

City of Brisbane

Agenda Report

TO: Honorable Mayor and City Council

FROM: Community Development Director via City Manager

SUBJECT: **Resolution 2017-49:** 36–50 San Bruno Avenue; Denial of Appeal and Approval of Use Permit UP-2-17, Design Permit DP-1-17 and Grading Permit EX-4-17.

DATE: Meeting of October 26, 2017

BACKGROUND:

On October 12th, City Council held a public hearing on appeal of the Planning Commission's approval of the applications referenced above for a mixed-use, 16-unit senior housing development at 36-50 San Bruno Avenue. At that meeting, City Council unanimously affirmed the Planning Commission's decision to approve the project and denied the appeal. The City Council decision included modifications to the Planning Commission's conditions of approval and Council directed staff to modify the resolution to reflect the City Council recommended changes.

The modified conditions of approval are shown as redlined text in the attached City Council Resolution No. 2017-49.

RECOMMENDATION:

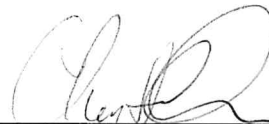
Adopt Resolution 2017-49, denying the appeal and affirming the Planning Commission's approval of the above-referenced applications subject to the modified conditions of approval.

ATTACHMENT:

A) Draft City Council Resolution 2017-49, with Modified Conditions of Approval



John Swiecki, Community Development Director



Clay Holstine, City Manager

RESOLUTION NO. 2017-49

A RESOLUTION OF THE BRISBANE CITY COUNCIL
AFFIRMING THE PLANNING COMMISSION'S
CONDITIONAL APPROVAL OF UP-2-17/DP-1-17/EX-4-17
FOR A MIXED-USE DEVELOPMENT
(16 RESIDENCES AND 1- 464 SQ FT COMMERCIAL SPACE)
AT 36-50 SAN BRUNO AVENUE

WHEREAS, James Trotter, the applicant, applied to the City of Brisbane for, Use Permit UP-2-17, Design Permit DP-1-17 and Grading Permit EX-4-17 ("Application") approval of a 16 –unit, seniors' housing, mixed-use development at 36 to 50 San Bruno Avenue; and

WHEREAS, on August 22nd, 2017, the Planning Commission conducted a hearing 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 staff memorandum 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, the proposal meets the conditions for infill development, as provided in California Environmental Quality Act (CEQA) Guidelines Section 15332, and is thereby categorically exempt from the provisions of CEQA and the exceptions to the categorical exemptions referenced in Section 15300.2 do not apply; and

WHEREAS, at the public hearing of August 22, 2017, the Planning Commission of the City of Brisbane made the required findings pursuant Brisbane Municipal Code Sections 17.14.110, 17.42.040 and 17.40.060 and approved Use Permit UP-2-17, Design Permit DP-1-17 and Grading Permit EX-1-17 subject to conditions of approval; and

WHEREAS, the Planning Commission's approval was appealed to the City Council within the required 15-day appeal period; and

WHEREAS, on October 12, 2017 the City Council conducted a hearing on the Application, at which time any person interested in the matter was given the opportunity to be heard; and

WHEREAS, the City Council reviewed and considered the staff memorandum relating to said Application, the Planning Commission record on the Application, and the written and oral evidence presented to the City Council in support of and in opposition to the Application; and

NOW THEREFORE, in accordance with the provisions set forth in Brisbane Municipal Code Section 17.52.040, the City Council of the City of Brisbane, at its meeting of October 12, 2017, did resolve as follows:

The Planning Commission's approval of the Application for a mixed-use development at 36-50 San Bruno Avenue, per Planning Commission Resolution UP-2-17/DP-1-17/EX-4-17 including the findings and conditions of approval, is affirmed, with modified conditions of approval as shown in Exhibit A.

The appeal on the Application is hereby denied.

