

ORDINANCE NO. 462

**AN ORDINANCE OF THE CITY OF BRISBANE
ESTABLISHING NEW REGULATIONS FOR THE NCRO
NEIGHBORHOOD COMMERCIAL ZONING DISTRICT**

The City Council of the City of Brisbane hereby ordains as follows:

SECTION 1: A new Section 17.02.746 is added to Chapter 17.02 of the Municipal Code, to read as follows:

§17.02.746 Storefront.

"Storefront" means a use that provides goods and services at street level, encourages pedestrian access from the street, and typically, through plate glass windows or displays, provides visual access from the street to the goods or services offered within.

SECTION 2: Chapter 17.14 in Title 17 of the Municipal Code is amended in its entirety to read as follows:

"CHAPTER 17.14

NCRO Neighborhood Commercial District

NCRO-1 Brisbane Village

NCRO-2 Downtown Brisbane

Sections:

| | |
|-----------|---|
| 17.14.010 | Purposes of Chapter |
| 17.14.020 | Permitted uses |
| 17.14.030 | Conditional uses in the NCRO-1 District |
| 17.14.040 | Conditional uses in the NCRO-2 District |
| 17.14.050 | Development regulations for the NCRO-1 District |
| 17.14.060 | Development regulations for the NCRO-2 District |
| 17.14.070 | Performance standards |
| 17.14.080 | Night Operations |
| 17.14.090 | Parking |
| 17.14.100 | Signs |
| 17.14.110 | Design Review. |

§17.14.010 Purposes of Chapter

A. The Neighborhood Commercial District is included in the Zoning Ordinance to achieve the following purposes:

- (1) To create a zoning district for Central Brisbane that serves to protect and enhance the character of the subarea and provides for orderly development consistent with the direction in the City's General Plan;
- (2) To encourage uses to serve the community by providing goods and services to enhance the quality of life;
- (3) To maintain the vitality of the downtown by including residential uses and public institutions in the commercial fabric;
- (4) To respect the historical scale and character of the area; and
- (5) To protect the community health and safety by establishing permit requirements and performance standards that address potential impacts of commercial activity.

B. To achieve the purposes of this Chapter, the Neighborhood Commercial District is divided into two geographical areas, namely: the NCRO-1 District consisting of the Brisbane Village, and the NCRO-2 District consisting of Downtown Brisbane, as shown on the City's Zoning Map adopted pursuant to Chapter 17.06 of this Title.

§17.14.020 Permitted uses

The following uses are permitted uses in the NCRO-1 and NCRO-2 Districts, if conducted in accordance with the performance standards set forth in 17.14.070 of this Chapter:

- A. Financial institutions.
- B. Medical facilities.
- C. Offices.
- D. Personal services.
- E. Restaurants.
- F. Retail sales and rental.
- G. Home occupations, in the NCRO-2 District only.

§17.14.030 Conditional uses in the NCRO-1 District

The following conditional uses are allowed in the NCRO-1 District, subject to obtaining a use permit and if conducted in accordance with the performance standards set forth in Section 17.14.070 of this Chapter:

- A. Bars.
- B. Commercial recreation-commercial gym and health facilities.
- C. Cultural facilities.
- D. Educational facilities.
- E. Gasoline service stations.
- F. Meeting halls.
- G. Outdoor sales and rental, when associated with an adjacent use within a structure.
- H. Places of worship.
- I. Temporary uses.
- J. Veterinary clinics.
- K. Day care centers.

§17.14.040 Conditional uses in the NCRO-2 District

The following conditional uses are allowed in the NCRO-2 District, subject to obtaining a use permit and if conducted in accordance with the performance standards set forth in Section 17.14.070 of this Chapter:

- A. Bars.
- B. Commercial recreation-commercial gym and health facilities.
- C. Cultural facilities.
- D. Educational facilities.
- E. Meeting halls.
- F. Mixed use in single-family dwellings.
- G. Outdoor sales and rental, when associated with an adjacent use within a structure.
- H. Places of worship.
- I. Small family day care homes.
- J. Temporary uses.
- K. Veterinary clinics.

