

BRISBANE PLANNING COMMISSION  
Action Minutes of April 25, 2019  
Regular Meeting  
DRAFT

A. CALL TO ORDER

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

B. ROLL CALL

Present: Commissioners Gomez, Gooding, Mackin, Patel and Sayasane.  
Absent: None.  
Staff Present: Community Development Director Swiecki, Associate Planner Ayres.

C. ADOPTION OF AGENDA

Commissioner Gomez moved adoption of the agenda. Commissioner Gooding seconded the motion and it was approved 5-0.

D. CONSENT CALENDAR

Commissioner Mackin moved approval of the consent calendar. Commissioner Patel seconded the motion and it was approved 5-0.

E. ORAL COMMUNICATIONS

There were none.

F. WRITTEN COMMUNICATIONS

Chairperson Sayasane acknowledged written communications from the Housing Leadership Council and the City of Brisbane regarding the March 21 and May 4 community conversations, as well as letters received from Luc Bouchard, Dolores Gomez, and Nancy Lacsamana regarding item G.1.

G. NEW BUSINESS

1. **PUBLIC HEARING: 296 San Benito Road; R-1 Residential District; Variance V-1-19 and Grading Review EX-1-19;** Variance and Grading Review to allow demolition of an existing single-family home and construction of a new 1794.5 sq ft single-family home on a 2300 sq ft lot, exceeding the maximum permitted floor area ratio by approximately 138.5 sq ft. and requiring export of 95 cubic yards of soil from the site; Jerry Kuhel, Kuhel Design, applicant; Paul M. and Glenda M. Jimenez, owners.

Commissioner Gomez recused himself from the discussion as he owned property within 500 ft of the subject property.

Associate Planner Ayres gave the staff report. She answered Commissioner questions regarding project compliance with other development standards in the R-1 district, written comments received, and how FARs are calculated.

Chairperson Sayasane opened the public hearing.

Jerry Kuhel, applicant, spoke in favor of the application and said 276 San Benito built in 2001 is a substandard lot that exceeds the FAR and has a two-car garage. He would have to study how to redesign the home to comply with the FAR but stated his client's wanted two covered off-street parking spaces.

Tony Press spoke in favor of the application's provision of additional off-street parking.

Luc Bouchard spoke in favor of the application's provision of additional off-street parking, and the design's compliance with setbacks and lot coverage. He said making the FAR compliant would not change the apparent mass of the project and said the specific use of the additional floor area wasn't relevant. He said other substandard properties on the block exceed the FAR.

Dennis Busse spoke in favor of the application's provision of additional off-street parking.

Seeing no other speakers, Commissioner Gooding moved to close the public hearing. Commissioner Mackin seconded the motion and it was approved 4-0.

Commissioner Gooding indicated he did not think the request was a grant of special privilege. He said the property's small size is a special circumstance and by strictly applying the FAR the property owner is being denied a privilege enjoyed by others in the vicinity to develop and enjoy their properties. He could approve the request.

Commissioner Patel asked staff how much floor area was proposed in excess of the maximum.

Associate Planner Ayres said the proposal was for 138.5 square feet beyond the maximum FAR.

Commissioner Patel asked if the design could be modified to comply with the FAR maximum.

Associate Planner Ayres said the applicant addressed why the project was designed as it was, but the floor plan could be modified to have a compliant FAR and retain a two-car garage.

Commissioner Patel asked if the Variance findings consider benefits provided by a development.

Director Swiecki said the Variance findings were established in the Code and reflected in the agenda report. He stated the Commission was responsible for interpreting the provisions and terms in the findings as they relate to the request at hand.

Commissioner Patel asked if the Code defined "privileges" or "special circumstances."

Director Swiecki indicated they were not terms defined in the Code.

Commissioner Patel asked how the Commission would evaluate future FAR Variance requests if they approved the subject Variance request.

Commissioner Gooding stated the findings would depend on the project. He stated he did not find the subject application to be requesting a privilege but rather would be benefitting the community by providing additional off-street parking.

