


City of Brisbane

Planning Commission Agenda Report

TO: Planning Commission For the Meeting of 1/27/11

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

SUBJECT: Study Session: Fence Regulations

Background: At the Planning Commission meeting of September 23, 2010, concerns were expressed about the adequacy of the City's 6 ft. standard fence height to secure outdoor storage at 600 Tunnel Avenue (Interim Use Permit UP-14-10) and overflow parking at 5 Beatty Avenue (Temporary Use Permit UP-15-10). In addition, the City has received inquiries about the use of lattice atop 6 ft. tall solid wood fences in residential neighborhoods to provide increased privacy. In response, the Planning Commission held a study session regarding the City's fence regulations on November 18, 2010 (see attached agenda report). As directed by the Commission at that meeting, staff has prepared and circulated the attached survey to solicit input from citizens regarding the residential fence regulations.

Survey Results: On December 2, 2010, staff posted the attached survey on the City's website (noting that paper copies were available at City Hall) and publicized it in the City's on-line blog. The front page of the current edition of the Brisbane City News, which was mailed to all residents, also included an article on the survey. As of January 18, 2011, 51 responses have been received. Almost 70% responded that they were in favor of allowing lattice to be used to extend the height of 6 ft. tall fences in residential areas. While only 61% of the respondents expressed a preference, 55% of those were in favor of allowing 2 ft. of lattice to be used to extend the height of fences to 8 ft. Of those who responded to the question, 57% would only allow the taller fences in the side and rear yards, not in the front yards. Approximately 53% of the total respondents opposed the use of chain-link in residential areas, and even among those who did not oppose its use, 58% would not allow chain-link fences over 6 ft. and 74% would only allow chain-link fences in the side and rear yards.

Analysis: Based upon the results of the survey, there appears to be support for amending the fence regulations to allow 8 ft. tall fences within side and rear yards in residential areas, subject to the requirement that the upper 2 ft. consist of lattice. This height is similar to that allowed for fences to screen the visibility of development in the NCRO-2 District from adjoining residential districts per BMC Section 17.14.060.G, and trellises and arbors per the front setback exception adopted in BMC Section 17.32.070.A.2.b. It would also be consistent with the approach taken by the Cities of San Mateo and San Bruno (at least 7 more jurisdictions within San Mateo County allow 7 ft. tall fences).

Note that California Building Code Section 105.2 only exempts fences not over 6 feet in height from the requirement to obtain a Building Permit. The Deputy Building Official reports that many jurisdictions do not include lattice with at least a 50% open area in calculating that height.

While there was substantial opposition to the use of chain-link fencing in residential areas, there may be instances where its use would be appropriate. Chain-link may be easier to install and maintain than wood plank fencing and thus may be more reasonable to accept for steep and/or large properties. Accordingly, staff would not recommend that it be prohibited outright. If the Commission were so inclined, it could restrict chain-link in residential districts by requiring approval at a public hearing through a Fence Exception (BMC Section 17.32.050.B.2).

To address the security concerns originally expressed by the Commission regarding outdoor storage and parking in the Baylands, the Commission may want to consider amending the Code to allow 8 ft. tall chain-link or metal rail-and-picket fences in the trade commercial zoning districts. Staff would also suggest that chain-link be allowed as temporary 6 ft. tall demolition/construction barricades in all districts. As for the use of chain-link fences for playgrounds and similar facilities, the City and school districts can exempt their properties from compliance with the zoning regulations, so other approaches would need to be taken to express concern regarding the appropriateness of chain-link fencing on such properties.

A variety of other concerns were raised in the survey comments (see attached), including those regarding driveway visibility, construction materials, neighborhood input and solar impacts. The Commission may wish to consider these through further revisions to the current fence regulations. One issue raised that staff has suggested language to address is the possibility that solid fencing might block the flight path of butterflies in areas under the jurisdiction of the San Bruno Mountain Area Habitat Conservation Plan (see below).

Staff's initial suggested approach to amending Brisbane Municipal Code Section 17.32.050 follows, with additions to the current regulations shown in *italics* and deletions shown in ~~strikethrough~~.

