

BRISBANE PLANNING COMMISSION
Action Minutes of October 1, 2015
Special Meeting

A. CALL TO ORDER

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

B. ROLL CALL

Present: Commissioners Anderson, Munir, Parker, Vice Chairperson Reinhardt and Chairperson Do.

Absent: None.

Staff Present: Community Development Director Swiecki and Associate Planner Capasso.

C. ADOPTION OF AGENDA

Chairperson Do called for a motion to adopt the agenda. Commissioner Munir moved and Commissioner Parker seconded to adopt the agenda. The motion carried 5-0.

Chairperson Do thanked the public for being engaged in this important discussion. She reminded the public of the framework established by the Commission at the September 24, 2015 meeting regarding how the public hearings will be conducted. She noted that adopted Planning Commission rules call for meetings to end at 10:30 p.m. unless otherwise extended by a majority vote of the Commissioners present. The goal is to allow the public to fully participate in the hearings and to have their say in a manner that is respectful of everybody's time and scope of the task. She also stated that meetings can be continued if needed.

D. NEW BUSINESS

1. PUBLIC HEARING: Brisbane Baylands Final Environmental Impact Report and related Planning Applications (Baylands Concept Plan, Brisbane Baylands Specific Plan, General Plan Amendment Case GP-01-06). Specific topics include: Biological and Cultural Resources; Universal Paragon Corporation, applicant; Owners: various; APN: various.

Commissioner Munir moved to open the public hearing. Vice Chairperson Reinhardt seconded. The motion carried 5-0.

Director Swiecki introduced Lloyd Zola of Metis Environmental Group, consultant to the City for preparation of the Baylands Environmental Impact Report (EIR).

Mr. Zola presented the staff report.

Chairperson Do invited public comment from the audience.

Tom Heinz, long-time resident, passed.

Michael Melenik, new resident, passed because his comments did not relate to tonight's meeting.

Nori Jabba, consultant for the developer Universal Paragon Corporation, wanted to point out that they have consultants, Bio Habitats, who are planning to come back for a presentation to the Open Space and Ecology Committee on details of their plan. She noted the presentation was supposed to be in October, but has been deferred to a special meeting in November. She wanted to make sure the Commission was aware that it is going to be on the Transitional Wetlands Plan, and encourage the Commission to attend.

Commission Munir asked if it would be possible to combine the Transitional Wetlands Plan presentation with the Commission as a joint meeting.

Director Swiecki suggested that further discussion of this issue be deferred until after the public testimony.

Carol Zoltowski, licensed veterinarian, commented that the biological data focused on issues such as lighting and impacts relative to biological habitats. She noted there was no discussion of the behavioral impacts of development on wildlife. She expressed her opinion that there was a major informational gap.

Chris Hart, who is involved in railroad history and preservation, was very happy with the recommendations from the staff and the EIR consultant. His one concern is that he did not see any mention of vibrational effects to the Roundhouse and felt that should be monitored if there is going to be any type of pile driving before it is completely stabilized. He also felt that with respect to historical integrity, the Tank and Boiler Shop is more significant than the credit it is given. He stated the inside of the building is relatively unchanged and is an important artifact. He also noted that the Roundhouse has about a 400 ft. radius viewshed around it, and the 50 foot setback for new development around the Roundhouse recommended as a mitigation measure does not seem adequate.

Anja Miller requested that there should be a biological study based on this season's rainfall conditions expected due to the El Niño weather predictions before the commission certifies the EIR. In response to the EIR reference to bird kills by wind turbines, she stated that the CREBL alternative envisions vertical axis low speed wind turbines which would not be dangerous to birds. [Note: Ms. Miller provided written comments which are attached to these minutes as an addendum.]

Tony Verreos appreciated the discussion regarding stabilizing the Roundhouse. He stated new buildings around the Roundhouse should not obscure or diminish it. He felt that the applicant's plan is the total opposite of what Mr. Zola previously mentioned in terms of ensuring that

development surrounding the Roundhouse is sensitive to this important historic building. He felt that the new buildings depicted in the plan would dwarf the Tanker and Boiler Building. He was also not happy with the circular road going around the buildings as it will eliminate the use of the Roundhouse from ever being used again from its original purpose. SF Trains, of which he is a member, has proposed establishing the location as a museum with a real operational locomotive and gift shop and other elements that would insure it could be self-sustaining.

