

# 8 IMPLEMENTATION

## 8.1 PURPOSE

This chapter identifies the range of steps and regulatory and organizational procedures necessary to implement the Specific Plan. These steps and procedures are presented in the order in which they will generally occur from the adoption of the Specific Plan to the processing of applications for future development by the City.

## 8.2 IMPLEMENTATION SEQUENCE

The following is the approximate sequence of key steps to adopt and implement this Specific Plan:

1. Certification of Environmental Impact Report
2. Adopt General Plan Amendments consistent with Brisbane Baylands Specific Plan
3. Adopt the Brisbane Baylands Specific Plan
4. Adopt zoning regulations to establish the Brisbane Baylands Specific Plan as the controlling regulatory authority over the specific plan area. Approve Development Agreement for the Baylands consistent with the Specific Plan, setting forth the scope of the developer's rights and obligations, including applicable laws, level of public benefits, timing of development and associated public benefits and project financing
5. Adopt financing mechanisms consistent with the Development Agreement, which may include tax increment financing pursuant to an amended redevelopment plan and/or infrastructure financing district and creation of community facilities districts
6. Obtain approvals and permits from other agencies, including those related to the landfill closure
7. Review and approve Design Plans for each development project
8. Review and approve individual Tentative Subdivision Maps, including applicable public improvements, and conditions of approval in accordance with the Development Agreement

9. Approve Final Subdivision Maps and record Conditions, Covenants and Restrictions (CC&Rs) ensuring ongoing compliance with Brisbane Baylands Specific Plan requirements and ongoing regulatory requirements.

### **8.3 KEY IMPLEMENTING ACTIONS**

The following is a summary of the key implementation actions for the Specific Plan presented in the approximate sequence they will have to occur.

#### **8.3.1 Specific Plan Adoption and General Plan Amendment**

Upon adoption of the Brisbane Baylands Specific Plan, the Development Standards and procedures established herein will govern land use and development within the Brisbane Baylands Specific Plan area. The General Plan must also be amended at the same time to ensure consistency between the Specific Plan and the General Plan. As part of this process, the City will consider the benefits associated with the proposed Specific Plan and its conformance with the long-term goals of the City.

#### **8.3.2 Zoning Amendment**

The City's existing Zoning Code will need to be amended in order to establish the Specific Plan's land use regulations and development standards as the regulatory authority governing future development of the Baylands. Any aspect of development or matter of procedure not addressed by the Specific Plan must meet the requirements of the City's Zoning Code.

#### **8.3.3 Development Agreement**

As part of the entitlement process, the City and UPC may negotiate and execute a Development Agreement pursuant to California Government Code Section 65864 et seq. Such an Agreement would be subject to Planning Commission and City Council approval after certification of the Environmental Impact Report at the same time as it considers adoption of the Specific Plan, General Plan amendment and zoning ordinance amendments. The Development Agreement gives UPC the vested right to develop its properties within the Plan Area in accordance with the Specific Plan and applicable laws in effect at the time of approval, in exchange for UPC's commitment to provide a higher level of public benefits than may ordinarily be required under applicable law; these public benefits would include infrastructure, open space improvements, community facilities and transportation improvements, among other things.

### 8.3.4 Environmental Review

The Environmental Impact Report (EIR) prepared (and certified) for the Brisbane Baylands will be a “program” level EIR. Subsequent activities consistent with the Specific Plan shall be examined in the light of the program EIR to determine whether additional environmental review is required, consistent with the requirements of California Code of Regulations (CEQA Guidelines) Section 15168(c), as the same may be amended from time to time. For other development studied at a more general level, a determination of the appropriate level of additional environmental review will be made at the time of application, also to the extent required under Public Resources Code Section 21166.

### 8.3.5 Permits and Approvals Required From Other Agencies

Given the Baylands’ location and previous use history, a number of permits or approvals will be required from agencies other than the City of Brisbane prior to development. Specifically, development of the Plan Area will require permits related to the Baylands’ former use as a landfill and railyard and because the site contains and is adjacent to jurisdictional waters and wetlands. The landfill- and railyard-related permits primarily address human health and safety and the protection of air and water quality, while the water-related permits primarily address protection of biological resources.