A. General Regulations. Fences, hedges and walls may be erected subject to the following conditions:

1. Unless otherwise provided elsewhere in this title, fences, hedges and walls not exceeding six (6) feet in height may be constructed in any district within any required setback area; ~~provided, however, that,~~ *except as follows:*

a. ~~On corner lots where the director of public works determines that~~ visibility would be affected, fences, hedges and walls shall not exceed three (3) feet in height.

b. *Chain-link fences shall not be constructed in or adjoining any R Residential District, except as provided in subsections B.4 and B.5*

c. *As a condition of approval for properties subject to the San Bruno Mountain Area Habitat Conservation Plan, the Planning Commission may restrict the height, location and/or design of fencing so as to maintain sufficient openness to allow passage of butterflies while remaining consistent with Building Code requirements.*

2. Where a fence is proposed to be constructed, or has been constructed, adjacent to city property, a boundary survey or other evidence of the location of the fence shall be submitted to the director of public works upon request if the director determines that a question exists as to whether the fence encroaches on public property.

3. When construction of a fence impairs the visibility of address numbers on a house, such numbers shall be relocated with approval of the fire prevention officer.

B. Exceptions.

1. The community development director may approve retaining walls located in any required setback area having a height (as defined in Section 17.02.400) in excess of six (6) feet and falling within any one of the following categories:

a. The surface of the retaining wall is treated with coloring, texture, architectural features, trelliswork, or other means that will visually divide the height of the retaining wall into horizontal sections of no more than six (6) feet.

b. Water-conserving, non-invasive landscaping of sufficient size at maturity will be planted and maintained to provide screening so that no more than six (6) feet of the height of the retaining wall would remain visible.

c. The retaining wall is located on a cut slope so that it is not readily visible from off the site.

2. *Fence heights may exceed six (6) feet through the addition of up to two (2) feet of wooden lattice on top within the required side and rear setbacks in the R-1, R-2, R-3, R-BA and NCRO-2 Districts, but not within the front setback required per the district's development regulations.*

3. *Metal rail-and-picket fences and black or dark green vinyl-coated chain-link fences not exceeding eight (8) feet in height may be constructed in the C-1, TC-1 and M-1 Districts.*

4. *Temporary chain-link demolition/construction barricades not exceeding six (6) feet in height are permitted in all districts, subject to removal prior to final inspection.*

5. All other exceptions to the general regulations set forth in subsection 17.32.050(A) shall require approval by the planning commission. Application for such exception shall be filed with the community development director and shall be accompanied by payment of a processing fee in such amount as established from time to time by resolution of the city council. The planning commission may grant the exception upon making all of the following findings:

a. The exception is necessary by reason of unusual or special circumstances or conditions relating to the property in order to gain full use and enjoyment of the property.

c. The appearance of the fence, hedge or wall is compatible with the design, appearance and scale of the existing buildings and structures in the neighboring area.

Recommendation: Provide direction to staff to prepare a draft ordinance for recommendation to the City Council, and adopt the attached draft Resolution No. RZ-4-10a to formally initiate the zoning text amendment process.

Attachments:

Draft Resolution of Intention
On-Line Fence Survey & Results
January 2011 Brisbane City News Article
California Civil Code Sections 841 & 841.4
11/18/10 Planning Commission Agenda Report with Attachments

draft
RESOLUTION NO. RZ-4-10a

RESOLUTION OF INTENTION TO CONSIDER AMENDMENTS TO
THE CITY OF BRISBANE MUNICIPAL CODE TITLE 17, ZONING,
REGARDING FENCE REGULATIONS

WHEREAS, concerns have been expressed regarding the ability of fencing to assure adequate security and privacy under the Brisbane Municipal Code's current regulations; and

WHEREAS, 1994 General Plan Policies 4 and 5 direct the City to "Acknowledge the fundamental rights of citizens to freely act and to use their own property, except to the extent government rules or regulations are necessary for the public health and safety and for protection of the environment" and to "Use the least intrusive rules and regulations consistent with overall governmental needs and State and Federal law;" and

WHEREAS, Policy 6 and Program 22a require that the City to "Set clear and definitive standards for all rules and regulations;" and "Consider amendments to the Zoning Ordinance which contain clear and defined standards to protect creativity and diversity in design while addressing issues of height, scale, mass and articulation;" and

WHEREAS, Policy 25 "Encourage(s) interaction and involvement among neighbors on a day-to-day basis and foster a sense of security in the community through the design and location of private development and public improvements;" and

WHEREAS, Policy 377 states that "Outdoor storage of goods and equipment shall be screened by appropriate fencing and landscape materials;" and

WHEREAS, clear standards to allow greater flexibility in fencing design to assure public safety and security may be provided through amending the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the City of Brisbane Planning Commission intends to consider amendments to the Title 17, Zoning, of the Brisbane Municipal Code.

