

City of Brisbane

Planning Commission Agenda Report

TO: Planning Commission For the Meeting of August 25, 2016

FROM: John Swiecki, Community Development Director *JWS*

SUBJECT: Brisbane Baylands. General Plan Amendment (City File Nos. GP-01-06 and GP-02-10) and the proposed Brisbane Baylands Specific Plan (City File No. SP-1-06), and related Final Environmental Impact Report (State Clearinghouse No. 2006022136).

BACKGROUND:

On July 28, 2016, the Planning Commission closed the public hearing on the above-referenced matter, and continued its deliberations to tonight's meeting. The July 28, 2016 staff report is attached for reference purposes.

During the July 28, 2016 public hearing a procedural question was raised regarding the Planning Commission and potential conflict of interest concerns. A memorandum from the City Attorney regarding this issue is attached for the Commission's information.

ATTACHMENTS:

1. August 18, 2016 City Attorney Memorandum
2. July 28, 2016 Planning Commission Report

MEMORANDUM

To: Chair Do and Members of the Brisbane Planning Commission

From: Michael Roush, City Attorney

by John Sweeney,
Community Development Director

Date: August 18, 2016

Subject: Bias Concerning Land Use Applications

Background

During the Planning Commission's July 28, 2016 public hearing concerning proposed Baylands development, a member of the public questioned whether individual commissioners should recuse themselves from further participation in the Commission's consideration of the proposed development due to a conflict of interest. Specifically, the commenter questioned whether certain members of the Commission may have a conflict of interest due to opinions they have expressed outside of the Commission's deliberations process on aspects of the Baylands project currently under consideration by the Commission as a whole. Prior to the Commission's August 25, 2016 meeting, at which it will deliberate and presumably make a recommendation to the City Council concerning the Baylands, I wanted to provide a memo to you concerning the issue of bias.

Discussion

In carrying out their duties, planning commissioners sometimes act in a legislative fashion and sometimes act in a quasi-judicial fashion. Generally, when the Commission acts to establish broad policies and rules or standards of general applicability, such as in a General Plan, Specific Plan or zoning ordinance, it is acting in a legislative fashion. When the Commission is applying existing policies, laws or regulations to a given set of facts, e.g., to a particular application, such as an application for a conditional use permit, it is acting in an adjudicatory, or quasi-judicial fashion.

In quasi-judicial proceedings, the Commission must provide the applicant and interested parties with a "fair hearing;" meaning that its action should comport with principles of due process. Commissioners should be neutral, unbiased and not, by their actions or words, demonstrate that they have made up their minds in advance of the matter coming before them. Commissioners should consider the evidence presented with an open mind and decide the matter based on that evidence. A person denied a fair hearing does not have to prove actual bias; it is sufficient if the facts demonstrate an "unacceptable probability of actual bias."

When commissioners are acting in their legislative capacity, i.e., adopting local laws or policies, courts apply a somewhat different standard. Courts recognize that local government decision makers, whether elected or appointed, are vitally interested in land use matters that affect the entire community and may well hold and voice strong opinions about a land use matter.

Accordingly, courts to date have not found that a decision maker who has expressed an opinion prior to the public hearing on an application that seeks to amend a General Plan or adopt a Specific Plan, even a strong opinion, to have demonstrated an unacceptable probability of bias such that the commissioner must not participate in the decision.

In this matter, the Commission is to make a recommendation concerning a proposed amendment to the City's General Plan and a proposed Specific Plan for the Baylands, both legislative actions. Ideally, all commissioners have kept an open mind concerning these matters and will make a recommendation to the City Council accordingly.

If any commissioner wishes to speak to me about this matter prior to your meeting on August 25, please call me at 925-876-7525 or send me an email at mrroush@publiclawgroup.com.

c: Mayor and Members of the City Council
Clay Holstine, City Manager
John Swiecki, Community Development Director
Alison Krumbein
Lloyd Zola

City of Brisbane

Planning Commission Agenda Report

TO: Planning Commission For the Meeting of July 28, 2016

FROM:  John Swiecki, Community Development Director

SUBJECT: Public hearing to consider Brisbane Baylands. General Plan Amendment (City File Nos. GP-01-06 and GP-02-10) and the proposed Brisbane Baylands Specific Plan (City File No. SP-1-06), along with consideration of the related Final Environmental Impact Report (State Clearinghouse No. 2006022136).

