

DRAFT
BRISBANE PLANNING COMMISSION
Meeting of October 22, 2015
Public Hearing

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 John Swiecki and Office Specialist Angel Ibarra

C. ADOPTION OF AGENDA

Commissioner Parker moved 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 Plans, Brisbane Baylands Specific Plan, General Plan Amendment Case GP-01-06. Specific topics include: Air Quality, Greenhouse Gas Emissions and Energy Resources. Universal Paragon Corporation: Applicant. Owners: Various. APN: Various.

Community Development Direct John 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.

Carol Zoltowski said she understood the value of mathematical miles to estimate the various parameters that are under consideration, especially as it has to do with mitigation measures. She heard an estimation that says if you build a certain number of housing units close to public transportation that that is a type of mitigation measure that is useful in limiting the amount of greenhouse gas emissions. However, Ms. Zoltowski expressed her skepticism in modeling people's actual use of public transportation, so she feels this is not a useful discussion. She stated the idea of building housing right next to employment and assuming that the people who live there will work there is idealistic, so to base traffic and greenhouse gas emissions on this is not a good indicator. People live where they can afford not necessarily next to their job.

Glenn Fieldman expressed doubt that the transit on the Baylands will be available there for those living and working on the Baylands. CalTrain is having issues with funding and those heading south will be dependent on that transit resource. She stated that the responses to her comments in the FEIR were unsatisfactory. She expressed concern with the Final EIR's use of a new greenhouse gas model, which is really dependent on improved efficiency of engines to conclude argue that greenhouse gas emissions are going to be reduced in all the plans from the original estimates. Mitigation Measure 4F-1, states "imposed requirements on the project site to develop additional greenhouse gas mitigation measures is no longer required, based on these updated emission estimates." She disagrees with this as indicators are saying that greenhouse gas emissions are to be close to zero by 2050, so there should be additional mitigation measures.

Barbara Ebel stated she recently attended the California Climate Action Planning Conference and there were two themes: CCA and Substations. Many renewable power projects are hampered by the lack of a substation to tie into. Fortunately, the Baylands has the Martin Substation and it should be utilized as an important resource. Ms. Ebel shared the following comments:

- Air Quality – Page 2-9, Impact 4B-2 states: the project would generate construction emissions that would result in a cumulatively considerable net increase of criteria pollutants and precursors for which an air basin is in nonattainment under applicable federal or state air quality standards.
- 4.B-4, footnote D, indicates that a sampling schedule of 1 in 6 days, thus 17% of the days during the year, are sampled. Ozone levels exceeded the permissible ozone levels were exceeded five times in 2010, which is the baseline year. She feels the DEIR is misleading people to think that air quality is only poor on 5 days, but if one applies the ratio for the entire year, that one would expect to find ozone layers in excess of 30 days or approximately 1 in 12 days.
- 4.B-7 acknowledges the fact that they are believed to be hundreds of toxic air contaminants; however, only 21 compounds have been categorized as TAC (toxic air contaminants) and only 9 of those are being monitored at the AQM stations. And of the 21 compounds that are categorized most of those have not had exposure thresholds set. She received this is from the arb.ca.gov TAC list.
- 4.B-23, paragraph 3, gives a history of revisions of the air quality standards. She indicates that air quality standards are evolving but not fast enough, because regulations and laws lag behind science.
- 4.B-48 states that the project site development would not support the primary goals of the Bay Area Quality Management District's clean air plan. She states that this might have changed, and it is likely the alternative energy generation plan would comply with the goals. The CREBL Plan treads lightly on the Earth.

- 4.B-16, the CEQA guidelines listed all toxins pertaining to human exposure. None of these guidelines pertain to the environmental impacts of airborne pollution on the wider scope of living things on this planet (plants, fish, birds, animals), which she find incomplete for an environmental impact report.

Ms. Ebel directed the commissioners to the last page of her written comments regarding the ozone, they will see that the larger script of nonattainment counties in the southeast of the Bay Area, covering much of the San Joaquin Valley are some of the most productive and fertile lands. However, in the Bay Area, pollution is all around. She states that climate change has the potential to impact every living thing on this earth for many decades to come. She feels that the pollutants being monitored are incomplete. Ozone is one of the pollutants that they monitored.