JAMEEL MUNIR
Chairman

I hereby certify that the foregoing Resolution No. RZ-4-10a was duly and regularly passed and adopted by the Brisbane Planning Commission at a regular meeting thereof held on January 27, 2011, by the following roll call vote:

AYES:
NOES:
ABSENT:

JOHN SWIECKI
Community Development Director



City of Brisbane Fence Survey

The Planning Commission Needs Your Input

The Planning Commission would like to get more public input on the City's current fence regulations before considering any changes. Please take a few minutes to provide them with your input. Thank you in advance for your participation!

Fences in Brisbane's Residential Areas

1. Any type of 6 ft. tall fence (e.g. wood, chain link, concrete block) is currently allowed anywhere in residential areas (except on corner lots where fences need to be less than 3 ft. in height so drivers' views of cross-street traffic are not blocked). Should taller fences be allowed if the portion over 6 ft. tall consists of lattice (an ornamental and/or structural criss-crossed framework)? If you answered Yes, please answer Q2 and Q3.

Yes

No

2. How much taller would you allow the fence to go?

7 ft.

8 ft.

taller than 8 ft.

3. Where on the lot would you allow taller fences?

Anywhere

Side and rear yards only, not in front yard

4. Should chain link fences be allowed in residential areas? If Yes, please answer Q5 and Q6.

Yes

No

5. How tall would you allow them?

6 ft.

7 ft.

8 ft.

taller than 8 ft.

6. Where in a lot would you allow chain link fences?

Anywhere

Side and rear yards only, not in front yard

Thank You

1. Do you have any other comments regarding fences that were not addressed in the previous questions? If so, indicate them below.

2. This fence survey will be an item the Planning Commission will discuss at future public hearings. If you would like to be notified via e-mail the dates of those hearings, please write your e-mail below.

Fence Survey

Response Summary

Total Started Survey: 51
Total Completed Survey: 49 (96.1%)

PAGE: FENCES IN BRISBANE'S RESIDENTIAL AREAS

1. Any type of 6 ft. tall fence (e.g. wood, chain link, concrete block) is currently allowed anywhere in residential areas (except on corner lots where fences need to be less than 3 ft. in height so drivers' views of cross-street traffic are not blocked). Should taller fences be allowed if the portion over 6 ft. tall consists of lattice (an ornamental and/or structural criss-crossed framework)? If you answered Yes, please answer Q2 and Q3.

	Response Percent	Response Count
Yes	69.4%	34
No	30.6%	15
	answered question	49
	skipped question	2

2. How much taller would you allow the fence to go?

	Response Percent	Response Count
7 ft.	19.4%	6
8 ft.	54.8%	17
taller than 8 ft.	25.8%	8
	answered question	31
	skipped question	20

3. Where on the lot would you allow taller fences?

	Response Percent	Response Count
Anywhere	42.9%	15

Side and rear yards only, not in front yard

57.1%

20

answered question

35

skipped question

16

4. Should chain link fences be allowed in residential areas? If Yes, please answer Q5 and Q6.

	Response Percent	Response Count
Yes	44.9%	22
No	55.1%	27
	answered question	49
	skipped question	2

5. How tall would you allow them?

	Response Percent	Response Count
6 ft.	57.7%	15
7 ft.	11.5%	3
8 ft.	23.1%	6
taller than 8 ft.	7.7%	2
	answered question	26
	skipped question	25

6. Where in a lot would you allow chain link fences?

	Response Percent	Response Count
Anywhere	25.8%	8
Side and rear yards only, not in front yard	74.2%	23
	answered question	31
	skipped question	20

PAGE: THANK YOU

G.I.G.

1/18/2011 10:04 AM

Fence Survey

Response Summary

Total Started Survey: 51
Total Completed Survey: 49 (96.1%)

1. Do you have any other comments regarding fences that wasn't addressed in the previous questions? If so, indicate them below.

