

City of Brisbane

Planning Commission Agenda Report

TO: Planning Commission For the Meeting of 2/27/2020

SUBJECT: **Grading Review EX-4-19; 338 Kings Road; R-1 Residential District;** Grading Review for approximately 330 cubic yards of soil cut and export to accommodate a new driveway, attached garage, and additions for an existing single-family dwelling on a 6,400 square-foot lot with a 43% slope; Abraham Zavala, applicant; Huang John & Chen Joy Trust, owner.

REQUEST: Recommend the City Engineer issue the grading permit to allow expansion of the existing single-family dwelling, including construction of a garage where no on-site parking currently exists and expansion of an existing shared driveway. The proposed site and grading plan would improve existing access to the neighboring property to the west at 334 Kings by expanding the existing curb cut.

RECOMMENDATION: Recommend the City Engineer issue the grading permit via adoption of Resolution EX-4-19 containing the findings and conditions of approval.

ENVIRONMENTAL DETERMINATION: The project is categorically exempt from the provisions of the California Environmental Quality Act per Section 15301(e) of the CEQA Guidelines. The exceptions to this categorical exemption referenced in Section 15300.2 do not apply.

APPLICABLE CODE SECTIONS: Grading permit review by the Planning Commission is required for projects involving site grading of 250 CY or more or 50 CY of soil export per BMC §15.01.081.A and BMC §17.32.220. Tree removal regulations are established in BMC Chapter 12.12.

ANALYSIS AND FINDINGS:

Site Description

The 6,400 sq ft property is developed with an existing 1,740 sq ft single-family dwelling. The front lot line is located approximately 15 feet behind and 10 feet above the edge of the existing paved travel lane. The site is accessed from an on-grade stairway within the right-of-way and no dedicated driveway or on-site parking exists. The upslope lot has an approximately 43% slope.

A curb cut in the right-of-way within the subject property's frontage allows driveway access to 334 Kings Road, the adjacent property to the west (see annotated aerial site map and site photos, Attachments B and C). The existing curb cut is located within the frontage of 338 Kings Road, causing the driveway to traverse diagonally in front of the subject property and over a portion of

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the subject property before crossing the property line of 334 Kings Road. A triangular driveway easement for the benefit of the owner of 334 Kings Road ensures the portion of the driveway located within the front yard of 338 Kings Road is maintained free of obstruction to allow access to their property (see applicant's site plan, Attachment D).

The existing home maintains nonconforming front and east side yard setbacks. A lot line adjustment was recorded in 2014 to adjust the lot lines between the subject property and 340 Kings Road to the east to cure prior encroachment of the existing home over the property line as it existed at the time. The encroachment of the home into the public right-of-way will continue without adjustment per the City Engineer.

Project Description

The applicant's grading plan calls for excavation and export of 330 cubic yards of soil from the subject property, and excavation of approximately 61 cubic yards within the public right-of-way, to accommodate the proposed 1,539 sq ft of additions to the home and improvements to the existing shared driveway to fully serve both the subject property and the adjacent property. The additions include a ground floor two-car garage, second level accessory dwelling unit, and upper level additions to the main dwelling, including an uncovered roof deck. (Note: While compliance with all development standards of the R-1 District will be required and verified at building permit plan check, the proposal appears to comply with applicable development standards including floor area, lot coverage, and building height.)

Work proposed within the public right-of-way will include excavation to accommodate a widened 20-ft unobstructed travel lane adjacent to the property's frontage, two new street parking spaces within the frontage of the subject property, and improvements to two existing street parking spaces on the north side of the travel lane (between 333 and 339 Kings Road).

The existing 12 ft driveway would be widened, with an approximately 33 ft curb cut allowing for unimpeded access for both properties as well as a new tandem parking space within the driveway. At least one mature street tree (coast live oak), located east of the existing driveway, would need to be removed due to driveway widening within the right-of-way. Per BMC Chapter 12.12, removal of any tree within the right-of-way is subject to approval by the City Engineer. No trees are proposed to be removed on the subject property or other private properties in the vicinity.

The City Engineer has reviewed the grading and site plans and will require full geotechnical reports and engineered grading plans to be submitted prior to building permit issuance. The Building Department and Fire Departments have also reviewed the proposed plans and have imposed conditions of approval to be satisfied at building permit, per the conditions of approval contained in Resolution EX-4-19.

