



# MEMORANDUM

DATE: June 8, 2023  
TO: Planning Commission  
FROM: Senior Planner Julia Ayres, via John Swiecki, Community Development Director  
SUBJECT: 2023-DP-1/2023-UP-3, 25 Visitacion Avenue; Revised Resolution for Approval

## Background

Xie Guan submitted design permit and use permit applications to the City for construction of a new two-story mixed-use building at 25 Visitacion Avenue, located in the NCRO-2 District. The requested permits are summarized below:

- Design Permit 2023-DP-1: required for any new principal structure in the NCRO-2 District
- Use Permit 2023-UP-3: required for residential uses in the NCRO-2 District
- Use Permit (included in application 2023-UP-3): required to modify the off-street parking requirements for the proposed structure to allow two off-street spaces where three are required by the Municipal Code

On May 25, 2023 the Planning Commission held a public hearing on the requested applications. When the Commission reached a consensus during deliberations to deny the request to modify the off-street parking regulations, the property owner, Joel Diaz, announced the withdrawal of the requested use permit to modify the off-street parking requirements and his intent to redesign the project to provide the required three off-street parking spaces. Mr. Diaz and the applicant, Mr. Guan, indicated that the project could be redesigned to accommodate the third parking space without materially impacting the building's design or first floor plan.

Based on the property owner and applicant's statements, the Planning Commission then voted 5-0 to approve the Design Permit and the Use Permit request as modified, subject to the submittal of revised project plans in substantial conformance with the approved plans that provide the required three off-street parking spaces through a building permit application. Because the drafted resolution attached to the agenda report combined the findings and conditions of approval for the two use permit requests, staff indicated that a revised resolution reflecting the Commission's action would be prepared for the Commission's consideration.

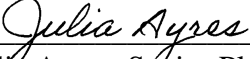
## Next Steps

Adopt revised Resolution 2023-DP-1/2023-UP-3, containing the revised findings and conditions of approval (Attachment A).

## **Attachments:**

- A. Revised Draft Resolution 2023-DP-1/2023-UP-3

- B. [May 25, 2023 meeting video](#)
- C. [2023-DP-1/2023-UP-3 Planning Commission Agenda Report](#)

  
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Julia Ayres, Senior Planner

  
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John Swiecki, Community Development Director

RESOLUTION 2023-DP-1/2023-UP-3  
A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE  
CONDITIONALLY APPROVING 2023-DP-1/2023-UP-3 FOR  
CONSTRUCTION OF A NEW MIXED-USE DEVELOPMENT AT 25 VISITACION AVENUE

WHEREAS, Xie Guan, the applicant, applied to the City of Brisbane for approval of Design Permit 2023-DP-1 and Use Permit 2023-UP-3 at 25 Visitacion Avenue, which would allow for demolition of an existing one-story commercial building and construction of a new two-story mixed-use development, including a single-family dwelling and attached accessory dwelling unit constructed above and behind a ground floor commercial storefront, and would allow modifications to the off-street parking requirements to provide two off-street parking spaces where three off-street parking spaces are required by the Brisbane Municipal Code; and

WHEREAS, on May 25, 2023, the Planning Commission conducted a public hearing on the application, publicly noticed in compliance with Brisbane Municipal Code Chapters 1.12 and 17.54, at which time any person interested in the matter was given an opportunity to be heard; and

WHEREAS, during the public hearing on May 25, 2023, the applicant withdrew his application to modify the off-street parking requirements and agreed to revise the project plans to provide the required three off-street parking spaces as part of a future building permit application; and

WHEREAS, the Planning Commission reviewed and considered the staff memorandum relating to said applications, the applicant's plans and supporting materials, ~~and~~ the written and oral evidence presented to the Planning Commission in support of and in opposition to the application, and the applicant's withdrawal of the request to modify the off-street parking requirements; and

WHEREAS, the Planning Commission finds that the proposed project is categorically exempt from the provisions of the California Environmental Quality Act; pursuant to Sections 150301(l), 15303(a), and 15303(c) of the State CEQA Guidelines, and that the exceptions to these categorical exemptions referenced in Section 15300.2 of the CEQA Guidelines do not apply; and

WHEREAS, the Planning Commission of the City of Brisbane hereby makes the findings attached herein as Exhibit A in connection with applications 2023-DP-1 and 2023-UP-3.