#### Interagency Cooperation Agreements

Portions of the Baylands border on the boundaries of three cities and two counties. For the purpose of coordinating and implementing some of the roadway and utility improvements envisioned in the Specific Plan that will be located in more than one jurisdiction, interagency cooperative agreements between the City of Brisbane, City and County of San Francisco, City of Daly City, and San Mateo County may be required. The interagency cooperation agreements may define financing mechanisms and implementation obligations and may reference the Bi-County Transportation Study, the Bayshore Intermodal Station Access Study, and other cross-jurisdictional planning efforts.

#### Landfill Closure Plans

In order to ensure long-term protection of air, water, and land from pollution related to the site’s use as a landfill, State law (Title 27 of the California Code of Regulations) requires the landowner to submit a closure plan and post-closure maintenance plan to the San Francisco Bay Regional Water Quality Control Board (SFBRWQCB) and San Mateo County Health Services Agency (SMCHSA) for review and approval. The goal of the closure plans is to

confirm that the landfill has been appropriately capped in order to minimize the infiltration of water into the waste, and thereby minimizing the production of leachate and gas and the potential contamination of either groundwater or surface waters.

In addition to the submittals to the SFBRWQCB and SMCHSA, a Gas Collection and Control System Design Plan also must be submitted to the Bay Area Air Quality Management District (BAAQMD) for review and approval. This plan will identify how remaining subsurface gas (i.e., methane) generated by the closed landfill will be collected and monitored.

Finally, in order to ensure that leachate from the landfill does not seep into the Visitacion Creek tidal channel, the closure plan for the land fill will involve significant reconfiguration of the existing channel and disruption of associated riparian vegetation, wetlands and tidal marshlands. As a result of the impacts to the channel and associated habitats, a mitigation plan must be prepared for the central drainage canal. In addition to the SFBRWQCB and SMCHSA, the plan must also be submitted to the Peninsula Corridor Joint Powers Board (JPB), San Francisco Bay Conservation & Development Commission (BCDC), California Department of Fish and Game (CDFG) and U.S. Army Corps of Engineers (USACE) for review and approval. The JPB is involved because the proposed drainage system for the Baylands (including future phases) requires the construction of culverts under the JPB's railroad tracks. The jurisdiction of the other agencies is described in the following sections.

### Remedial Action Plan and Remedial Design and Implementation Plan

Remedial Action Plans (RAPs) and Remedial Design Implementation Plans (RDIPs) from the Department of Toxic Substances Control (DTSC) and/or SFBRWQCB will be required prior to the development of the Railyard. Included in a RAP will be a description the proposed goal and plan for cleanup that is designed to minimize the potential for human exposure and environmental risk. Following the approval of a RAP, a RDIP will be approved and enforced to ensure proper and completed implementation of the cleanup.

### BCDC Design Review

Due to the Baylands' location on San Francisco Bay, portions of the site within 100 feet of the Bay shoreline or areas affected by tidal action will be subject to review by the BCDC. In the Planning Area, this includes the upland areas adjacent to the Brisbane Lagoon (which is technically part of the Bay) and upland areas adjacent to the portion of the Visitacion Creek channel under the influence of tidal action. Any development within this area requires BCDC review. "Development" as defined by BCDC refers to nearly all work either within the Bay or within the 100-foot shoreline band, including any filling or grading.

The work along the Visitacion Creek tidal channel will also require two other permits: a Streambed Alteration Agreement from the CDFG and a 404 permit from the USACE.

### Streambed Alteration Agreement

State law (Fish and Game Code Section 1602) requires any person, state or local governmental agency, or public utility that is going to undertake an activity that will substantially modify a river or stream to notify the CDFG in advance (Fish and Game Code Section 1602 applies to all perennial, intermittent, and ephemeral rivers, streams, and lakes in the state). If the Department determines that the activity could substantially adversely affect an existing fish and wildlife resource, a Streambed Alteration Agreement will be required. Given the extensive re-working of Visitacion Creek necessary to comply with the closure requirements of the SFBRWQCB, it is assumed that such a permit will be required.

