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RESOLUTION EX-4-19

A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE  
CONDITIONALLY APPROVING GRADING PERMIT EX-4-19  
FOR DRIVEWAY AND SITE ACCESS IMPROVEMENTS AND ADDITIONS TO  
AN EXISTING SINGLE-FAMILY DWELLING AT 338 KINGS ROAD

WHEREAS, Abraham Zavala applied to the City of Brisbane for Grading Permit review to construct additions, including a two-car garage and attached accessory dwelling unit, to an existing single-family dwelling with no off-street parking that would require approximately 330 cubic yards of soil excavation and export from the site at 338 Kings Road, such application being identified as EX-4-19; and

WHEREAS, on February 27, 2020, the Planning Commission conducted a hearing of 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, the Planning Commission reviewed and considered the staff memorandum relating to said application, and the written and oral evidence presented to the Planning Commission in support of and in opposition to the application; and

WHEREAS, the Planning Commission closed the public hearing and came to a consensus to deny the project based on its impacts to mature street trees in the vicinity of the project, potential hydrology impacts, and changes to the public right-of-way, and deferred adoption of findings of denial to the next regular Planning Commission meeting; and

WHEREAS, on March 10, 2020, the applicant submitted a written request to the Planning Commission to reconsider their intended denial of the application due to revisions to the project plans and work scope to address many of the concerns voiced by the Planning Commission at their February 27, 2020 meeting; and

WHEREAS, due to the San Mateo County Health Officer's Shelter in Place Order in effect as of March 16, 2020 (most recently amended June 4, 2020 via Order No. C19-5f), the Planning Commission cancelled all scheduled meetings in March and April of 2020; and

WHEREAS, at the next regular meeting of May 14, 2020 held virtually via teleconference in compliance with the Governor's Order N-29-20, the Planning Commission considered the applicant's request for reconsideration of a revised application and voted unanimously to grant the request and schedule the application for review at a future public hearing; and

WHEREAS, on June 25, 2020, the Planning Commission conducted a hearing of the revised 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, the Planning Commission reviewed and considered the staff memorandum relating to said application, and the written and oral evidence presented to the Planning Commission in support of and in opposition to the application; and

WHEREAS, the Planning Commission finds that the proposed project is categorically exempt from the provisions of the California Environmental Quality Act; pursuant to Section 15301(e) of the State CEQA Guidelines; and

WHEREAS, the Planning Commission of the City of Brisbane hereby makes the findings attached herein, as Exhibit A, in connection with the requested Grading Permit review;

NOW THEREFORE, based upon the findings set forth hereinabove, the Planning Commission of the City of Brisbane, at its meeting of June 25, 2020 did resolve as follows:

City Engineer issuance of Grading Permit EX-4-19 is recommended by the Planning Commission in compliance with the conditions of approval attached herein as Exhibit A.

ADOPTED this 25<sup>th</sup> day of June, 2020, by the following vote:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
PAMALA SAYASANE  
Chairperson

ATTEST:

\_\_\_\_\_  
JOHN A. SWIECKI, Community Development Director

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EXHIBIT A

**Action Taken:** Recommended City Engineer issuance of Grading Permit EX-4-19, per the staff memorandum with attachments, via adoption of Resolution EX-4-19.

**Findings:**

**Grading Permit EX-4-19**

- As evidenced by the applicant's grading plan and site plan, the proposed excavation is limited to the footprint of the additions, required driveway widening, and pedestrian access stairway to allow access to the house from the street. The grading plan design would allow the new building addition to sit within the hillside without significantly altering the surrounding topography. The location and volume of the proposed excavation is the minimum necessary to allow the site to conform to the parking requirements of the R-1 Residential District and to the driveway design standards contained in Chapter 17.34 of the Municipal Code. The proposed excavation is also the minimum necessary to allow safe egress and ingress for the adjoining property at 334 Kings Road and is compliant with the recorded vehicular access easement benefitting 334 Kings Road.
- The proposed grading would result in one exposed retaining wall of approximately eight feet in height within a portion of the front setback, extending into the public right-of-way, in conjunction with a new on-grade stairway to provide access from the street to the main dwelling. With the conditions of approval, the visual impact of this wall would be minimized with vegetative screening or application of varying finish materials or textures to break up the massing of the wall, at the applicant's option at building permit. Additionally, the conditions of approval recommend that the City Engineer consider requiring other new retaining walls within the public right-of-way to be similarly treated or screened, subject to the discretion of the City Engineer.
- The applicant's grading plan is designed to conserve existing street trees and does not propose removal of any trees on the property. The conditions of approval recommend that the City Engineer require an arborist report to evaluate the project's potential impact to the long term health of this street tree, and further recommend that if the project is found to have significant impacts to the long-term health of the tree that would require its removal that the applicant contribute funds for replacement street trees reaching similar canopy height at maturity to be planted at a 3:1 ratio.
- The subject property is not located within the boundaries of the San Bruno Mountain Area Habitat Conservation Plan.

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

- A. The applicant shall obtain a building permit and a grading permit prior to proceeding with construction. The project plans shall comply with all development standards of the R-1 District and current adopted Building and Fire Codes, and shall include shoring plans.
- B. Plans submitted for the building and grading permits shall substantially conform to plans on file in this application EX-4-19 in the City of Brisbane Planning Department, with the following modifications:
  1. A landscape plan shall be submitted demonstrating compliance with the requirements of Brisbane Municipal Code §17.06.040.I, to the satisfaction of the Planning Director. The plan shall incorporate water-conserving, non-invasive landscaping to comply with the minimum front yard landscaping requirements.
  2. All on-site exposed retaining walls exceeding six feet in exposed height from grade in the shall be either planted with screening plantings such that no more than six (6) feet of the height of the retaining wall will remain visible, or varying treatment and materials at six foot horizontal intervals may be incorporated into the wall design. The chosen screening method shall be subject to review and approval by the Community Development Director. The City Engineer is recommended to require similar treatment of new walls within the public right-of-way.
  3. Plans submitted for grading permit review shall be subject to standard review procedures by the Department of Public Works.
- C. Prior to issuance of building and grading permits, the City Engineer is recommended to consider requiring an arborist report to evaluate potential impacts of the project to the health of adjacent street trees, specifically the 28 inch coast live oak and 30 inch coast live oak in the frontage of 334 Kings Road. Should such a report be required by the City Engineer, and should such a report find that the project would significantly impact the health and survival of the subject street trees, the City Engineer is recommended to require the applicant fund planting of replacement street trees of a species reaching similar canopy height at maturity in the vicinity of the project at a 3:1 ratio.
- D. Prior to issuance of a building permit, the applicant shall obtain an encroachment permit from the Department of Public Works for all proposed construction activity and private improvements within the public right-of-way.
- E. Prior to issuance of a building permit, the property owner shall enter into a standard landscape maintenance agreement with the City.

Other Conditions

- F. Water and sanitary sewer service and storm drainage details shall be subject to approval by the City Engineer.

- G. Drawings depicting all work completed and proposed shall be provided to the satisfaction of the City. Exposure of covered work may also be required to demonstrate compliance with building code requirements.
- H. The permittees agree to indemnify, defend and hold the City and its officers, officials, boards, commissions, employees and volunteers harmless from and against any claim, action or proceeding brought by any third party to attack, set aside modify or annul the approval, permit or other entitlement given to the applicant, or any of the proceedings, acts, or determinations taken, done or made prior to the granting of such approval, permit, or entitlement.
- I. Minor modifications may be approved by the Planning Director in conformance with all requirements of the Municipal Code.