REQUEST:

The purpose of this public hearing is to consider the Planning Commission's recommendation to the City Council for the proposed development of the Brisbane Baylands (Baylands). The components of proposed development under consideration by the Planning Commission include:

- The proposed General Plan Amendment and Brisbane Baylands Specific Plan, by applicant Universal Paragon Corporation (Applicant or UPC);
- Amendments to the 1994 Brisbane General Plan (General Plan) addressing development of the Baylands, Beatty, and Northeast Bayshore subareas, including, but not limited to:
 - Land uses and their appropriate development intensity and distribution;
 - Open space framework;
 - Development policies; and
 - Incorporating applicable provisions of the Brisbane Baylands Sustainability Framework into the General Plan; and
- Related Final Environmental Impact Report.

BACKGROUND:

The Baylands encompasses approximately 733 acres primarily within the Brisbane city limits. This includes areas identified in the General Plan as the Baylands Subarea, the Beatty Subarea, and portions of the Northeast Bayshore Subarea. A portion of the Baylands within the existing 44.2-acre Recology Solid Waste Transfer Facility is within the City and County of San Francisco. The General Plan requires the preparation of a Concept Plan and Specific Plan for the Baylands prior to site development.

As discussed below, UPC is requesting a General Plan Amendment and approval of a Specific Plan on 684 acres of the 733-acre Baylands area.

This evening's meeting to consider the Planning Commission's recommendation to the City Council follows a comprehensive review of UPC's proposed development, including an environmental impact report (EIR), a sustainability framework for evaluating future development, and economic analysis of potential development within the Baylands. In preparing for this evening, the Planning Commission has conducted two workshops and ten public hearings. The Commission also held 11 deliberations meetings to consider appropriate types, intensity, and distribution of land use within the Baylands, and whether UPC's proposed General Plan Amendment was consistent with the types, intensity, and distribution of land use the Commission wished to recommend to the City Council.

Application History

In 2005, UPC filed an application proposing a Concept Plan (referred to at the time of filing as a framework plan) for a 659-acre portion of the Baylands located within the Brisbane city limits, and a Specific Plan for development of an approximately 449-acre portion of the Baylands east of the Caltrain railroad tracks. After reviewing the Applicant's submission, the City engaged in a series of public meetings from 2007 through 2009 culminating in the preparation of two additional development scenarios, subsequently referred to as the "Community Prepared Plan" (CPP) and "Community Prepared Plan-Recology Variant" (CPP-V), covering a total of 733 acres, including the 684 acres within the proposed DSP/DSP-V scenarios, the adjacent 44.2 acre Recology solid waste facility, and roadway rights-of-way.

Following this community process, in 2010 UPC filed an amended application including a General Plan Amendment for the Baylands and a Specific Plan covering the entirety of the Baylands (including both the Baylands and Northeast Bayshore subareas), totaling approximately 684 acres. The revised application proposed residential development within the northwestern portion of the Baylands, which necessitated a General Plan amendment to eliminate General Plan Policy 330.1 prohibiting housing within the Baylands. UPC's revised application requested that two development scenarios, subsequently referred to as the "Developer Sponsored Plan" (DSP) and the "Developer Sponsored Plan-Entertainment Variant" (DSP-V) scenarios be studied in the Environmental Impact Report (EIR) for the Baylands.

Environmental Review

Pursuant to the requirements of the California Environmental Quality Act (CEQA), the City reviewed UPC's 2006 application, and determined that preparation of an environmental impact report was required. The City issued a Notice of Preparation (NOP) for the Brisbane Baylands Environmental Impact Report (EIR) on February 24, 2006.

Following the development of the CPP and CPP-V development scenarios from 2007-2009, the Brisbane City Council directed that the Baylands EIR be expanded to include analysis of the CPP and CPP-V scenarios at an equal level of detail as UPC's proposal. UPC subsequently revised their proposed development, and submitted a new proposed specific plan. Following the submission of UPC's revised application in 2010, a revised NOP was published to (1) reflect changes in the project description, including revisions to the Specific Plan proposed by the applicant, the inclusion of the entertainment variant to the DSP scenario (DSP-V), and identification of the CPP and CPP-V scenarios to be studied at an equal level of detail in the forthcoming EIR; and (2) recognize the time that had elapsed since the NOP was originally published. Each of the development scenarios are described in detail below.

