attachment 3

AYES: Anderson, Cunningham, Mackin
NOES:
ABSENT: Munir

Greg Anderson 4 Oct 2017
Greg Anderson
Acting Chairperson

ATTEST:

JOHN SWIECKI, Community Development Director

City of Brisbane
Planning Commission Agenda Report

TO: Planning Commission For the Meeting of 5/11/17

FROM: Julia Capasso, Associate Planner, via John Swiecki, Community Development Director

SUBJECT: **Zoning Text Amendment RZ-2-17** for amendments to Chapters 17.02, 17.16, 17.19, and Chapter 17.32 of Title 17, Zoning, of the Brisbane Municipal Code to implement Housing Element Program H.B.1.g, clarify existing definitions related to office uses, and streamline rooftop solar energy system installations; City of Brisbane, applicant; Location: Citywide.

REQUEST: Zoning text amendments to implement Housing Element Program H.B.1.g regarding single-room occupancy units, to clarify existing definitions related to office uses for the purposes of calculating parking requirements, and to streamline rooftop solar energy system installations by exempting low-rise rooftop systems from building height limitations.

RECOMMENDATION: Adoption of Resolution RZ-2-17, recommending approval of the zoning text amendments to the City Council.

ENVIRONMENTAL DETERMINATION: The project is consistent with the General Plan per State CEQA Guidelines Section 15183(a)--this proposal falls within a class of projects which are consistent with existing zoning or general plan policies for which an EIR was certified and shall therefore not require further review. The exception to this section requiring environmental review as might be necessary to examine project specific significant effects does not apply.

APPLICABLE REGULATIONS: Zoning definitions are located in BMC Chapter 17.02. Permitted and conditionally permitted uses in the Southwest Bayshore Commercial (SCRO-1) District and Crocker Park Commercial (TC-1) District are located in BMC Chapters 17.16 and 17.19, respectively. BMC Chapter 17.32 contains general regulations applicable to a variety of structures and land uses throughout the City, including height exceptions contained in BMC Section 17.32.060.

DISCUSSION:

The zoning text amendments proposed in the draft resolution are "clean-up" measures to address Housing Element program implementation, eliminate internal inconsistencies in the Zoning Ordinance, and follow-up implementation related to previously adopted zoning text amendments. All amendments are discussed in detail below.

Housing Element Program H.B.1.g Implementation
Program H.B.1.g of the 2015-2022 Housing Element commits the City to amend the zoning ordinance to permit single-room occupancy (SRO) housing units as a conditional use in the SCRO-1 District. SRO units are a type of multi-family housing development comprised of one or

two rooms (which may include a kitchen and/or a bathroom, in addition to a bed), that are restricted to occupancy by no more than two persons. Although SRO units are included in the definition of "multi-family dwellings" (BMC Section 17.02.235.C), to fully implement this program it is recommended that "single-room occupancy unit" be defined as a new standalone term with BMC Chapter 17.02. The proposed definition would reference the definition contained within BMC Section 17.02.235.C to avoid redundancy. "Single-room occupancy units" would also be added as a conditionally permitted use in the SCRO-1 District (BMC Section 17.16.030).

Chapter 17.19 – Clarify Office Use Designations Related to "Professional Services" in the TC-1 District
The proposed amendment to Chapter 17.19, TC-1 District, would eliminate "Professional Services" as a permitted use in the District. "Professional Services" is not defined in the Zoning Ordinance. Based on staff's review of prior Zoning Ordinance iterations, it appears to be a legacy term whose definition was removed at some point in time without an accompanying amendment to remove it elsewhere in the Zoning Ordinance.

Though "Professional Services" is not defined in the Zoning Ordinance and staff has been unable to locate its original definition, a typical zoning definition would include any services provided by a professional, such as a lawyer, architect, engineer, or similar profession. This use is encompassed within the existing definition of "Office," which is a defined permitted use in the TC-1 District (refer to the definition of "Office" in BMC Section 17.02.575). Therefore, the recommended elimination of "Professional Services" would not impact the existing permitted use of office space dedicated to professional services in the TC-1 District.

Chapter 17.32 – Height Exemption for Rooftop Solar Energy Systems
The proposed zoning amendments would exempt rooftop solar energy systems extending no more than 24 inches (two feet) above the roof of the structure on which they are to be installed from building height requirements. (See Attachment C for typical elevations.) Rooftop systems exceeding 24 inches above the structure's roof would still be subject to the maximum building height of the applicable zoning district. Such systems that exceed the building height maximum would be subject to the existing Height Exception Permit process, described in detail below.

