



**CITY COUNCIL MEMO**

**Meeting Date: November 4, 2021**

**From: Ingrid Padilla, City Clerk**

**Subject: Ordinance No. 665-An Ordinance of the City Of Brisbane Amending Sections 17.02.190, 17.02.195, 17.02.290, 17.06.020, 17.06.030, 17.08.020, 17.08.030, 17.10.020, 17.10.030, 17.11.020, 17.12.020, 17.12.030, 17.14.020, 17.14.040, 17.16.020, 17.16.030, and 17.27.020 Of the Brisbane Municipal Code Concerning Large Family Day Care Homes**

The Ordinance listed above was introduced at the City Council Meeting of October 21, 2021. It is on this agenda for consideration of adoption.

Attachment: Staff Report from the City Council Meeting of October 21, 2021



## **CITY COUNCIL AGENDA REPORT**

**Meeting Date:** October 21, 2021

**From:** John Swiecki, Community Development Director

**Subject:** Large Family Day Care Homes – Draft Ordinance No. 665

### **Community Goal/Result**

Community Building

### **Purpose**

To amend Title 17 of the Brisbane Municipal Code (BMC) consistent with the requirements of state law to permit large family day care homes consistent with how single family residences are permitted in those zoning districts which allow residential uses.

### **Recommendation**

That the City Council introduce Ordinance No. 665.

### **Background**

In 2019, the Governor signed into law Senate Bill 234 – Family Day care Homes (SB 234) that became effective January 1, 2020. The bill requires large family day care homes, day care homes licensed to care for seven to fourteen children, to be treated as a residential use of property for purposes of all local ordinances. Specifically, SB 234 prohibits municipalities from requiring a discretionary use permit for both small and large family day care homes. The City's current zoning regulations permit small family day care homes ( less than eight children) by right in those zones which permit residential uses while large family day care homes are required to obtain a conditional use permit.

The Planning Commission considered and unanimously recommended approval of this amendment at the July 22, 2021 Planning Commission meeting. Staff report and minutes are attached.

### **Discussion**

The draft ordinance would amend certain definitions contained within BMC Chapter 17.02 and applicable BMC sections prescribing "Permitted uses" and "Conditional uses" for any zoning district that currently permits residential uses, either by-right or with approval of a Conditional Use Permit. Below is a brief summary of the proposed amendments:

- **Update terminology.** Definitions provided within BMC Chapter 17.02 will be updated to be consistent with SB 234, including “Day Care Center”, “Day Care Home”, and “Family Day care Home”.
- **Achieve consistency with state law.**
  - In zoning districts that permit residential uses by right (R-1, R-2, R-3, R-MHP, and R-BA Residential Zoning Districts) “Large Family Day care Home” will be reclassified from conditionally permitted uses to permitted uses.
  - In zoning districts that conditionally permit residential uses (NCRO-2 Downtown Brisbane Neighborhood Commercial District and SCRO-1 Southwest Bayshore Commercial District and PAOZ-1 and PAOZ-2 Parkside Overlay Districts), “Large Family Day care Home” will be reclassified from conditionally permitted uses to permitted uses, provided they are within a conforming and permitted residential dwelling.

### **Fiscal Impact**

None.

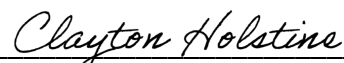
### **Measure of Success**

Adoption of zoning amendments that brings Title 17 into compliance with current State law.

### **Attachments**

1. Draft Ordinance No. 665
2. Planning Commission staff report and minutes dated July 22, 2021
3. Redline Copy of proposed Zoning Text Amendments

  
\_\_\_\_\_  
John Swiecki, Community Development Director

  
\_\_\_\_\_  
Clay Holstine, City Manager

**draft**  
**ORDINANCE NO. 665**

**AN ORDINANCE OF THE CITY OF BRISBANE**  
**AMENDING SECTIONS 17.02.190, 17.02.195, 17.02.290, 17.06.020, 17.06.030, 17.08.020,**  
**17.08.030, 17.10.020, 17.10.030, 17.11.020, 17.12.020, 17.12.030, 17.14.020, 17.14.040,**  
**17.16.020, 17.16.030, and 17.27.020 OF THE BRISBANE MUNICIPAL CODE**  
**CONCERNING LARGE FAMILY DAY CARE HOMES**

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

**SECTION 1: Sections 17.02.190, 17.02.195, and 17.02.290 are amended to read as follows:**

**17.02.190 - Day care center.**

“Day care center,” “child care center,” and “child day care facility” mean a facility licensed pursuant to Health and Safety Code Section 1596.951, other than a family day care home as defined in this Chapter, that provides nonmedical care to children under eighteen (18) years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a twenty-four (24) hour basis. Day care center includes:

- A. Employer-sponsored day care centers;
- B. Infant centers;
- C. Preschools;
- D. Extended day care centers;
- E. School-age day care centers; and
- F. Day care centers.