### Section 404 Permit

Similarly, under Section 404 of the Clean Water Act (CWA), the USACE regulates activities that have the potential to “discharge dredged or fill material into waters of the United States.” Waters of the United States are defined to generally include such resources as tidal waters, interstate waters, most rivers, lakes, and streams, and certain types of wetlands. It is presumed that the Visitacion Creek channel falls under USACE’s jurisdiction. Project proponents requesting to place dredged or fill material into a water of the United States must obtain a permit from USACE. Given the level of disturbance associated with meeting the closure requirements, it is assumed that the Baylands will be required to obtain a standard (or individual) permit. Standard permits are issued for activities that may have more than a minimal adverse environmental impact.

Other permits that may be required include the following:

- Water quality certification, National Pollutant Discharge Elimination System (NPDES) permit, and waste discharge requirements (Regional Water Quality Control Board);
- Air Quality Permits (Bay Area Air Quality Management District)
- Incidental Take Permit, if necessary (Department of Fish and Game, U.S. Fish and Wildlife Service)
- Encroachment Permits (Peninsula Corridor Joint Powers Board and Caltrans)

### 8.3.6 Development Approvals

#### Purpose and Exceptions

The Brisbane Baylands Specific Plan shall be implemented through the Design Plan Review, processed by the Planning Director or his/her designee. This process is required prior to the issuance of any building permit. A Design Plan Review is also required for all parks to be developed by the Master Developer. The purpose of the Design Plan Review is to assure that future development within the Brisbane Baylands Specific Plan area is consistent with the intent, policies and requirements of the Brisbane Baylands Specific Plan. The Design Plan Review shall consider consistency with the General Plan, the Brisbane Baylands Specific Plan and the Brisbane Municipal Code, to the extent applicable.

Exceptions to the Design Plan review process include:

- Repair or replacement with the same or comparable type of structural element or material to any portion of an existing building.
- Installation of interior improvements within an existing building provided that there is no concurrent exterior alteration or building enlargement and that the addition or alteration meets the Design Guidelines and Development Standards provided in Section 4.10 of the Specific Plan. Tenant improvements that include exterior façade alterations may be processed through a Minor Administrative Permit, as described in Section 8.3.7, as long as the building square footage is not increased.
- Changes in tenants as long as the general use characteristics remain the same (i.e. retail vs. office vs. cinema vs. residential).

#### Application Process

The owner, or his/her authorized agent, shall submit an application with the same fee as specified in Chapter 17.42 of the Brisbane Zoning Code for a “Design Permit” (as the same may be updated from time to time). The contents of the Design Plan Review application shall be the same as required for a Design Permit pursuant to Section 17.42.20 of the Brisbane Zoning Code.

#### Standard for Approval

In considering Design Plan Review applications for approval, the Planning Director will consider whether or not the permit application complies and is consistent with the goals, policies, guidelines, land use regulations, and development standards of the Brisbane Baylands Specific Plan. Any aspect of development or matter of procedure not addressed by the

Specific Plan must meet the related requirements of City's Zoning Code. Exceptions to certain fixed Specific Plan standards may be specifically approved as part of the Design Plan Review process provided that any exception: promotes and is otherwise entirely consistent with the intent of the Specific Plan and will not, under the circumstances of the particular case, be detrimental to the health, safety, comfort and general welfare of the persons and properties in the neighborhood of such proposed use.

The Planning Director shall either approve the Design Plan, if such Design Plan complies with the development standards of the Specific Plan or approve the Design Plan subject to conditions, or deny the Design Plan. The Planning Director shall send notice of the determination to the Project Applicant by First Class Mail. Failure to receive notice shall not invalidate any action taken pursuant to this section.

#### Time for Review

The Planning Director shall follow the time limits established in California Government Code Section 65920 et. seq. for the review of a Design Plan Review application.

#### Design Plan Review Expiration

Unless otherwise provided in any Development Agreement, a Design Plan approval shall expire one (1) year after the date of Design Plan approval by the Planning Director. If a building permit is not issued prior to this expiration date, and construction does not proceed with due diligence thereafter, the Design Plan approval shall expire and a subsequent new application and approval shall be required. Within sixty (60) days prior to the Design Plan approval expiration date, the Project Applicant may request a time limit extension of an additional one (1) year by written request to the Planning Director. The Director shall have the discretion to approve, approve with conditions, or deny the extension request. A maximum of three (3) extensions may be granted. Subsequent revisions to the plans, granted after Design Plan approval, shall not be cause for postponement or extension of the expiration date.