To implement this exemption, modifications are proposed to BMC Section 17.32.060.C, which contains the existing Height Exception process for rooftop solar energy systems, and to BMC Section 17.02.400, which addresses the method of measuring the height of various structures and appurtenances.

The primary purpose of exempting low-rise rooftop solar energy systems from the maximum building height requirements is to avoid unnecessary processing delays and permit fees for rooftop systems that do not extend significantly above the existing roofline of a structure, resulting in negligible aesthetic impacts, as described further in the following analysis. This is consistent with Statewide mandates to streamline solar permitting requirements, and the community's expressed interest in encouraging the installation of solar energy systems on both residential and commercial structures.

Current Streamlining Provisions: Small Residential Rooftop Systems
In 2015, the City Council adopted amendments to Title 15, Building and Construction, of the Municipal Code related to permit streamlining provisions for small residential rooftop solar energy systems. The procedure is provided in Attachment D, for reference.

Currently, if a rooftop solar energy system does not comply with the maximum building height limit, it is ineligible for permit streamlining and requires approval of a Height Exception Permit by the Zoning Administrator, per the procedure outlined in BMC Section 17.32.060. This procedure also applies to any other solar energy system installation on nonresidential structures that exceeds the building height limit of the applicable district. Considering the steep slopes that characterize many Central Brisbane lots, and the fact that many homes were either built to the current maximum height limit or are nonconforming in regards to height, many building permit applications for small residential rooftop systems are ineligible for streamlining due to noncompliance with the height limit.

Current Height Exception Procedure: Rooftop Solar on All Structures
Per the current regulations contained in BMC Section 17.32.060.C, the Zoning Administrator must approve a Height Exception Permit application for rooftop solar energy systems on any type of structure that exceed the maximum building height limit, so long as the system will not cause a specific, adverse impact upon the public health and safety. Because a building permit is required for all solar energy systems, requiring compliance with applicable structural requirements, fire, mechanical, and electrical codes, this finding can always be made. The Height Exception Permit procedure requires a planning application form and fee of $547 for residential structures. (Note: the fee is $729 for commercial structures, which are not subject to current solar permit streamlining provisions.) The Height Exception Permit processing adds about 17 days of City processing time to a building permit application for a rooftop solar energy system.

Proposed Procedure: Rooftop Solar Energy System Height Exemption
The proposed zoning text amendments would result in a streamlined procedure for building permits for rooftop solar energy systems on any type of structure. Based on typical solar permit applications processed by the Planning Department, this exemption would apply to the majority of building permit applications submitted to the City and would significantly streamline the approval process. The few applications that are submitted for residential or nonresidential rooftop solar energy systems that exceed 24 inches from the existing roofline would be subject to the existing Height Exception Permit procedure, which notifies adjacent neighbors who are most likely to be impacted by significant changes to the roofline of the structure.

The proposed text amendments would also modify the definition of "Height" currently contained in BMC 17.02.400 to clarify how the height of rooftop solar energy systems is calculated.

STAFF RECOMMENDATION

Adoption of the attached draft Resolution RZ-2-17 recommending approval of the proposed zoning text amendments to the City Council.

ATTACHMENTS:
~~A. Table of Redlined Text~~

B. Excerpt from 2015-2022 Housing Element, Chapter VI, Housing Goals, Quantifiable Objectives, Policies and Programs
C. Example elevations of a typical residential rooftop solar installation
D. Residential Rooftop Solar Energy System Permit Streamlining procedure
~~E. Draft Resolution RZ-2-17 (including the Draft Ordinance)~~

Section 17.02.235 to specifically include employee housing for six or fewer persons, consistent with Health and Safety Code Section 17021.5. Continue to treat "transitional housing," "supportive housing" and "manufactured housing and mobilehomes" no differently from other "dwellings" under the Zoning Ordinance per BMC Section 17.02.235.

Time Frame: January 2016
Responsibility: Community Development Department, Planning Commission, City Council
Funding Source: City funds

Program H.B.1.g In addition to allowing "supportive housing single-room occupancy units" by definition as "multi-family dwellings," specifically amend the zoning regulations to permit them as a conditional use in the SCRO-1 District (per AB 2634).

Time Frame: December 2018
Responsibility: Community Development Department, Planning Commission, City Council
Funding Source: City funds

Program H.B.1.h Develop an outreach program to encourage private redevelopment of existing developed sites in the new affordable housing overlays and the SCRO-1 District.

Time Frame: As the new zoning regulations are adopted (January 31, 2016 for Program H.B.1.a, May 31, 2018 for Program H.B.1.b, December 31, 2018 for Program H.B.1.i)
Responsibility: Community Development Department, Planning Commission, City Council
Funding Source: City funds

Program H.B.1.i Rezone the mobilehome park in the SCRO-1 District as the R-MHP District to designate it for mobilehome uses only.