**17.02.195 - Day care home.**

“Day care home” means a family day care home, as such term is defined in this chapter.

**17.02.290 – Family day care home.**

"Family day care home" means a facility licensed pursuant to Health and Safety Code Section 1597.54, that regularly provides care, protection, and supervision for fourteen (14) or fewer children, in the licensee’s own home, for periods of less than 24 hours per day, while the parents or guardians are not present. A licensee’s residence includes property in which the licensee is a tenant, and includes the following:

- A. “Small family day care home” means a family day care home that provides care, protection, and supervision for more than six (6) children and up to eight (8) children, as set forth in Health and Safety Code Section 1597.44 and as defined in applicable State regulations;
- B. “Large family day care home” means a family day care home that provides care, protection, and supervision for more than twelve (12) children and up to and including

fourteen (14) children, as set forth in Health and Safety Code Section 1597.465 and as defined in applicable State regulations.

**SECTION 2: Sections 17.06.020 and 17.06.030 are amended to read as follows:**

**17.06.020 – Permitted uses.**

The following permitted uses shall be allowed in the R-1 district:

- A. Single-family dwellings.
- B. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.
- C. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.
- D. Small family day care homes.
- E. Large family day care homes.
- F. Accessory dwelling units and junior accessory dwelling units, in accordance with Chapter 17.43 of this title.

**17.06.030– Conditional uses.**

The following conditional uses may be allowed in the R-1 district, upon the granting of a use permit pursuant to Chapter 17.40 of this title:

- A. Cultural facilities.
- B. Day care centers.
- C. Educational facilities.
- D. Group care homes.
- E. Meeting halls.
- F. Mobile home parks.
- G. Places of worship.

**SECTION 3: Sections 17.08.020 and 17.08.030 are amended to read as follows:**

**17.08.020 – Permitted uses.**

The following permitted uses shall be allowed in the R-2 district:

- A. Single-family dwellings.
- B. Duplexes.
- C. Multiple family dwellings containing not more than six (6) dwelling units.
- D. Dwelling groups.

- E. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.
- F. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.
- G. Small family day care homes.
- H. Large family day care homes.
- I. Accessory dwelling units and junior accessory dwelling units, in accordance with Chapter 17.43 of this title.

**17.08.030– Conditional uses.**

The following conditional uses may be allowed in the R-2 district, upon the granting of a use permit pursuant to Chapter 17.40 of this title:

- A. Cultural facilities.
- B. Day care centers.
- C. Educational facilities.
- D. Group care homes.
- E. Mobile home parks.
- F. Multiple family dwellings containing seven (7) or more dwelling units.
- G. Meeting halls;
- H. Places of worship.

**SECTION 4: Sections 17.10.020 and 17.10.030 are amended to read as follows:**

**17.10.020 – Permitted uses.**

The following permitted uses shall be allowed in the R-3 district:

- A. Multiple-family dwellings.
- B. Single-family dwellings.
- C. Duplexes.
- D. Dwelling groups.
- E. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.
- F. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.
- G. Small family day care homes.
- H. Large family day care homes.

- I. Accessory dwelling units and junior accessory dwelling units, in accordance with Chapter 17.43 of this title.

**17.10.030– Conditional uses.**

The following conditional uses may be allowed in the R-3 district, upon the granting of a use permit pursuant to Chapter 17.40 of this title:

- A. Cultural facilities.
- B. Day care centers.
- C. Educational facilities.
- D. Group care homes.
- E. Mobile home parks.
- F. Meeting halls.
- G. Places of worship.

**SECTION 5: Section 17.11.020 is amended to read as follows:**

**17.11.020 – Permitted uses.**

The following permitted uses shall be allowed in the R-MHP district:

- A. Mobile home parks.
- B. Mobile homes.
- C. Accessory structures, including structures used for administration, maintenance or other community services.
- D. Small family day care homes.
- E. Large family day care homes.
- F. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.
- G. Accessory dwelling units, when authorized by a permit granted pursuant to Chapter 17.43 of this title.

**SECTION 6: Sections 17.12.020 and 17.12.030 are amended to read as follows:**

**17.12.020 – Permitted uses.**

The following permitted uses shall be allowed in the R-BA district:

- A. Single-family dwellings.
- B. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.

- C. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.
- D. Small family day care homes.
- E. Large family day care homes.
- F. Accessory dwelling units and junior accessory dwelling units, when authorized by a permit under Chapter 17.43 of this title.