	Response Count
	18
1. sometime people want to be in their yard and not have their neighbor looking at them every chance they are out side. also fence height depends on if you are on a hill or on flat land sometimes you need a higher fence depending on location of property.	Thu, Jan 13, 2011 3:30 PM
2. Chicago used to offer a rebate for wrought iron, which helped beautify the city. Masonry (brick or stone) and wrought iron are both much more attractive than any other options. Cement block should be banned. Razor wire anywhere should be banned for aesthetic and humane reasons.	Tue, Jan 11, 2011 9:43 PM
3. There are many homes and areas that considerations on a basic standard can be in place. Brisbane's lot are all very unique, so a standard may not be appropriate. The most important consideration - NEIGHBORS and their input.	Mon, Jan 3, 2011 7:24 PM
4. Fences in front yards should require setbacks so as to not obstruct visibility of the sidewalk and street. This is a safety issue and important for anyone pulling out of a driveway. Very hard to pull out if you cannot see pedestrians or cars. We don't have a fence obstructing our view of sidewalk and street but neighbors on either side have allowed shrubs and hedges to grow over 4-6 feet. I think if you are considering guidelines over fences, you should include parameters for residents who use hedges or shrubs as a fence. We also have a neighbor who planted bamboo as a hedge and now this migrating species has come under our driveway and cracked it. Please include guidelines on vegetation! Thank you. This is a great topic.	Mon, Jan 3, 2011 6:25 PM
5. keep them maintained and or painted.	Mon, Jan 3, 2011 12:35 PM
6. Person who installs a fence over 6 ft should need written permission from any neighbor who's property lies directly north of the fence in case the taller fence will shade the persons property/landscaping. People's access to sunshine should be protected.	Mon, Jan 3, 2011 12:05 PM
7. The best rear and side yard fence on a property line is one whose costs are born by both property owners. I replaced such a fence that after 35 plus years rotted	Mon, Jan 3, 2011 11:14 AM
	answered question 18
	skipped question 33

	away with absolutely no consideration from the terminally cheap absentee landlord of the rental property next door.	
8.	When our fence broke, we were unsure of who was responsible for replacing it. I wish the City had some guidelines about this. Luckily, we have nice neighbors, but not everybody is so easy to negotiate with.	Mon, Jan 3, 2011 10:30 AM
9.	Safety should be a consideration...if an emergency arises and all fencing is over 6ft tall around an entire property, the emergency personnel would have a hard time getting into a home. Maybe the front of the house should be easily accessible, side and back yards, not so much.	Sun, Jan 2, 2011 2:04 PM
10.	I truly believe good fences make good neighbors & high fences with lattice for vines to grow beautify not only both neighbors' views, but the town as well!	Wed, Dec 29, 2010 3:09 PM
11.	I think it is just awful the city allowing 6 foot high fences in the front yard. I live at 29 Tulare and a couple of houses from the owners who erected a fence wall across the front of their house. I called the city and complained the only thing they could do was get them to remove it from the garage entrance (I guess they don't park a car in there). It spoils the character of the street. These types of people should live in a condo and not a house. We need strong zoning.	Wed, Dec 29, 2010 3:09 PM
12.	Chain link fences last for years and allow many creeping vines/plants to disguise their ugliness if the owner is hopefully so inclined. However, they should not be allowed on the street/front side of a property, next to the depth plus some determined footage to an adjoining house, and would only wish them to be used in the very rear of a back yard. And within that partial area, don't wish to see them as part of a retaining wall, divider, etc. either.	Sun, Dec 26, 2010 2:43 PM
13.	Closed fencing is currently NOT allowed on the NE Ridge development due to habitat concerns and this should be fully enforced.	Thu, Dec 23, 2010 8:53 AM
14.	What about fences directly on top of retaining walls? They create the appearance of a taller fence.	Wed, Dec 22, 2010 5:46 PM
15.	Fences are often required to secure animals and owners should be allowed to do so without the complaint of neighbors. If you look around town, most fences are 6 feet tall with at least a foot of lattice already. The only people that complain are those who think they own "their" view. People should be allowed privacy in a town where homes are built right on top of each other and where everyone complains on everyone else.	Wed, Dec 22, 2010 5:42 PM
16.	all chain link fencing and framework (posts-rails] should be black. any where in the city ! skate park= basket ball courts ect.	Sat, Dec 18, 2010 8:28 AM
17.	Fences make for bad neighbors, low hedges are much more pleasant.	Fri, Dec 3, 2010 8:04 PM
18.	If your lot runs uphill and your neighbors house sits above you, a larger fence is often needed for privacy issues.	Thu, Dec 2, 2010 12:38 PM
	answered question	18
	skipped question	33

2. This fence survey will be an item the Planning Commission will discuss at future public hearings. If you would like to be notified via e-mail the dates of those hearings, please leave your e-mail in the space below.

	Response Count
	8
answered question	8
skipped question	43

G.I.II.

Brisbane City News

City of Brisbane Monthly Newsletter

January 2011 Issue 8 Number 1

PSSST...IT'S
A SECRET...

