

BRISBANE PLANNING COMMISSION
Summary Minutes of October 8, 2015
Regular Meeting

A. CALL TO ORDER

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

B. ROLL CALL

Present: Commissioners Anderson, Do, Munir, Parker, Reinhardt
Absent: None.
Staff Present: Community Development Director John Swiecki and Senior Planner Ken Johnson

C. ADOPTION OF AGENDA

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

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: Geology, Hazards and Hazardous Materials, Hydrology and Water Quality. Universal Paragon Corporation: Applicant. Owners: Various. APN: Various.

Commissioner Munir recommended that tonight's topics be conducted separately. After some discussion the Commission agreed that the public should present their comments in order by topic. Commissioner Do indicated that the topic order will remain the same as listed on the agenda in order to make the record clearer.

Chair Do advised the meeting will be in three parts. The staff will report first, followed by the commission questions related specifically to the report and then the item will be open to Public Hearing. She noted that the adopted PC Rules calls for the hearing to end at 10:30 unless extended. After some discussion the Commission agreed that the meeting should only go to 10:30 and if there is a need, extend to a future meeting.

Chair Do then outlined the meeting procedures for the public.

Director Swiecki introduced Dr. Susan Mearns, an environmental remediation consultant for the City. He stated that Dr. Mearns reviewed both the Draft EIR data and comments related to hazardous materials and that the responses to the Draft EIR comments reflect her input. He advised her review was an independent peer review and that she was not involved in the preparation of the original Draft EIR. He advised that Dr. Mearns will only be present at

tonight's meeting if there are any questions related to the Hazardous Materials section of the presentation. Mr. Swiecki then turned the meeting over to Lloyd Zola for his presentation.

Lloyd Zola began his presentation on hazards and hazardous materials and geology.

Commissioner Anderson asked when the remediation was going to begin in this process. Mr. Zola explained the site remediation and Title 27 landfill closure process.

Commissioner Anderson asked for clarification on the timing of certification of the EIR and the plan for closing the landfill.

Mr. Zola referred to the slide on the landfill closure process and clarified that the landfill closure plan under Title 27 and remedial action plans for OU-1 and OU-2 comes after certification of the EIR and identification of appropriate land uses. He also discussed alternatives on the process based on various potential scenarios. Mr Zola indicated that further discussion of the process would be provided during the Commission's deliberations.

Mr. Zola then discussed geologic and seismic considerations, water quality issues, water quality mitigation, flooding, sea level rise and flooding protection criteria.

Commission Munir requested Mr. Zola elaborate on the water quality mitigation portion of his presentation. Mr. Zola reviewed the water quality mitigation slides again, as requested.

There being no further questions from the commission, Chair Do invited the public to make their comments.

Anja Miller, identifying herself as the Chair of the Citizens Committee, expressed concern that she thought it was difficult for the public to access comments and responses in the Draft EIR. While she appreciated the oral presentation, she felt access to the documents was not very user friendly or accessible to the public and therefore questioned the legitimacy of the hearings. Mrs. Miller expressed her opinion regarding what is or is not a landfill and explained that the whole Baylands is bay fill and her dissatisfaction with the naming convention of the various areas of the Baylands.

Storrs Hoen mentioned that the Regional Water Quality Control Board is currently monitoring the water and leachate of the former landfill and questioned whether there is a place where those analytical results are summarized over time and a comparison to other sites that have been remediated and other nontoxic sites, in order to get a sense of how the toxins are changing with time. Mr. Hoen asked about the monitoring that has been done at OU-2. He indicated that he felt the safety of the land is one of the critical issues.

Carol Zoltowski stated that she appreciated the land is being monitored for leaching of toxic materials into groundwater. However, she felt an issue that is being ignored is that the Kinder Morgan tank farm is an ongoing source of toxic material to the same groundwater shared by the

Baylands. She felt that is an omission that must be a part of the Planning Commission's decision to decide how safe the land is.

Danny Ames expressed his concern that if here is a disastrous or catastrophic release, what kind of funding would be there to deal it.

Fabrizio Settepani, of Geosyntec Consultants on behalf of UPC, stated that they have been providing preliminary geotechnical design input for the Baylands project for over ten years and will be involved with meeting the applicable regulatory standards. He stated that Title 27 of the California Code and Regulations requires financial mechanisms be in place to address geotechnical and environmental issues that may arise in the future. He also stated that land use covenants will be recorded and carry with the land to require ongoing monitoring to ensure public health is safeguarded.