**17.12.030– Conditional uses.**

The following conditional uses may be allowed in the R-BA district, upon the granting of a use permit pursuant to Chapter 17.40 of this title:

- A. Group care homes.

**SECTION 7: Sections 17.14.020 and 17.14.040 are amended to read as follows:**

**17.14.020 – Permitted uses.**

The following uses are permitted uses in the NCRO-1 and NCRO-2 districts, if conducted in accordance with the performance standards set forth in 17.14.070 of this chapter:

- A. Financial institutions.
- B. Medical facilities.
- C. Offices.
- D. Personal services.
- E. Restaurants.
- F. Retail sales and rental.
- G. Home occupations, in the NCRO-2 District only.
- H. Accessory dwelling units and junior accessory dwelling units associated with an existing or proposed single-family dwelling, duplex, or multiple-family dwelling in compliance with the provisions of Chapter 17.43 of this title, in the NCRO-2 District only.
- I. Small family day care homes in a dwelling unit if part of a mixed-use development and when the day care home is located above or behind nonresidential uses.
- J. Large family day care homes in a dwelling unit if part of a mixed-use development and when the day care home is located above or behind nonresidential uses.

**17.14.040– Conditional uses.**

The following conditional uses are allowed in the NCRO-2 District, subject to obtaining a use permit and if conducted in accordance with the performance standards set forth in Section 17.14.070 of this chapter:

- A. Bars.



- B. Commercial recreation-commercial gym and health facilities.
- C. Cultural facilities.
- D. Educational facilities.
- E. Meeting halls.
- F. Mixed use in single-family dwellings.
- G. Outdoor sales and rental, when associated with an adjacent use within a structure.
- H. Places of worship.
- I. Temporary uses.
- J. Veterinary clinics.
- K. The following conditional uses are allowed only when part of a mixed-use and when located above or behind nonresidential uses:
  - 1. Day care centers.
  - 2. Dwelling units.
  - 3. Group care homes.

**SECTION 8: Sections 17.16.020 and 17.16.030 are amended to read as follows:**

**17.16.020 – Permitted uses.**

- A. The following are permitted uses in the SCRO-1 district:
  - 1. Emergency shelters in compliance with Section 17.16.040.
  - 2. Accessory dwelling units and junior accessory dwelling units associated with an existing or proposed single-family dwelling, duplex, or multiple-family dwelling in compliance with the provisions of Chapter 17.43 of this title.
  - 3. Small family day care homes in a dwelling unit.
  - 4. Large family day care homes in a dwelling unit.

**17.16.030– Conditional uses.**

- A. Allowable Conditional Uses. The following conditional uses, not otherwise permitted per Section 17.16.020(A), may be allowed in the Southwest Bayshore district, upon the granting of a use permit pursuant to Chapter 17.40 of this title and if conducted in accordance with the performance standards set forth in Section 17.16.050 of this chapter:
  - 1. Commercial recreation/commercial gym and health facilities;
  - 2. Contractor's yards;
  - 3. Convalescent homes;
  - 4. Cultural facilities;

5. Duplex dwelling units;
6. Educational facilities;
7. Emergency shelters with more than twelve (12) beds;
8. Financial institutions;
9. Food production;
10. Group care homes;
11. Hotels;
12. Light fabrication;
13. Live/work developments;
14. Media studios;
15. Medical facilities;
16. Meeting halls;
17. Mobile home parks in compliance with Section 17.32.110;
18. Motels;
19. Multiple-family dwellings and dwelling groups;
20. Offices;
21. Outdoor sales and rental;
22. Personal services;
23. Places of worship;
24. Printing;
25. Product showrooms;
26. Research and development, where the planning director determines, as a result of a risk analysis performed in accordance with Policy No. 166.1 of the general plan, that the use of hazardous materials will not constitute a major component of the research and development activities to be conducted on the site. Research and development involving cannabis is additionally subject to the requirements in Chapter 17.33;
27. Restaurants;
28. Retail sales and rental;
29. Single-family dwellings and single-family dwellings with accessory dwelling units in compliance with the provisions of Chapter 17.43 of this Title;
30. Storage;

- 31. Veterinary clinics;
- 32. Warehousing;
- 33. Single-room occupancy units.

B. **Mixed Uses.** A combination of any residential and nonresidential uses listed in subsection A of this section, or in Section 17.16.020, may be allowed as a mixed use within the same structure or upon the same site when specifically authorized by the use permit granted for each individual conditional use and upon such additional conditions as the approving authority may deem necessary or appropriate to insure the compatibility of such mixed uses.

C. **Night Operations.** Night operations associated with the conduct of any uses listed in subsection A of this section (except residential uses) shall require a use permit when subject to the provisions of Section 17.16.070 of this chapter.