A third NOP was circulated on October 22, 2012 to identify an additional component of Baylands development -- a proposed water transfer agreement between the City and the Oakdale Irrigation District -- that would be analyzed in the EIR.

The Draft EIR was published on June 11, 2013, and circulated for public review and comment until January 24, 2014. The Final EIR was subsequently prepared by the City, and published on June 1, 2015.

Planning Commission Meetings and Public Hearings for the Baylands

The Brisbane Planning Commission initiated its review of proposed Baylands development and the associated EIR in September 2015, when the Commission conducted two public workshops. Formal public hearings on proposed Baylands development and the EIR were held from October 2015 through December 2015. A total of ten public hearings were held to consider and take public testimony related to the subject matter identified below:

- Public Hearing #1: Biological Resources, Cultural Resources
- Public Hearing #2: Geology, Hazards and Hazardous Materials, Hydrology and Water Quality
- Public Hearing #3: Traffic and Circulation, Noise
- Public Hearing #4: Air Quality, Greenhouse Gas Emissions, Energy Resources
- Public Hearing #5: Public Services and Facilities, Recreation, Utilities and Service Systems, Water Supply
- Public Hearing #6: Aesthetics, Land Use and Planning Policy, Population and Housing, Alternatives
- Public Hearing #7: Continuation of Public Hearing #3 to discuss Traffic and Circulation
- Public Hearing #8: Community Organization Presentations
- Public Hearing #9: Presentations by Independent Organizations
- Public Hearing #10: Applicant Presentation

At the conclusion of Public Hearing #10 on December 10, 2015, the Planning Commission closed the public hearing and began its deliberations on proposed Baylands development and the Brisbane Baylands EIR.

The Planning Commission conducted a total of 11 deliberations meetings from January through July 2016. During these deliberations meetings, the Commission considered:

- Basic principles for development within the Baylands;
- Appropriate types, intensity, and distribution of land uses;
- The Applicant's proposed General Plan Amendment and Specific Plan
- Environmental effects of proposed Baylands development, specifically the development scenarios and alternatives evaluated in the Baylands EIR;

Although not required by State law or the Brisbane Municipal Code, the Commission accepted public testimony regarding proposed Baylands development at each of its deliberations meetings.

During its deliberations, the Planning Commission had the opportunity to consider a broad range of land use issues applicable to Baylands development as well as land use policies and a land use program for the Baylands. After consideration of the various land use and environmental implications of development within the Baylands raised during the Commission's public hearings and deliberations meetings, and through public comments and testimony, a public hearing was set for this evening (July 28, 2016) for the Commission to consider its formal recommendation to the City Council.

The Commission's recommendations in relation to the UPC's proposed General Plan Amendment and Specific Plan are based on the extent to which the development proposed by UPC is consistent with the types, intensity and distribution of land uses for the Baylands that the Commission wishes to recommend to the City Council.

ANALYSIS:

The Planning Commission is considering recommendations in regard to both land use and CEQA. As a starting point for this analysis, the results of the Planning Commission's deliberations as they pertain to defining the types, intensity and distribution of land uses that the Commission believed would be appropriate for the Baylands are summarized below. This summary is followed by an analysis of the consistency of the UPC's proposal with the Planning Commission's land use direction. Lastly, this analysis discusses the adequacy of the Final EIR in addressing the potential environmental impacts of the Planning Commission's land use recommendations.

Planning Commission Direction Provided During its Deliberations

Basic Principles

Deliberations began by focusing on the basic planning and environmental principles that the Commission would recommend for the Baylands, irrespective of the particular land use program (i.e., land use types, distribution, intensity) the Commission might ultimately choose to recommend. The basic planning and environmental principles for Baylands development expressed by the Commission are summarized as follows:

- Preserve large unbroken blocks of open space that provide for restoration of wetland areas and provide continuity and flow of open space throughout the Baylands.
- Incorporate applicable provisions of the Brisbane Baylands Sustainability Framework into the General Plan.
- Protect key habitat areas, including the Brisbane Lagoon and potential habitat areas adjacent to it, Icehouse Hill, and wetlands.
- Prohibit water-based recreational use of the lagoon or other uses that would disturb aquatic habitats.
- Restore the Roundhouse, provide opportunities for rail-related and educational uses at the Roundhouse, and maintain compatible development adjacent to it.
- Maintain a transit orientation for new development, including use of the Baylands to enhance access from Central Brisbane to the Bayshore Caltrain Station and other transit services within the Baylands.