Lori S. Liu, Mayor

ADOPTED this ~~twelfth~~ twenty-sixth day of October, 2017, by the following vote:

AYES: Lui, Conway, Davis, Lentz and O'Connell

NOES:

ABSENT:

Ingrid Padilla, City Clerk

EXHIBIT A

Modified Conditions of Approval:

Prior to issuance of a Building Permit or Grading Permit:

1. The underlying subdivision lots shall be merged, via recordation of lot merger with the County, subject to a separate City administrative application and fee.
2. The property owner shall enter into an agreement to the satisfaction of the City Attorney, to be recorded with the County and running with the land, that will restrict residency to households with one or more members who are sixty-two (62) years of age or older, per BMC Section 17.34.050.F, in order to allow for the minimum parking requirement to be sixty-seven percent (67) of the standard, as is provided in the design plans.
3. An affordable housing plan shall be submitted, to the satisfaction of the City Attorney, which shall specify the location of the affordable units within the building and the methods to be used to verify incomes of renters or purchasers, and specify the mechanism for the on-going administration of the affordable units.
4. The property owner shall enter into an agreement to be recorded with the County and running with the land, that will restrict residency for three (3) of the units to be "Affordable Rent" per BMC Sections 17.31.020 & 030, at a rate of one (1) very low income unit and two (2) lower income units.
5. 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.
6. The property owner or owner's representative shall contribute, an amount equal to at least one-half percent of their building development costs into the Brisbane public art fund as an in-lieu contribution, for the City's "art in public places program", per BMC Section 15.85.050.A.2.
7. The project applicant shall provide written evidence to the Planning Director that, if feasible, all vegetation removal shall be undertaken during the non-breeding season (i.e., September 1 to January 31) to avoid direct impacts to nesting birds. If such work is scheduled during the breeding season, and per the direction of the Planning Director, the project applicant shall retain a qualified biologist or ornithologist to conduct a pre-construction survey to determine if any birds are nesting within the project site. The pre-construction survey shall be conducted within 15 days prior to the start of work from March through May (since there is a higher potential for birds to initiate nesting during this period), and within 30 days prior to start of work from June through July. If active nests are found during the survey, the biologist or ornithologist shall determine an appropriately sized buffer around the nest in which no work will be allowed until the young have successfully fledged. The size of the buffer would be

determined by the biologist or ornithologist in consultation with the California Department of Fish and Wildlife, and would be based on the nesting species, its sensitivity to disturbance, and the expected types of disturbance.

8. An application including detailed building plans, application forms and fees shall be submitted to the City for issuance of a Building Permit. The proposed building shall be required to comply with all applicable state codes and applicable City of Brisbane Municipal Code provisions for new construction. At a minimum, building plans shall address the following conditions:
 - a. The plans shall reference the materials and colors as approved with this Design Permit (see related conditions below). Materials samples shall also be provided for the windows and cut sheets shall be provided for the bike racks for Planning Director and City Engineer approval. Windows shall not be dark or reflective.
 - b. Building plans shall address Fire Dept. requirements for new construction, including but not limited to installation of fire sprinklers, obtaining water flow, smoke detectors, key box, portable extinguishers, clearly visible address, illuminated utility identification, illuminated exit signs, and fire sprinklers shall have a horn strobe mounted on the San Bruno side of the building.
 - c. The building permit shall include undergrounding of utilities to service the building.
 - d. Mechanical equipment may not be mounted on the rooftop, or be otherwise visible or audible from off-site.
 - e. The plans submitted for Building Permit approval shall specify lighting that will be directed away from and not cause glare onto adjacent properties.
 - f. Plans shall indicate that no reflective exterior equipment shall be allowed. Roof vents shall be painted to match or blend with the rooftop.
 - g. The building permit application shall not include materials which would present an off-site glare due to reflective materials or lighting.
 - h. Units shall incorporate disability access features within the bathrooms, such as walk in tubs or accessible showers and grab bars. The Planning Director shall approve the features for each unit.
 - ~~g.i.~~ Additional sound proofing measures, or evidence of adequacy of the Building Code required sound proofing, shall be required for those units on the western side of the building, proximal to the 23 Club, subject to approval by the Building Official.
 - ~~h.j.~~ The building permit plans, shall include solar energy generation and may be required to include cool roofs, in accordance with the Energy Conservation and Generation ordinance, BMC Chapter 15.81. Rooftop solar panels may not exceed 2 feet above the

roof surface, except by approval by the Planning Director, based on a determination that they have been placed as close to the roof as is reasonable and their location will minimize off-site visibility, as seen from San Bruno Avenue. That is, set back from the front edge of the building along San Bruno Avenue.

