

# *City of Brisbane*

## *Planning Commission Agenda Report*

**TO:** Planning Commission For the Meeting of 5/13/10

**FROM:** Tim Tune, Senior Planner, via John Swiecki, Interim Community Development Director

**SUBJECT:** **90 San Benito Road;** Use Permit UP-8-10 and Variance V-2-10; Renewal of Use Permit UP-8-06 to Modify Parking Regulations to Accept Subcompact On/Off-Street Parking Spaces; Renewal of Variance V-7-06 for Proposed Third Floor Deck to Exceed 20 Ft. Height Limit within Front 15 Ft. of Site; Alexandro Anguiano, applicant/owner; APN 007-393-130

**Request:** The applicant proposes to extend the rear of the existing 3-story building back and extend the top floor forward. The proposal would enlarge the floor area of the house by 707.5 sq. ft. (excluding the portion of the basement with less than 6 ft. of headroom per Brisbane Municipal Code Section 17.02.315.A).

A Use Permit is required to modify the parking regulations, which require two covered spaces plus two on/off-street spaces for this property, given its 37.515 ft. of frontage. In addition to the existing two-car garage, the applicant requests that the Planning Commission recognize the existing short driveway as accommodating at least two subcompact parking spaces. A Variance is requested to allow the proposed third floor deck to exceed the 20 ft. height limit within the front 15 ft. of the property. To minimize its visual impact, an open railing is proposed for the deck.

It should be noted that the Planning Commission previously approved a Use Permit and Variance for this project in 2006. Plans were submitted for a Building Permit (attached) in compliance with the conditions of that approval, but a Building Permit was not issued before the approvals expired in 2008.

**Recommendation:** Conditionally approve Use Permit UP-8-10 and Variance V-2-10 per the agenda report with attachments, via adoption of Resolution UP-8-10/V-2-10 with Exhibit A containing the findings and conditions of approval.

**Environmental Determination:** Additions to existing structures are categorically exempt from the provisions of the California Environmental Quality Act per Section 15301(e) of the State CEQA Guidelines. The exceptions to this categorical exemption referenced in Section 15300.2 do not apply.

**Applicable Code Sections:** Brisbane Municipal Code Section 17.34.010 contains the parking requirements for single-family residences. BMC Section 17.34.115 allows structures which are nonconforming in terms of required parking to be enlarged subject to Use Permit approval. The applicable findings for such Use Permits are found in BMC Sections 17.40.060 and 17.34.115.A & B.

BMC Section 17.06.040.G.2 limits the height of any structure within 15 ft. of the front lot line to no more than 20 ft. from finish grade. The findings required for the granting of Variances are contained in BMC Section 17.46.010.

**Analysis and Findings:** This proposal requires approval of a Use Permit and Variance, the findings for which differ as follows—

USE PERMIT. To approve the Use Permit to modify the parking regulations in order to accept two subcompact on/off-street parking spaces, the Planning Commission must find that such approval would be consistent with the General Plan, that it would result in no detriment to persons or property in the neighborhood or to the City in general, that there is no need for strict enforcement due to present or anticipated traffic volume or site circulation, and that no on-street parking impacts would result.

General/Specific Plan Consistency—The 1999-2006 Housing Element and the 1994 General Plan contain several programs which indicate a public interest in upgrading existing nonconforming residential structures and which call for examining the implications of the parking requirements upon building design:

Program H4a(1): “Process zoning ordinance amendments to tie the parking requirements to unit size for all dwelling units, including secondary dwelling units.”

Program H15c: “Examine the zoning ordinance regulations pertaining to nonconforming residential uses and structures to determine if amendments to the regulations could facilitate private sector maintenance and improvement of these properties.”

Program 22c: "Review the residential parking requirements in the Zoning Ordinance to determine their effect on the height, mass and scale of structures and grading implications and whether amendments to the Code should be considered."

Program 253a: "Study the impacts of off-street parking requirements on residential and commercial site and structural design."

Program 253b: "Revise the Zoning Ordinance to facilitate the upgrading and proper maintenance of structures with legal nonconformities."