- Ensure that the Baylands site is safe for the future uses approved for development by the City in relation to site remediation and Title 27 landfill closure; seismic and geologic hazards; flooding, including hazards related to sea level rise; traffic safety and emergency response; and provision of public safety services.
- Natural solutions to protect development within the Baylands from the effects of sea level rise are to be given priority over manufactured solutions.
- The relationship between the City's planning review and the remediation review being undertaken by RWQCB and DTSC for the Baylands should require that:
 - The City of Brisbane will actively participate in the regulatory and CEQA processes undertaken by DTSC and RWQCB to ensure that the City's interests in protecting public health are addressed.
 - Plans for Title 27 landfill closure and Remedial Action Plans for OU-1 and OU-2 be completed by the applicant to the satisfaction of the RWQCB and DTSC prior to approval of a specific plan.
 - Subsequent project-level environmental documentation under CEQA would be required for adoption of a specific plan by the City.
 - Following completion of CEQA documentation and approval of landfill closure and remedial action plans, physical remediation of the Baylands could be undertaken.
 - Remedial actions required for the former Brisbane Landfill must be completed prior to grading or development within the area of the former landfill.
 - Remedial actions within OU-1 must be completed to the satisfaction of DTSC prior to initiation of any grading or development within OU-1.
 - Remedial actions within OU-2 must be completed to the satisfaction of the RWQCB prior to initiation of any grading or development within OU-2.
- Specify the relationship between the City's proposed water supply agreement and its development planning and review for the Baylands as summarized below.
 - Based on the level of development set forth in the General Plan for the Baylands, needed operations studies and project-level environmental analysis for the proposed Water Supply and Conveyance Agreements is to be completed prior to consideration of specific plan approval for Baylands development.
 - Prior to approval of site-specific development within the Baylands, final Water Supply and Conveyance Agreements between Brisbane and OID, between OID and MID, and between Brisbane and the SFPUC for individual portions of the proposed water transfer shall be approved by all parties.
 - Prior to issuance of certificates of occupancy within the Baylands, physical water supply pursuant to final Water Supply and Conveyance Agreements shall be available to the Baylands.

- Require provision of appropriate infrastructure and site amenities for each increment of development within the Baylands by incorporating specific performance standards into the General Plan.
 - Each increment of development must be provided with appropriate infrastructure, services and facilities, and site amenities.
 - Development phasing shall include specific milestones for development in relation to provision of:
 - Environmental site mitigation (e.g., open space dedication, habitat restoration, trails);
 - Roadway improvements, including the Geneva Avenue extension and Candlestick interchange, as well as description of allowable development patterns prior to the Geneva Avenue extension;
 - Transit improvements; and
 - Other infrastructure (e.g., water, sewer, water recycling plant, drainage improvements; police and fire services and facilities);
- Recognize the potential use of a portion of the Baylands for a high speed rail maintenance yard, and identify City expectations for such a use, including:
 - Mitigation of the maintenance yard’s environmental impacts;
 - Provision of community benefits; and
 - Offset loss of existing and anticipated revenues to the City of Brisbane;

Types, Intensity, and Location of Uses within the Baylands

The Planning Commission considered a broad range of potential uses for development within the Baylands, encompassing all of the uses proposed in the four development scenarios and five alternatives evaluated in the Baylands EIR. Substantial time was also spent addressing the distribution and intensity of future uses within the Baylands. Following discussion of potential uses within the Baylands, including a full evening devoted to discussion of the potential for residential development within the Baylands, the Commission identified the following types of uses and being appropriate within the Baylands:

- The existing Recology solid waste processing facility, along with the potential for its expansion.
- Renewable energy generation, both as a freestanding use (e.g., solar farm) and in combination with other uses (e.g., roof-mounted solar panels on an office building or energy production at the Recology solid waste facility).
- Light Industrial, Warehouse, Research & Development, with a preference for small-scale (rather than large-scale) light industrial and warehouse/distribution uses, such as “craft” uses.
- Retail.
- Office.