Richard Brandy supported previous speakers' statements that the Roundhouse is an important historical building worthy of restoration and preservation. He felt Mitigation Measure 4.D.1.A should be amended to include the Roundhouse's turntable base, which is an integral part of the Roundhouse as a cultural resource. He requested that Mitigation Measure 4.D.1.B be amended to require that new development surrounding the Roundhouse meet the Secretary of the Interior's Standards for the Treatment of Historic Properties. The Secretary's standards could also be required as design guidelines for future development in the vicinity of the Roundhouse.

Tatiana Pomerantseva felt the lagoon looked ugly and that is why no one spends any time there. She felt consideration should be given to beautifying the lagoon.

Colleen Mackin would like to see consideration for extraction and preservation of artifacts from the landfill. She noted that remnants recently discovered dated back to the 1906 earthquake.

Anja Miller commented on native artifacts and advised that a recent San Francisco Public Utilities Commission report cited archeologists who found two ships 15 feet below ground surface in the Sunnysdale area that were 100 years old. She stated the ships were found adjacent to the Baylands and there should be more studies on native artifacts at that location. Mrs. Miller also felt that if the Roundhouse is turned into a museum with a working locomotive, as was previously suggested, there should be a spur track installed to make that locomotive functional.

Clara Johnson agreed with Anja Miller's comments regarding the ships and native artifacts. Ms. Johnson presented her comments on the relevant FEIR chapters and stated she would submit a copy to the Planning Commission. [Note: Ms. Johnson's written comments are attached to these minutes as an addendum.]

Prem Lall commented that he has not heard a lot of conversation regarding high speed rail (HSR) and its impact, both biological and ecological, and HSR could impact development of the Baylands and it should be discussed in more depth in the Final EIR. He referenced a letter from the San Francisco Mayor's Office discussing the identification of the Baylands as the proposed location for a 100-acre maintenance yard for both HSR and Caltrain. **[NOTE: The referenced letter is located in Chapter 5 of the Final EIR, beginning on page 5-53.]** He suggested that the renewable energy alternative be revised to include this maintenance yard. He disagreed with the response in the Final EIR that HSR is premature and speculative as construction contracts were already signed for 29 miles of rail in southern California.

Michael Schumann commented on the recommendation to consolidate the open space to the south. He stated he liked having a buffer between Brisbane and the big city.

Jamie Dunn expressed concern regarding a letter she reviewed from the Mayor of San Francisco regarding HSR and how the contents of that letter seem to negate the hard work that has been done thus far concerning the Baylands development. She felt that the community has not been adequately advised of its contents. Chairperson Do reminded Ms. Dunn that the letter is included in the Final EIR, as is the response from the City of Brisbane. **[Note: The referenced letter is located in Chapter 5 of the FEIR, beginning on page 5-53.]**

Dana Dillworth told the Commission that they did not need to certify the Final EIR. She stated the community hasn't had the opportunity to review the Specific Plan at a Planning Commission or City Council hearing. She noted that there is tidal influence west of Bayshore Boulevard to the PG&E property, which was reflected in earlier reports but not in the Final EIR. With regard to the Mitigation Monitoring Program, Ms. Dillworth shared the following comments:

- MM 4.C.1.A. only mentions Ice House Hill and invertebrates and doesn't take into account other species that live in the Baylands. The Water Board required the wetlands to be drained in 2010, which is a problem for using 2010 as a baseline.
- MM 4.C.1.B only mentions status plant *viola pedunculata* but there are other status plants that should have been included such as lupine. A great range of species should be analyzed.
- MM 4.C.1.C only mentions trail-related construction but there are a number of kinds of construction that could occur on or near Ice House Hill that aren't addressed.
- Constructing boxes for birds and other animals assumes they will return and assumes minimal 1:1 replacement for lost habitat which is inadequate.
- Typos in 4-21- "leash" rather than "leach."
- It is insufficient to have a limited survey prior to grading because we need to know all animals that are there, such as bats at the Roundhouse. The provisions are too generic. Rather than not disturbing habitat, habitat should be improved such as with bat boxes.
- She is concerned with any mitigation requiring the Community Development Director making decisions as in 4.C.2.A. She recommended a peer review process.
- Tidal gates could be a sea level rise mitigation and aren't mentioned in the Final EIR.
- We need a bonding program or insurance that the mitigation measures will be implemented.
- We need to ensure access for the required studies and observations to be conducted.
- MM 4.C.4.A relies on property owner association for implementation. She thinks that is inadequate.
- No pets policy applies to construction workers only but employees should be subject to that too.
- Greater standards for mitigation corridors are needed, particularly access over rail lines.
- The square footage of the lagoon should not be considered useable open space.