**SECTION 9: Section 17.27.020 is amended to read as follows:**

**17.27.020 – Permitted uses.**

The following are permitted uses in the PAOZ-1 and PAOZ-2 districts:

PAOZ-1	PAOZ-2	Permitted Uses
X	Not permitted	Single-family dwellings
X	X	Multiple-family dwellings
X	X	Dwelling groups
X	X	Accessory structures
X	X	Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44
X	X	Small family day care homes in a dwelling unit
X	X	Large family day care homes in a dwelling unit
X	X	Accessory dwelling units, in compliance with Chapter 17.43 of this title.

PAOZ-1	PAOZ-2	Permitted Uses
X	Not permitted	Junior accessory dwelling units, in compliance with Chapter 17.43 of this title.

**SECTION 10:** Where a use permit, design permit or variance approval has been issued through final action by the City prior to the effective date of this Ordinance, or where such planning permit approval is not required and a complete building permit application has been submitted prior to the effective date of this Ordinance, the holder of such use permit, design permit or variance approval or complete building permit application may proceed to construct the improvements or establish the use authorized by such permit or approval and the same shall be exempted from any conflicting regulations that may be contained in this Ordinance.

**SECTION 11:** 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 12:** This Ordinance shall be in full force and effect thirty days after its passage and adoption.

\* \* \*

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the [redacted] day of [redacted] 2021, by the following vote:

AYES:  
 NOES:  
 ABSENT:  
 ABSTAIN:

\_\_\_\_\_  
 Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
 City Clerk

\_\_\_\_\_  
 City Attorney

# *City of Brisbane*

## *Planning Commission Agenda Report*

**TO:** Planning Commission For the Meeting of 7/22/2021

**SUBJECT:** **Zoning Text Amendment RZ-1-21;** Zoning text amendments to Title 17 of the Brisbane Municipal Code (BMC) to update allowed uses in residential zoning districts; City of Brisbane, applicant; Citywide.

**REQUEST:** Recommend City Council adoption of proposed zoning text amendments to allow large family day care homes by-right in the R-1, R-2, R-3, R-MHP, R-BA, NCRO-2, SCRO-1, PAOZ-1, and PAOZ-2, Zoning Districts, and update related definitions consistent with State law.

**RECOMMENDATION:** Recommend City Council adoption of Zoning Text Amendment RZ-1-21 via adoption of Resolution RZ-1-21.

**ENVIRONMENTAL DETERMINATION:** The project is statutorily exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15274 of the CEQA Guidelines that exempts the establishment or operation of small and large family day care homes to CEQA.

### **APPLICABLE CODE SECTIONS:**

- “Day Care Center”, “Day Care Home”, and “Family Day care Home” defined in [Chapter 17.02](#)
- R-1 Residential District ([BMC Chapter 17.06](#))
- R-2 Residential District ([BMC Chapter 17.08](#))
- R-3 Residential District ([BMC Chapter 17.10](#))
- R-MHP Mobile Home Park District ([BMC Chapter 17.11](#))
- R-BA Residential District ([BMC Chapter 17.12](#))
- Downtown Brisbane Neighborhood Commercial District ([BMC Chapter 17.14](#))
- Southwest Bayshore Commercial District ([BMC Chapter 17.16](#))
- Parkside Overlay District ([BMC Chapter 17.27](#))

### **ANALYSIS AND FINDINGS:**

#### **Background**

In 2019, the Governor signed into law Senate Bill 234 – Family Day care Homes (SB 234) that became effective January 1, 2020 (See attachment C). The bill requires large family day care homes, day care homes licensed to care for seven to fourteen children, to be treated as a residential use of property for purposes of all local ordinances; more specifically, SB 234 prohibits municipalities from requiring a discretionary use permit or levying any type of business license fee or tax on both small and large family day care homes. The City’s current zoning regulations

only treat small family day care homes, day care homes with less than eight children, as a residential use of property, and large family day care homes are required to obtain a conditional use permit prior to establishment or operation.

### **Draft Ordinance**

The draft ordinance would amend certain definitions contained within BMC Chapter 17.02 and applicable BMC sections prescribing “Permitted uses” and “Conditional uses” for any zoning district that currently permits residential uses, either by-right or with approval of a Conditional Use Permit (see Attachments A and B). While no amendments are proposed to the text of BMC Chapter 17.28 – PD Planned Development District, small and large family day care homes would be permitted within residential dwellings in any PD Zoning Districts, consistent with State law.