NOW THEREFORE, based upon the findings set forth hereinabove, the Planning Commission of the City of Brisbane, at its meeting of May 25, 2023, did resolve as follows:

Design and Use Permits 2023-DP-1/2023-UP-3 are approved per the findings and conditions of approval attached herein as Exhibit A.

ADOPTED this twenty-fifth day of May, 2023, by the following vote:

AYES:

NOES:

ABSENT:

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ROEL FUNKE  
Chairperson

ATTEST:

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JOHN A SWIECKI, Community Development Director

## EXHIBIT A

**Action Taken:** Conditionally approve 2023-DP-1/2023-UP-3 per the staff memorandum with attachments, via adoption of Resolution 2023-DP-1/2023-UP-3.

**Findings:****Design Permit 2023-DP-1:**

A. The proposal's scale, form and proportion, are harmonious, and the materials and colors used complement the project. Specifically, the building is of a contemporary architectural design that features pedestrian-level detail and articulation at the west (street) facade and a harmonious mix of exterior materials and colors. The building form is highly articulated at the most visible west (street-facing), and south building facades through a mix of second story setbacks and lightwells, and voids in the building walls, including the recessed storefront and residential entry at the ground level of the west facade. The two-story, 29 ft., 3 in. tall structure would fall in the midrange of other buildings in the NCRO-2 District, which range from one to four stories.

The minimalist, neutral color palette and exterior materials are complementary. The ground floor features white stucco walls defined by metal window and door framing in varying tones of gray metal finishes, and a black wood and glass garage door provides contrasting textures at the street level. On the second floor, the white stucco walls are defined by satin anodized aluminum door and window framing at the deck, with glass guardrails tying together the overall modern contemporary architectural style. Horizontal and vertical bands of aluminum cladding provide additional texture and visual interest at street level and the second story and represent a modern take on the Art Deco style elements of the adjacent mixed-use structure at 27-31 Visitacion Avenue. The incorporation of horizontal cement board siding on the side walls, mimicking the look of a traditional horizontal wood plank siding, bridges the structure's contemporary design with the vernacular style of many of the older structures along Visitacion Avenue.

The orientation and location of the structure and open spaces integrate well and maintain a compatible relationship to adjacent development. The footprint of the building, with zero-foot front and side setbacks and 10 ft rear setback, is consistent with the NCRO-2 District standards and appropriate to the subject property's small size and narrow width. The project would eliminate the existing encroachment of the existing building's over the shared property line with 27-31 Visitacion Avenue (south) shown in the topographic survey in Attachment H to the May 25, 2023 staff report. The residential unit of 27-31 Visitacion Avenue is located adjacent to the proposed structure. Per floor plans on file with the City, there are no windows along the north side wall of the residential unit at 27-31 Visitacion Avenue. By limiting the building height to two stories and incorporating two lightwells into the south side wall, the project would preserve access to light and air for residents of 27-31 Visitacion Avenue.

The proposed structure would be set back a minimum of 10 ft from the rear lot line abutting the vacant parking lot at 36-50 San Bruno Avenue to the east, allowing adequate buffer between the proposed structure and any future development entitled at 36-50 San Bruno Avenue in the future. Use of the 10 ft setback for a common patio and landscaped area is an appropriate use of the setback area, and proposed eight foot fencing (six feet solid, two feet of lattice) would provide adequate buffer and privacy for occupants from adjacent commercial uses. The two second-level decks serving the single-family dwelling are oriented toward commercial uses to the east and a range of uses along Visitacion Avenue, with adequate setbacks to ensure privacy of both deck users and adjacent property occupants.