Grading Permit review: In 2003, the Planning Commission adopted guidelines for reviewing grading permit applications that contain findings for permit approval, as described below. With the suggested conditions of approval contained in the attached Resolution, the application **would meet** these findings.

- The proposed grading is minimized and designed to reflect or fit comfortably with the natural topography (General Plan Policies 43, 245 & 312 and Program 18a).

The applicant's grading plan would create dedicated street access and off-street parking where none currently exists for the subject property, in compliance with the parking requirements of the R-1 Residential District and within the allowable maximum driveway design requirements of BMC Chapter 17.34 (proposed driveway grade is 18%; maximum driveway grade is 20%). The proposed grade differential within the garage further reduces excavation within the footprint of the addition. Recognizing the existing shared driveway condition, the driveway widening is the minimum necessary to provide unimpeded and code-compliant egress and ingress for both the subject property and neighboring property to the west at 334 Kings Road.

- The proposed grading is designed to avoid large exposed retaining walls (General Plan Policies 43 & 245).

A proposed 10 ft retaining wall largely in the public right-of-way would partially encroach within the front setback, to retain the widened driveway and new entry stairway (refer to sheet C-2 of the applicant's plans, Attachment D). BMC §17.32.050 requires vegetative screening or wall treatments for retaining walls over six feet in height if they are located within a setback area. Conditions of approval A.1 and A.2 in the attached resolution requires that the landscaping plan submitted with the building permit include vegetative screening for this wall such that no more than six feet of the wall (horizontally) is visible, or that the wall is treated with different materials to break up the wall massing in six foot segments. This condition would apply to any additional walls identified after the project undergoes grading permit review by the City Engineer.

It should be noted that a new approximately nine ft tall retaining wall would be constructed within the public right-of-way to provide required on-street parking. Condition of approval A.2 recommends that the City Engineer consider similar treatment measures for new retaining walls within the public right-of-way. Retaining wall design in the right of way is subject to the sole discretion of the City Engineer.

- The proposed grading is designed to conserve existing street trees (as defined by BMC Section 12.12.020), any California Bay, Laurel, Coast Live Oak or California Buckeye trees, and three or more trees of any other species having a circumference of at least 30 inches measured 24 inches above natural grade.

The project will require removal of at least one mature street tree per the current grading plan design (a coast live oak). Another mature coast live oak is likely to be able to be retained, but ultimately its fate would depend on further refinement of the grading plans at time of building and grading permit application. Per the updated tree removal regulations in BMC Chapter 12.12, removal of street trees is solely within the discretion of the City Engineer. Condition of approval B recommends that the City Engineer consider requiring an in-lieu fee to be paid for removal of

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any street tree associated with the project to fund tree planting in the vicinity or elsewhere in the City.

- The proposed grading complies with the terms of the San Bruno Mountain Area Habitat Conservation Plan Agreement and Section 10(a) Permit, if and as applicable (General Plan Policy 119 and Program 83b).

This finding does not apply as the subject property is not located within the boundaries of the San Bruno Mountain Area Habitat Conservation Plan.

ATTACHMENTS:

- A. Draft Resolution EX-4-19 with recommended Findings and Conditions of Approval
- B. Aerial site map
- C. Site photos
- ~~D. Applicant's plans~~ See Attachment B of 6/25/2020 agenda report



Julia Ayres, Senior Planner



John Swiecki, Community Development Director

Draft
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 will 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 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 February 27, 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 27th day of February, 2020, by the following vote:

AYES:
NOES:
ABSENT:

Pamala Sayasane
Chairperson

ATTEST:

JOHN A. SWIECKI, Community Development Director

DRAFT
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 indicated by the applicant's grading plan and site plan, the proposed excavation is limited to the footprint of the additions and necessary site access from the street, and is the minimum necessary to allow the site to conform to the parking requirements of the R-1 Residential District and design standards contained in Chapter 17.34 of the Municipal Code.
- The proposed grading would result in one exposed retaining wall of approximately nine feet in height within a portion of the front setback, extending into the public right-of-way. 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 conditions of approval require that the applicant submit a landscaping plan with the building permit that identifies screening plantings for the retaining wall in the front yard setback, or details the proposed treatment of the wall's exterior per the conditions of approval. The plan shall additionally demonstrate compliance with the minimum 15% front yard landscaping requirement for the property.
- The subject property is not located within the boundaries of the San Bruno Mountain Area Habitat Conservation Plan.