Below is a brief summary of the proposed amendments:

- **Update terminology.** Definitions provided within BMC Chapter 17.02 will be updated to be consistent with SB 234, including “Day Care Center”, “Day Care Home”, and “Family Day care Home”.
- **Achieve consistency with state law.**
  - In zoning districts that permit residential uses by right (R-1, R-2, R-3, R-MHP, and R-BA Residential Zoning Districts) “Large Family Day care Home” will be reclassified from conditionally permitted uses to permitted uses.
  - In zoning districts that conditionally permit residential uses (NCRO-2 Downtown Brisbane Neighborhood Commercial District and SCRO-1 Southwest Bayshore Commercial District and PAOZ-1 and PAOZ-2 Parkside Overlay Districts), “Large Family Day care Home” will be reclassified from conditionally permitted uses to permitted uses, provided they are within a conforming and permitted residential dwelling.

### **ATTACHMENTS:**

- A. Draft Resolution RZ-1-21 (including draft ordinance)
- B. Redline copy of proposed zoning text amendments (N.I.C.)
- C. Government Code Sections [1596.72](#), [1596.73](#), [1596.78](#), [1597.30](#), [1597.40](#), [1597.41](#), [1597.42](#), [1597.45](#), [1597.455](#), [1597.46](#), [1597.54](#) and [1597.543](#) of the Health and Safety Code, relating to family day care homes (SB 234).

  
\_\_\_\_\_  
Jeremiah Robbins, Associate Planner

  
\_\_\_\_\_  
John Swiecki, Community Development Director

RESOLUTION RZ-1-21

A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE  
RECOMMENDING CITY COUNCIL APPROVAL OF ZONING TEXT AMENDMENT RZ-1-21  
AMENDING REGULATIONS WITHIN TITLE 17 OF THE BRISBANE MUNICIPAL CODE  
CONCERNING LARGE FAMILY DAY CARE HOMES

WHEREAS, the State Legislature finds that child day care facilities can contribute positively to a child's emotional, cognitive, and educational development, that good quality childcare services are an essential service for working parents, and California has a tremendous shortage of regulated childcare, the State intends to provide a comprehensive, quality system for licensing child day care facilities to ensure a quality childcare environment; and

WHEREAS, effective January 1, 2020, Senate Bill 234 (Skinner), amended Sections 1596.72, 1596.73, 1596.78, 1597.30, 1597.40, 1597.41, 1597.42, 1597.45, 1597.46, 1597.54 and 1597.543 of the Health and Safety Code and changed the requirements for local governments relating large family day care homes; and

WHEREAS, the City's current zoning ordinance regarding large family day care homes must be updated to comply with current State law; and

WHEREAS, the draft ordinance attached as Exhibit A to this resolution proposes amendments to Title 17 (Zoning) of the Brisbane Municipal Code in order to comply with current State law regarding large family day care homes; and

WHEREAS, on July 22, 2021, 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

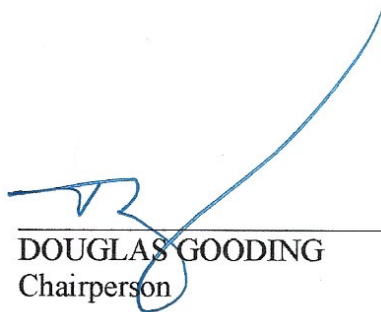
WHEREAS, the draft ordinance is statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) per Section 15274 of the CEQA Guidelines; and

NOW, THEREFORE, based upon the evidence presented, both written and oral, the Planning Commission of the City of Brisbane hereby RECOMMENDS that the City Council adopt the attached ordinance.

AYES: Gooding, Patel, Sayasane

NOES: None

ABSENT: Funke, Gomez

  
\_\_\_\_\_  
DOUGLAS GOODING  
Chairperson

ATTEST:

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

EXHIBIT A N.I.C.

BRISBANE PLANNING COMMISSION  
Action Minutes of July 22, 2021  
Virtual Regular Meeting

CALL TO ORDER

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

ROLL CALL

Present: Commissioners Gooding, Patel, and Sayasane.  
Absent: Commissioners Funke, Gomez  
Staff Present: Director Swiecki, Senior Planner Johnson, and Associate Planner Robbins

ADOPTION OF AGENDA

Commissioner Patel moved to adopt the agenda. Commissioner Sayasane seconded the motion and it was approved 3-0.

CONSENT CALENDAR

Commissioner Sayasane moved to adopt the consent calendar (agenda item A). Commissioner Patel seconded the motion and it was approved 3-0.

ORAL COMMUNICATIONS

There were no oral communications.

WRITTEN COMMUNICATIONS

Chairperson Gooding acknowledged one written communication from Dana Dillworth in opposition of agenda item B.