ARTIST
EVENING OF
SHARING,
FEBRUARY 5,
2011

7:30 PM

RIGHT: AMY DONDY AND
JERRY KRUGEL PERFORMING
AT THE ARTIST'S EVENING OF
SHARING IN 2010



Many people say Brisbane is the best kept secret of the Bay Area. Tucked away in San Bruno Mountain, it's a beautiful little city most never venture into. Even those adventurous souls who actually did wander our way would most likely only see the physical beauty of Brisbane; but Brisbane's beauty is not our only secret; there is much more to discover here. What makes it truly special is not in plain sight; it's hidden in and around town. It's the neighbors looking out for each other. It's our kids being able to run down the street to play with friends. It's the smile you get at the hardware store or the teachers in our school's classrooms. It's the community groups that quietly go about helping where it's needed. What makes Brisbane so special is in all the little things that happen every day in this wonderful little city.

And, we the people of Brisbane, make these little things happen... so we, the people of Brisbane, really are our city's biggest secret. Each of us contributes to the beauty of this community in our own unique way. We all have special skills or talents we share to help

the community in some way. Maybe we have a special interest or cause that we volunteer our time to help. We check on our neighbors, run errands for our friends, and support each other in so many different ways.

It is in that spirit that once a year, our artists get together to entertain our neighbors, friends and families. It's their way to give to our community and to each other, making the citizens of Brisbane's the city's best kept secret.

You are invited to attend one of those little community gatherings that make us so special. The 8th Annual Artist Evening of Sharing will be held Saturday, February 5, 2011. All participants either work or live in Brisbane, and offer their talent to the community free of charge for an evening of delightful fun and entertainment. The event starts at 7:30 pm at the Mission Blue Center. Just before intermission, we honor an individual or group that has supported the arts in Brisbane and then celebrate with a buffet of goodies. Come be a part of the fun, but remember... it's a secret!

WHAT DO YOU THINK ABOUT FENCES?

The City of Brisbane Planning Commission is considering changes to the City's zoning regulations that pertain to fencing in residential areas and wants your input before making a recommendation. If you are interested, please take the Fence Survey (located on the City's homepage, www.brisbaneca.org) and tell us what kind of fences you think would make good neighbors!

Please note that this survey is just one way to participate. The

Planning Commission will hold at least one public hearing on any proposed changes to the fence regulations, and the entire Community is invited to attend and participate. The hearing date has not yet been scheduled. If you are interested in receiving e-notification of the Planning Commission hearing(s), then please see the survey's final question. Your opinion is important to us and we thank you in advance for participating.

CALIFORNIA CIVIL CODE
SECTIONS 841-841.4

841. Coterminous owners are mutually bound equally to maintain:

1. The boundaries and monuments between them;
2. The fences between them, unless one of them chooses to let his land lie without fencing; in which case, if he afterwards incloses it, he must refund to the other a just proportion of the value, at that time, of any division fence made by the latter.

841.4. Any fence or other structure in the nature of a fence unnecessarily exceeding 10 feet in height maliciously erected or maintained for the purpose of annoying the owner or occupant of adjoining property is a private nuisance. Any owner or occupant of adjoining property injured either in his comfort or the enjoyment of his estate by such nuisance may enforce the remedies against its continuance prescribed in Title 3, Part 3, Division 4 of this code.

City of Brisbane Planning Commission Agenda Report

TO: Planning Commission For the Meeting of 11/18/10
FROM: Tim Tune, Senior Planner, via John Swiecki, Community Development Director
SUBJECT: Study Session: Fence Regulations

Background: At the Planning Commission meeting of September 23rd, concerns were expressed about the adequacy of the City's 6 ft. standard fence height to secure outdoor storage at 600 Tunnel Avenue (Interim Use Permit UP-14-10) and overflow parking at 5 Beatty Avenue (Temporary Use Permit UP-15-10). In addition, the City has received inquiries about the use of lattice atop 6 ft. tall solid wood fences to provide increased privacy in residential neighborhoods. In response, this study session is intended to provide the Commission with background information and solicit the Commission's feedback as to potential amendment of the City's fence regulations.

Building Code Regulations: California Building Code Section 105.2 exempts fences not over 6 feet in height from the requirement to obtain a Building Permit. Solid fences over 6 ft. in height typically require submittal of wind load calculations in addition to Building Permit application.

