

City of Brisbane

Planning Commission Agenda Report

TO: Planning Commission For the Meeting of 2/10/11

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

SUBJECT: Zoning Text Amendment RZ-4-10 to Amend Brisbane Municipal Code Title 17, Chapter 17.32, Section 17.32.050, Regarding Fences, Hedges and Walls

Request: Brisbane Municipal Code Section 17.32.050 is proposed to be amended to allow 8 ft. tall fences within the required side and rear setbacks in the R and NCRO-2 Districts, as long as the upper 2 ft. consists of wooden lattice. Fences no taller than 6 ft. would continue to be allowed within the front setback on properties not located at a street corner, where the Director of Public Works would be authorized to reduce the height limit to 3 ft. to avoid impact to sight distance at the street intersection.

In the C-1, TC-1 and M-1 Districts, 8 ft. tall metal rail-and-picket fences and black or dark green vinyl-coated chain-link fences would be allowed. Chain-link fences would not be allowed in or adjoining any R Residential District without Planning Commission approval, except for temporary chain-link demolition/construction barricades not exceeding 8 feet in height. Planning Commission approval would be required for razor-wire fencing in any district.

In addition, it would be clarified that the Planning Commission may restrict the height, location and/or design of fencing, as a condition of approval for properties subject to the San Bruno Mountain Area Habitat Conservation Plan, so as to maintain sufficient openness to allow butterflies to pass through while remaining consistent with Building Code requirements.

Recommendation: Recommend that the City Council adopt the draft ordinance, via adoption of Resolution RZ-4-10.

Environmental Determination: Accessory (appurtenant) structures are categorically exempt from the provisions of the California Environmental Quality Act per Section 15303(e) of the State CEQA Guidelines. The exceptions to the use of this categorical exemption referenced in Section 15300.2 do not apply.

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 had received inquiries about the use of

lattice atop 6 ft. tall solid wood fences to provide increased privacy in residential neighborhoods. In response, the Planning Commission held study sessions on November 18, 2010, and January 27, 2011, regarding revisions to the fence regulations.

As directed by the Commission, staff prepared and circulated the attached survey to solicit input from citizens regarding the residential fence regulations. The survey was posted on the City's website (noting that paper copies were available at City Hall) and publicized in the City's on-line blog and on the front page of the January edition of the Brisbane City News, which was mailed to all residents. As of January 18, 2011, 51 responses had 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.

Staff Analysis: Brisbane Municipal Code Section 17.32.050 currently exempts fences not over 6 ft. in height from regulation in the City of Brisbane, except when located on a street corner where they might block sight distance. The 6 ft. height limit parallels California Building Code Section 105.2's exemption of fences not over 6 feet in height from the requirement to obtain a Building Permit. The Deputy Building Official reports, though, that many jurisdictions do not include lattice with at least a 50% open area in calculating that height, because such materials would not necessitate the submittal of wind load calculations that would typically be required for solid wood fences over 6 ft. tall.

The results of the public survey support 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 for trellises and arbors as noted above. It would also be consistent with the approach taken by the Cities of San Mateo and San Bruno (see attached survey of jurisdictions within the County). Fences located on shared private property lines in the side and rear setbacks typically assume a degree of cooperation between neighbors regarding the construction and maintenance of the fence owned in common (see attached State law).

To address concerns regarding the use of chain-link fencing in residential areas, the draft ordinance would require Planning Commission approval of its use in or adjoining any R Residential District through the existing Fence Exception procedure. A public hearing would be

required at which the property owner could present the case for using chain-link in the particular situation, while giving neighbors an opportunity to provide input.

As for the security concerns originally expressed by the Commission regarding outdoor storage and parking in nonresidential districts, the draft ordinance would allow 8 ft. tall chain-link or metal rail-and-picket fences in the trade commercial zoning districts. This would be a simpler alternative to the Fence Exceptions previously approved by the Planning Commission for 7 to 10 ft. tall chain-link fences in the TC-1 District, typically at the Public Works Department's recommendation to separate private properties from the adjoining Crocker Park public trail. Chain-link would also be allowed for temporary 8 ft. tall demolition/construction barricades in all zoning districts.

The proposed ordinance would also specify that the Planning Commission may, as a condition of approval for properties subject to the San Bruno Mountain Area Habitat Conservation Plan (HCP), 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. 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 might act as a barrier within these corridors. An example of acceptable fencing would be 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).

Attachments:

- Draft Resolution RZ-4-10
- Draft Ordinance (Redline Version)
- Survey of Jurisdictions in San Mateo County
- List of Fence Height Exceptions
- List of Fences Over 6 Ft. Tall in Crocker Park
- California Civil Code Sections 841 & 841.4
- On-Line Fence Survey & Results

draft
RESOLUTION NO. RZ-4-10

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BRISBANE
RECOMMENDING ZONING TEXT AMENDMENT RZ-4-10 TO THE CITY COUNCIL,
SUCH AMENDMENTS PERTAINING TO
CITY OF BRISBANE MUNICIPAL CODE TITLE 17, ZONING,
REGARDING FENCES, HEDGES AND WALLS

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, the Planning Commission has determined that the draft ordinance amending Brisbane Municipal Code Section 17.32.050 is consistent with General Plan Policies 4, 5, 6, 25, and 377 and Program 22a; 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; and

WHEREAS, on February 10, 2011, the Planning Commission held a public hearing on the draft ordinance; and

WHEREAS, the minutes of the Planning Commission meeting of February 10, 2011, are attached and incorporated by reference as part of this resolution; and

WHEREAS, the proposed ordinance is categorically exempt from the California Environmental Quality Act (CEQA) per Section 15303(e) of the State CEQA Guidelines; the exceptions to the use of this categorical exemption referenced in Section 15300.2 do not apply.

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

JAMEEL MUNIR
Chairman

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 February 10, 2011, by the following roll call vote:

AYES:

NOES:

ABSENT:

JOHN SWIECKI
Community Development Director