NEW BUSINESS

~~B. PUBLIC HEARING. 800-1800 Sierra Point Parkway, Sign Program Modification SR 1-20; SP-CRO Sierra Point Commercial District, Sign program modification to "The Shore at Sierra Point Sign Program" (SR 7-19) for the Healthpeak Biotechnology Research and Development Campus, Kevin Norman, DES Architects + Engineers, Inc., Applicant; Scott Robn, Healthpeak Properties, owner~~

~~Senior Planner Johnson gave the staff presentation and answered questions from the Commission regarding anticipated increases in light pollution, performance standards meant to reduce glare and public nuisances, and how the City would enforce the sign program performance standards and conditions of approval to ensure individual signs comply with the sign program.~~



~~Kevin Norman, applicant, addressed the Commission in support of the application, and explained how complaints of light pollution from the City and/or residents would be addressed.~~

~~Senior Planner Johnson read the written correspondence from Dana Dillworth into the record.~~

~~With no others wishing to address the Commission, Commissioner Sayasane moved to close the public hearing. Commissioner Patel seconded the motion and it was approved 3-0.~~

~~After deliberation, Commissioner Sayasane moved to approve the application via adoption of Resolution SR 1-20. Commissioner Patel seconded the motion and it was approved 5-0. Chairperson Gooding read the appeals procedure.~~

- C. **PUBLIC HEARING: Zoning Text Amendment RZ-1-21;** Various zoning districts; Zoning text amendments to Title 17 of the Brisbane Municipal Code to allow large family daycare homes by-right in residential zoning districts, consistent with State law; City of Brisbane, applicant; Citywide.

Associate Planner Robbins gave the staff presentation and answered questions from the Commission pertaining to the reason why the amendments are necessary and if they comply with State law.

Barbara Ebel, Brisbane resident, asked Associate Planner Robbins to identify any differences between the draft ordinance and State law and he provided the requested clarification.

With no others wishing to address the Commission, Commissioner Sayasane moved to close the public hearing. Commissioner Patel seconded the motion and it was approved 3-0.

After deliberation, Commissioner Patel moved to recommend City Council adoption of the draft ordinance by adopting Resolution RZ-1-21. Commissioner Sayasane seconded the motion and it was approved 3-0.

#### ~~ITEMS INITIATED BY STAFF~~

~~Director Swiecki reported that the City Council received presentations on hybrid public meetings, the development of objective design and development standards (ODDS) for new residential development, and the Quarry redevelopment project at their July 15, 2021 meeting. He also announced Senior Planner Ayres and Associate Planner Robbins will each be going on parental leave, coming back late fall and early winter.~~

#### ~~ITEMS INITIATED BY THE COMMISSION~~

~~There were none.~~

ADJOURNMENT

## SECTION 1

### 17.02.190 Day care center.

~~"Day care center," also known known as "child care center," means an establishment licensed by the state, not located in the licensee's own home, where non-medical care and supervision are provided for children in a group setting for periods of less than twenty-four (24) hours. The term includes nurseries, nursery schools, preschools, play groups, and after school group care, but does not include a family day care home operated in the provider's own home.~~

"Day care center," "child care center," and/or a "child day care facility," means a facility licensed pursuant to Health and Safety Code Section 1596.951, other than a family daycare home as defined in this Chapter, that provides nonmedical care to children under eighteen (18) years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a twenty-four (24) hour basis. Day care center includes:

- A. Employer-sponsored day care centers;
- B. Infant centers;
- C. Preschools;
- D. Extended day care centers;
- E. School-age day care centers; and
- F. Day care centers.

### 17.02.195 Day care home.

"Day care home" means a family day care home, as such term is defined in this chapter.

### 17.02.290 Family day care home.

"Family day care home" means a facility licensed by the State that regularly provides care, protection, and supervision for fourteen (14) or fewer children, in the licensee's residence for periods of less than 24 hours per day, while the parents or guardians are not present. A licensee's residence includes property in which the licensee is a tenant, means an establishment operated by the provider in the provider's own home as a accessory use incidental to the residential occupancy and licensed by the state to provide care, protection and supervision to children for periods of less than twenty-four (24) hours per day while the parents or guardians are away, and includes the following:

- A. "Small family day care home" means a family day care home that provides care, protection, and supervision for eight (8) or fewer children, including children under the age of ten (10) years who reside at the home, as set forth in Health and Safety Code Section 1597.44 and as defined in State regulations;
- B. "Large family day care home" means a family day care home that provides care, protection, and supervision for ~~nine-seven~~ (79) to fourteen (14) children, inclusive, including children under the age of ten (10) years who reside at the home, as set forth in Health and Safety Code Section 1597.465 and as defined in State regulations.

## SECTION 2

### 17.06.020 – Permitted uses.

The following permitted uses shall be allowed in the R-1 district:

- A. Single-family dwellings.
- B. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.
- C. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.
- D. Small family day care homes.
- ~~D.E.~~ E. Large family day care homes.
- ~~E.F.~~ F. Accessory dwelling units and junior accessory dwelling units, in accordance with Chapter 17.43 of this title.