Michael Barnes indicated that while there is concern with the landfill leaching, there is a 2008 Draft Leaching Management Plan, to address leaching. He indicated that based on the staff report and the EIR, the primary method for the long term leachate measure at the Brisbane landfill is to reduce leachate generation for the construction of a low permeability final cover. Construction of the final cover will reduce leachate generation by approximately 90 percent. He indicated that unless we take action to close the landfill there will continue to be water pollution from the landfill.

Joel Diaz agreed with Mr. Barnes' statement regarding leachate and felt if nothing is done, there will still continue to be a leaching problem. He also indicated that he thought the bigger problem is that if development does not begin until 2035, the leaching is going to be an ongoing problem for the next 20 years. Short of some other alternative, nothing will be done to identify all of the alternatives or see if there is a faster solution to fix the problem. Mr. Diaz questioned how all of this would be economically feasible, because there is no cost analysis (e.g., cleaning of the soil, site stability, and long-term maintenance). He felt that renewable energy is a viable alternative and we need cost analysis on that alternative and it may be implemented sooner. Mr. Diaz also pointed out that high-speed rail (HSR) wants to use the site, including the landfill side, and that HSR would make the renewable energy alternative even more attractive. He indicated that it seems reasonable to include the potential for HSR in the renewable energy solution and in the EIR and that presumably HSR would clean up that site and do a lot of the work for us.

Commissioner Parker questioned Mr. Diaz regarding his statement that the renewable energy is a viable alternative and whether he was talking about the alternative plan in the EIR or about taking the whole area and putting it to renewable energy.

Mr. Diaz stated that he thought it was unclear because there is not adequate cost information. He indicated it was important to have complete cost information on the renewable energy alternative and how HSR would change the renewable energy alternative in order to compare the proposal and alternatives to determine which are more feasible in terms of remediation.

Jonathan Scharfman of UPC asked that Mr. Zola's first slide be double checked indicating hydrocarbon pollution is in OU-2, not OU-1. He then clarified housing is not proposed on the landfill but in OU-1 primarily and a smaller amount of housing is proposed in OU-2. He also mentioned that their intent to begin development of this property as soon as it is feasible from both a financial and a regulatory standpoint. With regard to geotechnical and hazardous material remediation, Mr. Scharfman stated while UPC respects the concerns of the community and the Planning Commission regarding contamination, they rejected the claim that the site can never be safely developed. He stated that all developers have to follow regulatory requirements on hazardous materials remediation set by the state regulatory agencies. He mentioned the examples of the adjacent Schlage Lock site immediately to the north in San Francisco, which is undergoing development under a DTSC approved remedial action plan, and Mission Bay in San Francisco and Sierra Point, which shared the same type of issues as Brisbane's Baylands. He stated that no developer can move forward with any development of the site that has not adhered to strict regulatory requirements.

Mary Gutenkanst indicated that public hearings should be reserved for public comments and not applicants. Ms. Gutenkanst indicated that she thought the presentation by the City's consultant was light on the issues of ground water in the Baylands in general. She stated that there were some areas where leaching has been identified as going into the lagoon and into Visitation Creek, but it is not being measured. She wanted testing done in the lagoon to provide a baseline. She felt that there are activities being recommended and considered around the lagoon, yet there has been no sampling of the sediments around the lagoon. She thought the citizens of Brisbane want to know about the lagoon conditions and that that issue is missing from the program. She was concerned that the state's standards are not good enough and that there is no guarantee that the best technologies and techniques are being used and indicated that cleanup to those standards will not be adequate. She indicated that we should not just do the minimum in terms of cleanup. She thought that there are some uses that could be safe at the Baylands, but the Baylands will be toxic forever. She asked if the protections from the toxic materials could be counted on to provide protection forever or will there be a chance of future exposures. She indicated that high speed rail and renewable energy would be appropriate uses.

Commissioner Anderson addressed Ms. Gutenkanst's statement regarding applicant speaking at tonight's hearing. He advised that if the applicant would like to address the commission on mistakes in the presentation slides, that's fine, but that tonight's meeting is primarily reserved to hear public comments.

Byron Anderson expressed support for Ms. Gutenkanst's comment that only the minimum is being done, especially with regard to city, state and federal requirements and that is not enough.

Clara Johnson mentioned both the DTSC and RWQCB have stated they need to know what the land use will be before they can determine the level of cleanup that will be required and that the highest level of cleanup is required for residential use. Ms. Johnson itemized her concerns, which are provided as a separate submittal [attached to these minutes as an addendum].

One of the items Ms. Johnson mentioned was the use of a Mello-Roos district for funding and Commissioner Parker asked for clarification. Ms. Johnson responded that it is a funding mechanism to pay for ongoing maintenance and other issues related to safety and hazard mitigation. It could be used to help pay for ongoing issues that do not have a funding mechanism. After further questions from Commissioner Parker on funding mechanisms, Commission Anderson suggested that the commission should reserve discussion of funding for a later date.