B. As discussed in finding B above, the proposed structure is designed to mitigate potential impacts to adjacent land uses in regard to maintaining access to light and air and orientation of outdoor living spaces.

C. The project design takes advantage of natural heating and cooling opportunities through building placement, landscaping and building design to the extent practicable, given site constraints, to promote sustainable development and to address long term affordability. The site's small size and narrow width greatly constrain the siting and orientation of the building, and requirements for fire-rating for walls and limitation on wall openings at property lines minimize opportunities for passive heat gain.

D. The property is not located on a hillside.

E. 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, ~~consistent with the approval of the requested Use Permit for nonconforming parking~~. Specifically, the proposed 10 ft curb cut, authorized by the City Engineer, will preserve existing on-street parking spaces to the maximum extent feasible while allowing for safe egress and ingress to the site. Pedestrian safety will be ensured by the required pedestrian warning system to provide both audio and visual warning to pedestrians when cars exit the garage.

F. The property's location and direct sidewalk access provides alternatives for pedestrians to access public transit and shuttle stops within a half-mile radius on Bayshore Boulevard, Old County Road, and San Bruno Avenue, connecting to BART and Caltrain as well as regional bus routes. Additionally, the project includes one long-term bicycle parking space and two short-term bicycle parking spaces at the ground floor, incentivizing bicycle ownership and use as an alternative to single-occupancy vehicles.

G. The proposed open areas and landscaping complement the structure. The design includes private decks for the single-family dwelling, and a shared common yard accessible at the ground floor. The combined total of over 600 sq ft of outdoor area exceeds the 60 sq ft per unit requirement for the NCRO-2 District. The proposed landscape plan maximizes the available space in the recessed storefront entry and the rear yard and will be planted with drought-resistant, non-invasive species (California natives preferred), subject to final approval by the Community Development Director via the building permit application. The proposed landscaped planters on the front building façade additionally

provides visual interest at the pedestrian level. The property is not located near protected habitat or wildland areas.

H. The proposal takes reasonable measures to protect against external and internal noise. Specifically, the structures must comply with California Building Code requirements to protect residents from unhealthy noise levels from the exterior of the building as well as unwanted noise from the ground floor commercial unit.

I. Consideration has been given to avoiding off-site glare from lighting and reflective building materials. The conditions of approval require the building permit plans to demonstrate the glass guardrail and other glass elements will have nonreflective finishes. Additionally, the conditions of approval require a lighting plan to be submitted with the building permit application demonstrating that all exterior lighting will be shielded and downlit to minimize off-site light and glare.

J. Trash and recycling receptacles utilities and mechanical equipment are located within the structure in a dedicated, enclosed area on the ground floor and will not be visible from the exterior of the building.

K. No signage is included in the application. As a condition of approval, future commercial tenants of the ground floor storefront will be subject to the sign permit approval process in Chapter 17.36 of the Brisbane Municipal Code.

L. Provisions have been made to meet the needs of employees for outdoor space in the rear yard, which includes the required long-term bicycle parking spaces.

M. The design respects the intimate scale and vernacular character of Visitacion Avenue. Specifically, the proposed design employs voids in the ground floor walls fronting Visitacion Avenue at the storefront and residential entry, and second story setbacks and lightwells to reduce the perceived massing of the building from the street. This is consistent with the NCRO-2 district Design Guidelines suggestion that portions of a building over 28 ft in height be stepped back from the front of the building “so as not to overwhelm the view of pedestrians along both sides of the street below, and to emphasize the one-to two-story nature of the streetscape.”

N. Design details are incorporated to articulate the building, as described in detail in Findings A, B, H, and O, which emphasize the relationship to the pedestrian environment. The ground floor storefront commercial unit features a glass door and large windows at the street level providing unobstructed views into the space from the street. The ground floor façade is defined by gray and black metal and wooden doors and framing elements, softened by a planter adjacent to the storefront entryway to provide additional visual interest at eye level. The existing street tree in the property’s frontage would be retained.