### 17.06.030 – Conditional uses.

The following conditional uses may be allowed in the R-1 district, upon the granting of a use permit pursuant to Chapter 17.40 ~~or 17.43~~ of this title:

- A. Cultural facilities.
- B. Day care centers.
- C. Educational facilities.
- D. Group care homes.
- ~~E.~~ F. Meeting halls.
- ~~G.F.~~ G. Mobile home parks.
- ~~H.G.~~ H. Places of worship.

## SECTION 3

### 17.08.020 – Permitted uses.

The following permitted uses shall be allowed in the R-2 district:

- A. Single-family dwellings.
- B. Duplexes.
- C. Multiple family dwellings containing not more than six (6) dwelling units.
- D. Dwelling groups.

E. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.

F. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.

G. Small family day care homes.

~~G.H. Large family day care homes.~~

H.I. Accessory dwelling units and junior accessory dwelling units, in accordance with Chapter 17.43 of this title.

#### **17.08.030 – Conditional uses.**

The following conditional uses may be allowed in the R-2 district, upon the granting of a use permit pursuant to Chapter 17.40 of this title:

A. Cultural facilities.

B. Day care centers.

C. Educational facilities.

D. Group care homes.

~~E. Large family day care homes.~~

F.E. Mobile home parks.

G.F. Multiple family dwellings containing seven (7) or more dwelling units.

H.G. Meeting halls;

H.H. Places of worship.

#### **SECTION 4**

#### **17.10.020 – Permitted uses.**

The following permitted uses shall be allowed in the R-3 district:

A. Multiple-family dwellings.

B. Single-family dwellings.

C. Duplexes.

D. Dwelling groups.

E. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.

F. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.

G. Small family day care homes.

~~G.H.~~ Large family day care homes.

~~H.I.~~ Accessory dwelling units and junior accessory dwelling units, in accordance with Chapter 17.43 of this title.

#### **17.10.030 – Conditional uses.**

The following conditional uses may be allowed in the R-3 district, upon the granting of a use permit pursuant to Chapter 17.40 of this title:

- A. Cultural facilities.
- B. Day care centers.
- C. Educational facilities.
- D. Group care homes.

~~E.~~ Large family day care homes.

~~F.E.~~ Mobile home parks.

~~G.F.~~ Meeting halls.

~~H.G.~~ Places of worship.

### **SECTION 5**

#### **17.11.020 – Permitted uses.**

The following permitted uses shall be allowed in the R-MHP district:

- A. Mobile home parks.
- B. Mobile homes.
- C. Accessory structures, including structures used for administration, maintenance or other community services.

~~D.~~ Small family day care homes.

~~D.E.~~ Large family day care homes.

~~E.F.~~ Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.

~~F.G.~~ Accessory dwelling units, when authorized by a permit granted pursuant to Chapter 17.43 of this title.

### **SECTION 6**

#### **17.12.020 – Permitted uses.**

The following permitted uses shall be allowed in the R-BA district:

- A. Single-family dwellings.

B. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.

C. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.

D. Small family day care homes.

~~D.E.~~ Large family day care homes.

~~E.F.~~ Accessory dwelling units and junior accessory dwelling units, when authorized by a permit under Chapter 17.43 of this title.

#### **17.12.030 – Conditional uses.**

The following conditional uses may be allowed in the R-BA district, upon the granting of a use permit pursuant to Chapter 17.40 of this title:

A. Group care homes.

~~B. Large family day care homes.~~

### **SECTION 7**

#### **17.14.020 – Permitted uses.**

The following uses are permitted uses in the NCRO-1 and NCRO-2 districts, if conducted in accordance with the performance standards set forth in 17.14.070 of this chapter:

A. Financial institutions.

B. Medical facilities.

C. Offices.

D. Personal services.

E. Restaurants.

F. Retail sales and rental.

G. Home occupations, in the NCRO-2 District only.

H. Accessory dwelling units and junior accessory dwelling units associated with an existing or proposed single-family dwelling, duplex, or multiple-family dwelling in compliance with the provisions of Chapter 17.43 of this title, in the NCRO-2 District only.

I. Small family daycare homes in a dwelling unit if part of a mixed-use development and when the day care home is located above or behind nonresidential uses.

H.J. Large family daycare homes in a dwelling unit if part of a mixed-use development and when the day care home is located above or behind nonresidential uses.

