



City of Brisbane
50 Park Place
Brisbane, CA 94005-1310
415-508-2100
415-467-4989 Fax

**NOTICE OF
SHORT TERM RESIDENTIAL RENTAL
PERMIT DENIAL**

APPLICATION NO.: **2021-STR-1**

APPLICANT/OWNER: **Wei Ming Chang, applicant and owner.**

PROPERTY: **260 Annis Road
(Assessor's Parcel No. 007-555-170)**

ZONING: **R-BA Residential District**

REQUEST: **The application is a request that the City grant a permit for a short-term residential rental for up to two (2) habitable rooms within the property.**

ENVIRONMENTAL STATUS: **Categorical exemption for existing facilities, per State CEQA Guidelines Sections 15301 -- this proposal falls within a class of projects which the State has determined not to have a significant effect on the environment. The exceptions to this categorical exemption referenced in Section 15300.2 do not apply.**

The Zoning Administrator has determined this application to be noncompliant with the operating standards and requirements of Brisbane Municipal Code (BMC) Chapter 17.35 and has denied a Short Term Rental Permit. To appeal this determination, a notice of appeal form and fee must be filed with the City Clerk, Ingrida Padilla, no later than close of business on Thursday, January 13, 2022, per Brisbane Municipal Code Chapter 17.56. Appeals are subject to public hearing with the Planning Commission. To contact the City Clerk, email ipadilla@brisbaneca.org or call (415) 508-2113.

A copy of the report to the Zoning Administrator containing findings of denial may be viewed on the City's website at <https://www.brisbaneca.org/cd/page/log-short-term-rental-permits>. For questions, please contact Jeremiah Robbins at jrobbins@brisaneca.org or call 415-519-1437.

DATED: January 6, 2022



John A. Swiecki, AICP
Community Development Director



Date: January 6, 2022
To: Zoning Administrator
From: Jeremiah Robbins, Associate Planner
Subject: 2021-STR-1 Short-term Rental Permit

Request

Consideration of the application for a short-term rental permit at 260 Annis Road (APN: 007-555-170). The applicant is requesting the maximum two habitable rooms to be used for STR within an existing two-level single-family house.

Applicant/Owner

Wei Ming Chang/CHANG SUN FAMILY TRUST

Applicable Code Sections

Brisbane Municipal Code (BMC) Chapter 17.35 - Short-term Residential Rentals

Discussion

On July 16, 2021, the applicant created an online Short-Term Rental (STR) application in Host Compliance (Registration No. STR-00002). On October 21, 2021, the applicant submitted all required information pursuant to BMC Section 17.35.030.B (see Attachment 2). and the application was deemed complete.

On September 22, 2021, the building permit (B202100236) to remove an unpermitted kitchen stove was finalized. On October 8, 2021, TOT payment was completed by the applicant in order to meet BMC Section 17.35.030.B.11. The home has an attached two car garage that can accommodate the two-parking space requirement and use of these spaces for STR renters is included as a condition of approval.

On December 17, 2021, Community Development Department staff performed an onsite inspection to verify the single-family dwelling unit at 260 Annis Road to be offered for short-term rental complies with life safety standards and ensure the application meets all operating standards and requirements of BMC Chapter 17.35, as certified by the applicant. Staff identified a number of discrepancies with the information provided on the application as well as violations of the short-term rental permit procedures and operating standards. They are highlighted below:

1. **Owner occupancy.** Short-term rentals are only permitted within legal single-family dwellings where the host is the owner of record and resides at the dwelling unit for at least 275 days out of a given consecutive twelve-month period per BMC Sections 17.35.040.B and 17.35.020.B.

Yanan Sun has been representing the owner and applicant, yet she works for Marbella Lane Vacation Rentals, Investment, and Management, a company that manages vacation homes.

Furthermore, the owner's insurance policy indicates the occupancy of the home is "Vacation & Short Term".

2. **Hosted stays.** Unhosted stays are prohibited per BMC Section 17.35.040.A.