- Hotels and Conference Facilities.
- Commercial Recreation.
- Schools. While trade schools and educational institutions aimed at adults would be appropriate within the Baylands, K-12 schools would not be appropriate, since housing was determine not be appropriate within the Baylands.
- Arena/Concert Venue. While a large-scale sports arena or concert venue would not be appropriate within the Baylands, a small scale concert venue such as an outdoor space near the Roundhouse that could also be used for community events might be appropriate.

The Commission initiated its discussion regarding the distribution of land uses by evaluating the combination of physical features, existing uses, existing and planned infrastructure, and EIR conclusions and mitigation measures that have direct implications on the arrangement of land use across the Baylands. The key features considered by the Commission included:

- Existing land uses, including the existing Recology Tunnel Avenue facility; the Kinder Morgan Tank Farm and Machinery and Equipment Building, which are not a part of any of the scenarios or alternatives addressed in the EIR but nevertheless affect uses within the Baylands; the Roundhouse; and environmentally sensitive areas that are best reserved for open space, including the Brisbane Lagoon, Icehouse Hill, and Visitacion Creek;
- The Geneva Avenue extension and Candlestick interchange;
- The existing Caltrain line, running in a north-south direction through the Baylands will remain and physically divide the site under any land use scenario or alternative; and
- The Lagoon Road alignment.

From this initial mapping of key features and arrangement of potential development areas the mapping of potential development areas and the Commission's initial deliberations regarding the types and distribution of land uses within the Baylands was refined. Following a presentation of potential planning concepts and land use types, intensity, and distribution by staff, the Commission proceeded to deliberate regarding the intensity and distribution of land uses.

The Planning Commission's direction during its deliberations was to provide for a maximum 1-2 million square foot net increase in building area within the Baylands, and to require specific plan(s) for the Baylands to distribute the maximum allowable development intensity to individual planning subareas¹. The general arrangement and distribution of land use across the site as recommended by the Planning Commission is illustrated in attached draft resolution.

Applicant's Proposed Development

Development Concept

The DSP scenario is defined within the February 2011 *Draft Brisbane Baylands Specific Plan* (Specific Plan). The DSP includes only the 684-acre portion of the Baylands within the Brisbane city limits and

¹ Existing building area within the Baylands is estimated to be 639,900 square feet.

excludes the 44.2-acre Recology site and adjacent road rights-of-way. The DSP scenario proposes approximately seven million square feet of office/ retail/industrial/institutional uses, 4,434 residential units, approximately 169.7 acres of open space/open area, and approximately 135.6 acres of lagoon area. Total new development under the DSP would be approximately 12.1 million square feet.

The DSP-V scenario is also proposed by UPC and defined within the Specific Plan. The DSP-V scenario encompasses the same 684-acre area as the DSP. It is similar to the DSP scenario in its development intensity and land use pattern, but replaces the retail and office/research and development (R&D) uses proposed under the DSP in the northeast portion of the Project Site with entertainment-oriented uses, including a 17,000- to 20,000-seat sports arena, a 5,500-seat concert theater, a multiple-screen cinema, and more conference/exhibition space and hotel rooms than are proposed under the DSP scenario. New development under the DSP-V scenario also includes 4,434 residential units, and would total approximately 12.0 million square feet.

General Plan Amendment

UPC is also proposing amendments to the General Plan needed to achieve consistency between proposed development and the provisions of the General Plan. Key among the requested revisions to the General Plan are requests to increase the allowable development intensity and to remove the existing prohibition against housing within the Baylands.

Proposed amendments to the General Plan for the DSP/DSP-V scenarios include:

- Modifying the description of the Trade Commercial land use designation to add the phrase “Within the Baylands, and subject to approval of a Specific Plan, the Trade Commercial Designation may also include residential uses;”
- Modifying the discussion of maximum buildout for the Baylands to permit the intensity of proposed site development proposed in the DSP/DSP-V scenarios;
- Deleting General Plan Policy 330.1, which prohibits housing within the Baylands; and
- Replacing the phrase in General Plan Policy 330, Program 330b “not to exceed six stories in height” with the phrase “not to exceed 45 feet in height.