Barbara Ebel stated that approximately 50% of the waste in the landfill is believed to be below the water table. She felt that compaction and densification will change the hydrogeology and combined with sea level rise she felt an increase in leachate would occur despite the fact that there will be a cap on it.

Tony Verreos asked to hear from Dr. Mearns regarding hydrology and the environment. The Commission decided to have Dr. Mearns address the questions after the other speakers had an opportunity to address the commission.

John Christopher Burr commented on the planning process and felt it was an overwhelming task to consider all at one time. He felt the landfill is an extremely polluted area and the commission should not be fooled by consultants who state the opposite. If not seriously considered, Mr. Burr felt the City of Brisbane will be liable when toxins from the pollution area begin to affect the citizens. He also stated that the citizens voted on the General Plan and that they should be able to vote on the project. He suggested that the Baylands be returned to Bay and that the Baylands were filled without proper authorization. Also, he indicated that we don't need retail since those stores are being used less and people now do internet shopping. He commented that there were piles of batteries, mounds of tires, fires that burned underground and a bulldozer that sunk into the fill and lost. He stated that the proposed specific plan was illegal because it does not agree with the General Plan. He asked about where the financing is and when would things be built. He asserted that it's false that DTSC and the RWQCB have jurisdiction and Brisbane can't regulate the area. He requested that the issue of housing on the Baylands be put to a vote of the people.

Prem Lall followed up on a previous comment regarding how the process and certification of the EIR should be decided quickly. He disagreed with that suggestion. He mentioned the Clean Energy and Pollution and Reduction Act of 2015, which makes references to the proliferation of renewable energy generation in California and potential cleanup of toxic areas. Mr. Lall felt the law should be evaluated so ways can be found to decrease both the financial burden and the potential liability on both the City of Brisbane and Universal Paragon Corporation. He felt it would be a win-win for both parties. Mr. Lall then read portions of the Clean Energy and Pollution and Reduction Act. Mr. Lall also shared with the commission his experience of a major earthquake while living in a 12-story building that has been built on fill.

John Christopher Burr mentioned a USGS-issued report entitled, Lessons Learned from the Loma Prieta Earthquake and stated the report indicated that building on toxic dumpsites is not a good place to build. He also indicated that he spoke to an authority on sea level rise and that

person is looking at an 80 ft sea level rise and that would not be 100 years from now. It could go as high as 250 ft if everything melts. He questioned who is going to pay for the dikes.

Anja Miller commented on the comparison between the landfill area of the Baylands and Sierra Point. She stated that they are not at all comparable and that she was personally involved in the decision-making in developing Sierra Point, that it was an engineered landfill. Mrs. Miller stated Mello-Roos is an act that allowed funding mechanisms for remediation for toxicity. Mrs. Miller mentioned a conflict of what was previously discussed with what was stated in the Master Response, 2.4, page 41, that it dismisses the requirement for fencing along the rail lines which will affect buildings. She stated at the General Plan level, the RCQWB would determine what should be done. She indicated that you must have a specific plan that is certified, make a land use and then the RCQWB will advise what to do or what they will do. Mrs. Miller also mentioned concern about Master Response #10 and mitigation measure 4.Dr2 regarding archeology. She indicated that it says that the activities that occurred prior to the 2010 baseline are not the subject of this evaluation and that it is not the role of the EIR to determine the role or consequences of prior conduct of activity. She felt that the statements did not make sense.

Mrs. Miller also questioned the characterization of the Champion Speedway as a temporary use and that no trace existed, as indicated in response BBC 24. She stated that it operated for 16 years and had various impacts on the soils. She suggested the language be changed to “no visible traces exist”.

Meena Motwani asked if there is a way to find a listing of the chemicals and gases found in the Baylands.

Clara Johnson followed up on Ms. Motwani’s question indicating that there are two environmental regulatory agencies that have websites, GeoTracker and EnviroStor, and they have listings of the chemicals that have been found at the Baylands. She then continued her itemized list of comments [see attachment].

Barbara Ebel indicated that the lighter the project we put out there, the more advantageous it’s going to be for us in the long run. With regard to hydrology she indicated that Page 5, Paragraph 2 states that only four water quality indicators are monitored and that seemed like an incredibly low number. Then one of the measures states that the plan will be submitted in accordance with all of the rules, but she questioned what happens if the corrective actions fall short. She also questioned the minimum of 1 foot freeboard above the 100-year storm event and whether that was adequate. She indicated that she agreed with Ms. Johnson that the 100 year event is not adequate and 100 years in the life of the community is pretty short. Combined with the sea level rise predicted is 11.8 inches, as a really conservative estimate only leaves 0.2 inches of freeboard and then if there is any kind of subsidence, we’re looking at negative numbers. She questioned that it says there are five field studies that were done on the land and at no point did they notice a frog habitat in the hole for the roundhouse turntable area, and she’s been out there and witnessed frogs. She indicated that it shows a disconnect with the EIR and the inadequacy of the studies we have.