Applicant's submitted plans indicate a maximum of two rooms could be rented on either the upper or lower floor while the owner would occupy the floor not being rented. Upon inspection, staff discovered the lower floor of the home is occupied by a long-term renter. Staff also witnessed short-term renters occupying rooms on the upper floor during the inspection, making a hosted stay impossible.

3. **Inadequate onsite parking.** At least one parking space shall be made available onsite per habitable room available to rent as a short-term rental, and existing onsite parking spaces shall be made available to short term renters per BMC Section 17.35.040.I.

Plans submitted with the application identified two covered off-street parking spaces within the garage, but the onsite inspection revealed both parking spaces were obstructed and unavailable for short-term renters.

Recommendation

That the short-term rental permit 2021-STR-1 be denied, subject to the findings provided in Attachment 1.

Attachments

1. Findings of Denial



Jeremiah Robbins, Associate Planner

FINDINGS

1. All short-term rental activity is subject to the regulations identified in Brisbane Municipal Code Chapter 17.35.
2. The applicant does not meet the definition of a “host” as defined under Brisbane Municipal Code Section 17.35.020.B, in that the applicant has not adequately demonstrated they are the owner of record who resides at the single-family dwelling unit for at least two hundred seventy-five (275) days out of a given consecutive twelve-month period and who offers the dwelling unit for short-term rental of less than thirty (30) days.
3. Pursuant to Brisbane Municipal Code Section 17.35.030.D, the single-family dwelling to be offered for short-term residential rental at 260 Annis Road has been found to be in violation of the following operational standards applicable to all short-term rentals under Brisbane Municipal Code section 17.35.040:
 - i. **Unhosted Stays Prohibited.** The short-term rental ordinance authorizes only hosted stays and prohibits unhosted stays, as such terms are defined within BMC Section 17.35.020.

The applicant indicated the property owner resides at the home and would occupy whichever level of the home is not rented by short-term renters, however, documentation provided by the applicant and observations made during an onsite inspection on December 17, 2021 revealed the single-family dwelling unit is insured as a vacation home, listed as an entire home rental with a separate unit on the lower floor on the applicant’s vacation home management website, and that the lower floor is occupied by a long-term renter while the upper floor is simultaneously rented to short-term renters.

- ii. **Parking.** At least one parking space shall be made available per onsite per habitable room available to rent as a short-term rental. Existing onsite parking spaces shall be made available to short-term renters. No additional onsite parking shall be required for short-term rentals.

An onsite inspection on December 17, 2021 revealed the required onsite parking spaces to be obstructed and unavailable to short-term renters.



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**NOTICE OF
SHORT TERM RESIDENTIAL RENTAL APPLICATION**

APPLICATION NO.: **2021-STR-1**

APPLICANT/OWNER: **Wei Ming Chang, applicant and owner.**

PROPERTY: **260 Annis Road
(Assessor's Parcel No. 007-555-170)**

ZONING: **R-BA Residential District**

REQUEST: **The application is a request that the City grant a permit for a short-term residential rental for up to two (2) habitable rooms within the property.**

ENVIRONMENTAL STATUS: **Categorical exemption for existing facilities, per State CEQA Guidelines Sections 15301 -- this proposal falls within a class of projects which the State has determined not to have a significant effect on the environment. The exceptions to this categorical exemption referenced in Section 15300.2 do not apply.**

The Zoning Administrator has received a complete application for a Short-Term Rental Permit and preliminarily determined it to be in compliance with all operating standards and requirements of Brisbane Municipal Code (BMC) Chapter 17.35. Following closure of a twenty-one (21) day notice period, on or after December 9, 2021, the Zoning Administrator may issue the Short-Term Rental Permit, subject to full compliance of the standards within BMC Chapter 17.35. The Zoning Administrator shall notify all parties who received a Notice of Short Term Residential Rental Application of permit issuance.

A copy of the report to the Zoning Administrator containing draft findings and conditions of approval may be viewed on the City's website at <https://www.brisbaneca.org/cd/page/log-short-term-rental-permits>. For questions, please contact Jeremiah Robbins at jrobbins@brisaneca.org or call 415-519-1437.

