City of Brisbane Planning Commission Agenda Report

TO:

Planning Commission

For the Meeting of 10/28/10

FROM:

Tim Tune, Senior Planner, via John Swiecki, Community Development

Director

SUBJECT: 242-260 Monterey Street; Variance V-6-10; Variance to Allow Dwelling

Group Site to be Split into Two 3,515+/- Sq. Ft., 35.2+/- Ft. Wide Parcels with 3 Ft. Side Setbacks Separating the Existing Units; Luc Bouchard,

applicant & owner; APN 007-282-090

Request: The Planning Commission approved Use Permits UP-4-09, UP-5-09 & UP-6-09 and Tentative Parcel Map TPM-1-09 to allow construction of a two-unit dwelling group at 242 & 260 Monterey Street (formerly 250 & 252 Monterey Street) as condominiums, with 2 garage spaces and 2 driveway spaces instead of the 4 garage spaces that would be required for a duplex.

Due to complications with financing (see attached Applicant's Supporting Statements), the applicant has found the condominium process to be an undue hardship. The applicant would now prefer that a Variance be granted to allow the property to be reconfigured as two separate parcels, each 3,515+/- sq. ft. in area and 1,485+/- sq. ft. below the 5,000 sq. ft. minimum lot area for the R-2 District. Each parcel would be 35.2+/- ft. wide, less than the 50 ft. minimum width required in the R-2 District.

One implication of this proposal is that the required side setbacks would change from the 5 ft. standard to 3.52 ft. (10% of the width of each of the new parcels). The dwelling group was constructed with 5 ft. east and west side setbacks, but with only 6 ft. between the two buildings. Thus, while the existing side setbacks would remain in compliance, the new side setbacks between the two buildings would be 0.52 ft. less than required.

Another implication is that the parking requirement for the project will change from that for duplexes, based upon the number of bedrooms, to that for single-family residences, based upon lot frontage. The Planning Commission previously approved a Use Permit for this project to modify the duplex parking regulations requiring 4 covered parking spaces to accept 1 garage and 1 on-site compact uncovered space for each unit. Now, based upon their lot frontages of at least 37.5 ft., the standard that would apply to each unit would be 2 garage spaces plus 2 on/off-street spaces. There are two off-street spaces not quite centered between the two driveway entrances, which are insufficient to

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meet these standards. Thus, approval of the requested Variance would render the units nonconforming in terms of the applicable parking standards. Per Brisbane Municipal Code Section 17.38.080, this will not become an issue unless either unit is proposed to be expanded.

Recommendation: Conditionally approve Variance V-6-10 per the agenda report with attachments, via adoption of Resolution V-6-10 with Exhibit A containing the findings and conditions of approval.

Environmental Determination: This project was previously found by the Planning Commission to be categorically exempt from the provisions of the California Environmental Quality Act per Sections 15301(I)(1) & 15303(b) of the State CEQA Guidelines. The exceptions referenced in Section 15300.2 do not apply.

Applicable Code Sections: Per Brisbane Municipal Code Sections 17.08.040.A.1 & C, the minimum building site area in the R-2 District is 5,000 sq. ft. with a minimum width of 50 ft. Per BMC Section 17.08.040.D.2, the required side setbacks are 5 ft., with the exception that a site having a width of less than 50 ft. may have a side setback reduced to 10% of the width of the site, but not less than 3 ft. or the minimum setback required by the Building Code, whichever is greater. The findings required to grant a variance to these requirements are listed in BMC Section 17.46.010.

Analysis and Findings: In order to grant the 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.

<u>Special Circumstances Applicable to Subject Property</u>—The site is 7,030 sq. ft. in area and 70.3 ft. in width. It consists of 3 record lots and a portion of a fourth. It is the third largest and fifth widest property in the R-2 District (see attached lot size survey).