Time Frame: December 31, 2018 (also see Programs H.B.1.c & H.E.1.c)
Responsibility: Community Development Department, Planning Commission, City Council
Funding Source: City funds

Policy H.B.2 Retain existing affordable ("at risk") housing units.

Program H.B.2.a Preserve affordable units that are at risk of being converted to market rate by:

- *Establishing an early warning/monitoring system*
- *Allocation of potential funding sources*
- *Providing for tenant education and assistance*

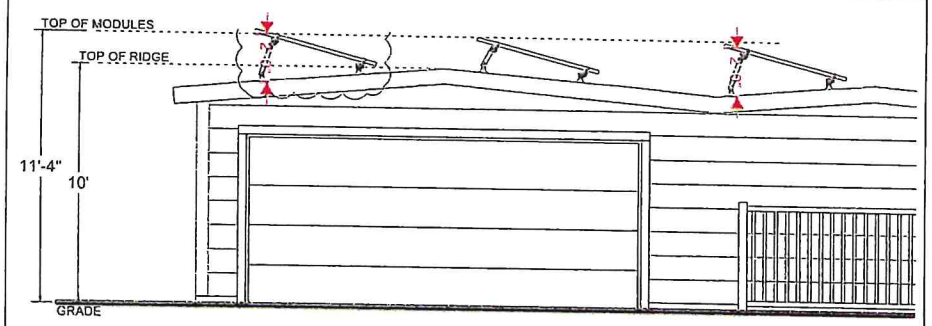
Time Frame: Ongoing
Responsibility: Community Development Department
Funding Source: City funds

Policy H.B.3 Encourage development of affordable housing specifically designed for seniors

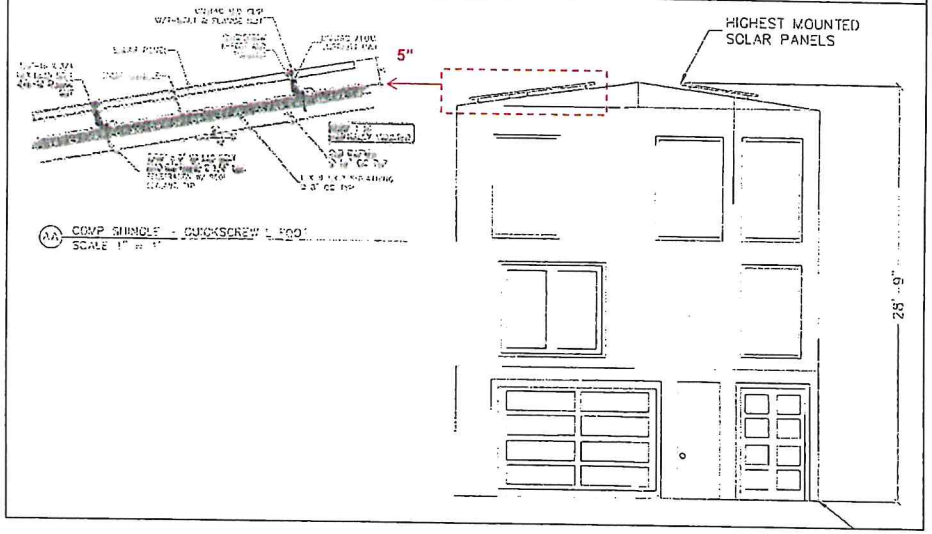
Attachment 4

Typical Elevations: Residential Rooftop Solar Energy Systems

Low-Pitch Roof



High Pitch Roof



EXCERPT: SOLAR PERMIT STREAMLINING POLICY (Ord. 596)

A. Policy Adopted

This solar permit streamlining policy is authorized by Ordinance 596, adopted by the City Council on July 16, 2015. It is subject to change as State and local laws governing solar permit processing may be amended from time to time.

B. Policy Implementation and Project Eligibility

This policy will be implemented by the City of Brisbane Community Development Department during review of permit applications for solar energy systems that are eligible for streamlining per the following criteria adopted by Ordinance 596:

1. A solar energy system that is no larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal.
2. A solar energy system that conforms to all applicable State fire, structural, electrical, and other building codes and all health and safety standards as adopted or amended by the City.
3. A solar energy system that is installed on a single or duplex family dwelling.
4. A solar panel or module array that does not exceed the maximum legal building height of the applicable zoning district, as defined in Title 17, Zoning.

An eligibility checklist (included in Appendix A) will be used by applicants and the city to determine compliance with eligibility criteria.