DATED: November 18, 2021



John A. Swiecki, AICP
Community Development Director



Date: November 18, 2021
To: Zoning Administrator
From: Jeremiah Robbins, Associate Planner
Subject: 2021-STR-1 Short-term Rental Permit

Request

Consideration of the application for a short-term rental permit at 260 Annis Road (APN: 007-555-170). The applicant is requesting the maximum two habitable rooms to be used for STR within an existing two-level single-family house. The two STR rooms are located on the entrance level floor and are identified on the floor plan.

Applicant/Owner

Wei Ming Chang/CHANG SUN FAMILY TRUST

Applicable Code Sections

Brisbane Municipal Code (BMC) Chapter 17.35 - Short-term Residential Rentals

Discussion

On July 16, 2021, the applicant created an online Short-Term Rental (STR) application in Host Compliance (Registration No. STR-00002). On October 21, 2021, the applicant submitted all required information pursuant to BMC Section 17.35.030.B (see Attachment 2). and the application was deemed complete.

On September 22, 2021, the building permit (B202100236) to remove an unpermitted kitchen stove was finalized. On October 8, 2021, TOT payment was completed by the applicant in order to meet BMC Section 17.35.030.B.11. The home has an attached two car garage that can accommodate the two parking space requirement and use of these spaces for STR renters is included as a condition of approval.

Recommendation

That the short-term rental permit 2021-STR-1 be approved, subject to the findings and conditions of approval provided in Attachment 1.

Attachments

1. Draft Findings, Conditions of Approval, and Operational Standards
2. Short-term Rental Application Review Checklist



Jeremiah Robbins, Associate Planner

-DRAFT-
FINDINGS

1. The applicant has submitted an online application for a short-term rental in compliance with the provisions of Brisbane Municipal Code (BMC) Section 17.35.030.B

CONDITIONS OF APPROVAL AND OPERATIONAL STANDARDS

SITE SPECIFIC CONDITIONS OF APPROVAL

1. The attached two car garage shall be used to meet the short-term rental parking requirement. Pursuant to BMC Section 17.35.040(I), at least one parking space shall be made available on-site per habitable room available to rent as a short-term rental. Parking within the shared drive is not recognized towards meeting this requirement.
2. Rental of more than one habitable room per booking on separate floors of the home is prohibited. Any rental listing advertising short-term rental shall indicate the maximum number of habitable rooms available to book and which level of the home they are located on.
3. Life safety standards, as certified by the applicant, shall be confirmed by an on-site inspection by the Building Department prior to permit issuance. Hosts shall request an inspection by calling the Building Department during business hours at (415) 508-2120.
4. Host shall obtain a business license with the City of Brisbane prior to permit issuance, and maintain an active business license for the length of the permit.

SHORT-TERM RENTAL CODE REFERENCE AND DURATION

5. All short-term rental activity shall be subject to the regulations identified in Brisbane Municipal Code Chapter 17.35.
6. An issued short-term rental permit shall be valid for an initial one-year period commencing from the date of final action on the permit application. An issued permit shall be valid only for the host or hosts named in the application and shall automatically expire upon sale or transfer of the subject property, or at such a time as the dwelling unit is no longer the permanent residence of the host. An issued short-term rental permit may not be assigned, transferred, or loaned to any other person.

OPERATIONAL STANDARDS APPLICABLE TO ALL STRS, PER BRISBANE MUNICIPAL CODE SECTION 17.35.040:

7. **Unhosted Stays Prohibited.** This ordinance authorizes only hosted stays and prohibits unhosted stays, as such terms are defined in BMC Section 17.35.020.
8. **Single-Family Dwelling Units.** Short-term rentals may only occur within legal single-family dwelling units. Notwithstanding the foregoing, short-term rentals shall be prohibited on properties occupied by single-family dwellings with legal accessory dwelling units established on or after April 1, 2017.
9. **Accessory Dwelling Units.** Short-term rentals shall not operate in accessory dwelling units.