Under the R-2 District maximum allowed density, a duplex could have been built on the property as a permitted use. Instead, the applicant obtained Use Permit approval to build two detached units as a dwelling group (a conditional use in the R-2 District), so as to maintain the character of the neighborhood, which almost entirely consists of single-family homes (see attached lot size survey). Reconfiguring the property as two 3,515 sq. ft., 35.2 ft. wide parcels would be consistent with this intent, because it would not change the current appearance of the property.

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In regards to the setback variance, the 70.4 ft. average width of the property is a special circumstance. Given this width, it was possible to provide 5 ft. side setbacks for the existing dwelling group, with 6 ft. between the two units. This means that the average setback width now proposed is 4 ft., which is 0.48 ft. more than required for the proposed 35.2 ft. wide parcels. In other words, the narrow setbacks between the two buildings would be compensated by the greater than required setbacks on the opposite sides of the two houses.

Privileges Enjoyed by Others in the Vicinity Deprived to Subject Property—As can be seen from the attached R-2 District lot size survey, 82% of the building sites in the district are developed with single-family dwellings. Of these, 60% are smaller than the proposed 3,515 sq. ft. sites, and 53% are narrower than the proposed 35.15 ft. wide sites. Thus, the proposed building sites would be no smaller than the majority of existing sites developed with single-family residences in the district. While no Variances have been approved for lot area or width in the R-2 District, the Planning Commission did grant Variance V-10-80 at 300 Humboldt Road in the R-1 District to allow a smaller than standard building site, noting that the prevailing lot pattern in the area was substandard.

In regards to the setback variance, the property at 431 Alvarado Street (in the R-1 District) was granted a Variance (V-9-88) for a smaller than required setback on one side of the house, since a larger than required setback was provided on the opposite side. Without the setback Variance, the subject houses would have to be moved 1.04 ft. farther apart from one another to allow sufficient room for the required side setbacks, if the other aspects of the Variance were granted.

<u>Conditions Necessary to Prevent a Grant of Special Privilege</u>—A standard condition of approval for setback variances is the professional preparation of a property survey. Such a survey has already been conducted and is in the process of being recorded (see attached Boundary Control and Site Plan).

Although a Certificate of Compliance and a Final Map Waiver were recorded for the property, the underlying record lots have not been merged. To split the property in two, a Lot Line Adjustment application will have to be submitted and approved to reconfigure "City of Visitacion" Lots 15, 16, 17 and a portion of 18, Block 8, into two equal parcels.

The California Building Code (Section 602.1 and Tables 602 and 704.8) requires that exterior walls at least 3 ft. but less than 5 ft. from property lines be 1 hour fire-rated with openings limited to no more than 25% of the area of the wall. In compliance, the exterior walls between the two buildings are constructed of 5/8" Type "X" sheetrock and have only 9% of their areas occupied by openings.

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Attachments:

Draft Resolution with Findings and Conditions of Approval Project Description
Survey of Lot Sizes in the R-2 District
Applicant's Supporting Statements
Boundary Control and Site Plan
Building Permit Site Plan
Photos

draft RESOLUTION V-6-10

A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE CONDITIONALLY APPROVING VARIANCE V-6-10
TO ALLOW DWELLING GROUP SITE TO BE SPLIT INTO TWO 3,515+/- SQ. FT., 35.2+/- FT. WIDE PARCELS
WITH 3 FT. SIDE SETBACKS SEPARATING THE EXISTING UNITS AT 242-260 MONTEREY STREET

WHEREAS, Luc Brouchard, the applicant, applied to the City of Brisbane for Variance approval to allow an existing dwelling group site to be split into two 3,515+/- sq. ft., 35.2+/- ft. wide parcels in the R-2 District (where the standard building site is 5,000 sq. ft in area and 50 ft. wide), with 3 ft. side setbacks separating the existing units at 2442-260 Monterey Street (where the standard side setback would be 3.52 ft.), such application being identified as Variance V-6-10; and

WHEREAS, on October 28, 2010, the Planning Commission conducted a hearing of the application, 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 application, the plans and photographs, the written and oral evidence presented to the Planning Commission in support of and in opposition to the application; and

WHEREAS, the Planning Commission had previously found that the project was 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 Variance.