**17.14.040 – Conditional uses.**

The following conditional uses are allowed in the NCRO-2 District, subject to obtaining a use permit and if conducted in accordance with the performance standards set forth in Section 17.14.070 of this chapter:

- A. Bars.
- B. Commercial recreation-commercial gym and health facilities.
- C. Cultural facilities.
- D. Educational facilities.
- E. Meeting halls.
- F. Mixed use in single-family dwellings.
- G. Outdoor sales and rental, when associated with an adjacent use within a structure.
- H. Places of worship.
- I. Small family day care homes.
- J. Temporary uses.
- K. Veterinary clinics.
- L. The following conditional uses are allowed only when part of a mixed-use and when located above or behind nonresidential uses:
  - 1. Day care centers.
  - 2. Dwelling units.
  - ~~3. Family day care homes.~~
  - 4.3.Group care homes.

**SECTION 8**

**17.16.020 – Permitted uses.**

- A. The following are permitted uses in the SCRO-1 district:
  - 1. Emergency shelters in compliance with Section 17.16.040.
  - 2. Accessory dwelling units and junior accessory dwelling units associated with an existing or proposed single-family dwelling, duplex, or multiple-family dwelling in compliance with the provisions of Chapter 17.43 of this title.
  - 3. Small family daycare homes in a dwelling unit.
  - 2.4.Large family daycare homes in a dwelling unit.

**17.16.030 – Conditional uses.**

A. Allowable Conditional Uses. The following conditional uses, not otherwise permitted per Section 17.16.020(A), may be allowed in the Southwest Bayshore district, upon the granting of a use permit pursuant to Chapter 17.40 of this title and if conducted in accordance with the performance standards set forth in Section 17.16.050 of this chapter:

1. Commercial recreation/commercial gym and health facilities;
2. Contractor's yards;
3. Convalescent homes;
4. Cultural facilities;
5. Duplex dwelling units;
6. Educational facilities;
7. Emergency shelters with more than twelve (12) beds;
8. Financial institutions;
9. Food production;
10. Group care homes;
11. Hotels;
- ~~12. Large family day care homes;~~
- ~~13.12.~~ 12. Light fabrication;
- ~~14.13.~~ 13. Live/work developments;
- ~~15.14.~~ 14. Media studios;
- ~~16.15.~~ 15. Medical facilities;
- ~~17.16.~~ 16. Meeting halls;
- ~~18.17.~~ 17. Mobile home parks in compliance with Section 17.32.110;
- ~~19.18.~~ 18. Motels;
- ~~20.19.~~ 19. Multiple-family dwellings and dwelling groups;
- ~~21.20.~~ 20. Offices;
- ~~22.21.~~ 21. Outdoor sales and rental;
- ~~23.22.~~ 22. Personal services;
- ~~24.23.~~ 23. Places of worship;
- ~~25.24.~~ 24. Printing;



~~26.25.~~ Product showrooms;

~~27.26.~~ Research and development, where the planning director determines, as a result of a risk analysis performed in accordance with Policy No. 166.1 of the general plan, that the use of hazardous materials will not constitute a major component of the research and development activities to be conducted on the site. Research and development involving cannabis is additionally subject to the requirements in Chapter 17.33;

~~28.27.~~ Restaurants;

~~29.28.~~ Retail sales and rental;

~~30.29.~~ Single-family dwellings and single-family dwellings with accessory dwelling units in compliance with the provisions of Chapter 17.43 of this Title;

~~31.30.~~ Storage;

~~32.31.~~ Veterinary clinics;

~~33.32.~~ Warehousing;

~~34.33.~~ Single-room occupancy units.

B. Mixed Uses. A combination of any residential and nonresidential uses listed in subsection A of this section, or in Section 17.16.020, may be allowed as a mixed use within the same structure or upon the same site when specifically authorized by the use permit granted for each individual conditional use and upon such additional conditions as the approving authority may deem necessary or appropriate to insure the compatibility of such mixed uses.

C. Night Operations. Night operations associated with the conduct of any uses listed in subsection A of this section (except residential uses) shall require a use permit when subject to the provisions of Section 17.16.070 of this chapter.

## SECTION 9

### 17.27.020 – Permitted uses.

The following are permitted uses in the PAOZ-1 and PAOZ-2 districts:

PAOZ-1	PAOZ-2	Permitted Uses
X	Not permitted	Single-family dwellings
X	X	Multiple-family dwellings
X	X	Dwelling groups

PAOZ-1	PAOZ-2	Permitted Uses
X	X	Accessory structures
X	X	Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44
X	X	Small family day care homes <u>in a dwelling unit</u>
<u>X</u>	<u>X</u>	<u>Large family day care homes in a dwelling unit</u>
X	X	Accessory dwelling units, in compliance with Chapter 17.43 of this title.
X	Not permitted	Junior accessory dwelling units, in compliance with Chapter 17.43 of this title.