L. The following conditional uses are allowed only when part of a mixed-use and when located above or behind nonresidential uses:

- (1) Day care centers.
- (2) Dwelling units.
- (3) Family day care homes.
- (4) Group care homes.

§17.14.050 Development regulations for the NCRO-1 District

Development regulations for the NCRO-1 District are as follows:

A. **Lot area.** The minimum area of any lot in the NCRO-1 District shall be twenty thousand (20,000) square feet.

B. **Lot dimensions.** The minimum dimensions of any lot in the NCRO-1 District shall be as follows:

| | |
|-----------------|------------------------|
| <u>Frontage</u> | <u>Width and Depth</u> |
| 100 feet | No requirement |

C. **Setbacks.** There shall be no minimum required front, side or rear setback for any lot in the NCRO-1 District, except that a twenty (20) foot setback shall be required from any property line that is contiguous to a public right of way.

D. **Lot coverage.** The maximum coverage by all structures on any lot in the NCRO-1 District shall be sixty percent (60%).

E. **Height of structures.** The maximum height of any structure in the NCRO-1 District shall be thirty-five (35) feet.

F. **Landscaping requirements.** Not less than ten percent (10%) of the lot area shall be in irrigated landscape.

§17.14.060 Development regulations for the NCRO-2 District

Development regulations for the NCRO-2 District are as follows:

A. **Lot area.** The minimum area of any lot in the NCRO-2 District shall be two thousand five hundred (2,500) square feet.

B. **Lot dimensions.** The minimum dimensions of any lot in the NCRO-2 District shall be as follows:

Width
25 feet

Depth
No requirement

C. **Density of residential use.** Dwelling unit density in a mixed use shall be established by the use permit.

D. **Setbacks.** The minimum required setbacks for any lot in the NCRO-2 District shall be as follows:

- (1) Front setback: No requirement (0).
- (2) Side Setback: No requirement (0), except a ten (10) foot setback shall be required when the site is abutting any residential district.
- (3) Rear Setback: Ten (10) feet.

E. **Lot coverage.** The maximum coverage by all structures on any lot in the NCRO-1 District shall be ninety percent (90%).

F. **Height of structures.** The maximum height of any structure shall be twenty-eight (28) feet, except that the height may extend to thirty-five (35) feet when authorized by a design permit granted pursuant to Chapter 17.42 of this Title and provided the approving authority is able to make the findings set forth in Section 17.14.110 of this Chapter.

G. **Fencing requirements.** If the site 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.

H. **Storefronts.** All uses at street level facing Visitacion and/or San Bruno Avenues shall be storefronts, as defined in Section 17.02.746 of this Chapter, except for entrances to uses above or behind the storefronts. Such uses shall comply with the following additional requirements:

- (1) The minimum floor area for a storefront use is six hundred (600) square feet. The approving authority may approve a lesser floor area if the approving authority finds that such lesser area is a large as possible for the intended storefront use, given the size, configuration, and physical constraints of the structure and the site.
- (2) No off-street parking shall be located on any portion of the site between the curb line and the storefront.

- (3) New construction shall incorporate the necessary vents and chases into the building design so as to allow future changes in occupancy of the storefront area.
- (4) Single-family dwellings in which mixed uses are conducted shall have a storefront character as viewed from the street.

I. **Passive open space.** Usable passive open space shall be provided for residential uses of at least sixty (60) square feet per unit. Such space may be provided as individual patios or decks, or as common patio or garden area, or any combination thereof.

§17.14.070 Performance standards

All uses in the Neighborhood Commercial district shall be conducted in accordance with the following performance standards:

A. All routine aspects of the day-to-day operations of a business, including the storage of materials and products, shall be conducted entirely within an enclosed structure, with the exception of the following:

- (1) Outdoor seating associated with a restaurant or retail food sales.
- (2) Outdoor activities specifically authorized by a use permit.
- (3) Parking of operable vehicles related to the authorized uses conducted on the site.
- (4) Shipments and deliveries incidental to the conduct of the primary uses on the site.