O. The design incorporates creative use of elements that are characteristic of both residential and commercial structures on Visitacion Avenue. These elements include recessed entries, transom windows above the garage door on the ground level, variation of materials to add contrasting texture and visual interest, and planter boxes at street level to provide urban greenery.

P. Color and texture are provided at the street by planter boxes, large glass windows and entry door at the storefront entry, aluminum finish of the residential entry gate, and vertical and horizontal aluminum cladding of the smooth stucco finish, as described in detail in Findings A, B, H and O.

Q. Landscaping has been incorporated to enhance the design and enliven the streetscape, as described in Findings N, O and P.

**Use Permit 2023-UP-3:**

R. As detailed in Finding A, the proposal is consistent with the General Plan and considerate of the nature and condition of all adjacent uses and structures. The Neighborhood Commercial/Retail/Office (NCRO) land use designation allows for mixed-use development. Residential and mixed-use developments in the downtown core feature a range of residential densities and building scales, from one to four stories. In the NCRO-2 District, current densities range from 21 to 87 du/ac. The proposed project, with a density of 16 du/ac, falls at the lower end of this range. The General Plan's 2023-2031 Housing Element contains several policies and programs that encourage mixed-use and infill development. The construction of two new dwelling units would increase housing opportunities in Brisbane's downtown core, providing new residences near existing shops and restaurants and in proximity to transit, including the free Bayshore Caltrain and Balboa Park BART station shuttles (San Francisco Avenue-Old County Road stop) and Samtrans Route 292 (Bayshore-Old County Road stop) less than one-half mile away by foot. The project would also maintain a commercial presence on Visitacion Avenue on a site that has been vacant for several years and a structure that is in poor repair and potentially unleaseable in its current condition. The storefront exceeds the minimum 600 square feet required by the NCRO-2 District standards and would create opportunity for small businesses and contribute to the pedestrian-oriented environment envisioned for Visitacion Avenue in the General Plan and NCRO-2 District development standards.

The proposed project is compatible with the range of commercial, residential, and mixed-use development in the NCRO-2 district. At nearly 30 ft tall and two-stories, the proposed structure would fall within the mid-range of building heights on the 0-block of Visitacion Avenue. The building design and placement is compatible with the adjacent two-story commercial structure to the north (23 Visitacion Avenue, and a one-story mixed-use structure to the south (27-31 Visitacion Avenue) as described in detail in Finding A.

S. The proposed use would not have injurious or detrimental effects on persons residing or working in the neighborhood, or the subject property, the neighborhood, or to the welfare of the City. This infill project would improve a long-vacant property in significant disrepair consistent with the mixed-use character of the NCRO-2 District and remedy the current encroachment of the existing structure over the south side property line. It would add two new residential units to the City's downtown core whose residents would patronize local shops, restaurants, and transportation.

As described in detail in Finding A, by limiting the structure height to two stories and incorporating two lightwells into the south side wall abutting the one-story mixed-use structure to the south, the project would not impact adjacent properties' access to light and air. The proposed zero side setback is



permitted by the NCRO-2 District development standards. The proposed structure would be set back a minimum of 10 ft from the rear lot line abutting the vacant parking lot at 36-50 San Bruno Avenue to the east, allowing adequate buffer between the proposed structure and any future development entitled at 36-50 San Bruno Avenue in the future. A pedestrian warning system will be included at the garage to provide both visual and audio cues to pedestrians when cars are entering or exiting the garage to ensure pedestrian safety.