#### Design Plan Revisions

Minor Design Plan revisions, which involve changes to or deviations from the previously approved Design Plan and/or conditions of approval that do not involve a change of use, reduction in parking, or alteration of an applicable design element requirement or standard by more than ten percent (10%), all as determined by the Planning Director, may be requested by the Project Applicant at any time prior to the expiration of the approved Design Plan. Major alterations to Design Plans shall require a new application and shall be made according to the procedures as set forth herein for the review and approval of Design Plans.

## Design Plan Appeal Procedures

If the Project Applicant does not concur with the interpretation by the Planning Director or his/her designee, pertaining to the requirements of the Design Plan Review or with any correction or condition imposed upon the Project Applicant's plans by the Director, or his/her designee, the Project Applicant may appeal the interpretation, decision, correction or condition by filing a written notification of appeal with the Planning Director. The same fee as specified in Chapter 17.52 of the Brisbane Zoning Code for an appeal (as the same may be updated from time to time) is required to cover the cost of processing the appeal. The Planning Commission shall consider the appeal at a scheduled meeting in accordance with California Government Code Section 65920 et. seq. The determination of the Planning Commission may be appealed to the City Council pursuant to Section 17.52 of the Brisbane Zoning Code.

## Conditional Uses

For uses identified as Conditional ("C"), the Planning Commission shall act as the approving authority for Design Plans. The Planning Commission may approve the Design Plan as applied for or in modified form and with contingent conditions attached, if, on the basis of the application and the evidence submitted, the Planning Commission is able to make all of the following findings:

1. The proposed uses are identified by as Conditionally permitted ("C") use on Table 4-4 of the Specific Plan.
2. The project is consistent with Specific Plan's Development Standards.
3. The establishment, maintenance or operation of the use applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use based on established federal, state, or other applicable laws, regulations, and standards, and/or it will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the city.

A Design Plan for "C" uses shall be effective the tenth day after Planning Commission approval, unless the action is appealed to the City Council, in which case the permit shall not be effective until a final decision on the appeal has been made by the City Council.

### 8.3.7 Minor Administrative Permits

A Minor Administrative Permit is required for tenant improvements that include exterior façade alterations. Uses and/or actions requiring a Minor Administrative Permit shall comply with the following procedure.

1. **Application.** An application for a Minor Administrative Permit shall be made on forms as prescribed by the Planning Director. The application shall include the details of the request and how it complies with the Specific Plan, any applicable application fees, and, if applicable, four (4) sets of plans containing a site plan layout and elevations.
2. **Issuance.** The application shall be deemed complete within the time frame established in California Government Code Section 65920 et. seq, unless the Planning Director notifies the applicant in writing specifying the reasons why the application is incomplete. The Director, or his or her designee, shall review a complete application and shall issue the Minor Administrative Permit within the timeframe established in California Government Code Section 65920 et. seq. after the application is deemed complete, subject only to the following findings:
  - a. The proposed use is consistent with the Brisbane General Plan.
  - b. The proposed use and application is consistent with the Brisbane Baylands Specific Plan.
  - c. The establishment and operation of the proposed use at the location proposed will not endanger or constitute a menace to the public health or safety of persons residing or working within or in the immediate vicinity of the development site.
  - d. The application does not include an increase in building square footage (unless with another, concurrent application).
3. **Extension of time.** This time limit may be extended up to thirty (30) days by mutual consent of the Project Applicant and the Planning Director.
4. **Notice.** The Planning Director shall send notice of the determination to the Project Applicant by First Class Mail. Failure to receive notice shall not invalidate any action taken pursuant to this section.
5. **Fees.** The fee for the Minor Administrative Permit shall be the same as for Design Permits under Chapter 17.42 of the Zoning Code, as it may be amended from time to time.