10. **Hosted Stays Unlimited.** There shall be no limit on the number of days habitable rooms within a permanent residence may be occupied as a short-term rental during a hosted stay. The host shall be responsible for any nuisance complaints arising during short-term rental activities during hosted stays. No more than two (2) habitable rooms may be rented at any given time during a hosted stay, subject to the limitation on bookings (see condition below).
11. **Short-term Rental Permit Number on Listings and Guest Materials.** Any listing advertising a short-term rental and all materials provided to short-term renters regarding applicable rules and regulations pertaining to their stay shall prominently display the permit number of the issued permit.
12. **Insurance.** The host shall maintain adequate liability insurance in the amount of at least five hundred thousand dollars (\$500,000.00) specifically for short-term rental activity within a permanent residence while the short-term rental is occupied. The host shall annually submit insurance certificates to the Community Development Department.
13. **Limitation on Bookings.** Individual rooms within a short-term rental shall not be booked to separate, unrelated rental parties. If multiple listings are provided for the same residence, only one such listing may be booked on any given day, with the exception that check-out and check-in periods for separate bookings may occur on the same day.
14. **Check-out and Check-in Times.** Short-term renter check-out and check-in times shall typically occur after seven (7:00) a.m. and before ten (10:00) p.m. Exceptions to the check-out and check-in times may be allowed only in extenuating circumstances, including unforeseen changes or delays in a short-term renter's travel schedule or illness of the host or the short-term renter. At all times, the host shall ensure that short-term renter check-in and check-out is conducted in such a manner as to not result in unreasonable noise or disturbance to neighboring properties.
15. **Parking.** At least one parking space shall be made available per on-site per habitable room available to rent as a short-term rental. Existing on-site parking spaces shall be made available to short-term renters. No additional on-site parking shall be required for short-term rentals.
16. **Occupancy Limits.** No more than two (2) overnight short-term renters (not including children) between the hours of ten (10:00) p.m. and seven (7:00) a.m. are allowed per habitable room provided in the short-term rental. No more than four (4) daytime persons (not including children) between the hours of seven (7:00) a.m. and ten (10:00) p.m. are allowed per habitable room provided in the short-term rental.
17. **Noise Prohibited.** There shall be no use of sound amplifying equipment. There shall be no evening outdoor congregations of more than eight (8) people (excluding children), regardless of the number of habitable rooms provided, after ten (10:00) p.m. Short-term rental stays are subject to the noise regulations in the BMC Chapter 8.28.
18. **Safety.** Every host shall provide and maintain working fire extinguishers, smoke detectors, and carbon monoxide detectors, in compliance with fire, life and safety codes, and information related to emergency exit routes on the property.
19. **Guide for Short-term Renters.** Every host shall provide a rental guide to short-term renters that includes the operational standards listed in this chapter, the contact information for the host, and other information to address behavioral, safety, security, and other standards.