C. Application Review and Permit Approval

Review of eligible projects will be conducted according to the process set forth below.

1. Applications for streamlined review of eligible projects must include the following checklists and worksheets, which will be made available on the City's website:
    a. Completed eligibility checklist demonstrating compliance with the eligibility criteria.
    b. Completed standard electrical plan.
    c. A roof plan showing roof layout, PV panels and the following fire safety items: approximate location of roof access point, location of code-compliant access pathways, PV system fire classification and the locations of all required labels and markings.
    d. Completed expedited Structural Criteria along with required documentation.
    e. An architectural elevation showing the height of the solar system from finished grade consistent with the definition of "Height" contained in BMC §17.02.400.A.
2. The Community Development Department will determine application completeness within three (3) business days of submittal.
    i. If an application is found to be incomplete, the Department shall issue a written correction notice detailing all deficiencies in the application and any additional information required to be eligible for expedited permit issuance.
    ii. If the Department finds that an application does not comply with the adopted eligibility criteria in Ordinance 596 and is ineligible for streamlined review, project review will commence under standard Department procedure.

BRISBANE PLANNING COMMISSION
Action Minutes of May 11th, 2017
Regular Meeting

A. CALL TO ORDER

Acting Chairperson Anderson called the meeting to order at 7:32 p.m.

B. ROLL CALL

Present: Commissioners Anderson, Cunningham, and Mackin.
Absent: Chairperson Munir.
Staff Present: Senior Planner Johnson and Associate Planner Capasso

C. ADOPTION OF AGENDA

Commissioner Mackin moved and Commissioner Cunningham seconded to adopt the agenda. The motion was approved 3-0.

D. CONSENT CALENDAR

1. APPROVAL OF DRAFT ACTION MINUTES
    i. April 13, 2017 regular meeting

Commissioner Mackin moved and Commissioner Cunningham seconded to approve the minutes of April 13, 2017, with a modification on page D.1.i.3 regarding the Commission-initiated item. The motion was approved 3-0.

E. ORAL COMMUNICATIONS (limit to a total of 15 minutes)

There were none.

F. WRITTEN COMMUNICATIONS

Acting Chairperson Anderson acknowledged written communications not on the agenda.

G. NEW BUSINESS

1. **PUBLIC HEARING: Zoning Text Amendment RZ-2-17**; Zoning Text Amendment to Chapters 17.02, 17.16, 17.19, and Chapter 17.32 of Title 17, Zoning, of the Brisbane Municipal Code to implement Housing Element Program H.B.1.g, clarify existing definitions related to office uses, and streamline rooftop solar energy system installations; City of Brisbane, applicant; Location: Citywide.

Associate Planner Capasso gave the staff presentation. Associate Planner Capasso and Senior Planner Johnson answered questions from the Commissioners regarding the background of Housing Element Program H.B.1.g, permitted uses in the TC-1 District, the current Height

Exception Permit process, whether the proposed procedure would apply differently to new construction vs. existing structures, the current building permit fee for solar energy systems, and the energy savings of conservation compared to solar energy generation for single-family homes.

Acting Chairperson Anderson opened the public hearing.

Barbara Ebel stated support for energy conservation measures and said the State conducted a cost-benefit analysis that may address energy savings related to conservation efforts. She stated that if rooftop solar panels are exempted from the height limit, the maximum building height for structures should be lowered by two feet.

Commissioner Mackin moved and Commissioner Cunningham seconded to close the public hearing. The motion was approved 3-0.

After deliberation, Commissioner Cunningham moved adoption of Resolution RZ-2-17 with modifications to the draft ordinance under Section 17.32.060.C.2 to require 21 days of response time for a Height Exception Permit notice. Commissioner Mackin seconded and the motion passed 3-0.

H. ITEMS INITIATED BY STAFF

Senior Planner Johnson announced that recruitment for a new Planning Commissioner would end June 30 and interviews would be scheduled for July 20. He announced the swearing in of new and promoted City staff. Associate Planner Capasso provided updates on the Planning Commission's recommendations for zoning text amendments regarding the TC-2 District and medical cannabis regulations.

I. ITEMS INITIATED BY THE COMMISSION

There were none.

J. ADJOURNMENT

Commissioner Mackin moved and Commissioner Cunningham seconded to adjourn to the regular meeting of May 25th, 2017 at 7:30 p.m. The motion passed 3-0 and the meeting adjourned at 8:36 p.m.

Attest:

_____
John A. Swiecki, Community Development Director

NOTE: A full video record of this meeting can be found on DVD at City Hall and the City's website at www.brisbaneca.org.