DRAFT

Conditions of Approval:Prior to Issuance of a Building Permit

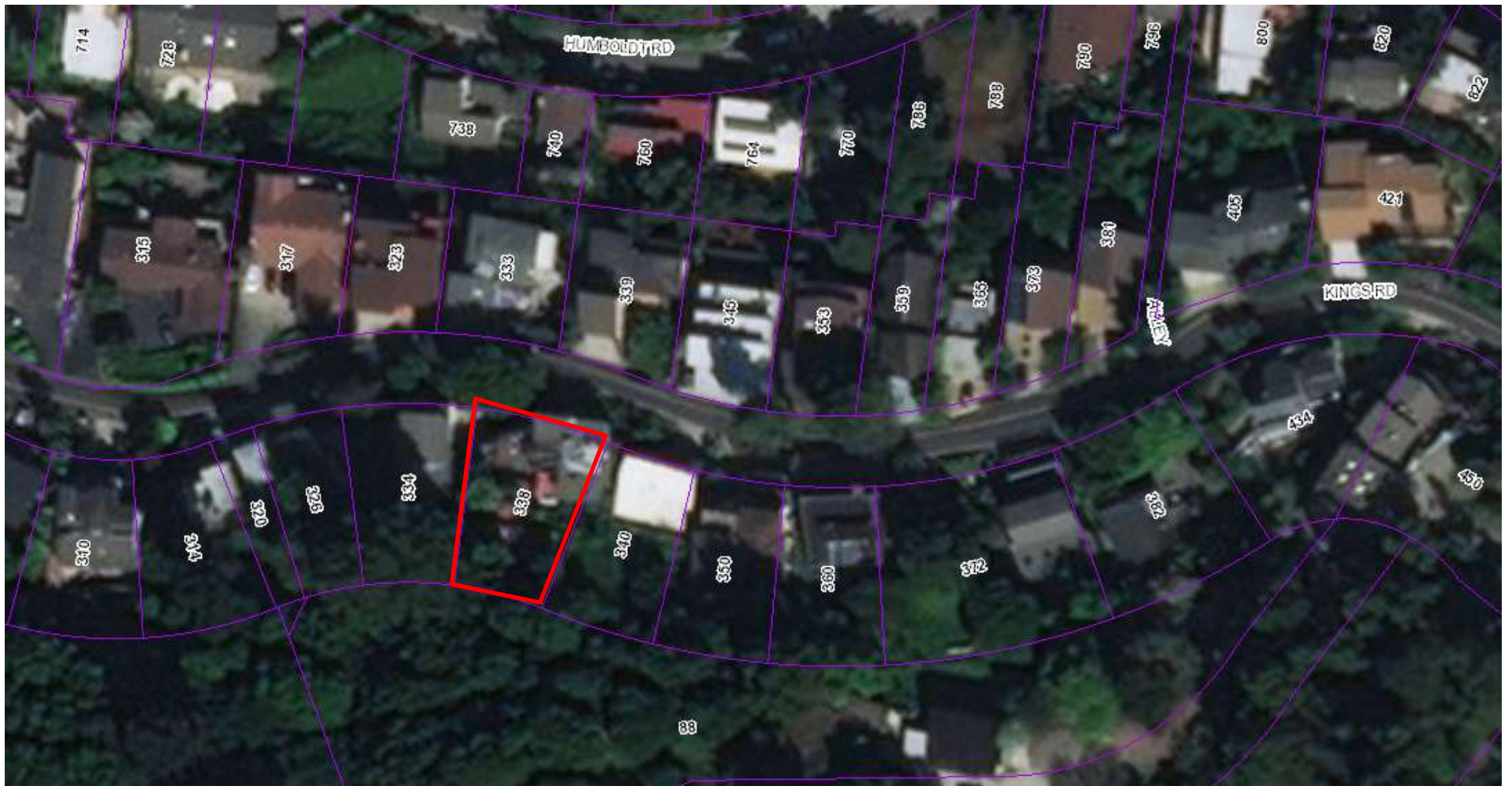
- A. The applicant shall obtain a building permit and a grading permit prior to proceeding with construction. The project plans shall comply with all development standards of the R-1 District. Plans submitted for the building and grading permits shall substantially conform to plans on file in this application 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 encouraged 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.
- B. Subject to approval by the City Engineer, the applicant may be required to pay an in-lieu fee for any street tree to be removed due to proximity to or location within the footprint of proposed street widening or other improvements.
- C. 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.
- D. Prior to issuance of a building permit, the property owner shall enter into a standard landscape maintenance agreement with the City.
- E. Prior to issuance of a building permit, 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.