Ms. Ebel submitted handouts entitled “California Farm to School Network” diagram, Ozone Facts and a Pollutants/Carbon Footprint spreadsheet to the Planning Commission. In reviewing the information she noted:

- There is an allocation for transportation as per the DEIR, an allocation for electricity consumption, natural gas, and solid waste, and a section for “other.” No allocation is made for food or consumer goods.
- Negative CO₂E per square foot of PV in metric tons across all scenarios of them, and the renewable energy alternative is superior in this regard.
- Under the DSP is the Housing and Transportation credit for having housing on the Baylands is 62,698 metric tons, which is equal to about 50% of the cars from HWY 101. She questions whether putting 4,000 houses out there is the same as taking half the cars off of HWY 101.
- The BAAQMD’s carbon threshold for efficiency is 4.6, but she thinks the global target is 2 metric tons of CO₂E per person, per year. She says that if sustainability is carbon neutral, one can see where each of these comes out. She wonders if a housing transportation credit is that beneficial.

Anja Miller commented that NREL EPA study in 2011 indicated that CREBL’s plan was feasible, as was the developer’s renewable energy plan. The definition of feasible was technical and economical, so it is affordable and can produce profit for the landowner. Because the study was done in 2011, the Photovoltaic system prices have plummeted, so it’s even more feasible today. She compared energy consumption resulting from the developer’s plan and from the alternative energy plan. For gross energy usage, the developer’s plan requires 72,000 megawatt (MW) hours less solar panel energy generation at 43,000 leaving an energy generation deficit of 31,000 MW. The alternative energy plan requires 5,800 MW less solar panel energy at 43,000 leaving an energy generation in excess of 37,000 MW hours. This energy can be used for the citizens of Brisbane.

Mrs. Miller responded to a comment made by the consultant that it was infeasible for trains coming to the railyard to climb on top of the current fill. She said that statement was incorrect as the landfill has to be removed to the same base level that has been established.

Glenn Fieldman stated that San Mateo County is in the process of investigating community choice aggregation which allows cities a choice of where to purchase their energy. The community would choose to purchase from either PG&E which is a mix of renewable and non-renewable sources or to purchase entirely renewable energy. This fits with the CREBL plan to produce a large amount of renewable energy in the Baylands.

Commissioner Parker asked if the CCA addressed locations where they wanted to put in renewable energy.

Glenn Fieldman says that's not how a CCA works. She explains that they arrange to purchase 100% renewable energy and make it available to consumers that want it, so building renewable energy on the Baylands would help to advance the CCA and what it is designed to do.

Commissioner Parker asks if Ms. Fieldman knows how many people have opted for this.

Glenn Feldman states we don't have a CCA system yet, the County is still exploring the idea.

Anja Miller says she is a member of San Mateo County CCA group and statewide advocacy group and legislation to promote community choice. The Joint Powers Authority will include the county and all the cities that want to join, and Brisbane has already taken the first step of allowing our usage data to be submitted and the feasibility study has been done. There's an advisory committee consisting of representatives from every city, but there has not been an update from city staff. She states that early next year, the Brisbane City Council will decide whether to participate. The project is called Peninsula Clean Energy, and it is a joint operation between cities and the county to buy and sell renewable energy. They are still working on the rate, but conceivably it would be less than PG&E.

Joel Diaz said the studies in the EIR meet minimum regulatory standards, but don't meet Brisbane's standards or the spirit of the General Plan. From the recent Baylands opinion survey, only about 2% of respondents were in favor of the proposed 4,400 homes. Mr. Diaz thanked Ms. Ebel and Mrs. Miller for their information. The costs for renewable energy has gone down and if citizens do not want housing, then renewable energy could generate a lot of money for citizens and reduce the impacts on the environment. He said that the Planning Commission is the first line of defense, and the Commission isn't under any obligation to agree to the developer's plan or allow housing, as the property isn't zoned for housing. He feels that the EIR should be sent back for major modifications and/or deny certification.