~~i.k.~~ The applicant shall comply with all applicable state and City stormwater requirements prior to issuance and during the performance of the building permit. The final design of the stormwater management system is subject to the City Engineer and Planning Director approvals. Stormwater is generally to be directed to landscaping for on-site areas and to the green-streets landscaping for off-site areas.

~~j.l.~~ As indicated in the plans, five (5) bike racks shall be located within the public right-of-way. The final bike rack design and locations are subject to approval by the City Engineer and Planning Director. Some of these may be placed beyond the property frontage at their discretion.

~~k.m.~~ The internal bike parking closet shall be clearly marked to designate it as bike storage only and bike racks or wall hangers shall be provided, to allow for orderly storage and locking of bicycles, to the satisfaction of the Planning Director.

~~l.n.~~ The plans shall include an access door through the garage to the rear landscaping area at the southwest corner of the site, to allow for maintenance of that area.

~~m.o.~~ The remaining street trees adjacent to the property and the large pine trees located, one each, on the east and west sides of the home at 200 Mariposa Street and the tree located along the property line to the rear of the Teen Center, shall be inspected by an arborist and a report provided, with recommendations for protection of the trees to remain during construction.

~~n.p.~~ The final detailed landscaping plans shall be submitted for Planning Director approval. That area within the public right-of-way shall also be subject to City Engineer approval. At a minimum, the landscape plans shall be to meet the following criteria:

- Compliance with the provisions of BMC Section 15.70, the Water Conservation in Landscaping Ordinance, subject to separate administrative application and fee.
- ~~Size, scale and form of plants that is appropriate to the context.~~
- Inclusion of plantings to screen the south side of the building.
- Tree replacements shall be on at least a one-to-one basis and of at least 24-inch box size. Smaller sizes may be requested on a case-by-case basis in writing to the Planning Director, based on site specific criteria. These shall be in addition to the Juniper sp. or similar shrubs proposed for the site frontage.

- Street tree replacements shall be on at least a one-to-one basis and of at least 24-inch box size. Alternatively, due to the limited site frontage, the City Engineer may authorize payment of an in-lieu fee for the tree removal from the driveway, upon a determination that there is not adequate room for a replacement within the site frontage, or within the green streets landscape feature.
 - Plantings to be installed in the southwest rear yard of the site, between the home at 224 Mariposa Street and the proposed building, shall be designed to serve as a screen to soften views between the two sites.
 - Consideration shall be given to species at the front of the site that will provide year-round interest along the building edge.
 - Consideration is to be given to protection of trees, rather than removal, where reasonable and feasible. Of note are the trees at the property edge adjacent to the Teen Center rear yard. Rear yard patio cut-outs may be warranted at those tree locations.
 - The green streets landscape feature shall be designed in accordance with County-wide technical guidance criteria for green streets in effect at the time of building permit application, subject to City Engineer approval. The calculation area for stormwater treatment is to be the equivalent of that area from the front edge of the building and extending to the crown of the street.
 - Courtyard benches shall be fixed and the final bench design(s) shall be in keeping with the building style and shall be subject to Planning Director approval.
9. A building permit shall be obtained for the relocation of the neighboring property's (200 Mariposa Street) overhead utilities that cross through the southeast corner of the proposed building area. Agreement for relocation of the neighbor's utility lines shall be the responsibility of the property owners' and such documentation shall be provided to the City prior to issuance of the permit.
10. An encroachment permit shall be obtained prior to any work within the public right-of-way.
11. Grading, paving and drainage plans, per Brisbane Municipal Code Sections 12.24.010 & 15.08.140, shall be submitted for approval by the City Engineer prior to the issuance of a building permit. Drainage shall comply with the National Pollutant Discharge Elimination System (NPDES) permit issued by the San Francisco Bay Regional Water Control Board. The property owner(s) shall be responsible for ongoing operation and maintenance of any permanent structural stormwater controls.