Joel Diaz clarified some of the comments he made earlier. He mentioned that the remediation for this project was originally premised on the idea that the Brisbane Redevelopment Agency pay for it and a recommendation listed in a Public Facility's Finance Report that the city pay for it. Mr. Diaz stated that now that the Redevelopment Agency is closed that funding source is no longer available. He stated that in this strategy where the Redevelopment Agency was going to pay for it, work was not going to start or be profitable or affordable to do until 2035. He felt it was important for the public to understand and to know that it will be 50 years before completion of this project. He stated it does not make sense to rush to approve this EIR for a project that probably won't happen for another 20 to 50 years. He expressed concern that even if it's legal it may not be safe. He then explained his understanding of subsidence and because it occurs unevenly it's hard to quantify the maintenance costs. Mr. Diaz also thanked Clara Johnson for her comments and all the time she's spent. He expressed support for use of the Mello-Roos concept or passing some sort of special facility district to pay for remediation due to the high costs, which he thought could double.

Danny Ames mentioned while driving down Tunnel Road a building at the Tank Farm is raised out of the ground almost five or six feet, and that the area is active as far as subsidence goes.

Lloyd Zola, in responding to public comments regarding the EIR's adequacy as it pertains to impacts associated with sites not in the Baylands or Recology sites, noted that the EIR by law focused on the impacts of the project. In regard to the lagoon, he noted that pre-existing conditions are not a project impact. Mr. Zola also commented on the adequacy of building codes to address the impacts of building on areas subject to liquefaction and/or differential settlement. He mentioned assessment districts and financing mechanisms will be discussed at a future hearing regarding Infrastructure and Utility issues.

Mr. Zola introduced Dr. Susan Mearns who clarified regulatory requirements mandated to the property owners regarding hazards and hazardous waste and how cleanup values are established and generally different remediation techniques for different contaminant types. She answered various questions from the previous speakers as follows. She discussed the history of investigations and remediation and generally the how future remediation for OU-1, OU-2 and the landfill. She also clarified, in response to Mr. Scharfman's earlier comment, that there are VOCs and Bunker-C fuel oil used to be a constituent of concern and metals in OU-1. She clarified that the responsibility for cleanup lies with the landowners and that the liability lays with the landowners not the City. She indicated that the regulatory agencies will dictate what further studies are needed. More than likely before development a human health risk assessment will be necessary and that would guide the process of development. She indicated that the regulatory agencies have websites showing the studies that have been performed and the contaminants identified as present. This information can be tracked over time.

Tony Verreos asked about the adequacy of the current leachate system. Dr. Mearns responded that the systems do meet current standards and are adequate. Also, she indicated that she would assume that as the project gets developed and new technology is available, new technology would be implemented. He then asked about the depth of dirt and concrete, whether it was 30-60 feet on top of the dump from the recycling operation, whether the pipes that allow the gas to

escape have to be adjusted as those soil levels are increased over time. Dr. Mearns responded, yes. Mr. Verreos questioned whether the City would incur liability if the developer goes bankrupt and the City inherits the property somehow.

The City's outside legal counsel Allison Krumbein responded that hypothetically speaking whatever owner owned the property would be liable for what occurred on the property, but those are not the facts that we have at hand.

Anja Miller questioned whether Dr. Mearns did the peer review of the landfill contents, and whether she paid attention to the tire dump, the battery dumps and anything that has been brought up here that we do not read in the EIR.

Dr. Mearns responded yes and that it's a valid point that the material that was deposited in the landfill was deposited based on the standards at the time and those are much different standards than are currently enacted. So we might not know with certainty what was disposed of as one would now have with regulated waste and with documentation of it. She continued that we do know, because of the extensive sampling, what chemicals would be coming out of the landfill. She indicated the goal of the remediation program is to eliminate human and ecological exposure to contaminants. In this instance, it's not necessary to know what went in because we know what is coming out of the landfill because that represents the potential exposure. What's coming out is being captured in the leachate collection system and in the landfill gas control system.

Mrs. Miller questioned whether eye witness testimony was given any weight and she mentioned a statement that she heard from the RWQCB indicating that the landfill was nothing but household waste.

Dr. Mearns noted the value of eyewitness accounts in understanding the materials entering the landfill. She reiterated that remediation testing is focusing on what is leaving the site to characterize and eliminate pathways of exposure.