## Appeals of Minor Administrative Permits

In the event the Project Applicant does not concur with the interpretation by the Planning Director or his/her designee, pertaining to the requirements of the permit or with any correction or condition imposed upon the Project Applicant's plans by the Director, or his/her designee, the Project Applicant may appeal the interpretation, decision, correction or condition by filing a written notification of appeal with the Planning Director. Appeals of Minor Administrative permits are subject to the notice and public hearing provisions set forth in Chapter 17.42 of the Zoning Code. The Planning Commission shall consider the appeal at its next regular meeting held not less than thirty (30) days after the filing of the appeal.

### **8.3.8 Minor Revisions**

#### Technical Revisions

The following changes of a minor and technical or informational nature may be made to the requirements of the Brisbane Baylands Specific Plan and such changes or new information shall not be considered amendments and shall be made by the Planning Director:

1. The addition of new information to the Brisbane Baylands Specific Plan, in the form of maps and/or text, for the purpose of clarification that does not change the effect or intent of any regulation.
2. Changes to the project area infrastructure location and/or service providers (such as drainage systems, roads, water and sewer systems, etc.) so long as the applicable jurisdiction regulating such infrastructure has approved the changes.
3. Changes in land use boundaries shown on Exhibit 4.2A Land Use – Base Variant or Exhibit 4.2B Land Use – Entertainment Variant of less than fifteen percent (15%), without causing a conflict with Table 4-2A or 4-2B, and resulting from final road alignments and/or geotechnical or engineering refinements to the tentative and/or final tract map.
4. Typographical and grammatical errors.

### **8.3.9 Minor Adjustments**

#### General/Fees

Minor adjustments may be granted to permit minor modifications of the regulations in the Brisbane Baylands Specific Plan whenever the strict interpretation of the Brisbane Baylands

Specific Plan would result in practical difficulties in the permitted use of the property. The fee for the Minor Adjustment shall be the same as provided for Variances, under Chapter 17.46 of the Brisbane Zoning Code.

Major adjustments to the Specific Plan would follow procedures established in Section 8.4.3 Specific Plan Amendment.

### Minor Adjustment Procedures

The Planning Director shall make the following findings in approving or conditionally approving a Minor Adjustment:

1. There are practical reasons or benefits of improved design, which justify a deviation from the prescribed development standard(s).
2. The adjustment, with any conditions imposed, will provide equal or greater benefit to the subject property and the adjacent property.
3. The adjustment is not in conflict with objectives of the Brisbane General Plan or the intent of the Brisbane Baylands Specific Plan.

### Minor Adjustment Time Limits

The Planning Director shall, following the filing of a Minor Adjustment application and within the time limits established in California Government Code Section 65920 et. seq., approve the Minor Adjustment, if such Minor Adjustment complies with the findings of this section. This time limit may be extended up to thirty (30) days by mutual consent of the Project Applicant and the Planning Director. The Planning Director shall send notice of the determination to the Project Applicant by First Class Mail. Failure to receive notice shall not invalidate any action taken pursuant to this section.

#### **8.3.10 Temporary Use Permit**

Developed land uses with expected use duration fewer than five (5) years that are identified as a permitted Interim Use (“I”) on Table 4-4 of the Specific Plan shall be permitted upon issuance of all applicable building permits and other regulatory approvals. For any land use with expected use duration fewer than five (5) years that is not identified as a permitted Interim Use (“I”), the owner or his/her authorized agent shall obtain a Temporary Use (TU) Permit in accordance with this Section 8.5.3. The owner, or his/her authorized agent, shall submit an application and applicable fees for a TU Permit along with Green Building

documentation, if required by the Brisbane Building Code.

The Planning Commission shall act as the approving authority for TU permits. The Planning Commission may grant the TU Permit as applied for or in modified form and with contingent conditions attached, if, on the basis of the application and the evidence submitted, the Planning Commission is able to make all of the following findings:

1. The site for the proposed use is adequate in size and shape to accommodate the use and/or there exists, or there shall exist, adequate facilities and improvements on the site to accommodate the use.
2. The proposed uses would not cause to prohibit the redevelopment of the site for P and C use identified on Table 4-4 of the Specific Plan.
3. The establishment, maintenance or operation of the use applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use based on established federal, state, or other applicable laws, regulations, and standards, and/or it will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the city.