NOW THEREFORE, based upon the findings set forth hereinabove, the Planning Commission of the City of Brisbane, at its meeting of October 28, 2010, did resolve as follows:

Variance application V-6-10 is approved per the conditions of approval attached herein as Exhibit A.

ADOPTED this twenty-eighth day of October, 2010, by the following vote:

AYES: NOES: ABSTAIN:	
	JAMEEL MUNIR Chairman
ATTEST:	Onanman
JOHN SWIECKI, Community Development Director	

EXHIBIT A

Action Taken: Conditionally approve Variance V-6-10 per the agenda report with attachments, via adoption of Resolution V-6-10.

Findings:

- 1. The variance shall be subject to such conditions (see below) as will assure that the adjustment hereby authorized shall 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.
- 2. Because of special circumstances applicable to subject property, specifically its unusual size and width, 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 building site area and width no smaller than the majority of existing building sites in the district developed with single-family residences, and average side setbacks exceeding the minimum applicable standard.

Conditions of Approval:

- A. Application for a Lot Line Adjustment, which shall maintain 3 ft. minimum side setbacks between the two houses, shall be submitted.
- B. Prior to recordation of the Approval of Lot Line Adjustment form and subject to the approval of the Public Works Director, the sewer lateral for 242 Monterey Street located on the proposed parcel at 260 Monterey Street shall either be relocated so that it is completely on the proposed parcel at 242 Monterey Street, or a private sewer lateral easement from the parcel at 260 Monterey Street to the parcel at 242 Monterey Street, with specified maintenance responsibilities, shall be recorded. Any required Plumbing Permit and/or Encroachment Permit shall be obtained prior to the relocation.
- C. The Variance shall expire two years from its effective date (at the end of the appeal period) if the Approval of Lot Line Adjustment form and the deeds for the affected properties have not yet been recorded before that date.

Project Description

General Plan:

Residential: 2 1/2 - 14 dwelling units per acre

Zoning:

R-2 Residential District

Unit Density—

Maximum: Existing:

1 unit per 2,500 sq. ft. 1 unit per 3,515 sq. ft.

Proposed:

1 unit per 3,515 sq. ft.

Lot Area--

Minimum:

5,000 sq. ft.

Existing: Proposed: 7,030+/- sq. ft. 3,515+/- sq. ft.

Frontage:

Existing:

75.5 ft.

Proposed:

37.75 ft.

Building Coverage—

Permitted:

50%

Existing:

45% (3,146 sq. ft.)*

Proposed:

45% (1,593 sq. ft.)* at 242 Monterey Street

44% (1,553 sq. ft.)* at 260 Monterey Street

Floor Area Ratio--

Permitted:

0.72

Existing:

0.67 (4,723 sq. ft.)**

Proposed:

0.71 (2,507 sq. ft.)*** at 242 Monterey Street 0.71 (2,501 sq. ft.)*** at 260 Monterey Street

Setbacks—

Currently Required Proposed Required for 2 Sites Existing 242 260 Front: 15 ft. 16 ft. 15 ft. 16 ft. 16 ft. West Side: 5 ft. 5 ft. 3.52 ft. 3 ft. 5 ft. 5 ft. East Side: 5 ft. 3.52 ft. 5 ft. 3 ft. Rear: 10 ft. 16.5 ft. 10 ft. 16.5 ft. 20.5 ft.

Height--

Permitted:

28 ft.

Existing:

12 ft.

Proposed:

25.5 ft.