B. The following screening requirements shall apply to all uses:

- (1) Outside storage of pallets or containers used for transportation and delivery of items related to the uses conducted on the site shall be screened from off-site view to the extent it is reasonably possible to do so.
- (2) The off-site visibility of exterior equipment such as heating and ventilation units, above-ground storage tanks, compactors and compressors, shall be mitigated through such measures as may be reasonable under the circumstances, including, but not limited to, the installation of screening, fencing, painting, landscaping, or any combination of the foregoing.

The foregoing screening requirements are not intended to be exclusive and the approving authority may require, as a condition of the use permit or design permit, such other and additional screening measures as it deems necessary or appropriate to mitigate any potential adverse visual and audible impacts created by the intended use.

C. The site shall be kept free of trash and debris and all receptacles for collection and recycling shall be completely screened from view at street level.

D. Sound insulation, housing or baffles, or other reasonable measures, shall be installed in conjunction with heating, air conditioning, and ventilating equipment or other machinery when necessary to effectively mitigate sound emissions distinctly detectable from any off-site location.

E. Odors that would be offensive to persons of normal sensibilities shall not be distinctly detectable from any off-site location.

F. Lighting shall be designed to avoid excessive glare as viewed from offsite locations.

§17.14.080 Night Operations

A. **Definitions.** For the purposes of this Section, the following words and phrases shall have the meanings respectively ascribed to them as set forth below:

- (1) "Existing business" means a business or other use that is legally operating within the Neighborhood Commercial District as of February 25, 2002, in accordance with all zoning regulations applicable thereto, and pursuant to a business license duly issued by the City.
- (2) "Night operations" means any activity conducted between the hours of 10:00 p.m. and 5:00 a. m. of the following day.

B. **Requirement for use permit to conduct night operations.** Except as otherwise provided in Paragraph (c) of this Section, no business or other use, with the exception of residential uses, shall engage in the conduct of night operations at any location within the Neighborhood Commercial District unless a use permit for such night operations has been granted pursuant to this Chapter.

C. **Continuation of night operations by existing businesses.** An existing business which has lawfully been conducting night operations prior to February 25, 2002, may continue to conduct such night operations on the same site and shall be exempted from the requirement to obtain a use permit pursuant to this Section 17.14.070. This exemption shall not apply to any relocation of the night operations to a different site,

nor may the exemption be assigned or transferred by the existing business to a different business establishment or use, whether conducted on the same site or elsewhere.

D. **Approving authority.** Applications for a use permit to conduct night operations shall be acted upon by the Planning Commission and shall be governed by the provisions of Chapter 17.40 of this Title, as supplemented by this Section 17.14.070.

E. **Findings for use permit approval.** In addition to the findings required for approval of a use permit, as set forth in Section 17.40.060 and elsewhere in this Chapter, no use permit shall be granted for the conduct of night operations in the Neighborhood Commercial District unless the Planning Commission also finds and determines that the night operations conducted by the applicant will not create noise, glare or other effects that are likely to create a sleep disturbance for the occupants of neighboring residential properties:

F. **Use permit conditions.** Without limiting the authority of the Planning Commission to impose conditions on the granting of a use permit pursuant to Section 17.40.070, a use permit authorizing the conduct of night operations in the Neighborhood Commercial District may contain limitations on the days and hours of operation, restrictions on the nightly volume of vehicle trips, restrictions on the type of vehicles or equipment that may be operated at night, requirements for special devices and measures for abatement of noise and glare, and requirements for mitigation monitoring and periodic mandatory review. The Planning Commission shall have continuing jurisdiction over every use permit issued pursuant to this Section and may at any time, if the original findings required for issuance the use permit can no longer be made, modify or amend any of the use permit conditions, or impose new and additional conditions, or revoke the use permit.

§17.14.090 Parking

Off-street parking facilities shall be provided for each use on the site in accordance with the requirements set forth in Chapter 17.34 of this Title; *provided, however,* that no off-street parking shall be required for storefront uses in the NCRO-2 District.