Specific Plan

The Brisbane General Plan requires adoption of a specific plan prior to development of the Baylands Subarea (General Plan Policies 329.1 and 330). The *Draft Brisbane Baylands Specific Plan* (Specific Plan) describes the Applicant’s proposed development of the 684-acre portion of the Baylands excluding the existing 44.2-acre Recology site, including proposed plans, goals, policies, and development standards to guide future development. The proposed Specific Plan also identifies necessary infrastructure and circulation improvements to accommodate proposed growth and the Applicant’s implementation strategy. The proposed Specific Plan includes the DSP and DSP-V Concept Plan scenarios and is comprised of the following elements:

- **Sustainability Framework Plan:** describes the Applicant’s proposed overarching approach to sustainability and the elements that have been incorporated into the plan to carry out the Specific

Plan's objectives. This framework includes concepts for compact development, transit accessibility, ecology and open space, alternative energy strategies, green building, and other sustainable infrastructure elements.

- **Overall Land Use Concept:** describes the proposed overall land use and development concept for the area, including land use goals, policies, and regulations. The overall development program including the types and intensities of land use and the proposed form and pattern of new development and the community design principles and goals, development standards, and design guidelines for development are also described.
- **Conservation & Open Space:** describes the open space system and its primary components, including proposed creation and conservation of ecological resources, such as woodlands, meadows, and wetlands, and the incorporation of windrows, groves, and landform elements. Proposed open space also includes urban parks and recreational space. The applicant's open space recommendations are linked to elements of other sections, including landscaped areas, stormwater management, and overall energy conservation.
- **Circulation:** describes the proposed circulation network and identifies the components and design standards required for access and movement of pedestrians, bicyclists, transit, and vehicles, including connections to adjacent systems, improvements to existing facilities, and development of new facilities.
- **Utilities and Services:** describes the infrastructure and service improvements proposed to provide sewer, water, storm drainage, emergency response, and other utilities and services to serve development using integrated stormwater management and other sustainable technologies, wherever possible.
- **Implementation:** describes steps that must be taken for implementation, including development approval procedures and capital improvements.
- **Public Facilities Financing:** identifies public improvement costs and potential sources of funding and cost sharing.

Evaluation of Applicant's Proposal to Planning Commission Land Use Direction

General Principles

The Applicant's proposal complies with a number of the general principles for future Baylands development as set forth by the Planning Commission, most notably those pertaining to maintaining a transit orientation, preserving and restoring habitat areas, and Roundhouse rehabilitation. The Applicant's proposal is less responsive to principles pertaining to concurrent provision of infrastructure and public services with development, and the relationship of land use approvals and development with site remediation.

Proposed Land Uses

A key component of the Applicant's proposal is the requested amendment of the General Plan to eliminate the existing prohibition of housing within the Baylands to accommodate the approximately 4,440 residential units proposed in their draft specific plan. The Planning Commission considered extensive public testimony regarding this issue, and devoted a significant amount of time in their deliberations on this subject. Ultimately, the Commission's direction was to recommend retaining the

General Plan's current prohibition against housing within the Baylands. Key reasons underlying the Commission's recommendation included:

- safety issues in relation to site contamination and remediation,
- community survey results indicating support for prohibiting housing within the Baylands,
- effects on community character resulting from the physical separation of the Baylands from other residential neighborhoods in Brisbane, and
- municipal cost-revenue considerations.

The Applicant's proposal is inconsistent with the Planning Commission's direction on this key issue.

Another important land use consideration for the Planning Commission is renewable energy generation. While the applicant's proposal includes acreage devoted to renewable energy generation to offset some or all of the energy demands of Baylands development, the Commission's preference was to accommodate utility-scale renewable energy generation to not only offset the energy demands of the Baylands but also offset some or all of the entire City's energy demands.

Another difference between UPC's plan and the Planning Commission's recommendation pertains to the potential expansion of Recology. While UPC's proposal does not recognize or accommodate the potential expansion of Recology, the Planning Commission recommends that any plan for the Baylands allows for the possibility for Recology to expand and modernize, with the provision that any future Recology expansion project be subject to a separate EIR and planning process.

Other land use components proposed by UPC (office campus, support retail, parks and open space, lumberyard relocation) are consistent with the Planning Commission's recommendations regarding Baylands development.