Ms. Dillworth ended by stating she hoped the commission either improve the Final EIR or deny it as inadequate.

Shannon Davis expressed support regarding archeological comments. Ms. Davis felt that all species must be considered, not just endangered species. Ms. Davis also felt that the public should be given an overlay of when the railway will occur such as a timeline.

Anja Miller addressed Jamie Dunn's statements and shared the history behind why the HSR maintenance yard was not included in the renewable energy alternative in the EIR. CREBL's initial proposal for the renewable energy alternative included the maintenance yard but the City Council determined that it should not be included in the EIR alternatives. A variant of the renewable energy alternative could include placement of solar panels above the maintenance yard. She said that Master Response 4 of the Final EIR was flippant, and that "significant unavoidable impacts" are bad impacts. She further stated that the response to Brisbane Citizens Committee [response BCC 47] addressing the Community Proposed Plan (CPP) scenario gives the false implication that the CPP represented a concept plan produced by the community. The renewable energy alternative is the only scenario truly created by the community. She noted all maps in the Final EIR should be accurate and reflect current zoning and General Plan land use designations. She noted that response BCC 26 includes a reference to Figure 3.16, a map that does not show a rail spur and is outdated.

Tony Verreos stated support for Ms. Dillworth's comment regarding tidal influence. He said Brisbane has a very high water table and he anticipated that artifacts would indeed be found once excavation begins, as noted by Mrs. Miller. He would like to see discussion of wildlife corridors for wildlife to safely cross Bayshore Boulevard and other roadways trafficked by animals. He also stated that landscaping should be planted early on in development to ensure its viability. He said HSR is an issue to be considered in the Baylands process. He said if the Final EIR was certified the value of the Baylands land would increase, which would result in UPC (the applicant) getting a better price for the land from the State if eminent domain was exercised for the HSR maintenance yard.

Tom Heinz appreciated the hard work that all involved were doing; however, he felt we should be asking ourselves, do we want to change our General Plan. He felt the process was putting the cart before the horse.

Joel Diaz felt the EIR is inadequate, with not enough analysis and no peer review. Mr. Diaz felt the commission should suspend the process until a second or third peer review is completed.

Clara Johnson appreciated Mr. Diaz's comments. Ms. Johnson questioned whether new analysis could be required for a future proposal that wasn't studied in the Program EIR. Ms. Johnson also felt the EIR issues and planning issues should be separate to eliminate confusion.

Anja Miller requested that the commission consider moving the hearing on Traffic and Transportation impacts to a later date due to the expected volume of comments.

Joel Diaz expressed his opinion that the EIR should have studied a HSR facility and said we shouldn't disregard what the State will do with this property with eminent domain.

Chairperson Do shared a letter from Heather Buckley, Associate Director of International Partnership, who represents the windsurfing community, and stated that the issues brought up by Ms. Buckley were scheduled to be discussed at Public Hearing #5, to be held October 29, 2015.

E. CONSENT CALENDAR

Commission Munir moved and Commission Parker seconded to adopt the consent calendar. The motion carried 5-0.

F. ORAL COMMUNICATIONS

Anja Miller thanked Commissioner Anderson for his hard work on the Final EIR and staff for linking to the Final EIR from the home page of the website. She appreciated the Commission's flexibility in scheduling.

G. WRITTEN COMMUNICATION

Chairperson Do acknowledged written communications received that were not on the agenda.

H. ITEMS INITIATED BY STAFF

None.

I. ITEMS INITIATED BY THE COMMISSION

Commissioner Parker requested an update on the Parkside Precise Plan. An update was given to the Commission by staff. Commissioner Parker stated her desire for the Commission to be closely involved with the Precise Plan process and for the consultants to be invited to a Commission meeting introduce themselves.