In response to Chairperson Do's inquiry, Mr. Zola discussed the purpose of the EIR versus the Commission's planning decision. He reminded the Commission that CEQA is designed to identify and reduce environmental impacts. The EIR does not set aspirational goals and the inability of a project to meet an aspirational goal does not constitute an adverse impact under

CEQA. Mr. Zola stated that the EIR is not the project; rather, it describes the submitted applications, the decisions the City is being asked to make in relation to the General Plan, the two community scenarios directed by the Council to be addressed at an equal level of detail, the renewable energy alternative plan. Ultimately the Planning Commission has the discretion to recommend which plan is in the best interest of the community. Mr. Zola explained that the Planning Commission has full discretion to recommend approval or denial of residential land uses. Under the DSP scenario, the EIR found that 1 out of 20 trips (5%) would stay within the Baylands, and about 16% of trips with shopping and school will stay within the Baylands. That is the sum total of the housing transportation credit and that is based on how close people live to their work. He said he would bring the 2010 Census data back showing how many Brisbane residents work within Brisbane.

Regarding the use of transportation with the Baylands, Mr. Zola said currently there is mitigation with development being tied with the build out of the Geneva Extension and the Highway 101 interchange, but it would be a good idea to have mitigation measures tied to the transit improvements being proposed. He said the City could require that only so much development could be done before these transit requirements are in place.

Barbara Ebel requested clarity about the relationship between a Specific Plan and a Development Agreement.

Outside legal counsel Alison Krumbein responded that the Specific Plan was submitted by UPC for the City's consideration. The specific plan establishes the development standards and regulation that will govern the site's future development. A development agreement is essentially a contract between the City and the developer and typically a development agreement is a tool to implement an approved project like a specific plan. She noted a development agreement is a negotiated document; whereas the Specific Plan is an application.

Chris Sanchez, ESA, clarified technical issues: Nine of the 21 TACs are monitored and is based on potential source nearby that may contribute to one; ozone is monitored on a daily basis; and only human receptors are considered in the Air Quality analysis because that is the basis of the Clean Air Plan at both the State and Federal level.

Danny Ames wonders if there is an opportunity to mandate residential units to have electric vehicle charging capabilities. The parking areas should support a 6.5 KW charger or 110 outlets.

Lloyd Zola responded that the Planning Commission could require a 220 connection or require fast charge stations.

Glenn Fieldman is curious about Mitigation Measure 4-F1, which listed many greenhouse gas mitigations for this project, but somehow was eliminated from the FEIR. It would be good to have a mitigation measure that would require information be provided to employees, as far as transportation alternatives.

Lloyd Zola responded that while the requirement is no longer applicable as a mitigation measure, it could still be required as a requirement of the Specific Plan or any site development plan.

Joel Diaz was concerned that if the city certifies the EIR, the city would lose its leverage for further analysis. He felt things are being done incorrectly in terms of CEQA. For example, the CEQA alternative renewable energy needs to be given a fair chance under the CEQA guidelines. The renewable energy alternative needs to be ruled out as economically infeasible, and that hasn't been done. He said there isn't any recent information about how much money the alternative would cost or how much money it will generate. A full analysis of HSR was also required.

Barbara Ebel asked for more clarity about a Development Agreement and a Specific Plan and when mitigation measures are to be added.

Mr. Zola and Mr. Swiecki responded that the Specific Plan is the development plan for a project. It creates the rules for the project and lays out when things are to occur. Under the City's General Plan, a developer is required to submit a Specific Plan. There is no legal obligation for a Development Agreement. They stated that mitigation measures are imposed on a project like a specific plan, and that in many cases community benefits going beyond what may be required as mitigation measures are negotiated into development agreements, assuming parties can reach mutual agreement.

Anja Miller states that one would look at the EIR and get a general picture of what it would mean in terms of the developer's Specific Plan, and then determine if it needs to be modified. If one feels that the EIR is not ready to be certified, but one could recommend it to the City Council as a land use plan, as a potential specific plan. Or one could deny altogether. The Planning Commission doesn't need to be responsible for the Final Plan, because then there will be a Development Agreement. That will come after the EIR is certified and additional studies that the Commission calls for. All of this can be included in a draft recommendation to the City Council.