20. **Special Events Prohibited.** Weddings, corporate events, commercial functions, and any other similar events which have the potential to cause traffic, parking, noise or other problems in the neighborhood are prohibited from occurring at the short-term rental property, as a component of short-term rental activities.
21. **Transient Occupancy Tax (TOT).** Short-term rentals shall be subject to transient occupancy taxes pursuant to BMC Chapter 3.24. The host shall be responsible for collecting transient occupancy taxes and remitting them to the city, unless the host exclusively lists on hosting platforms that have signed a voluntary collection agreement (or equivalent) with the city.
22. **Records of Compliance.** The host shall retain records documenting compliance with the requirements of this chapter for each short-term rental for a period of three (3) years, including, but not limited to, records showing payment of transient occupancy taxes by a hosting platform on behalf of a host. Upon reasonable notice, the host shall provide any such documentation to the community development director or the tax administrator upon request for the purpose of inspection or audit.
23. **Permit Renewal.** The first short term rental permit issued shall expire one (1) year after the date of final action on the initial permit application unless a permit renewal application is approved by the zoning administrator prior to the expiration date.
 - a. A renewed permit shall be renewed for a subsequent two-year period, except that the zoning administrator may renew the permit for a shorter period of time for factors including, but not limited to, the history of notices of violation and/or sustained suspensions during the life of the permit.
 - b. The permit renewal application shall be accompanied by a filing fee in an amount as established by resolution of the city council.\
 - c. The host shall submit such information concerning the short-term rental activity as may be required to enable the tax administrator to verify that the amount of tax paid complies with Chapter 3.24.
 - d. A safety inspection shall be conducted by the building department and/or North County Fire Authority prior to approval of each short-term rental permit renewal to ensure the dwelling unit complies with the safety requirements of this chapter and with general life safety standards under state law.
 - e. The zoning administrator shall approve a permit renewal application if it is found that the host has complied with all provisions of this chapter, including requirements for tax payment, and the dwelling has passed a safety inspection. Notice of permit renewal shall be given to occupants and owners of property to either side of, to the rear, and in front of the subject property. Additionally, notification shall be sent to occupants and owners of property on both sides of the block in which the property is located.

Brisbane Planning Application No.: 2021-STR-1

Host Compliance Registration No.: STR-00002

Review Date: 11/18/2021

Planner: Jeremiah Robbins

ADDRESS OF PERMANENT RESIDENCE BEING USED FOR SHORT-TERM RENTAL

✓ *260 Annis Road*

NAME AND CONTACT INFORMATION OF THE HOST

✓ *Wei Ming Chang*

PROOF OF HOME OWNERSHIP – Only one document is required to provide evidence of homeownership. This could be a copy of a property tax bill, documentation of homeowner’s income tax exemption, or a copy of a title report or deed showing title vested.

✓ *Document provided: Signed Trust*

PROOF OF PERMANENT RESIDENCY IN THE HOME – Three documents that show full-time residency. Acceptable documents include driver’s license, vehicle registration certificate, State or Federal tax return statement, bank or credit card statement, or utility bill (e.g., water, power, internet, cable/satellite).

✓ *Document #1 provided: Driver’s license*

✓ *Document #2 provided: Water bill*

✓ *Document #3 provided: Bank statement*

NUMBER OF HABITABLE ROOMS TO BE PROVIDED FOR SHORT-TERM RENTAL (FLOOR PLAN) – The floor plan needs to show where the STR rooms (max. 2 rooms) are located within the home and how they will be accessed from the street. The plan does not have to be to scale and may be hand drawn but does need to be legible. Each room must be labeled (e.g., kitchen, hallway, bedroom). The rooms to be rented as STR’s must be clearly labeled as such.

✓ *Document provided: Main level and lower level floor plans included. The main level floor plan includes site plan information*

SITE PLAN SHOWING REQUIRED PARKING ON THE PROPERTY – The site plan needs to show the property lines, the location of the home on the property, and the location and number of parking spaces on the property. One parking space on the property is required for every habitable room offered for short term rental. The site plan does not need to be to scale and may be hand drawn, but it must be legible and labeled for clarity.

✓ *Document provided: Combined floor plan and site plan*

PROOF OF INSURANCE – Hosts must have short term rental liability insurance with coverage of at least \$500,000. The document needs to clearly show the address of the insured property, applicants name, the policy description verifying it is for short term rental activity, and the coverage amount of at least \$500,000.

✓ *Document provided: Insurance renewal policy packet*

ACKNOWLEDGMENT AND AUTHORIZATION TO PROVIDE THE ADDRESS OF THE SHORT-TERM RENTAL AND THE HOST'S CONTACT INFORMATION ON A PUBLIC REGISTRY

✓ *Acknowledgment contained as part of online application*

ACKNOWLEDGEMENT OF COMPLIANCE WITH THE REQUIREMENTS OF THE CITY'S ZONING ORDINANCE, MUNICIPAL CODES, AND APPLICABLE HEALTH AND SAFETY STANDARDS

✓ *Acknowledgment contained as part of online application*