

BRISBANE PLANNING COMMISSION  
Action Minutes of April 11, 2019  
Regular Meeting

A. CALL TO ORDER

Chairperson Sayasane called the meeting to order at 7:30 p.m.

B. ROLL CALL

Present: Commissioners Gomez, Gooding, Mackin, and Sayasane.

Absent: Commissioner Patel.

Staff Present: Community Development Director Swiecki, Associate Planner Ayres.

C. ADOPTION OF AGENDA

Commissioner Gomez moved adoption of the agenda. Commissioner Mackin seconded the motion and it was approved 4-0.

D. CONSENT CALENDAR

Commissioner Gooding moved approval of the consent calendar. Commissioner Gomez seconded the motion and it was approved 4-0.

E. ORAL COMMUNICATIONS

There were none.

F. WRITTEN COMMUNICATIONS

Chairperson Sayasane acknowledged written communications from Beth Grossman and Danny Ames regarding item G.1.

G. NEW BUSINESS

1. **PUBLIC HEARING: Zoning Text Amendment RZ-5-18;** Zoning Text Amendments to update the City's density bonus and inclusionary housing regulations contained in Chapter 17.31 of the Brisbane Municipal Code, pursuant to Programs H.B.4.b and H.B.5.a of the 2015-2022 Housing Element and State Assembly Bill AB 1505; Citywide; City of Brisbane, applicant.

Associate Planner Ayres gave the staff report. She and Director Swiecki answered Commissioner questions regarding the applicability of the draft ordinance, relationship to the ongoing Baylands specific plan and development agreement process, affordable housing funding sources, the procedure for concessions and incentives under State law, and the requirements of AB 1505 regarding local inclusionary housing requirements for rental housing.

Chairperson Sayasane opened the public hearing.

Dana Dillworth, Brisbane resident, spoke against the proposed ordinance as she believed it was inconsistent with the General Plan. She submitted a letter from the Cities Association of Santa Clara County regarding local control over the entitlement process into the record.

Barbara Ebel spoke against imposing a 15% inclusionary requirement and asked to retain very low income housing provisions.

Ray Miller spoke against the proposed ordinance and stated it did not address draft legislation under consideration at the State level (SB 50). He asked how the density bonus provisions would apply to the Baylands.

Danny Ames asked for more time to study the proposed ordinance.

Dana Dillworth shared an op-ed regarding a development where affordable units were smaller than the market rate units and said she did not want that stratification in Brisbane.

Barbara Ebel asked staff to address how the proposed ordinance would impact the Baylands and the Parkside at Brisbane Village Precise Plan.

Seeing no further speakers, Commissioner Mackin moved to close the public hearing. Commissioner Gooding seconded the motion and it was approved 4-0.

Chairperson Sayasane asked staff to respond to the public comments.

Staff reviewed the current inclusionary requirements in Section 17.31.030 of the Zoning Ordinance and compared them to the proposed ordinance.

Commissioner Mackin asked why the draft ordinance did not include low or very low income household targeting for for-sale projects.

Staff indicated the draft ordinance was consistent with the existing ordinance in targeting moderate and low income households for for-sale projects.

Commissioner Mackin asked if recently constructed housing projects were primarily for-sale or rental projects.

Staff said that recently constructed housing projects from 2014-2018 were for-sale projects, but that condominium units may be rented by their owners.

Commissioner Mackin asked staff to comment on having different development standards for market rate units as opposed to affordable units under the inclusionary housing ordinance.

Staff reviewed the current ordinance provisions regarding incentives for inclusionary affordable units, which are retained in the draft ordinance.

Commissioner Mackin asked how the draft ordinance would impact a development in the Parkside Precise Plan area.

Staff said a developer could seek a density bonus including a request for waiver of the height limit if they demonstrated compliance with the affordable or special needs housing requirements in density bonus law and provided the necessary pro formas to demonstrate that the requested concession or incentives were required to allow development of the affordable housing.

Commissioner Mackin asked how density bonus law and SB 50 would impact the Baylands.

Director Swiecki said the City Attorney advised the City Council that a development agreement, a contractual agreement between the City and developer as to the nature of development over time, offered the city the most certainty as to ensuring that the project is built as agreed upon irrespective of changes in State law. He noted a development agreement for the Baylands could negotiate a higher inclusionary percentage than 15%.

Commissioner Mackin asked if a developer could exceed the maximum number of dwelling units established in the General Plan via measure JJ under the density bonus ordinance.

Director Swiecki indicated that the City Attorney advised the cap in Measure JJ reflected any density bonuses granted pursuant to State law.

Commissioner Mackin asked why the Commission was considering the ordinance now.

Director Swiecki stated the requirement to update the ordinance was in the 2015 Housing Element.

Commissioner Gomez asked what the penalty was for noncompliance with Housing Element implementation.

Director Swiecki stated the City must submit an annual progress report on Housing Element implementation to the State Department of Housing and Community Development (HCD) and HCD determines whether the City is acting in compliance with its Housing Element.

Chairperson Sayasane asked if constructing ADUs currently requires a public notice.

Director Swiecki indicated that any residential for-sale subdivision would be subject to map and affordable housing plan approval by the Planning Commission at a public hearing. No notice requirements were currently required for ADU construction by homeowners of existing homes.

Commissioner Mackin asked whether a density bonus request would be reviewed by the Planning Commission.

Associate Planner Ayres indicated that a density bonus project of five or more units requires design permit and affordable housing plan approval by the Planning Commission.

Commissioner Gooding moved approval of Resolution RZ-3-18. Commissioner Gomez seconded the motion and it was approved 4-0. Chairperson Sayasane read the appeal procedure.

#### H. ITEMS INITIATED BY STAFF

Director Swiecki stated the City Council reviewed the subcommittee recommendations regarding cannabis business regulations on April 4 and the subcommittee would conduct further study before the matter was referred to the Commission. He invited the Commissioners to attend the second Community Conversation on May 4.

#### I. ITEMS INITIATED BY THE COMMISSION

Commissioner Mackin asked staff to provide an update on recently introduced legislation to exempt the City from RHNA compliance, and staff indicated they had nothing to report.

Chairperson Sayasane recognized Ray Miller from the audience.

Mr. Miller recommended the Commission check out the group Livable California.

#### J. ADJOURNMENT

Commissioner Gomez moved to adjourn to the regular meeting of Thursday, April 25, 2019. Commissioner Mackin seconded the motion and it was approved 4-0. The meeting adjourned at 9:04 p.m.

Attest:



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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](http://www.brisbaneca.org).