Project Description Page 2

Parking--

Required

for Duplex:

4 garages (2 per unit with over 2 bedrooms; up to 50% may

be compact)

Approved

Per UP-6-09:

2 standard-size garage spaces, 2 compact on-site driveway

spaces, 2 parallel off-street spaces

Required

for SFR:

2 covered spaces plus 2 on/off-street spaces

Proposed at

242 Monterey:

1 covered space, 2 driveway spaces

Proposed at

260 Monterey:

1 covered space, 1 driveway space, 1 off-street space (the

second off-street space extends in front of 242 Monterey)

^{*}Including covered porch and cantilevered second floor

^{**}Including covered porch, excluding up to 400 sq. ft. of garage per duplex unit per BMC Section 17.08.040.F.2

^{***}Including covered porch, excluding up to 200 sq. ft. of garage per single-family unit per BMC Section 17.08.040.F.1

SURVEY OF LOT SIZES IN THE R-2 DISTRICT

Address 10 Inyo Street 15 Inyo Street 20 Inyo Street 25 Inyo Street 28 Inyo Street 35 Inyo Street 44 Inyo Street 45 Inyo Street 48 Inyo Street 55 Inyo Street	Number of Units 2 1 1 1 1 2 1 1 1 1 1 1 1 1	Area 3,304.2 sq. ft. 3,125 sq. ft. 2,500 sq. ft. 3,125 sq. ft. 3,750 sq. ft. 3,125 sq. ft. 3,750 sq. ft. 2,500 sq. ft. 2,500 sq. ft. 2,000 sq. ft.	Width 40 ft. 31.25 ft. 25 ft. 31.25 ft. 37.5 ft. 31.25 ft. 31.25 ft. 25 ft. 25 ft.
217 Mariposa Street 223 Mariposa Street 224 Mariposa Street 227 Mariposa Street 232 Mariposa Street 233 Mariposa Street 235 Mariposa Street 236 Mariposa Street 240 Mariposa Street 240 Mariposa Street 248 Mariposa Street 256 Mariposa Street 257 Mariposa Street 257 Mariposa Street (330) Mariposa Street (335) Mariposa Street 343 Mariposa Street 340 Mariposa Street 340 Mariposa Street 340 Mariposa Street 401 Mariposa Street 405 Mariposa Street 405 Mariposa Street 415 Mariposa Street 425 Mariposa Street 426 Mariposa Street 437 Mariposa Street 438 Mariposa Street 438 Mariposa Street 439 Mariposa Street 430 Mariposa Street 431 Mariposa Street 432 Mariposa Street 433 Mariposa Street 434 Mariposa Street 435 Mariposa Street	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	2,684+/- sq. ft. 2,584+/- sq. ft. 2,288+/- sq. ft. 2,584+/- sq. ft. 2,577+/- sq. ft. 2,657.5+/- sq. ft. 3,950+/- sq. ft. 3,876+/- sq. ft. 2,577+/- sq. ft. 2,577+/- sq. ft. 2,577+/- sq. ft. 2,584+/- sq. ft. 2,500 sq. ft. 1,250 sq. ft. 1,250 sq. ft. 2,500 sq. ft.	26.84 ft. 25.84 ft. 25.84 ft. 25.77 ft. 26.575 ft. 39.5 ft. 25.77 ft. 25.77 ft. 26.84 ft. 50 ft. 25 ft.
438 Mariposa Street 449 Mariposa Street 451 Mariposa Street 465 Mariposa Street 473 Mariposa Street	2 1 1 1 2	2,500 sq. ft. 2,500 sq. ft. 2,500 sq. ft. 2,500 sq. ft. 4,368 sq. ft.	25 ft. 25 ft. 25 ft. 25 ft. 43.68 ft.