In this case, the parking requirement is two covered spaces plus two on/off-street spaces with not less than half of the spaces being standard size and not more than half of the spaces being compact. There is an existing two-car garage with an 11.25 ft. long driveway. Although the driveway is too short to accommodate compact spaces, the applicant submitted photos (attached) to show that it is possible to park 3 cars in the driveway perpendicular to the street without extending over the white stripe in the street (15.3 ft. from the garage doors). Note that because the middle car would partially block access to the two garage spaces, that third driveway space would be considered equivalent to three-in-tandem parking. Two slightly larger vehicles could be accommodated if parked at an angle.

The potential design implications of denying the Use Permit would be that the existing basement would have to be excavated to accommodate a four-car garage [see attached First Floor Plan Annotated by Staff]. This would entail revising the interior stairway, so two compact spaces (one behind the other) could fit on the east side of the garage. The furnace, washer and drier would also have to be relocated, so two standard-size spaces could fit on the west side.

Alternatively, it might be possible to lengthen the driveway to the 16 ft. minimum required for compact spaces and to provide a 4 ft. wide sidewalk, given the width of the right-of-way (see below), by reconfiguring the existing street improvements and eliminating the white striping. This could affect all of the other properties in the area on both sides of the street, an undertaking which the City Engineer is not inclined to assume.

Not Detrimental or Injurious to Neighborhood or City—The Planning Commission has previously found that it is not detrimental or injurious to the City's neighborhoods to accept subcompact parking spaces less than 16 ft. in length, most recently at 245 San Benito Road via Use Permit UP-14-06. In this case, though, the City Engineer advises that cars parked as shown in the submitted photos would block pedestrian access to the sidewalk and would prevent street sweepers from accessing the gutter.

Staff recommends, instead, that the Planning Commission recognize a single parallel parking space across the driveway entirely off the street (see attached Site Plan Annotated by Staff). Given the Caltrans standard dimensions for parallel parking spaces [8 ft. wide (9 ft. if adjoining an obstruction) and 20 ft. wide (24 ft. if located between two parallel parking space)], the driveway is technically 1.75 ft. too narrow to accommodate a parallel parking space with 4 ft. for pedestrian passage. The Commission has previously found that it is not detrimental or injurious to accept parallel parking spaces smaller than the Caltrans standard, most recently at 455 Alvarado Street (Use Permit UP-7-07). This would mean that the Commission would require only 3 parking spaces for this project (as the Planning Commission has done before, most recently at 296 Humboldt Road via Use Permit UP-17-05 and at 455 Alvarado Street via Use Permit UP-7-07)—see below.

Strict Enforcement Not Required Due to Present/Future Traffic Volume/Circulation—Based upon the Planning Commission’s previous study of parking-per-floor-area standards, the Commission has found that a dwelling unit not exceeding 2,700 sq. ft. in floor area (excluding 400 sq. ft. of garage or carport space) would be expected to generate demand for 3 off-street parking spaces. The proposal would contain 2,128 sq. ft. of floor area, not counting 400 sq. ft. of the 612 sq. ft. garage or the 444 sq. ft. basement (due to its ceiling height of less than 6 ft. per BMC Section 17.02.315.A).

No Interference with Traffic or On-Street Parking—The three-abreast parking spaces illustrated in the applicant’s photos would not extend over the street striping installed per BMC Section 10.24.050 to delineate the vehicular travelway, but the City Engineer notes that to fit, these cars must be parked right up to the garage doors. In the process, they block the sidewalk, requiring that pedestrians walk out into traffic. Staff’s alternative, while reducing the number of potential parking spaces, would pose less of an impact to pedestrian access. The Public Works Department will require that signs be posted to delineate permitted parking. To assure access to the garage, staff recommends that roll-up garage doors be required to be installed.

VARIANCE. In order to grant a Variance, the Planning Commission must find that, because of special circumstances applicable to the property, such as its size, shape, topography, location or surroundings, the strict application of the Zoning Ordinance would deprive the property of privileges enjoyed by other properties in the vicinity and same zoning district. In addition, any approval must be subject to such conditions as necessary to assure that the variance will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and same zoning district.

Special Circumstances Applicable to Subject Property—The subject property is approximately 3,309 sq. ft. in area, 37.515 to 39.01 ft. wide and 85.31 to 87.39 ft. deep. The varying substandard depth is due to the curve of the front property line. The site is located on the uphill side of San Benito Road where Visitacion Avenue intersects with it. Because of the unusual configuration of this intersection (see attached aerial photo), the public right-of-way at the site’s frontage is approximately 60 to 75 ft. wide (the typical width elsewhere is 40 to 50 ft.).