During Construction:

12. Prior to foundation construction, a surveyed “staking” plan shall be submitted to the City Building and Planning Departments.
13. Construction of the proposed project would involve grading, site preparation, and construction activities but would not involve the use of construction equipment that would result in substantial ground-borne vibration or ground-borne noise on properties adjacent to the project site. No pile driving or blasting is permitted. Grading activities are limited to the approved volumes.
14. Noise producing construction activities are limited by the provisions of BMC Chapter 8.28 Noise Control, including but not limited to construction only being allowed between the hours of seven (7:00) a.m. and seven (7:00) p.m. on weekdays and nine (9:00) a.m. to seven (7:00) p.m. on weekends and holidays.
15. Processing of demolition materials for recycling shall not be conducted on site (ie: no on-site chipping or grinding of asphalt or shed materials).
16. The project shall comply with the stormwater Best Management Practices, as provided in the applicable state regulations and included in the applicant’s stormwater checklist for Small Projects.
17. Any sidewalk or street area reconstruction, such as to relocate the driveway and place landscaping elements, shall be subject to City Engineer approval, via encroachment permit.
18. Any prehistoric Native American cultural resources found during the course of construction shall be conserved in accordance with State and Federal requirements (Appendix K of the State CEQA Guidelines).

Prior to Occupancy:

19. The property owner shall enter into a standard landscape maintenance agreement with the City for landscaping, to the satisfaction of the City Attorney.
20. All landscaping shall be installed prior to certificate of occupancy and shall be subject to a recorded maintenance agreement.
21. The address number(s) shall be affixed to the building at a location visible from the street and individual unit numbers shall also be internally fixed, to a size, color and style subject to approval by the Planning Director and Fire Dept.

22. A gang style mail box shall be provided at a location and appearance subject to Planning Director and U.S. Postal Service approval.
23. Guest parking spaces shall be posted by the property owner as available for a seventy-two (72) hour maximum use by the guests only.
24. Per BMC Section 17.34.040 compact parking spaces shall be labeled as such on the pavement.
25. Residents shall be provided with remote garage door openers and fixed keypad garage door openers shall also be installed, for use without a remote opener.
26. Improvements within the public right of way shall be completed to the satisfaction of the City Engineer.
27. A management plan shall be submitted to the Planning Director and City Attorney review prior to certificate of occupancy, that shall address the following:

- a. Rental restrictions to seniors
- b. Rental restrictions on the lower and very low income units
- c. Commercial occupancy and the ongoing maintenance of the display windows
- d. Management of trash and recycling
- e. General maintenance of the building and landscaping

f. Access and security.

f.g. Allocation of parking spaces.

28. Prior to certificate of occupancy the applicant shall demonstrate conformance with all of the above design permit conditions of approval.

Other Conditions:

29. The commercial spaces shall maintain storefront appearances, to be engaging to the passersby along the street, even when unoccupied by active commercial uses. The windows shall not be blocked out to prevent viewing from the street.
30. Private parking signs for on-street parking and the sidewalk bike racks shall not be allowed.

31. The required garage 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.
32. No advertising signage is included in this application. Advertising signage is subject to a separate application form and fee.
33. Minor modifications may be approved by the Community Development Director in conformance with all requirements of the Municipal Code.
34. ~~The residential units are designated as rentals. If the owner decides at a future date to establish the units as condominiums, then a separate application form, fees and application materials would apply. Additional conditions and restrictions may be imposed, through that separate permitting process. Conversion to condominiums may not release the owner from deed restrictions, but these would be subject to review by the Planning Director and City Engineer and may be referred to the Planning Commission, as appropriate at such time.~~ The residential units are approved as rentals. If the owner seeks to establish the units as condominiums, such proposed conversion would be subject to the City's condominium conversion provisions, per BMC Chapter 17.30, requiring a public hearing before the Planning Commission.
35. This Design Permit and Use Permit shall expire two years from the effective date, ~~(at the end of the appeal period following adoption of the City Council resolution affirming the Planning Commission's approval.)~~ if a Building Permit has not yet been issued for the approved project.