~~T.—Strict enforcement of the specified regulation is not required by either present or anticipated future traffic volume or traffic circulation on the site. No off-street parking is required for the ADU or storefront. The required off-street parking is therefore limited to the proposed two-bedroom single-family dwelling. Considering that the garage will be used by a occupants of a single dwelling, no extraordinary enforcement is required to ensure its use by occupants of the dwelling. Traffic volumes in terms of daily trips by the single-family dwelling occupants are not anticipated to increase. If the proposed dwelling is constructed, and is then expanded in the future, compliance with parking would be reconsidered at such a time the City considers permits for such an expansion.~~

~~U.—The granting of the use permit will not create or intensify a shortage of on-street parking spaces, given, for example, the availability of existing or improved on/off-street parking which may not fully meet the requirements of this chapter. While the proposed project would eliminate two existing street parking spaces along its frontage on Visitacion Avenue, the 10-ft curb cut (approved by the City Engineer) would preserve existing on-street parking to the extent feasible. Two off-street parking spaces to serve one two-bedroom dwelling unit is consistent with the Brisbane Municipal Code's requirements for a two-bedroom unit in a multi-family dwelling which requires 1.5 parking spaces. Unlike the parking requirement for multi-family units, parking requirements for single-family dwellings are based on the overall floor area and the lot width of the property. In this case, granting the use permit to allow two parking spaces on-site, where three on-site parking spaces are required, on a site near public transit and with secured on-site bicycle storage would not demonstrably contribute to the existing shortage of on-street parking in the vicinity of the project.~~

~~V.—Full compliance with the parking requirements is not reasonably feasible due to existing site constraints. The subject property is 25 ft wide and approximately between 100-114 ft deep, which conforms to the minimum lot width and depth requirements for lots in the NCRO-2 District. However, the narrow lot width in conjunction with the required ground floor storefront space significantly constrains the ability to provide the required off-street parking. Additionally, though the parking requirements are based on single-family development, the single-family parking standards do not acknowledge the requirement for ground floor commercial space in the NCRO-2 District, which occupies nearly half of the ground floor space that could otherwise be dedicated to parking on a single-family residential lot. The applicant's proposal for two off-street parking spaces is thus the maximum number of parking spaces that can be accommodated on the property because of these constraints.~~

**Conditions of Approval:**Prior to issuance of a Building Permit:

1. The owner shall obtain a building permit and encroachment permit prior to proceeding with construction. A complete application including detailed building plans, application forms and fees shall be submitted to the City for issuance of a Building Permit. The building permit application shall comply with all applicable State codes and applicable City of Brisbane Municipal Code provisions for new construction. Building plans shall comply with the following conditions:
  - a. The plans shall be in substantial conformance to the plans approved with this Design Permit 2023-DP-1, including finish materials and colors (see related condition 1.h below), with the following modifications:
    - i. A final landscaping plan shall be submitted demonstrating compliance with the requirements of Brisbane Municipal Code §17.06.040.I and §12.12.050.4, to the satisfaction of the Community Development Director. The plan shall incorporate water-conserving, non-invasive landscaping.
    - ii. Three off-street parking spaces shall be provided and shown on the plans in conformance with Chapter 17.34 of the Brisbane Municipal Code, subject to review and approval by the Community Development Director in regards to the revised plans' substantial conformance with this Design Permit approval.
  - b. The plans shall address North County Fire Authority requirements for new construction, including but not limited to:
    - i. Provide drawn diagram of hydrant distance in compliance with CFC on the construction plans.
    - ii. Provide drawn diagram of minimum fire apparatus access dimensions of 26' on the construction plans per CFC Appendix D.
    - iii. Fire sprinkler system is required. Submit plans to NCFCA under separate fire permit.
    - iv. Provide fire flow information per CFC, Appendix B.
    - v. Fire extinguishing/hood system may be required. Submit plans to NCFCA under separate fire permit. Hood extinguishing system shall be monitored by building fire alarm system.
    - vi. Monitored fire alarm system required. Submit plans to NCFCA under separate fire permit.
    - vii. Key Box is required. Apply for approved hardware at NCFCA Administration.
    - viii. Portable fire extinguishers(s) are required. Mount fire extinguishers 3-5 feet above floor.
    - ix. Illuminated address identification is required.
    - x. Utility identification is required.
    - xi. Ensure Emergency Responder Radio Coverage is provided as required by Fire Code Section 510.
  - c. The plans shall include undergrounding of utilities to service the building.
  - d. Mechanical equipment, other than the required rooftop solar panels, shall not be visible from off-site. Should mechanical equipment be located outdoors, it shall be properly screened with