Development Intensity

The development program recommended by the Planning Commission includes far less development gross floor area (up to 2 million square feet of new development) than UPC's proposal (which proposes approximately 12 million square feet, including housing).

A primary factor which strongly influenced the Planning Commission's recommendation for substantially reduced development intensity was their concern over significant environmental impacts that would result from UPC's proposed development program. For example, the Commission expressed concerns that increased development intensity would increase already unacceptable traffic conditions. Reduced intensity development was also viewed by the Commission as a means to reduce other impacts related to seismic, geotechnical, hazards exposure, and noise.

Land Use Distribution

Both the Planning Commission's recommendations and UPC's proposal define and map key features of the Baylands site and arrange potential development areas around these features. Although they propose different land uses and development intensities, the Planning Commission recommendation and the UPC proposal utilize the same basic arrangement of potential development areas around these key features as discussed earlier in this staff report.

Conclusion

UPC's development proposal for the Baylands is inconsistent with the Planning Commission's recommendations for development of the Baylands, as set forth in detail herein. The DSP and DSP-V scenarios (1) propose substantially more development than the Planning Commission wishes to recommend to the City Council, (2) propose office and industrial development in areas the Commission wishes to see devoted to renewable energy generation, and (3) propose housing within the Baylands which the Commission believes should continue to be prohibited.

For these reasons, a recommendation by the Commission to deny the Applicant's proposed General Plan Amendment and Specific Plan would be appropriate.

Environmental Determination and Documentation

The Draft EIR prepared to analyze the impacts of Baylands development analyzed four concepts for the future development and use of the Baylands: the DSP, DSP-V, CPP, and CPP-V scenarios. Details regarding the proposed buildout of these scenarios is summarized in Tables 1 and 2, below.

**TABLE 1
BAYLANDS CONCEPT PLAN SCENARIOS BUILDABLE AREAS AND OPEN SPACE**

Component	Developer-Sponsored Plan (DSP) and Variant (DSP-V) (acres)	Community Proposed Plan (CPP) and Variant (CPP-V) (acres)
Project Site Area		
Total Buildable Area^a	380.4	223.2
Existing Recology Site	0.0	44.2
Lagoon (including open water and perimeter)	135.6	135.6
Open Space	168.0	330.0
Total Site Area	684.0	733.0^b

^a The "buildable area" includes all planned development and associated area for streets and infrastructure.

^b The total site area under the CPP and CPP-V includes the existing 44.2-acre Recology site plus adjacent roadway rights of way.

**TABLE 2
PROPOSED DEVELOPMENT FOR BRISBANE BAYLANDS PROJECT SITE BUILDABLE AREA**

	DSP (square feet)	DSP-V (square feet)	CPP (square feet)	CPP-V (square feet)
Residential	5,150,400	5,150,400	0	0
Residential Flats	4,351,800 (3,950 units)	4,351,800 (3,950 units)	-	-
Residential Townhomes	798,600 (484 units)	798,600 (484 units)	-	-
Hotels and Conference	261,100	586,800	1,392,300	1,046,100
Hotels and Conference	261,100 (369 rooms)	586,800 (719 rooms)	1,392,300 (1,990 rooms)	1,046,100 (1,500 rooms)
Retail and Mixed Use	566,300	283,400	2,209,500	2,209,500
Retail	566,300	283,400	-	-
Commercial/Office/R&D	-	-	2,209,500	2,209,500
Research and Development Single Use	3,328,300	2,599,200	2,007,000	1,672,200
Research and Development	3,328,300	2,599,200	2,007,000	1,672,200
Office and Institutional	2,762,000	2,363,100	992,700	992,700
Office	2,651,200	2,252,300	-	-
Institutional	110,800	110,800	-	-
Office/ Institutional Mixed	-	-	992,700	992,700
Entertainment/Civic/Cultural	28,200	1,066,500	1,074,500	1,074,500
Arena	-	630,100	-	-
Theater/ Exhibition/Performance Venue	-	337,200	274,500	274,500
Multiplex	-	71,000	-	-
Cultural/Entertainment	-	-	611,300	611,300
Civic/ Cultural	28,200	28,200	188,700	188,700
Industrial	142,500	142,500	469,100	1,220,100
Existing Relocated Industrial	142,500	142,500	142,500	142,500
New Industrial	-	-	66,600	66,600
Existing Resource and Recovery	-	-	260,000	-
Expanded/Rebuilt Resource and Recovery	-	-	-	1,011,000
Total	12,238,800	12,191,900	8,145,100	8,215,100

NOTE: See Table 1 for description of "buildable area."