A TU Permit shall be effective the seventh day after Planning Commission approval, unless the action is appealed to the City Council, in which case the permit shall not be effective until a final decision on the appeal has been made by the City Council.

A TU Permit may be renewed for additional five-year periods. Within forty-five (45) days of the receipt of the renewal application, the Planning Director shall review the application and may grant the TU Permit as applied for or in modified form if, on the basis of the application and the evidence submitted, the Planning Director is able to make all of the findings in this section..

### **8.3.11 Tentative Subdivision Map**

The subdivision process in the Planning Area will be governed by the State Subdivision Map Act, as well as City standards and procedures under Title 16: Subdivision, of the Brisbane Municipal Code. Tentative subdivision maps must be consistent with the Specific Plan and the Development Agreement. Given the size of the Specific Plan area and the uncertainty of the market, it is likely that tentative subdivision maps will be prepared in phases of development.

### 8.3.12 Public Improvement Plans

The on-site and off-site public improvements necessary to serve the Planning Area need to be specifically designed. Infrastructure Plans will be prepared for City review and approval and shall be submitted as part of the application for final subdivision map approval. Each plan will consist of detailed engineering designs and documents for all utilities necessary to develop the land uses identified in the Specific Plan along with cost estimates. These plans will include an infrastructure sequencing program that will allow orderly development throughout the Specific Plan area. The sequencing program will prioritize roads, sewer, water, drainage and other utilities that must be in place prior to specific levels of development being permitted for occupancy. The City and the applicant will enter into an Improvement Agreement for each sequence of work to be performed and the developer's obligation to perform such work will be secured by performance and payment bonds or other security satisfactory to the city.

Given the size of the Planning Area, some parcels are likely to be developed independent of improvements that will be required for others. In other cases, a "master" Public Improvement Plan will be prepared to address necessary improvements over several parcels that rely on them. The conceptual framework for public improvements in the entire Baylands area is included in the Specific Plan in Chapters 5, 6, and 7. These chapters specifically address open space, circulation (both vehicular and pedestrian/bicycle networks), conceptual grading, and utilities and services.

### 8.3.13 Financing Plans

Financing plans will be developed as a part of the implementation sequence; details of the improvement costs and potential funding sources are described in Chapter 9, Public Facilities Financing. A key component of the financing approach is tax-increment financing enabled by the California Redevelopment Law. The Baylands is subject to two Redevelopment Plans: Brisbane Community Redevelopment Project Area One (adopted 1976) and Brisbane Community Redevelopment Project Area Two (adopted 1982). The deadlines for redevelopment activities are December 2019 and June 2025, respectively. Projects funded by tax-increment financing must conform to the Specific Plan. These redevelopment plans may be amended to be consistent with the Specific Plan, or new redevelopment plans may be adopted. Other potential funding mechanisms include Mello-Roos community facilities districts and infrastructure financing districts.

### 8.3.14 Final Subdivision Map

When all conditions of the Tentative Map have been met or performance thereof has been secured through adequate security as required under the Subdivision Map Act and City standards and procedures under Title 16: Subdivision, of the Brisbane Municipal Code (the “Brisbane Subdivision Code”), the applicant will file a Final Map and approved by the City, in accordance with the Subdivision Map Act and the Brisbane Subdivision Code. Recordation of Final Maps is required prior to the sale, leasing, or financing of individual lots created by the subdivision process.

### 8.3.15 Responsibilities for Key Implementing Actions

Table 8-1 indicates the responsibilities for preparation of the documents discussed above:

## 8.4 ADMINISTRATION OF THE SPECIFIC PLAN

The Brisbane Baylands Specific Plan will be used to direct the processing of future development projects within the Planning Area. Given the extended timeframe for development and the potential for multiple applicants to be involved in the development of the Baylands, the following responsibilities, mechanisms, and procedures will be necessary to review, monitor, coordinate, and integrate the incremental development.

### 8.4.1 Responsibilities for Administration of the Specific Plan

**Table 8-1: Responsibilities for Key Implementing Actions**

<i>Key Implementing Actions</i>	<i>Preparation</i>	<i>Adoption</i>
Specific Plan Adoption/General Plan Amendment	City	City
Zoning Amendment	City	City
Development Agreement	City/Applicant	City
Permits and Approvals Required from Other Agencies	Applicant	Agencies
Temporary Use Permits	City/Applicant	City
Design Review	Applicant	City
Tentative Subdivision Map	Applicant	City
Public Improvement Plans	Applicant	City
Financing Plans	Applicant	City
Final Subdivision Map	Applicant	City

Source: Wallace Roberts & Todd, LLC, 2011.