fencing or landscaping consistent with the final landscaping plan submitted with the building permit and shall be located outside of required setbacks.

- e. The building permit application shall not include materials which would present an off-site glare due to reflective materials or lighting.
  - f. The plans shall specify that lighting will be directed away from and not cause glare onto adjacent properties.
  - g. A remote-controlled garage door opener shall be shown on the plans, and an electronic keypad shall be installed to ensure efficient ingress and egress from the garage.
  - h. Final color and material samples and/or cut sheets shall be provided for Community Development Director approval to confirm they are in substantial conformance with the approved Design Permit. Materials samples shall also be provided for windows.
  - i. All windows shall match each other and shall not be dark or reflective.
  - j. The driveway curb cut width and location shall be subject to City Engineer review and approval.
  - k. The pedestrian warning system shall be installed to the satisfaction of the City Engineer and Community Development Director and provide both visual and audio alerts of approaching vehicles exiting the driveway.
  - l. A permanently anchored short-term bicycle parking rack for two (2) bicycles shall be provided in the public right-of-way, the specific location and design of which shall be subject to approval by the City Engineer.
  - m. Direct access shall be provided from the commercial storefront to the garbage receptacles and long-term bicycle racks in the garage and to the shared rear yard to the satisfaction of the Community Development Director.
  - n. Necessary vents and chases shall be incorporated into the building design so as to allow future changes in occupancy of the storefront area to the satisfaction of the Community Development Director.
2. The property owner shall enter into a standard landscape maintenance agreement with the City for landscaping, to the satisfaction of the City Attorney.
  3. An agreement shall be recorded between the owner and the City whereby the owner waives the right to protest the inclusion of the property within an underground utility district.

During Construction:

4. Prior to foundation construction, a surveyed staking plan prepared by a licensed land surveyor or engineer authorized to conduct land surveying under California law shall be submitted to the Community Development Department confirming the building location and pad elevations conform to the approved site plan.
5. The project shall comply with the San Mateo County Stormwater Pollution Prevention Program's Best Management Practices, as provided in the applicable state regulations and included in the applicant's storm water checklist for Small Projects.

6. 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:

7. All landscaping shall be installed and inspected by Planning staff to confirm conformity with the approved landscape plan.
8. The applicant shall submit an application for an address assignment for approval by the Planning, Fire, and Building staff.
9. Address numbers for the residential and commercial units shall be affixed to the building at a location visible from the street and a size, color and style subject to approval by the Community Development Director and North County Fire Authority.
10. The applicant shall demonstrate conformance with all of the above Design Permit conditions of approval.

Other Conditions:

11. 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.
12. Signs the ground floor commercial space shall be subject to the sign permit approval procedures outlined in BMC Chapter 17.36.
13. Minor modifications may be approved by the Community Development Director in conformance will all requirements of the Municipal Code.
14. This Design Permit and Use Permit shall expire two years from the effective date (at the end of the appeal period) if a Building Permit has not yet been issued for the approved project, or if the Building Permit, once issued, is allowed to expire prior to final inspection.
15. Approval of this application is to allow for the project as detailed in the Project Description contained in the Planning Commission staff report dated May 25, 2023, except where project parameters are modified expressly by this Resolution.
16. Material violation of any of the conditions, including material deviation from the approved project description, may be cause for revocation of these permits 2023-DP-1 and 2023-UP-3 and termination of all rights granted there under.