Privileges Enjoyed by Others in the Vicinity Deprived to Subject Property—The Planning Commission has granted a number of Variances to the 20 ft. height limit (V-1-05, 852 Humboldt Road; V-3-05, 15 Glen Parkway & 720 San Bruno Avenue; V-8-05, 1 Mariposa Street; V-2-06, 2, 6 & 8 Humboldt Court), including Variance V-10-05 at 296 Humboldt Road to allow the extension of an existing deck that would “...not have the kind of visual impact the City wanted to avoid...[with] massive buildings close to the street.” A similar situation exists with the current proposal, in that the extra-wide public right-of-way will offset any potential oppressiveness of the proposed deck with open railing as perceived from the street below [see attached (N) Section A-A Annotated by Staff]. The Planning Commission also cited this

unusually configured intersection in granting a Variance to allow bay windows to extend into the required front setback at 110 San Benito Road (V-5-90).

Conditions Necessary to Prevent a Grant of Special Privilege—As was done with Variance V-10-05 at 296 Humboldt Road, an open railing no taller than required by the Building Code should be required.

Attachments:

- Draft Resolution with Findings and Conditions of Approval
- Project Description
- Applicant's Site Plan, Floor Plans, Elevations and Section
- Applicant's Supporting Statements
- Applicant's Photos
- Aerial Photo and Assessor's Map
- First Floor Plan Annotated by Staff
- Site Plan Annotated by Staff
- (N) Section A-A Annotated by Staff

Project Description

General Plan:	Residential: 2 1/2 - 14 dwelling units per acre		
Zoning:	R-1 Residential District		
Lot Area:	3,324.21 sq. ft.		
Frontage:	37.515 ft.		
Slope:	+/-35%		
Lot Coverage--			
Permitted:	40% (1,329.7 sq. ft.)		
Existing:	32% (1,079 sq. ft., not including exterior stairs)		
Proposed:	38% (1,275 sq. ft., not including exterior stairs or landing)		
Floor Area Ratio:			
Maximum:	0.72 (2,393 sq. ft., excluding 200 sq. ft. of garage)		
Existing:	0.49 (1,620.5 sq. ft., excluding 200 sq. ft. of garage)		
Proposed:	0.70 (2,328 sq. ft., excluding 200 sq. ft. of 612 sq. ft. garage and excluding 444 sq. ft. basement with <6 ft. of clearance)		
Setbacks--			
	<u>Required</u>	<u>Existing</u>	<u>Proposed for Additions</u>
Front/House:	8 ft.	7.75 ft.	15+ ft.
/Garage:	0 ft.	0.75 ft.	no change
/Deck:	5 ft.*	n/a*	7.75 ft.
East Side:	3.8 ft.	7.75 ft.	8+/- ft.
West Side:	3.8 ft.	5 ft.	5.5+/- ft.
Rear:	10 ft.	41.4 ft.	34.5 ft.
Height—			
	<u>Maximum</u>	<u>Existing</u>	<u>Proposed for Addition</u>
15+ Ft. from Front:	30 ft.	26 ft.	28.5 ft.
<15 Ft. from Front:	20 ft.	18 ft.	21.25 ft. for deck railing
Parking--			
Required:	2 covered spaces plus 2 on/off-street spaces		
Existing:	2 standard-size garage spaces plus 11.25 ft. long driveway		
Proposed:	2 standard-size garage spaces plus 2-to-3 subcompact on/off-street spaces in driveway		
Recommended:	2 standard-size garage spaces plus 1 parallel off-street space		
Front Setback Landscaping—			
Required:	15% (45.6 sq. ft.)		
Existing:	18% (56 sq. ft.)		
Proposed:	no change		

\*Existing second floor deck atop existing garage is allowed to extend to the front property line per BMC Section 17.32.070.c.

draft  
RESOLUTION UP-8-10/V-2-10

A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE  
CONDITIONALLY APPROVING USE PERMIT UP-8-10  
TO MODIFY THE PARKING REGULATIONS TO ACCEPT 3 PARKING SPACES  
(INCLUDING 1 COMPACT PARALLEL DRIVEWAY SPACE) AND  
VARIANCE V-2-10  
REGARDING DECK RAILING HEIGHT WITHIN THE FRONT 15 FT. OF THE SITE  
AT 90 SAN BENITO ROAD