Clara Johnson commented that the only chemical coming out of the leachate is un-ionized ammonia. Also, she stated that Vic Pal is the man who represents the RWQCB with relation to the landfill, and he told the BBCAG that he had hundreds, perhaps 200 different cases. She thought that they are well-intentioned and skilled people, but that they don't have adequate time due to their heavy case-loads.

Danny Ames questioned what the factors would be on whether on site remediation would take place, the pros and cons, the expense and how much hazardous material is there. Also, what remediation scenarios are best for different contaminant sources such as battery and tire dumps.

Dr. Mearns responded to his questions, indicating that for petroleum hydrocarbons on site remediation is appropriate. Metals are naturally occurring elements but when concentrations warrant it, the metals can be fixed in the soil with off-site thermal treatment. For battery dumps one could expect to find metals and some acids, so it probably would not lend itself to onsite remediation.

Joel Diaz commented that stringent regulations don't guarantee safety. He further commented on the timeline and financing.

Tony Verreos commented that he supported the idea of imposing stricter guidelines than what the state or federal government does as long as it's put forward properly and legally, it's a good idea. He commented that he was not concerned with the timing that but that the project takes the right direction. Also, he commented that based on his experience in insurance he understood that the different heights of buildings will be required to be engineered in different ways to withstand earthquake forces.

There being no one else from the public to speak on the topics Chair Do thanked the public. Commissioner Munir made a motion to continue the Public Hearing. Commissioner Parker seconded the motion. The motion carried 5-0.

E. CONSENT CALENDAR

None.

F. ORAL COMMUNICATIONS

None

G. WRITTEN COMMUNICATION

Chair Do mentioned Clara Johnson's comments document from last week's Biological and Cultural Resources Public Hearing, and Tony Verreos' letter on issues presented at that hearing on Biological and Cultural Resources.

H. ITEMS INITIATED BY STAFF

None

I. ITEMS INITIATED BY THE COMMISSION

Commissioner Parker mentioned a question that was brought up last week, which was to change Baylands transportation to a further meeting.

Mr. Swiecki responded that changes to the agenda are at the discretion of the commission.

I. ADJOURNMENT

Commissioner Munir motioned and Commissioner Anderson seconded to adjourn to the special meeting of October 13, 2015 at 7:30 p.m. The motion carried 5-0 and the meeting adjourned at 11:09 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.

OCT 13 2015

Comm. Dev. Dept. Brisbane

Clara Johnson Comments Public Hearing #2 FEIR Plan Com, Brisbane Baylands

Geology, Soils and Seismicity/ Hazards and Hazardous Materials/ Surface Water Hydrology and Water Quality

Responses P. 2.4.12 Master Response 12

Regarding best science and its use here, the maximum credible earthquake is being questioned by a seismologist at Caltech. An 8.0 Richter earthquake is possible. The San Francisco 1906 quake was a 7.9. Caution is called for therefore 8.0 should be used as the maximum credible earthquake.

Page 2.4.36

2nd paragraph - There is an error in numbering. The reference should be to mitigation measure 4.E-4b instead of 4E-40 .

The reference to 4.E-2a and 4.E-2b related to "strong seismic shaking associated with project site development would be reduced to less than significant levels."

There is no justification for stating that there would be "less than significant levels of shaking. What does significant level mean when discussing shaking. There will be tremendous shaking in buildings built on 50-200 ft of bay mud overlain with fill or refuse fill, and in some cases the refuse is infiltrated by Bay waters. If you really want to know about the shaking then use a shake table to model the seismic impacts feeding into it all the local variables. It would help building designers to get it right. The California Building Code of 2013 or later should be used to get benefit of more seismic safety. It should be adopted in Brisbane, if it isn't already.

On page 2.4-37, It states that the City of Brisbane does not have the authority to set remediation standards. Implying that we don't have control over our fate.

In an earlier EIR non Planning Commission session, Lloyd Zola stated that If the City of Brisbane requires a higher standard, then it requires a finding and substantial evidence (PRESUMABLY TO SUPPORT IT). An example of substantial evidence would be obtaining a recommendation of a governmental entity, such as the State Office of Emergency Services. There is a way.

P2.4-38

There aren't any mitigations addressing compliance with Title 27. There must be something needed, at least methods of coordination with other regulators and assurance that it has been complied with. The remediation proposals on OU-1 and OU-2 are just that. They have not been approved. Their list has six items. Number 1 is arbitrary, who knows how much will be needed, number 2 is not approved either, Number 3 is not a remediation and Numbers 4,5,6 don't show any real information.