Implementation of the Brisbane Baylands Specific Plan will be a joint effort of the City of Brisbane and any applicant who proposes to develop in the Planning Area or who is a party to a development agreement negotiated with the City.

### **8.4.2 Specific Plan Consistency**

Until a finding has been made of substantial conformity with this Specific Plan, the City will not approve a development project or authorize a public improvement within the Planning Area. Approval of any entitlement in the Specific Plan area will also be substantially consistent with the applicable provisions of the Brisbane General Plan. Any amendment to the Specific Plan must also be found consistent with the Brisbane General Plan, or a General Plan amendment may be required.

### **8.4.3 Specific Plan Amendment**

Amendments to the Specific Plan may be requested by an applicant or may be initiated by the City. Specific Plan amendments will be processed in accordance with City ordinances and be subject to public hearing in accordance with State law prior to City Council action on the proposal. Generally, the process for amending the Specific Plan is similar to that for amending the Brisbane General Plan. As amendments to the Specific Plan must also be consistent with the Brisbane General Plan, substantive changes may require an accompanying General Plan amendment and Zoning Code revision. Amendments are subject to CEQA, and thus must be reviewed for potential environmental effects.

### **8.4.4 Conditions, Covenants, and Restrictions**

Conditions, Covenants, and Restrictions (CC&Rs), which are recorded on individual properties and enforced by private associations, are an effective means of maintaining architectural, landscape, and site control so as to ensure the cumulative character intended by the Specific Plan. The CC&Rs may also include continuing obligations imposed by the City as part of the development approval process, such as compliance with the design guidelines of the Specific Plan and maintenance of common areas and privately owned utility installations. The CC&Rs will confer upon the City the right to enforce these City-imposed conditions.

All CC&Rs will be consistent with the requirements contained in the General Plan, the Zoning Code, the Specific Plan, and other applicable laws and regulations. In addition, provisions for the design and maintenance of fencing, landscaping, and open space areas and other facilities within projects, as well for the abatement of nuisances, will be set forth

in the CC&Rs. CC&Rs are binding on all members and related parties of the association, which may include owners, developers, lessors, and tenants.

#### **8.4.5 Residential Density and Product Flexibility**

The Brisbane Baylands Specific Plan is expected to be fully developed by 2035. Over this time period, residential products will respond to market fluctuations, industry standards, architectural innovations, and local competition. This will require ongoing monitoring of the residential density and product types throughout the build-out of the Plan. The Adopted 2007-2014 Housing Element for the City of Brisbane addresses the City's obligations to accommodate its fair share of regional housing with particular emphasis on the needs of low-income, moderate-income and special needs households. While not identifying the Baylands as a potential housing site, the Housing Element incorporates broad goals for residential development, including densities which promote affordability and policies promoting compact, transit-friendly development to limit greenhouse gas emissions.

The Brisbane Baylands Specific Plan includes several residential land uses and housing products that will address a range of housing needs. The residential units will have two forms: residential flats and townhomes. Two types and densities are included in each of these categories, resulting in four total residential land uses that will achieve diversity and flexibility in the Plan. The lowest-density product—Medium Density Townhomes—includes a range of 20-30 dwelling units per acre, with other residential types recommending higher densities. In sum, the development program, as shown in Tables 4-2A and 4-2B, demonstrate a build-out of 3,950 residential flats and 484 townhomes within the Planning Area. These build-outs are a key portion of the overall development program: approximately 12,000,000 s.f.. In order to achieve these targets, and the overall variety of residential densities is achieved, development projects must adhere to the recommended density ranges provided in the land use plan.

In order to ensure that the overall target density ranges are met, while accounting for market fluctuations that may occur over time, a tabulation of residential units and densities will be kept by the master developer or the reviewing body throughout the build-out of the Plan, to ensure that build-out does not exceed the allotted residential program.