§17.14.100 Signs

Signs allowed in the Neighborhood Commercial District are as specified in the sign regulations set forth in Chapter 17.36 of this Title.

§17.14.110 Design Review

The construction of any principal structure in the Neighborhood Commercial District shall be subject to the granting of a design permit in accordance with the

provisions of Chapter 17.42 of this Title and any applicable design guidelines adopted by the City. Where the structure will be located in the NCRO-2 District, no design permit shall be granted unless all of the following additional findings can be made:

- A. The design respects the intimate scale and vernacular character of the street.
- B. Design details are incorporated to articulate the building and emphasize the relationship to the pedestrian environment.
- C. The design incorporates creative use of elements that are characteristic of the area, such as awnings, overhangs, inset doors, tile decoration, and corner angles for entry.
- D. Color and texture are provided at the street through the use of signage, lighting, planter boxes, or other urban landscape treatments.
- E. Landscaping has been incorporated to enhance the design and enliven the streetscape.

SECTION 3: Section 17.32.050 in Chapter 17.32 of the Municipal Code is amended to read as follows:

§17.32.050 Fences, hedges and walls

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.

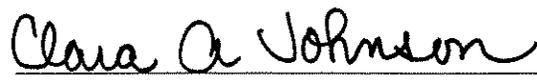
- (3) When construction of a fence impairs the visibility of address numbers on a house, such numbers shall be relocated with approval of the Fire Prevention Officer.

B. **Exceptions.** Applications may be made for exceptions to the general regulations set forth in Subsection 17.32.050(A). Each application shall require payment of processing fee in such amount as may be established from time to time by resolution of the City Council. The Planning Commission may grant such exceptions upon making the following findings:

- (1) 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.
- (2) The proposed fence, hedge or wall will not create a safety hazard for pedestrians or vehicular traffic.
- (3) The appearance of the fence, hedge or wall is compatible with the design and appearance of the existing buildings and structures in the neighboring area.
- (4) The fence, hedge or wall does not dominate the site or overwhelm the adjacent properties.

SECTION 4: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

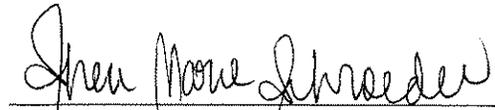
SECTION 5: This Ordinance shall be in full force and effect thirty days after its passage and adoption.