P2.4-39

P2.4-39

These are only proposed mitigations on OU-2 (southern railyard). There is no indication of the adequacy of the proposal.

Table 3-6

These are not approved by the regulators. They have not been found adequate.

P2.4.40-43

The Human Health Risk Assessment (HHRA) should be made readily available the Planning Commission and the City Council. There is a Human Health Risk Assessment from 2007 (+ or-) but it is out of date. The Planning Commission and the City Council need it to make recommendation and decisions now not later. It is nonsense to say that you have approve a project before knowing what the risks of the presence of particular in specific amounts means to human health. If that were true, it would make the process of determining impacts a complete farce.

P2.4-45 2nd paragraph

The environmental studies have not been as complete and thorough as they should have been. When a study reported the presence of a chemical or metal of concern but it didn't turn up on the next study, it was ignored and not thoroughly investigated nor was the lack investigation justified. Some studies are too old and should be redone. The entire area of each operation unit, 1 and 2, should be accounted for in the studies. The goal is the protection of human health and environmental quality. We must must apply caution to allowe a margin of error.

Mitigation Monitoring and Reporting Plan (MMR)

MMR Pg 4-43, MM 4.E-2a

A peer review is needed, performed by a similarly qualified independent (no connection of the City, Developer, ESA) Geotechnical Engineer before submission to the City Engineer's review.

MMR Pg. 4-44

The licensed geotechnical or soils engineer's monitoring of earthwork and construction activities should occur frequently, at least for the duration of the first 10% and when the following completion percentages are met: 25%, 50%, 75% and 100% and more if needed.

MMR Pg 4.45

The post-earthquake inspection plan should be implemented when a 6.0 Richter earthquake occurs within 30 miles because of: fill, bay mud, saturated soils, liquefaction potential.

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MM 4.E-3

The final design level geotechnical investigation recommendation should comply with CA Building Code 2013 or later and requires peer review as in 4.E-2a.

MMR Pg 4-46 MM 4.E-4a

Slope Stability

There need to be standards for the exceptions to the 600 foot lagoon protection distance so that it is actually protected.

The CA building Code of 2013 or later should be used. The manufactured slope certification should be peer reviewed and the maximum credible earthquake should be 8.0 Richter. The factor of safety should be conservative and should be more clearly expressed for the public

MM 4.E-4b

Use CA Building Code 2013 or later.

Final design and engineering plans should be peer reviewed by an independent geotechnical engineer before review by the Building Official or the City Engineer. His conservative approach protects public safety.

MM 4.G-2a

The title of the significant impact being mitigated is incomplete. We are dealing with the remediation of toxic contamination to a statutorily acceptable level. That isn't mentioned. The disposal of hazardous waste is defined as something else.

MMR Pg 4-47

The amount of grading needed to remediate needs to be approximately quantified by DTSC or RWQCB to avoid a temptation by the developer to call grading for other purposes, remediation grading.

The regulator imposed remedial action plans or final closure and post closure maintenance plans must be communicated loudly and clearly to the City including what the limitation, conditions and deed restrictions are on the land. The long term monitoring plan must also be studied by the City for all the operational units and its implication understood for land use planning.

There is a myth that this land will be pristine clean when the remediation is finished. Rather it means that the land will have the contamination reduced to meet statutory requirements that were arrived at

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by compromise that included human health, environmental quality and corporate interest the equation. When a review of chemical or concern takes place, the standard of exposure is often lowered. Many chemicals have not been examined for their toxicity to humans and organisms in the environment. There are potential unknown threats by chemicals that may be present. That is why we should apply a precautionary principle in decisions that will expose other people including children to potentially harmful locations.

MMR 4-48

For OU1,OU2 and the landfill,There should be a yearly reviewof the chemicals of Concern known to be present to determine if the Maximum Contaminant Levelis proposed to be lowere or has been lowered. If that occurs the DTSC or RWQCB should be contacted for recommendation for remediations and mitigations. Monitoring results should be readily available to the public every year. If a chemical that is present on OU1,OU2 or the landfill has been added to the list of chemical of concern or metals of concern rthen testing and monitoring must be done to determine if levels excced the maximum contaminant level.

On a contaminated site, EPA required a 5 year reviw to update the type and level of contamination and an update of the remediation efforts.

The yeqrly revciew would assist regulators and the City in making that standard five 5 year review by having data available at the onset of the fifth year and it would provide the ability to think about the significance of the data for a better result.

These activities could be funded by a Mello Roos District funded by property owners within the District (Baylands).

MMR Pg 4-49

Refer ro Dr. G Fred Lee's Report referring to the prospect of chemicals that have not been researched for their toxicity on human and the environment.