LOT SIZE IN THE R-2 DISTRICT Page 2

<u>Address</u>	Number of Units	<u>Area</u>	<u>Width</u>
223 Monterey Street	1	2,691+/- sq. ft.	26.91 ft.
224 Monterey Street	1	6,622+/- sq. ft.	66.22 ft.
237 Monterey Street	1	8,073 sq. ft.	80.73 ft.
242-260 Monterey Street	2	7,030+/- sq. ft.	70.3 ft.
249 Monterey Street	1	2,691+/- sq. ft.	26.91 ft.
265 Monterey Street	1	5,117+/- sq. ft.	51.17 ft.
275 Monterey Street	2	4,996.5+/- sq. ft.	49.965 ft.
280 Monterey Street	1	4,170.5+/- sq. ft.	41.705 ft.
300 Monterey Street	1	4,170.5+/- sq. ft.	41.705 ft.
301 Monterey Street	1	3,761.25+/- sq. ft.	37.6125 ft.
316 Monterey Street	1	4,403.5+/- sq. ft.	44.035 ft.
319 Monterey Street	1	3,720.75+/- sq. ft.	37.2075 ft.
323 Monterey Street	1	2,691+/- sq. ft.	26.91 ft.
331 Monterey Street	1	3,291+/- sq. ft.	32.91 ft.
332 Monterey Street	1	4,587+/- sq. ft.	45.87 ft.
335 Monterey Street	2	4,782+/- sq. ft.	47.82 ft.
(348) Monterey Street	0	4,587+/- sq. ft.	45.87 ft.
349 Monterey Street	1	5,382+/- sq. ft.	53.82 ft.
432 Monterey Street	1	5,000 sq. ft.	50 ft.
433 Monterey Street	1	5,000 sq. ft.	50 ft.
437 Monterey Street	1	3,750 sq. ft.	37.5 ft.
440 Monterey Street	1	5,000 sq. ft.	50 ft.
445 Monterey Street	1	8,750 sq. ft.	87.5 ft.
450 Monterey Street	1	5,000 sq. ft.	50 ft.
456 Monterey Street	1	5,000 sq. ft.	50 ft.
463 Monterey Street	1	2,500 sq. ft.	25 ft.
465 Monterey Street	1	5,000 sq. ft.	50 ft.
466 Monterey Street	1	5,000 sq. ft.	50 ft.
477-483 Monterey Street	2	5,000 sq. ft.	50 ft.
480 Monterey Street	1	5,000 sq. ft.	50 ft.
484 Monterey Street	1	5,000 sq. ft.	50 ft.
485 Monterey Street	i	6,753 sq. ft.	67.53 ft.
492 Monterey Street	2	4,824.5 sq. ft.	48.245 ft.
102 Montorey Curdet	_	1,02 1.0 04. 16.	10.2 10 10.
411 San Francisco Avenue	e 2	3,635.7 sq. ft.	60 ft.
419 San Francisco Avenue		2,719.65 sq. ft.	30 ft.
425 San Francisco Avenue		2,320.95 sq. ft.	30 ft.
447 San Francisco Avenue		2,472.2 sq. ft.	40 ft.
453 San Francisco Avenue		2,724.75 sq. ft.	75 ft.
12,200	- TX	,	
7-11 Solano Street	2	6,400+/- sq. ft.	117 ft.
8 Solano Street	1	5,553+/- sq. ft.	46.275 ft.
18 Solano Street	1	6,103+/- sq. ft.	50 ft.

LOT SIZE IN THE R-2 DISTRICT Page 3

<u>Address</u>	Number of Units	<u>Area</u>	<u>Width</u>
30 Solano Street	1	4,212+/- sq. ft.	37+/- ft.
40 Solano Street	1	2,965+/- sq. ft.	36 ft.
44 Solano Street	1	3,054+/- sq. ft.	36+/- ft.
50 Solano Street	1	2,438+/- sq. ft.	32 ft.
62 Solano Street	1	2,922+/- sq. ft.	66+/- ft.

