



CITY COUNCIL AGENDA REPORT

Meeting Date: September 21, 2023
From: Director of Public Works/City Engineer
Subject: Ordinance Concerning the Timing of the Construction of Off Site Improvements
(This Ordinance is exempt from review under the California Environmental Quality Act (CEQA) because it is not a project. CEQA Guidelines, Section 15378 (b)(2).

Purpose

To review a proposed ordinance that addresses community desires to mitigate the delays in public improvements required in conjunction with private development.

Recommendation

Introduce an Ordinance, waiving first reading, adding Section 15.04.045 to Chapter 15 of the Brisbane Municipal Code, "Concerning the Timing of the Construction of Off Site Improvements."

Background

Under the Building Code, a building permit is valid for one year but the permit may be extended six months at a time if, in the judgment of the building official, the property owner is making progress on the work allowed under the permit. Accordingly, work under a building permit may continue indefinitely so long as the property owner continues to do work.

This open ended timeframe, however, may cause, and has caused, neighborhood problems. For example, some permits require that offsite improvements, such as road widenings or off street parking spaces, be constructed in connection with the onsite work. Currently there is no requirement when, relative to the onsite work, that such off site work must be undertaken and completed. This leads to situations where the existing street is impacted, causing disruption of traffic patterns for those living in the neighborhood. Additionally, work onsite that does not get completed expeditiously leads to unfinished work that is a neighborhood eyesore and nuisance.

The Municipal Code currently does not have provisions that would require off site work to be completed before onsite work begins. Staff has drafted the attached ordinance the purpose of which is to eliminate or substantially reduce neighborhood concerns.

Discussion

Where a building permit requires off site improvements, such as a street widening, parking spaces, or a retaining wall, the attached ordinance would require the applicant to construct such improvements under a schedule approved by the city engineer before beginning any onsite construction unless the city engineer specifically provided that certain onsite construction could be undertaken.

Concerning onsite work that is an eyesore or causes a neighborhood nuisance, the building code currently authorizes the building official to direct the applicant to eliminate the unsightly conditions or conditions that are causing the neighborhood nuisance. The applicant's failure to do as directed would lead to administrative citations to other enforcement action. Accordingly, there is no need to address these concerns by an amendment to the Code.

Fiscal Impact

There is no direct fiscal impact in enacting this ordinance.

ENVIRONMENTAL REVIEW

Adoption of this ordinance does not need further environmental review under the California Environmental Quality Act (CEQA) as it is general policy and procedure making and not applied to a specific instance and therefore it is not a "project". CEQA Guidelines, Section 15378 (b) (2).

Attachments

1. Proposed Ordinance

R.L. Breault

Randy Breault, Public Works Director

Clay L. Holstine

Clay Holstine, City Manager

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY OF BRISBANE
ADDING SECTION 15.04.045 TO THE BRISBANE MUNICIPAL CODE CONCERNING
THE TIMING OF THE CONSTRUCTION OF OFF SITE IMPROVEMENTS**

The City Council of the City of Brisbane hereby ordains as follows:

Section 1. Section 15.04.045 is added to the Brisbane Municipal Code to read as follows:

“Section 15.04.045. Timing of the construction of off site improvements.

Where a building permit requires that an applicant construct certain off site improvements including, but not limited, to road widening, retaining walls and/or parking spaces, the applicant shall construct all such improvements in a schedule approved by the city engineer before beginning any on site construction unless the city engineer authorizes specific on site construction before the enumerated off site improvements are completed.”

Section 2. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

Section 3. This Ordinance shall be in full force and effect 30 days after its passage and adoption.

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The above Ordinance was regularly introduced and after waiting the time required by law was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on October 3, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Madison Davis, Mayor

ATTEST:

Ingrid Padilla, City Clerk

APPROVED AS TO FORM:

Thomas R. McMorrow, City Attorney