J. ADJOURNMENT to the Regular Meeting of October 8, 2015 at 7:30 p.m.

Commissioner Munir moved and Commissioner Anderson seconded to adjourn to the regular meeting of October 8, 2015. The motion carried 5-0 and the meeting adjourned at 10:17 p.m.

Attest:

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.

October 3, 2015

TO: Brisbane Planning Commission

FROM: Clara A. Johnson

SUBJECT: My Comments, made at the Brisbane Baylands Public Hearing #1-Biological and Cultural Resources, October 1, 2015. I am sending them to you, as requested.

Master Response from the Responses Volume, It begins at page 2.4-21

2010 is the base year. A lot more soil has been placed on the land since then. The result of that tremendous amount of additional soil more soil will be moved by truck and construction equipment and that activity will result in more noise, more air pollution more greenhouse gases, more dust and more oil leaking onto the soil. The additional soil creates a greater impact which hasn't been accounted for in mitigation monitoring and reporting report.

Mitigation and Monitoring Report(MMR) Page 4-17, Mitigation Measure (MM) 4.C-1a

I have a concern that the biological resources are reduced to only the "sensitive, candidate or special status species" and that the rest of the natural world, the plants and the animals appear to be irrelevant under CEQA. It appears that the idea is to decimate the plant and animal populations they have become "special status species". Let's not let them do that.

Icehouse Hill surveys should be done before any earth moving work begins within 500 or 1000 ft. of the hill because the noise and the dust may discourage the threatened or endangered species.

MMR Page 4-19, MM 4.C-1b

The buffer zone should be 100 feet wide (not 25'), a distance that allows for a margin of error.

MMR 4-24, MM 4.C-1f

The requirement for a pre-construction and post-construction surveys of bat/turbine interaction should not apply to a PV panel solar facility. There aren't any wind turbines in a PV solar panel facility. The requirement is a way to make such a solar facility less feasible by unnecessarily increasing its cost.

MMR 4-25, MM4.C-1g

There should be a review of the stormwater permit to insure tht it reflects the standards that are required for an industrial site that includes toxic contaminants in the soil and in the landfill

MMR page 4-26, MM 4.C-1g

The area of impervious surface will be in the hundreds of acres under these alternatives. Who decides and what is the basis of that decision that states an amount of offset is sufficient to actually offset all of this impervious surface in low lying land that has wetland characteristics.

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MMR page 4-26, MM 4.C-1g

It is laudable and necessary to decree that no fertilizers or pesticides will be used but how will that prohibition be enforced and monitored after construction?

All statements of compliance with mitigation measures and conditions made by construction workers and others must contain a written assertion of compliance that identifies the mitigation measure or condition and that the mitigation or condition has been complied with. The individual's : name, title, employer, date of compliant action, signature and date and time of signature must appear in the same location in a legible state. All such statements should be stored and be retrievable and not subject to change. They must be available to all regulators, including the City of Brisbane.

MMR page 4-27, MM 4.C-1g

The Lagoon perimeter maintenance should have standards for timely replacement of plants, their: type(genus and species), number and size. The word appropriate should be defined with relation to a goal in any context, here the subject is trash receptacles.

The reference to the need for a funding mechanism is an important one. I suggest a Mello-Roos District for safety and hazards. It would allow for a wide variety of maintenance and monitoring

There should be a higher frequency of: water quality, vegetation viability and wildlife viability and access monitoring.

MMR page 4-28, MM 4.C-2a

Action to protect sensitive bio-communities and existing wetlands and wildlife passage must be taken before construction begins.

Strict enforcement is needed to avoid adverse impacts on sensitive bio-communities and restored wetlands. Adverse impacts can only be avoided if a clear and complete explanation as to how the adverse impacts will be avoided is included, e.g. It must contain standards of performance including : frequency of monitoring, description of monitoring, the short and longterm goals, their timelines and how those goals relate to the accepted standard and how accountability will be achieved.

In regard to fencing and unintended impacts, A description of the education of construction workers, its frequency and how be communicated and monitored and how people will be held accountable is necessary.

There must be oversight on the limits, conditions and procurement of permits for work in the vicinity of sensitive bio-communities and restored wetlands and existing wildlife access corridors.