Zoning Regulations--City of Brisbane: Fences not over 6 ft. in height are exempt from regulation in the City of Brisbane, except when located on a street corner where they might block sight distance. Brisbane Municipal Code Section 17.32.050 specifically states:

- A. General Regulations. Fences, hedges and walls may be erected subject to the following conditions:
1. Unless otherwise provided elsewhere in this title, fences, hedges and walls not exceeding six (6) feet in height may be constructed in any district within any required setback area; provided, however, that on corner lots where visibility would be affected, fences, hedges and walls shall not exceed three (3) feet in height.
 2. Where a fence is proposed to be constructed, or has been constructed, adjacent to city property, a boundary survey or other evidence of the location of the fence shall be submitted to the director of public works upon request if the director determines that a question exists as to whether the fence encroaches on public property.
 3. When construction of a fence impairs the visibility of address numbers on a house, such numbers shall be relocated with approval of the fire prevention officer.

H.2.1.

B. Exceptions.

1. The community development director may approve retaining walls located in any required setback area having a height (as defined in Section 17.02.400) in excess of six (6) feet and falling within any one of the following categories:
 - a. The surface of the retaining wall is treated with coloring, texture, architectural features, trelliswork, or other means that will visually divide the height of the retaining wall into horizontal sections of no more than six (6) feet.
 - b. Water-conserving, non-invasive landscaping of sufficient size at maturity will be planted and maintained to provide screening so that no more than six (6) feet of the height of the retaining wall would remain visible.
 - c. The retaining wall is located on a cut slope so that it is not readily visible from off the site.
2. All other exceptions to the general regulations set forth in subsection 17.32.050(A) shall require approval by the planning commission. Application for such exception shall be filed with the community development director and shall be accompanied by payment of a processing fee in such amount as established from time to time by resolution of the city council. The planning commission may grant the exception upon making all of the following findings:
 - a. The exception is necessary by reason of unusual or special circumstances or conditions relating to the property in order to gain full use and enjoyment of the property.
 - b. The proposed fence, hedge or wall will not create a safety hazard for pedestrians or vehicular traffic.
 - c. The appearance of the fence, hedge or wall is compatible with the design, appearance and scale of the existing buildings and structures in the neighboring area.

When the fence regulations were last updated in 2003, the 6 ft. limit was not changed, so as to be consistent with the Building Code. At that same time, setback exceptions (BMC Section 17.32.070.A.2.b) were adopted to allow trellises and arbors not exceeding 8 ft. in height to be located at the front property line, as long as they did not cover more than 15% of the required front setback area (112.5 sq. ft. for a flat, standard-size building site in the R-1 District).

Zoning Regulations--Other Jurisdictions: A survey of ten other jurisdictions in the County (attached) found that only Daly City's zoning ordinance limits standard fence height to 6 ft. (as does Brisbane's). Five cities allow an additional 1 ft. of lattice atop a 6 ft. tall fence. Two cities allow 7 ft. tall fences without specifying the type of design. Two cities allow 6 ft. tall fences with 2 ft. of lattice. The Deputy Building Official reports that most of the jurisdictions he deals with do not include lattice in determining fence height, if the lattice is at least 50% open.

H.2.2.

Staff Observations: Three factors to consider in evaluating alternatives to the current fence height limits are the general location in the City, the specific location on the property, and the type of fencing material used.

Location in the City. The current regulations make no distinction between fences located in residential neighborhoods (such as the R-1, R-2 and R-3 Districts) versus those in commercial/industrial areas (such as the TC-1, M-1, SP-CRO, C-1 and C-3 Districts), even though the differences in scale of development alone may be sufficient to consider taking different approaches between the two. For example, four of the last five fence height exceptions granted by the Commission were for 7 to 10 ft. tall chain-link fences in the TC-1 Crocker Park District. Three of these were for sites along the Crocker Park Trail, where the Public Works Department recommends tall chain-link fencing to separate private properties from the public trail.

The Zoning Ordinance does make a distinction for fences on the boundary between zoning districts—specifically between the NCRO-2 District and adjoining R-1, R-2 and R-3 Districts. BMC Section 17.14.060.G states:

If the site [in the NCRO-2 District] is next to a residential district, a wood fence of not less than eight (8) feet in height that adequately screens the site from the adjacent residential property shall be installed along the property line abutting the residential district. The planning director may approve deviations from the material and height requirements set forth in the preceding sentence, based upon a finding that the modified fence is more appropriate for the site and the adjacent residential property.

Application of this provision has produced mixed results. The condominium project at 1 San Bruno Avenue was required to provide an 8 ft. alternating-wood-slat fence along the east side and southeastern corner of the site adjoining the R-3 District, while an 8 ft. metal rail-and-picket fence was proposed along the San Francisco Avenue end of the yard. Only a 6 ft. tall wood fence (topped with 1 ft. of lattice) was required between the new duplex at 418-420 Monterey Street (behind the restaurant at 160 Visitation Avenue) and the existing single-family residence next door. The Planning Commission allowed the existing ivy-covered 6 ft. tall chain-link fence to remain between the new single-family unit to be built behind the existing storefront at 132 Visitation Avenue and the Brisbane Inn's parking lot in the adjoining R-2 District.