Mrs. Miller also asked about a school on the Baylands and the requirement that it is a certain distance from hazardous places, such as the Tank Farm and Recology. It would be helpful if the EIR actually had a map that showed the area where a school could go legally. If there is no place on the Baylands for a school then the home-to-school trips that they project won't be so low. They would still have to cross the Baylands into the Bayshore School District.

Chairperson Do requested Mr. Zola to respond to the previous comments.

Mr. Zola responded that at the end of the hearings, the Planning Commission could recommend, for example, a hybrid plan which would be laid out at a General Plan-level, with basic parameters for land use types, location and intensity and recommended to the City Council. There are several options on how CEQA could be completed under this scenario. Ultimately an EIR would need to be certified before the City Council formally amends the General Plan.

Joel Diaz states that the Planning Commission must make a recommendation to the City Council, and the City Council is relying on the Commission to make that recommendation. In terms of the development agreement, it is a written record, a compilation of all the conditions of approval that the Planning Commission makes, the City Council makes and it is an agreement. The developer does not have to agree to it. And if the developer is unhappy with the City, it could sue. The City is weak financially against a large developer.

Anja Miller clarified the name of Peninsula Clean Energy and said one council member and an Alternate were appointed to represent the City on the advisory committee. There has not been a report so the Commission should address the Council for an update. Mrs. Miller also says to be aware if a different project comes along that may be similar, but it just needs a Negative Declaration and doesn't require a new environmental assessment.

Commissioner Parker requested staff to get an update from the Council regarding Peninsula Clean Energy. She asked Mr. Zola what happens if the EIR is certified and then the project is changed.

Mr. Zola stated that after an EIR is certified, a project can be amended. The General Plan and Specific Plan can be amended. Any amendment would be subject to environmental review.

Commissioner Munir made a motion to continue the public hearing to October 29, 2015. Vice Chairperson Reinhardt seconded and the motion carried 5-0.

E. CONSENT CALENDAR

Commissioner Parker abstained from the September 24th minutes. Commissioner Anderson advised the minutes for September 10th and September 24th are adequate, but wondered if there is a more comprehensive record for public hearings. A discussion ensued regarding the differences between action minutes, summary minutes, and transcripts. Staff advised that summary minutes are being prepared for the Baylands public hearings.

Commissioner Munir motioned to approve the Consent Calendar. Commissioner Anderson seconded and the motion carried 5-0.

F. ORAL COMMUNICATIONS

None

G. WRITTEN COMMUNICATION

Chairperson Do mentioned a letter from Colleen Mackin, read by Barbara Ebel at the last public hearing, written comments on Traffic and Transportation from Mrs. Miller, and a letter on Noise and Solution Measures for Brisbane Baylands Project, by John Berringer, Airport Planning Director, Bureau of Planning and Environmental Affairs.

H. ITEMS INITIATED BY STAFF

Mr. Swiecki advised the Commission that a City Council workshop on the Baylands survey results was scheduled for October 27, 2015. He invited all Commissioners to attend the Pop-Up Workshop for the Parkside at Brisbane Village Precise Plan on Saturday, October 24 from 10:00am-12:30pm on Old County Road (closed to traffic) near the Community Park.

Mr. Swiecki indicated that former Planning Director Nelson respectfully declined to make a presentation to the Planning Commission regarding the 1994 General Plan on the 1994 General Plan Traffic Standards.

I. ITEMS INITIATED BY THE COMMISSION

Chairperson Do mentioned announced a she would participate in a stakeholder interview for the Parkside at Brisbane Village Precise Plan. Commissioner Munir requested that Chairperson Do send the email.

J. ADJOURNMENT

Commissioner Anderson motioned to adjourn to the Special Meeting of October 29, 2015 at 7:30 and Commissioner Munir seconded. The motion carried 5-0 and the meeting adjourned at 10:15 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.