Commissioner Mackin said it was admirable to provide additional off-street parking. She said many homes were constructed prior to current zoning regulations. She said if the Code was perceived as treating substandard lots unfairly, they could request a Code amendment. She said she could not make the findings as the proposed floor plan was a design decision.

Chairperson Sayasane asked if the property's location adjacent to the school could justify providing additional off-street parking.

Commissioner Mackin stated the Commission would not be denying a two-car garage if the Variance was denied as the applicant could redesign the living area to comply with the FAR.

Commissioner Gooding asked how the request would be impacted if the garage was reduced to 400 sq ft.

Associate Planner Ayres indicated a reduction of 73 sq ft to achieve a 400 sq ft two-car garage would result in about 65 sq ft remaining excess FAR.

Director Swiecki stated if the Commission wanted to act on the application differently than recommended by staff, they would continue the matter and give direction to staff to come back at a future hearing with revised findings at a future hearing.

Commissioner Gooding suggested that privilege is denied to the property as other substandard lots in the vicinity have nonconforming FARs with two-car garages and strict application of the FAR was not fair for the subject lot due to its nonconforming size and dimensions.

Commissioner Mackin stated she was not comfortable with those findings as they would apply to many other substandard lots in the City.

Chairperson Sayasane asked how a Code amendment would be processed.

Director Swiecki stated a Code amendment would require a comprehensive analysis of how such a change would impact each lot in the R-1 District and that such an amendment would have to be initiated by the City Council.

Commissioner Mackin said most of Central Brisbane lacked on-street parking and was concerned finding a special circumstance based on a lack of on-street parking.

Chairperson Sayasane asked for a motion to reopen the public hearing. Commissioner Gooding made the motion, seconded by Commissioners Patel and was approved 4-0.

Luc Bouchard stated the Variance findings address special circumstances when a property can't conform to the Code and the application is consistent with the Variance findings. He stated other substandard lots in the vicinity had nonconforming FARs and that was the privilege denied to this property. He said every square foot on a smaller lot had a bigger impact on the FAR than on conforming-sized lots. He said a 473 sq ft garage was not an excessively large garage.

Jerry Kuhel stated that the property owner and he were aware of the FAR regulations and that the design reflects the property owner's needs and the precedent at 276 San Benito Road for a substandard lot with a two-car garage over the FAR.

Commissioner Gooding moved to close the public hearing. Commissioner Mackin seconded the motion and it was approved 4-0.

Commissioner Patel moved to continue the application to the May 9, 2019 meeting to allow the Commission time to consider the special circumstances of the case. Commissioner Gooding seconded the motion and it was approved 3-1 (Mackin opposed).

#### H. STUDY SESSION

1. Implications of SB 743 on CEQA Analysis of Transportation Impacts and Local Transportation Planning

Commissioner Gomez returned to the dais.

Director Swiecki introduced Lloyd Zola of Metis Environmental Group, consultants to the City.

Mr. Zola gave the presentation. Mr. Zola, Director Swiecki, and the Commission discussed regional coordination in measuring vehicle miles traveled (VMT), how Uber and Lyft have contributed to regional congestion, the impact of people's personal preferences to live in areas far from work, public transit capacity, whether local implementation might give rise to litigation, how traffic modeling relates to intersection functions, and how SB 743 addresses peak travel hours.

#### I. ITEMS INITIATED BY STAFF

Director Swiecki reminded the Commission of the second Community Conversation on May 4 and of the April 30 21 Elements Planning Commission workshop.

#### J. ITEMS INITIATED BY THE COMMISSION

There were none.

#### K. ADJOURNMENT

Commissioner Mackin moved to adjourn to the regular meeting of Thursday, May 9, 2019. Commissioner Gooding seconded the motion and it was approved 5-0. The meeting adjourned at 9:30 p.m.

Attest:

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John A. Swiecki, Community Development Director

NOTE: A full video record of this meeting can be found on DVD at City Hall and the City's website at [www.brisbaneca.org](http://www.brisbaneca.org).