Another locational issue is whether the property is within the jurisdiction of the San Bruno Mountain Area Habitat Conservation Plan (HCP). Some properties subject to the HCP may be expected to provide butterfly flight corridors between areas of endangered species' habitat. Depending upon its height and openness, a fence may act as a barrier within these corridors. Acceptable fencing includes the 6 ft. tall steel tubing fences with approximately 4 inch openings approved at Landmark at the Ridge (note that California Building Code Section 1013.3 generally requires that guardrails be designed so that a 4-inch-diameter sphere cannot pass through any opening). The R-BA, SCRO-1 and PD Districts are subject to the HCP.

H. 2. 3.

Location on the Property. Some jurisdictions make distinctions between front yard fences versus side and rear yard fences, with further distinctions made for corner lots. This generally appears to be a matter of aesthetics (reflecting an expectation that front yards should be more public-oriented than side or rear yards), except in those cases where a tall solid fence would block sight distance for vehicles at a street intersection or backing out of a driveway.

Fences located on shared private property lines (as opposed to those adjoining public rights-of-way) typically assume a degree of cooperation between neighbors regarding the construction and maintenance of the fence owned in common. For example, it is the City of Rohnert Park's policy to accept 2 ft. lattice extensions atop 6 ft. tall rear or side yard fences to preserve policy, subject to the agreement of all neighbors along the fence line.

Type of Fencing Material. Fencing can serve to screen and secure. The ability of fences to screen areas from public view works both ways--fences can shield the public from unsightly views of materials stored behind the fence, and they can protect the privacy of personal yards against intrusive impacts from outside the fence. Similarly, fences can protect the property within the fence and protect those outside the fence from potential hazards within. Sometimes, the two purposes may be at odds, where visibility through the fence is necessary to provide surveillance capability to maintain public safety.

Chain-link fencing provides security and surveillance capability. When screening is a concern, slatted chain-link is a possibility. In the past (see attached list of fences over 6 ft. tall in Crocker Park), 6 ft. tall chain-link fences were often topped with an additional foot of barbed or razor wire for increased security, but increasingly we see 7 ft. or taller chain-link (typically black or dark green vinyl-coated) used instead in Crocker Park. A 7 ft. tall chain-link fence, though, would stand out in a residential neighborhood. There, instead, a 6 ft. tall wood plank fence topped by 1 ft. of lattice might be more appropriate. Metal rail-and-picket fences appear to be acceptable in both residential and commercial areas.

One approach to encouraging certain types of fencing would be to write height exceptions into the code for the kinds of fencing desired, as an incentive, while continuing to require a special approval process for all other types of fencing exceeding the current 6 ft. height limit.

Recommendation: Adopt the attached draft Resolution No. RZ-4-10 to formally initiate the zoning text amendment process.

Attachments:

- Draft Resolution of Intention
- Survey of Jurisdictions in San Mateo County
- List of Fence Height Exceptions
- List of Fences Over 6 Ft. Tall in Crocker Park

H. 2. 4.

RESOLUTION OF INTENTION TO CONSIDER AMENDMENTS TO
THE CITY OF BRISBANE MUNICIPAL CODE TITLE 17, ZONING,
REGARDING FENCE REGULATIONS

WHEREAS, concerns have been expressed regarding the ability of fencing to assure adequate security and privacy under the Brisbane Municipal Code's current regulations; and

WHEREAS, 1994 General Plan Policies 4 and 5 direct the City to "Acknowledge the fundamental rights of citizens to freely act and to use their own property, except to the extent government rules or regulations are necessary for the public health and safety and for protection of the environment" and to "Use the least intrusive rules and regulations consistent with overall governmental needs and State and Federal law;" and

WHEREAS, Policy 6 and Program 22a require that the City to "Set clear and definitive standards for all rules and regulations;" and "Consider amendments to the Zoning Ordinance which contain clear and defined standards to protect creativity and diversity in design while addressing issues of height, scale, mass and articulation;" and

WHEREAS, Policy 25 "Encourage(s) interaction and involvement among neighbors on a day-to-day basis and foster a sense of security in the community through the design and location of private development and public improvements;" and

WHEREAS, Policy 377 states that "Outdoor storage of goods and equipment shall be screened by appropriate fencing and landscape materials;" and

WHEREAS, clear standards to allow greater flexibility in fencing design to assure public safety and security may be provided through amending the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the City of Brisbane Planning Commission intends to consider amendments to the Title 17, Zoning, of the Brisbane Municipal Code.