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All replacement of sensitive communities should occur onsite. They are needed on site because of the radical change proposed for this land. Wetlands rehabilitation, restoration or improvement will: filter contaminants, provide flood control and provide habitat.

MMR pg 4-30 MM 4.C-2a

There is little or no acknowledgement of sea level rise and how it will impact the mitigations.

MMR pg 4-32 MM 4.C-4a

The phrase, wherever possible needs an explanation. What constraints determine possible, is it money or physical impossibility or time or what? There should be standards applied to this kind of limiting phrase wherever it is found in the MMRP.

MM 4.C-4a

There should be standards for the nest boxes. When will they be placed? How many will be provided? Where exactly will they be placed?

MMR pg 4-33 MM 4.C-4b

The primary mention of non-avian wildlife is how to kill it e.g. rodents. NOTE: pesticides harm wetlands and sensitive bio-communities.

MMR pg 4-34

In regard to fencing and rodent control and habitats, fencing is also a barrier to wildlife access. And there must be standards to protect wildlife from harm caused by fencing and rodent control measures.

MMR pg 4-35 MM 4.C-4c

Feral animals might also be called wildlife. If you mean formerly domestic animals, then it would be helpful to clarify. Why is this statement of what you might do if a possibility occurred in the MMRP? It isn't an action.

MMR pg 4-36 MM 4.C-4d

The building height requiring a consultant should be lowered to 50 ft because birds are likely to be affected by lighting at that height.

MMR pg 4-37 MM 4.C-4e

The building height requiring a consultant should be lowered to 50 ft. because birds are likely to strike windows at that height or even lower.

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The overall program design must provide wildlife corridors of sufficient width , as recommended by wildlife biologists, native plants and a non-hardscape surface. The paths could also serve for human passage and should serve north-south and east-west to provide for wildlife access through the Baylands and to the Bay and uplands.

Open Space should be, at times, contiguous to provide adequate habitat space but also open space needs to be available in many parts of the Baylands to allow through access.

Cultural Resources comments begin on the next page.

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Cultural Resources

MMR pg 4-39 MM 4.D-1a

In line 8, the wording should be changed from “may” to “must” in order to secure the Roundhouse.

MMR pg 4-40 MM 4.D-1a

The requirement for a Roundhouse Rehabilitation Plan submission should be changed to a requirement that would require that it be submitted within a year of the approval of the Baylands Specific Plan. The actual rehabilitation should be completed within 2.5 years of the approval of the Baylands Specific Plan. In this way, the Roundhouse would be the touchstone. It would be a reference to the past that guides the way forward. A performance bond should be required of the developer to assure that the Roundhouse Rehabilitation plan is completed as designed and within the time limits.

MMR pg 4-41 MM 4.D-1b

The architectural compatibility standard required distance should be increased. The 50 ft. standard included in MM 4.D-1b could be construed to mean from the historic Roundhouse bldg.. and if there were a 10 ft. sidewalk on either side of the street and a 40 ft. standard street width then even the closest buildings would not be required to be architecturally compatible. The architectural compatibility standard distance requirement should extend out 150 ft. in all directions from the outside edge of any greenspace surrounding the historic Roundhouse or if there aren't any buildings within that distance then to the nearest buildings in all directions.

MMR pg 4-42 MM 4.D-2

It isn't clear how the grading or construction contractor will know how to identify the archaeological or pre-historic items (described in CEQA Guidelines Section 15064.5) that should be reviewed by the consulting archaeologists . The consulting archaeologists should prepare, in advance of any excavation, a set of instructions including color 8"x10" photos of samples to assist any and all persons that would be making a determination that an item is or is not of archaeological or prehistoric significance. Those instructions should be present on site and be used when making the determination. Recently, the remains of two ships were found underground on the site adjacent to this one. They were under the fill.

Since this measure states that the City will make the final determination as to the appropriate avoidance measures or other appropriate mitigation when items of pre-historic or archaeological interest are found . The mitigation should require that the determination also include the consulting archaeologist's written opinion describing his/her opinion on what the appropriate avoidance measures and other mitigation measures should be. In addition, when the recommendations of the consulting

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archaeologist's differ from the City's determination, then the City should explain using archaeological standards why the City's determination was made.