WHEREAS, Alexandro Anguiano, the applicant, applied to the City of Brisbane for Use Permit approval to accept subcompact on/off-street parking spaces, and Variance approval for the railing for a new deck to exceed the 20 ft. height limit within the front 15 ft. of the site, such applications being identified as Use Permit UP-8-10 and Variance V-2-10; and

WHEREAS, on May 13, 2010, the Planning Commission conducted a hearing of the applications, 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 agenda report relating to said applications, the plans and photographs, the written and oral evidence presented to the Planning Commission in support of and in opposition to the applications; and

WHEREAS, the Planning Commission finds that the proposed project is categorically exempt from the provisions of the California Environmental Quality Act; and

WHEREAS, the Planning Commission of the City of Brisbane hereby makes the findings attached herein as Exhibit A in connection with the Use Permit and Variance.

NOW THEREFORE, based upon the findings set forth hereinabove, the Planning Commission of the City of Brisbane, at its meeting of May 13, 2010, did resolve as follows:

Use Permit Application UP-8-10 and Variance Application V-2-10 are approved per the conditions of approval attached herein as Exhibit A.

ADOPTED this thirteenth day of May, 2010, by the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
JAMEEL MUNIR  
Chairman

ATTEST:

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

## **EXHIBIT A**

**Action Taken:** Conditionally approve Use Permit UP-8-10 and Variance V-2-10 per the agenda report with attachments, via adoption of Resolution UP-8-10/V-2-10.

### **Findings:**

#### **Use Permit UP-8-10**

1. Conditional approval of the use permit is consistent with the 1994 General Plan adopted by the City Council on June 21, 1994, specifically 1994 General Plan Programs 22c, 32a, 253a, 253b, H4a(1) and H15c.
2. The establishment, maintenance and operation of the use applied for, under the circumstances, will not be detrimental to the health, safety, morals, comfort and general welfare of persons residing or working in the neighborhood, nor will it be injurious or detrimental to property or improvements in the neighborhood or the general welfare of the City, in that the Planning Commission has found that no deleterious effect will result from accepting a parallel off-street parking space smaller than the Caltrans standard.
3. Strict enforcement of the specified regulation is not required by either present or anticipated future traffic volume or traffic circulation on the site, given the number of parking spaces that will be recognized (3) and the proposed size of the house (less than 2,700 sq. ft., excluding 400 sq. ft. of garage and excluding basement with less than 6 ft. of headroom).
4. The granting of the use permit will not result in the parking of vehicles on public streets in such a manner as to interfere with the free flow of traffic on the streets or to create or intensify a shortage of on-street parking spaces, given the conditions of approval.

#### **Variance V-2-10**

1. Approval of the variance shall be subject to such conditions as would assure that the adjustment authorized would not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and district in which the subject property is located, specifically, that the deck railing shall be the minimum height required by the Building Code and shall be "open" so as to minimize its visual impact.
2. Given the special circumstances applicable to subject property, specifically its substandard area, width and depth, its curved front property line, and its location on an unusually configured intersection, the strict application of this title is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification, namely, a deck at the front of the building.



**Use Permit Conditions of Approval:**

- A. The plans submitted for a Building Permit shall be revised to specify that the floor to ceiling height in the basement will be less than 6 ft.
- B. The plans submitted for a Building Permit shall include “open” railing for the new deck and shall specify that the height of the railing shall be the minimum required by the Building Code.
- C. The plans submitted for a Building Permit shall include replacement of the existing garage doors with automatic sectional roll-up garage doors (with manual release mechanism), unless prohibited by physical structure as confirmed by the Building Inspector.
- D. Signage regulating parking within the public right-of-way shall be posted as required by the City Engineer.
- E. Minor modifications may be approved by the Planning Director in conformance with all requirements of the Municipal Code.
- F. The required parking spaces shall not be used or converted for any other use that would impair their basic use as storage for motor vehicles per Brisbane Municipal Code Section 17.34.020.A.
- G. The Use Permit shall expire two years from its effective date (at the end of the appeal period) if a Building Permit has not yet been issued for the approved project.