JAMEEL MUNIR
Chairman

JOHN SWIECKI
Community Development Director

I hereby certify that the foregoing Resolution No. RZ-4-10 was duly and regularly passed and adopted by the Brisbane Planning Commission at a regular meeting thereof held on November 18, 2010, by the following roll call vote:

AYES:
NOES:
ABSENT:

City	Fence Height
Burlingame	6' w/ 1" lattice
Daly City	6'
San Bruno	6' w/ 2" lattice
San Mateo (City)	6' w/ 2" lattice
Menlo Park	7'
Redwood City	7' over 6' requires a permit
Foster City	6' w/ 1" lattice
Millbrae	6' w/ 1" lattice
South San Francisco	6' w/ 1" lattice
Pacifica	6' w/ 1" lattice

H. 2. 5.

H. 2. 6.

FENCE HEIGHT EXCEPTIONS

<u>APPLICATION</u>	<u>ADDRESS</u>	<u>HEIGHT AND TYPE OF FENCING</u>
V-4-87	278 Santa Clara St	Up to 9 ft. (wood plank topped by 1.5 ft. lattice)
V-4-90	385 Valley Dr	9 ft (8 ft. chain-link topped by 1 ft. barbed wire)
V-1-93	435 Valley Dr	7 ft. (6 ft. chain-link topped by 1 ft. barbed wire)
V-4-93	371 Klamath St	8 ft. masonry block
DP-1-96	123 South Hill Dr.	7.5 ft. metal rail & picket
FD-1-96	3840 Bayshore Bl	7 ft. metal rail & picket
FD-1-97	269 Humboldt Rd	Up to 9 ft. (wood plank topped by 1 ft. lattice)
UP-1-98	280 Old County Rd	10 ft. metal rail & picket to secure postal vehicles
FD-1-01	398 Klamath St	Up to 8 ft. (wood plank topped by 2 ft. lattice)
FD-3-01	430 Valley Dr	10 ft. chain-link
DP-1-04	425 Valley Drive	10 ft. black chain-link adjoining public trail
FD-1-08	88 North Hill Dr	7 ft. chain-link with slats adjoining public trail

9 1.17.

FENCES OVER 6 FT. TALL IN CROCKER PARK

<u>ADDRESS</u>	<u>HEIGHT</u>	<u>APPROVAL</u>
88 North Hill Drive	7' (6' CL + 1' SL)	FD-1-08
50 North Hill Drive	7' (6' CL + 1' BW)	City Property
280 Old County Road	10' MRP	Use Permit UP-1-98
52 Park Lane	10' CL	City Property
60 Park Place	7' (6' CL + 1' BW)*	Predates Annexation
123 South Hill Drive	7.5' MRP	Design Permit DP-1-96
155 South Hill Drive	8' (7' CL + 1' BW)	Predates Annexation
175 South Hill Drive	7' (6' CL + 1' BW)	Predates Annexation
201 South Hill Drive	7' (6' CL + 1' BW)	Predates Annexation
240 Valley Drive	7' (6' CL + 1' BW)	Predates Annexation
280 Valley Drive	7' (6' CL + 1' BW)*	Predates Annexation
355 Valley Drive	7' (6' CL + 1' BW)	Predates Annexation
385 Valley Drive,	9' (8' CL + 1' BW)	Variance V-4-90
425 Valley Drive	10' CL	Design Permit DP-1-04
430 Valley Drive	10' CL	Fence Exception FD-3-01
435 Valley Drive	7' (6' CL + 1' BW)	Variance V-1-93
450 Valley Drive	7' (6' CL + 1' BW)	Predates Annexation
455 Valley Drive	7' (6' CL + 1' BW)	Predates Annexation
470 Valley Drive	8' CL*	Predates Annexation
480 Valley Drive	6.5' (5.5' CL + 1' BW)	Predates Annexation
485 Valley Drive	7' (6' CL + 1' BW)	Predates Annexation
489 Valley Drive	7' (6' CL + 1' BW)	Predates Annexation
1 West Hill Drive	11' (10' CL + 1' BW)	(Not in Selbacks)
151 West Hill Place	7' (6' CL + 1' BW)	Predates Annexation

CL = Chain-link BW = Barbed Wire SL = Slick Wire MRP = Metal Rail & Picket
 * = Small Enclosure Only

H. 2. 7.

H. 2. 8.