The Cultural Resources Management Plan should be peer reviewed by a qualified independent archaeologist before it is approved or put into practice. Independent means an archaeologist with no financial or other connection to: the developer and its employees , the City of Brisbane and its employees or ESA and its employees. The peer review must be given to the City of Brisbane.

My final comments were these.

My understanding is that if the impacts of the projects within this program do not increase then only issues that are included in the program EIR can be raised in the project EIRs and that means that this EIR must be examined very closely.

The EIR Consultant, Mr Zola has stated innumerable times that the EIR issues are separate from Planning issues but the whole process has been combined. This action creates a confusion when it comes to the recommendation as to the completeness of the EIR. The planning issues have nothing to do with it yet are being presented as part of the process. I think it contaminates the EIR process.

Thank-you

Clara A. Johnson

ATTACHMENT
TO MINUTES
RECEIVED

FEIR Comments 10/1/2015 by Anja Miller

Specific to Biological Resources

OCT 29 2015

■ Master Response 2.4.9, Variability of Wetlands:

Comm. Dev. Dept. Brisbane

Clean Water Act 404 recognizes “*wetlands features are dynamic*” so the DEIR used an average of 20 years of aerial photographs for evaluating the future.

Actual on-site “*Habitat mapping*” only occurred twice in 2007, once in 2011 and once in 2013.

With the scientifically proven expectation of more extreme storms and sea level rise due to climate change, these projections may not be sufficient.

Unusually heavy El Niño rains are predicted this year; therefore the resulting wetlands should be mapped before certification of the EIR and the results included in any potentially site-specific land-use plans before their approval.

Specific to Cultural Resources

■ BCC-6, Native Artifacts:

Since “1906 the area now known as Brisbane Baylands was within San Francisco Bay. Thus, there is no potential for locating native artifacts or culturally significant areas within the project site.”

A recent report from the San Francisco Public Utilities Commission states, **When construction work happens in San Francisco, traces of the city’s history are often uncovered. During a recent Visitacion Valley project to upgrade old sections of the Sunnydale neighborhood sewer lines, archaeologists found two ships—a scow schooner and a barge. The ships, more than 100 years old when found, were buried 15 feet below ground!**

That 15 feet below ground in a neighborhood adjacent to the Baylands is a clear indication that similar archeological items may well be buried under the bay fill there. Instead of the off-the-cuff assumptions of potential cultural resources or lack thereof, a real scientific examination of the site should be conducted before the EIR is certified.

Roundhouse restoration should include spur track from mainline to bring a functioning locomotive to the museum.

General

■ Master Response 4, CEQA Review:

“Consistent with CEQA’s mandate, the Baylands EIR serves an informational purpose; it does not provide value judgments about what may be “good” or “bad” for Brisbane and the surrounding region, evaluate what the community may or may not want for the future of the Baylands”

Isn’t any **significant unavoidable impact bad** for Brisbane? Instead of “planning jargon,” words that make sense to people should be used.

■ Response BCC-407, CPP misnomer:

As stated in the BCC comment, only the acceptable land uses were discussed at community meetings, not any square footage of total development.

*“Development intensity was **established** – by unknown “establishers” -- to evaluate worst-case impacts of the scenario. “Name not **intended** to denote community acceptance or any recommendation by the community.”* However, that is the remaining **false** implication that may well have some influence in the future decision-making process.

The only truly **community-developed concept plan** in the EIR is the Renewable Energy Alternative; it incorporates all the open space and other land uses delineated at the community meetings, but at much less intensity in order to comply with Brisbane’s current, highly regarded General Plan.

■ Response BCC-26, Figure 3.16, map correction:

“The spur track serving the existing lumberyards is proposed to be moved to serve the lumberyards in their new location on the west side of the rail line.”

Then why isn’t the spur shown on Figure 3.16? As recent evidence has shown in the case of outdated zoning maps not consistent with the General Plan being used by developers and staff to mislead your Commission and others, it is important to ensure that all maps in the EIR are correct before it is certified.

■ Hearing schedule:

Due to the extensive material and serious impacts identified, BCC requests that the initially scheduled hearing on Section N, Traffic and Transportation on October 13 be rescheduled to a later date.