MMR page 4-50 mm4.G-2b

Soil and Groundwater Management Plan

There is a potential for gaps. I previously referred to the need to list all COC's and metals of concern ever found on the site. There also should be a careful examination of the geologic and hydrologic conditions and the geology of each OU because they differ from each other. Excavation can alter the path of groundwater which in this location could carry toxic contamination to new areas. There should be standars among the protocols for the excavation of refuse and its relocation. The emphasis should

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be on recycling waste that can be and determining if what is dug up should be in a class 3 landfill for hazardous items like asbestos.

MMR Pg 51 MM4.G-2c

There should be consultation with RWQCB and DTSC and BAAQMD, Cal OSHA when any deconstruction or demolition permit applied for. The surveys of hazardous materials must be done by qualified personnel. who understand the toxicity of the materials, the hydrology and geology of the site and the need for and nature of adequate protective measures for human protection against: respiration, ingestion and dermal exposure to the toxics present. DTSC or RWQCB should advise what measures are needed to protect the natural environment around the location of the deconstruction or demolition so that any contamination can be contained. The surveys should be reviewed by DTSC and RWQCB for accuracy of contaminant type, location and depth before permit is granted.

It is possible that walls, floors, tanks and/or foundations may contain hazardous chemicals that were stored or processed there. This was the case at Schlage lock. Locations of special interest are the workshop of the railroad (foundations) where CVOC's or SVOC's have been found, The Stauffer Chemical building (foundation), former tannery. The last two are on Industrial Way. The remains of the Champion Raceway .

MM 4.G-2d

NPDES Permit, there should be a review to determine of the contaminated sites should be subject to individual industrial permits rather than being part of the City's portion of the County's permit. Dr Lee believes that EPA Guidelines were not followed when these areas were placed under the City's overall permit. If the contamination of the soil is ignored by treating like uncontaminated soil then how can the storm water permit protect the Bay.

MMR Pg 4-52 MM 4G-2d cont.

It is not adequate to employ standard materials release procedures. It is more prudent that there be available documentation of what hazardous materials are present so that responders or workers can properly protect themselves from those chemicals or metals. Emergency responders should be specially trained in the presence of a variety of potential threats. Construction workers should be briefed and know the basics of how to protect themselves to avoid or mitigate exposure until emergency personnel arrive.

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4.G-2e

It is stated that Recology will be covered by a separate EIR but this is the Program EIR and there could be confusion about its EIR later. If Recology moves the HHWF to Brisbane then there are issues relating to the laws governing such a facility about transportation of toxics and liability that need to be reviewed. The facility must be able to contain the entire volume of its contents without spilling it outside. It must be built to state of the art standards and with adequate space to avoid the mixing of spills of chemicals that will react with each other. This facility should require the ongoing oversight of a use permit and fees commensurate with all the additional expense that the City will have as a consequence of having it in Brisbane.

The anaerobic digesters planned by Recology require close monitoring of the air pollution they may produce and there must be mitigation provided to reduce that pollution and any foul odors produced.

MMR Pg. 4-53, MM 4.G-2f

There should be at grade fully visible permanent signage warning workers of the possibility that soil vapor may be present. The signage should be there as long as the utility vaults are there.

MMR Pg. 4-54, MM4.G-2g

In OU 1 and OU 2, the utilities installation and maintenance in areas that have adopted soil capping remediation strategies where gravity and utility force mains require encroachment into contaminated areas then, in addition to the precautions listed in this mitigation, there should be permanent visible signage warning worker and others to the potential danger. The Human Health Risk Assessment covering these area should include the risk of ingestion and dermal exposure, as well as the mentioned inhalation.

MM 4.G-2h

It isn't clear whether all of OU1, OU2 and the Industrial Way land would be included in the 1000 ft. requirement. Any building that would be occupied should have sub-slab vapor barriers and automatic combustible gas sensors in sub-floor areas. The goal is to protect human health and that means that you don't leave it to chance. The length of time the sensors are required should be the life of the building.

MMR Pg. 4.55, MM 4.G-2i

Prior to construction of trails anywhere on Icehouse Hill, there should be signage that is visible and legible in English, Spanish and Chinese warning workers that there is both lead and arsenic (arsenated lead) present in the form of residue of many years of herbicide spraying.

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MM 4.G-2j

The floors, interior walls and foundations of these buildings must be tested and evaluated for the presence of COC's, PAH's, TPHC and other solvents because of the uses of these buildings for Chemical Storage and perhaps processing and as a tannery.