Clara A. Johnson, Mayor

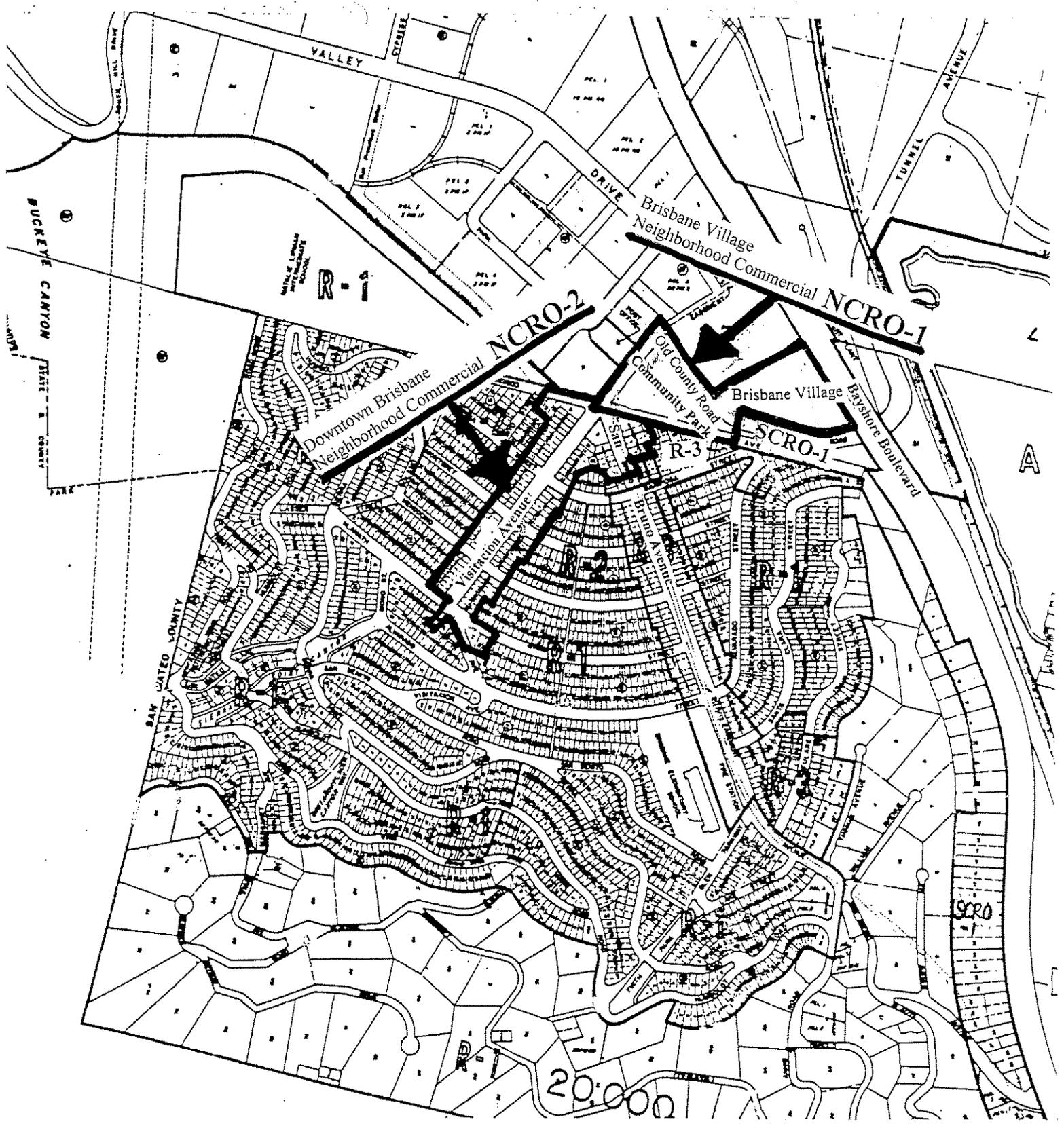
The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the 25th day of February, 2002, by the following vote:

AYES: Councilmembers Barnes, Bologoff, Panza, Richardson, and Mayor Johnson
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:



Sheri Marie Schroeder, City Clerk



Brisbane Municipal Code
Selected Definitions for the NCRO-2 District

17.02.400 Height. A. Structures. As applied to structures, height means the vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped or vaulted roof. The reference datum shall be the lowest point of elevation of the finished grade between the building and the property line when the property line is five (5) feet or less from the building. When the property line is more than five (5) feet from the building, the reference datum shall be the lowest point of elevation of the finished grade between the building and a line five (5) feet from the building. When the finished grade results from fill, the reference datum shall be the lowest point of elevation of the natural grade prior to the placement of the fill. In the case of a stepped or terraced building, each segment of the building shall be separately measured and the height of the building shall be the maximum height of the highest segment.

17.02.495 Lot coverage. "Lot coverage" means that percentage of a lot that is covered or occupied by structures. Lot coverage includes any finished surface, such as a slab or deck, which is covered by a roof or other solid covering with at least seven (7) feet of clearance, other than an eave or overhang, and includes also cantilevered bays and other enclosed architectural projections which contain floor or seating area.

17.02.540 Mixed use. "Mixed use" means a combination of residential and nonresidential uses that are located within the same structure or upon the same site.

17.02.746 Storefront. "Storefront" means a use that provides goods and services at street level, encourages pedestrian access from the street, and typically, through plate glass windows or displays, provides visual access from the street to the goods or services offered within.

For more information, including the complete text of the above-referenced Municipal Code Sections please refer to the City of Brisbane's website, www.ci.brisbane.ca.us under Brisbane Municipal Code, Title 17—Zoning.