Other Conditions

- F. All glass shall be nonreflective, and all exterior lighting shall be located so as not to cast glare upward or onto surrounding streets or properties.
- G. Water and sanitary sewer service and storm drainage details shall be subject to approval by the City Engineer.

- H. 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.
- I. 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.
- J. Minor modifications may be approved by the Planning Director in conformance with all requirements of the Municipal Code.

338 Kings Road
Aerial Site Map



Site Photos



Above: View of the property from Kings Road looking west

Below: View of the property from Kings Road looking southeast





Above: Street tree to be removed to accommodate driveway and street widening

Below: Approximate location of proposed new on-street parking space within property frontage





Above: Area of on-street parking improvement (two spaces) between 333 and 339 Kings Road.

Below: View of home from Kings Road looking west



BRISBANE PLANNING COMMISSION
Action Minutes of February 27, 2020
Regular Meeting

A. CALL TO ORDER

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

B. ROLL CALL

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

Absent: Commissioner Gomez.

Staff Present: Community Development Director Swiecki, Senior Planner Ayres, Associate Planner Robbins

C. ADOPTION OF AGENDA

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

D. CONSENT CALENDAR

Commissioner Mackin moved adoption of the consent calendar. Commissioner Patel seconded the motion and it was approved 4-0.

E. ORAL COMMUNICATIONS

Michele Salmon, a Brisbane resident, voiced concerns about the enforcement of the conditions of approval on the Google Bus Yard on Tunnel Road, particularly the lighting of the site at night.

F. WRITTEN COMMUNICATIONS

Chairperson Sayasane acknowledged written communications regarding item H.1.

G. NEW BUSINESS

1. **PUBLIC HEARING: Grading Review EX-4-19; 338 Kings Road; R-1 Residential District;** Grading Review for approximately 330 cubic yards of soil cut and export to accommodate a new driveway, attached garage, and additions for an existing single-family dwelling on a 6,400 square-foot lot with a 43% slope; Abraham Zavala, applicant; Huang John & Chen Joy Trust, owner.

Senior Planner Ayres gave the staff presentation

Chairperson Sayasane opened the public hearing.

Abraham Zavala, the applicant, answered questions about the project.

Prem Lall, Brisbane resident, spoke against the project.

Barbara Ebel, Brisbane resident, spoke against the project.

Michele Salmon, Brisbane resident, spoke against the project.

Joe Sulley, Brisbane resident, spoke against the project.

With no one else coming forward to address the Commission, Commissioner Patel moved to close the public hearing. Commissioner Gooding seconded the motion and it was approved 4-0.

The Planning Commission commenced deliberation and identified concerns with the street tree removal and street improvements required by the City Engineer, as well as the potential impact to site hydrology.

Chairperson Sayasane recognized audience members wishing to speak after the public hearing was closed.

Barbara Ebel, Brisbane resident, spoke against the project.

Prem Lall, Brisbane resident, spoke against the project.

The Commission resumed deliberation. Following deliberation, Commissioner Patel moved to deny the permit. Commissioner Mackin seconded the motion and the motion was approved 4-0. (*Administrative note: no findings of denial were adopted; therefore, final action on this item must be continued to the next regular meeting.*)

~~H. OLD BUSINESS~~

- ~~1. **CONTINUED PUBLIC HEARING: Zoning Text Amendment RZ-2-19;** Zoning Text Amendments to adopt regulations for short term residential rentals (STRs) by adding a new Chapter 17.35 to the Brisbane Municipal Code; Citywide; City of Brisbane, applicant.~~

~~Senior Planner Ayres gave the staff presentation and answered questions from the Commission to clarify the ordinance's provisions regarding citations, renting of accessory dwelling units (ADUs) by permanent residents of the ADU, limitations on listings and bookings, and neighbor notification.~~

~~Chairperson Sayasane opened the public hearing.~~

~~David McWaters spoke against non-hosted rentals and suggested a cap on number of people per habitable bedroom.~~

~~Dennis Busse spoke against the STR ordinance, and thought the insurance requirements were too low.~~

~~Lori Lacsamana spoke against the STR ordinance, with concerns about parking.~~

~~Sharon Boggs spoke against non-hosted rentals and allowing ADUs to be STRs.~~

~~Julia Babiarez spoke against the STR ordinance, with concerns about non-hosted rentals and occupancy limits under the ordinance.~~