Building Sites Developed with Single-Family Residences:	72
Building Sites Developed with Two Units:	13
Vacant Building Sites:	3
TOTAL:	88

SUPPORTING STATEMENTS

FINDINGS REQUIRED TO GRANT A VARIANCE

Brisbane Municipal Code Section 17.46.010

Applications for variances from the strict application of the terms of this title may be made and variances granted when the following circumstances are found to apply:

A. That any variance granted shall be subject to such conditions as will assure that the adjustment hereby authorized shall 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.

B. That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, 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.

What special circumstances, such as size, shape or topography of the property, or its location or surroundings, apply to your site?

The applicants are requesting a variance be granted to the property designated as "lots 15, 16 17 and the Westerly 2.5 feet of lot 18, block 8, as delineated upon that certain map entitled "AMENDED MAP OF SUBDIVISIONS NOS. 1, 2 AND 3 OF CITY OF VISITACION, CALIFORNIA", filed in the office of the Recorder of the County of San Mateo, State of California on October 14, 1908 in Book 6 of Maps at page 45 as described in the Certificate of Compliance Recorded July 18, 2007 Instrument 2007-108369 San Mateo County Records.".

This property was once also designated as 248 Monterey Street. It is now designated as 242 & 260 Monterey Street, as duplexes.

We seek separate the property into two R-1 lots. Each lot would represent half of the property as described above. The structures currently present on the property would thus become single-family homes, situated on separate lots. The structures located on the property are currently classified as Duplexes.

The two structures are situated on a lot of approximately 7,500ft². Each structure has been built on one half of the total lot area, or approximately 3,750ft². This surface area is 50% bigger than the typical 2,500ft² single lot size often found in Brisbane, and inline with the lot building density of many homes in the immediate neighborhood.

How do these special circumstances impact your site when the Zoning Ordinance is applied to the site?

Our motivation in seeking this variance is based on the current mortgage debt market prevailing in the region. We have sought financing for the property, and found that in their current status of Duplex, as well as in their eventual change of status as Condominiums, financing is all-but-impossible to secure. Due to the reduced availability of mortgage credit, financial institutions policies have become very conservative; we have been told that applications for Duplex and Condominium financing are not given consideration.

What privileges enjoyed by other properties in the vicinity and same zoning district would you be deprived of when the Zoning Ordinance is applied to your site, given its special circumstances?

We believe a variance granting a change of status from duplex to single-family home would not present any negative impact to the immediate neighborhood, the community of Brisbane residents or to the City of Brisbane, and that it would allow us to enjoy the privilege of having single-family homes on a lot of less than 5000ft² as enjoyed by:

- <u>Across the street, the Mousetis/Fisher home at 249 Monterey Street is built on a lot of approximately 2,500ft².</u>
- Immediately behind us, the Hart home at 223 Mariposa Street is built on a lot of approximately 2,500ft².
- There are numerous additional examples of single-family homes on Monterey Street and Mariposa Street whose lot size is less than 3,750ft².

What conditions of approval could be attached to the variance to assure that you comply with the intent of the Zoning Ordinance and other applicable regulations?

The structures are complete, and are already compliant to all applicable regulations.

No structural coupling exists between the structures. The driveways are separate, the civic addresses are separate, and other than the fence separating the two halves of the lot, there are no common areas to maintain. The structural and fire safety codes of single-family homes have been observed.

All utility services are segregated; each structure is served by:

- <u>a dedicated water line, sized in accordance to all building specifications for fresh</u> water supply and fire protection
- a dedicated sewer line
- a dedicated storm drain, receiving rainwater collected from the roof structure
- a dedicated PG&E gas line, with dedicated SmartMeter
- a dedicated PG&E electrical supply line, with dedicated SmartMeter
- dedicated phone, cable television and internet connections.

Were the variance granted, the structures would pose no extra imposition on the public infrastructure. Each structure features one covered parking space (Garage), and one off-street private parking space. The road traffic load generated by the inhabitants will remain unchanged were the units' status change from duplexes to single-family homes.







