

# *City of Brisbane*

## *Agenda Report*

**TO:** Honorable Mayor and City Council

**FROM:** Community Development Director via City Manager

**SUBJECT:** **36–50 San Bruno Avenue; Appeal of Use Permit UP-2-17, Design Permit DP-1-17 and Grading Permit EX-4-17:** Appeal of the Planning Commission’s approval of the above-referenced applications for a three-story, mixed use building with sixteen 1-bedroom senior apartment units and 464 square feet of ground-floor commercial space and a ground-floor parking garage on a 9,505 square foot lot currently occupied by a surface parking lot. NCRO-2 Zoning District, James W. Trotter, applicant; Horsepower Holdings Llc, owner; APN 007-222-020 and -030. Denise C. Gregory, 99 San Bruno Avenue, appellant.

**DATE:** Meeting of October 12, 2017

### **City Council Goals:**

To preserve the unique current character of Brisbane (Goal #16).

### **Purpose:**

To consider the above-referenced appeal.

### **Recommendation:**

Adopt Resolution 2017-49, denying the appeal and affirming the Planning Commission’s approval of the above referenced applications.

### **Background:**

The proposal involves a use permit, design permit and grading permit application to construct a 3-story, mixed use, 16-unit senior housing development at 36-50 San Bruno Avenue. The housing units would range in size from 526 to 545 square feet on the second and third floors and the commercial space would total approximately 464 square feet on the ground floor. All of the units would be age-restricted to households with one or more members who are sixty-two (62) years of age or older, and 3 of the units would be restricted to qualifying low and very low income households.

The site lies within the NCRO-2 Downtown Brisbane Neighborhood Commercial District which requires a use permit for mixed use and a design permit for a new principal structure. The Planning Commission's review of grading was also required since the project would involve more than 50 cubic yards of material to be exported from the site.

The Planning Commission held a public hearing on August 22<sup>nd</sup>, 2017 and approved the project by a vote of 3 ayes to 1 no. The Planning Commission staff report, minutes and related correspondence from that meeting are attached. The Planning Commission's action was appealed by a local resident and the appeal letter is attached.

The appeal asserts that the project does not adhere to Brisbane Municipal Code (BMC) Sections 17.01.030 or 17.34.010 (see attached code sections). These two code sections cited by the appellant reference the purpose of the zoning ordinance and the purpose of the off-street parking ordinance.

**Discussion:**

As noted above, a detailed description and analysis of the project is included in the attached August 22, 2017 Planning Commission report. The following discussion is focused on the code provisions cited in the appeal as they relate to the project.

***1. General Provisions - Section 17.01.030 Purposes of title***

BMC Section 17.01.030 states the purposes of the zoning title as a whole. It speaks generally to the purposes of protecting public health, safety, peace, comfort, convenience, and general welfare, with the purposes of ensuring that uses and structures enhance their sites, harmonize with improvements in the surrounding area, and are beneficial to the city; providing for an efficient and safe system of traffic circulation; providing for adequate off-street parking facilities; and preserving and enhancing the natural and scenic resources within the city.

As a practical matter, the general intent of the zoning ordinance set forth in Section 17.01.030 is implemented through other chapters of the zoning code. For example, individual zoning districts establish development standards (building height setbacks, lot coverage, etc.) intended to implement the intent of the Code. Other zoning code sections establish implementation procedures such as use permits and design permits which include required findings intended to fulfill the stated purposes of the zoning ordinance. These permit applications establish the process for evaluating individual development applications for compliance with the required findings.

In this case, the project is located in NCRO-2 Downtown Brisbane Neighborhood Commercial District. As discussed in the attached Planning Commission agenda report, the proposal meets all of the established development standards, with the exception of the 10- foot rear yard setback. The developer requested a concession to permit a reduced rear yard setback and, pursuant to the requirements of state density bonus law, the city is obligated to grant the concession. Additionally, the project requires a use permit and design permit. As set forth in the attached

staff report and Planning Commission Resolution No. UP-2-17/DP-1-17/EX-4-17, the project complies with all required findings for the granting of these permits.

The facts that the project complies with the zoning district development standards and meets the findings required by law for the granting of the use and design permits demonstrate that that project complies with the fundamental purposes of the zoning ordinance as set forth in BMC Section 17.01.030.

## ***2. Off-Street Parking - 17.34.010 - Purposes of chapter***

The appeal letter also cites BMC Section 17.34.010, which sets forth the purpose of the off-street parking ordinance as a whole. It specifies providing for adequate off-street parking facilities by establishing clear relationships between building size and the parking required, so as to minimize the parking impacts of development upon surrounding properties. It is further intended to encourage housing designed for residents with special needs and to minimize dependence on automobile travel by encouraging transportation alternatives in project design where appropriate.

These general purposes are implemented through the minimum requirement provisions for off-street parking contained in BMC Section 17.34.020, the parking design standards in Section 17.34.040, the exemptions, exceptions and modifications to the design standards in Section 17.34.050 and the bicycle parking provisions in Section 17.34.070.

As detailed in the attached Planning Commission report, the proposed parking meets all applicable provisions of the parking ordinance. The parking ordinance requires a minimum ratio of 0.67 parking spaces per 1-bedroom unit of less than 900 square feet in floor area for senior housing. The project complies by providing 11 spaces for residents and 3 guest spaces. Pursuant to the zoning code no off-street parking is required for the small storefront component of the project. Bicycle storage and bike racks are provided in compliance with the parking ordinance.

At the Planning Commission there was discussion and concerns raised regarding the conversion of the existing surface parking lot to a different use. While the parking lot historically served the adjoining 23 Club, the parking lot site is a separate legal parcel from the 23 Club and there are no underlying agreements, legal restrictions or zoning provisions requiring the existing parking lot be maintained as a parking lot to serve the 23 Club or any other downtown property. If the City's desire is to have the existing parking lot maintained for public parking, the City would need to acquire the parcel. Acquisition would render the proposed project infeasible.

Given that the project complies with Brisbane's parking standards, it complies with the intent of the parking ordinance as set forth in BMC Section 17.34.010.

### **Fiscal Impact:**

None.

**Measure of Success:**

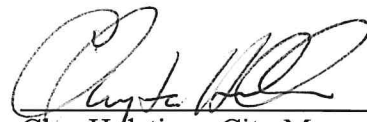
Resolution of this appeal in accordance with city requirements.

**Attachments:**

- A) Draft City Council Resolution 2017-49
- B) Appeal Letter
- C) Brisbane Municipal Code Sections Cited by the Appellant
- D) Site Maps and Project Plans (Site Plan, Elevations, Floor Plans)
- E) Planning Commission Resolution UP-2-17/DP-1-17/EX-4-17
- F) Planning Commission Minutes (August 22, 2017)
- G) Planning Commission Agenda Report (August 22, 2017)
- H) Planning Commission Correspondence



John Swiecki, Community Development Director



Clay Holstine, City Manager