MMR Pg 4-56 MM 4.G-3

This mitigation lists the all the hazardous materials and hazardous waste handling, fuel storage tanks and railroad track easement circumstances that limit the building of schools K-12 within .25 mile (1320 ft.). The Baylands and the current Recology (Household Hazardous Waste Facility) have all of them. Despite the possibility of being granted an exception, schools should not be built in a place with multiple recognized hazards. The Kinder Morgan regional petroleum distribution facility (tankfarm), underground aviation fuel pipelines, Railroad lines (possible high speed trains and maintenance facility), Landfill, railyard contaminated soil and groundwater, and possible contamination of land on Industrial Way and RWQCB contamination assessment testing occurring at VWR . It is also a location of localized air pollution and very noisy. If that is not enough to stop siting a school here then what would"? Children are sensitive receptors.

MMR Pg. 4-57 MM 4.H-1a

The actions described here should be reviewed by DTSC and RWQCB because of hazards to see where industrial storm water permits are needed. The usual procedures shouldn't apply when toxics are present. The EPA Guidelines should be reviewed to see if the suggested method pushes down the permitting authority to a level where hazardous material technical expertise is not available. The EPA Guidelines should clarify what actions are needed when there are several types of hazardous waste present e.g. arsenated lead, CVOC's, SVOC's, TPHC's, Mercury (released from Bay Mud when excavated), unionized ammonia (leachate), Nickel, industrial and medical waste in Landfill.

MMR Pg. 4-58 MM 4.H-1a

The inclusion of a provision to minimize sediment disturbance seems odd since massive grading will have disturbed everything. More needs to be done.

MMR Pg 4-59 MM 4H-1c

Final Stormwater Management Plan

There needs to be criteria that describe what the standards will be designed to achieve and how it will achieve it.

The phrase "economically achievable" is not a helpful description without better defining what it means. It will encourage the developer to spend less and achieve less efficient results.

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MM 4.H-1c (cont.)

The phrase "conventional pollution control technology" discourages the use of innovative natural drainage e.g. bioswales and other natural water sinks like wetlands. We need to do th opposite qnd encourage their use.

Environmental water quality testing should be done by a highly qualified firm and reviewed by a specialized environmental scientist with experience in this specific area of water quality. A Safety and Hazard Mitigation Mello Roos District could be used to fund this work.

MMR Pg. 4-60 & 61 MM 4H-4a-b-c

Wetlands and Bio-Swales, as well as pipes need to be used to help conveyance. The State Lands Commission should guide the improvement in the Visitacion Creek (Interior Drainage Channel) since they have jurisdiction over it. The banks of the Interior Drainage Channel need toxic contamination assessment testing. The existing system needs to be described better in these documents. The surface water tha drains from west of Bayshore through the Levinson Marsh and under Bayshore into the Brick arch sewer, the north ditch, the box culvert and the Interior Drainage channel is nearly always obscured as one continuous system of drainage into the Bay. It needs to be made clear to everyone.

All references to 25 year storm event should be changed to 100 year storm event and all the references to 100 year storm event should become 500 year storm events. Climate change and sea level rise require this change.

How close will this realignment bring Visitacion Creek to the Roundhouse. It should not be too close. The decision should involve geotechnical engineers, structural engineer and hydologists. RThere is an area east of the Roundhouse with SVOCS. How will the new channel be sited in relation to that contamination? There should be filtering of the water coming from the Levinson Marsh and the PG&E property. The proposed system needs peer review by an: engineer, hydrologist, geologist and toxicologist.

A clear statement of the goals for this system's constructed elements is needed and standards that reflect what is needed to achieve those site specific goals must be developed.

MMR Pg 61 MM 4.H-5

Integrated Pest Management Plan

You should devise a landscape plan that uses plants that discourage pests.

There need to be better standards to assure that the least amount, frequency and least harmful pesticides or herbicides are used. There should be prohibitions on poisons that are very harmful to the environment, like neonictinoids that kill Bees. I would prefer that none be used because it is just a

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formula to poison ourselves. Construction should be of a higher quality so that pests have a harder time getting in.

MMR Pg 62

I appreciate the listing of minimum elements to be included in the Integrated Pest Management Plan. The elements that are listed require enforcement. The monitoring and oversight requires a funding mechanism and that could be a Safety and Hazard Mitigation Mello-Roos District.

The Responsible Pesticide Use element should require a log of what pesticide(s) is used, how much, delivered by what method and when. The log must be available to the City and the Mello-Roos District.

MMR Ppg 4-62-63 MM4.H-8

Any Sea Level Rise Risk Assessment Report submitted must contain a statement of underlying assumptions. It must be based on the most current prediction of sea level rise at the time of submittal. It needs peer review by an independent environmental scientist specializing in sea level rise impacts.

The area, including and north of the Geneva extension should also be evaluated. One of the areas listed by BCDC as likely to flood first is located north of the Geneva Extension.