The Draft EIR analyzed five alternatives to the development proposed by the DSP, DSP-V, CPP and CPP-V scenarios, including a Renewable Energy Generation Alternative that was based on a proposal by the Committee for Renewable Energy for the Baylands (CREBL) to develop utility-scale renewable energy generation at the Baylands. Land uses under the Renewable Energy Generation Alternative included 170 acres of alternative energy uses consisting of a large photovoltaic (PV) solar farm, small vertical-axis wind turbines, wind turbines and rooftop PV solar panels and placed within research and development, as well as and retail development areas. Proposed development within these areas consists of 654,900 square feet of research and development facilities on 59 acres; and 173,800 square feet of retail/entertainment uses on 26 acres. Other proposed uses include a new recycled water facility, and three acres of relocated industrial uses. The remainder of the Baylands is proposed for open space/public uses. The proposed Recology expansion would also occur as part of this alternative. The Draft EIR also analyzed a No Project-No Build, No Project-Existing General Plan, Reduced Intensity Mixed Use, and Reduced Intensity Non-Residential alternative.

The Brisbane Baylands Final EIR, consisting of the Draft EIR, comments and responses to comments on the Draft EIR, and a Mitigation Monitoring and Reporting Program was published on June 1, 2015. The response to comments resulted in minor changes to the EIR text and several recommended mitigation measures. These revisions are identified in Chapter 3 of the June 2015 Final EIR. The changes and revisions to the analysis and mitigation measures in the Draft EIR merely clarified, amplified or made insignificant modifications to an adequate EIR.

Prior to approval of any proposed modifications to the City's General Plan, whether based on the Planning Commission's land use recommendation, UPC's proposed application, the CPP or CPP-V development scenario, any of the alternatives addressed in the EIR, or any combination thereof, or any other project components, the City Council must certify that the Final EIR has been completed in compliance with CEQA and reflects the City of Brisbane's independent judgement. The City Council would also need to adopt a Statement of Overriding Considerations in regard to any significant unavoidable impacts.

Key Environmental Conclusions and Mitigation Measures

The EIR evaluated a broad range of potential environmental impacts, and concluded that significant unavoidable impacts would result from the DSP/DSP-V and CPP/PP-V scenarios in relation to aesthetics, air quality, biological resources, noise, population, traffic, and utilities and service systems as shown in Table 3.

TABLE 3
SIGNIFICANT UNAVOIDABLE (SU) IMPACTS BY PROJECT DEVELOPMENT SCENARIO

Significant Unavoidable Impacts (SU) / Significance Criteria	DSP	DSP-V	CPP	CPP-V
A. Aesthetics and Visual Resources				
Impact 4.A-4: Would the Project create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?	<u>Nighttime Lighting</u>			
	SU	SU	SU	SU
B. Air Quality				
Impact 4.B-2: Would the Project generate construction emissions that would result in a cumulatively considerable net increase of criteria pollutants and precursors for which the air basin is in nonattainment under an applicable federal or state ambient air quality standard?	SU	SU	SU	SU
Impact 4.B-4: Would the Project generate operational emissions that would result in a considerable net increase of criteria pollutants and precursors for which the air basin is in nonattainment under an applicable federal or state ambient air quality standard?	SU	SU	SU	SU
Impact 4.B-9: Would the Project conflict with or obstruct implementation of the applicable air quality plan?	SU	SU	SU	SU
J. Noise and Vibration				
Impact 4.J-4: Would the Project result in a substantial temporary or periodic increase in ambient noise levels in the vicinity of the project above levels existing without the Project?	SU	SU	-	-
K. Population and Housing				
Impact 4.K-1: Would the Project induce substantial population growth in the area either directly or indirectly?	SU	SU	SU	SU
N. Traffic and Circulation				
Impact 4.N-1: Would the Project result in a substantial increase in traffic under Existing plus Project conditions at intersections in the vicinity of the Project Site?	SU	SU	SU	SU
Impact 4.N-2: Would implementation of the Project contribute to significant existing traffic delays at freeway mainline segments?	SU	SU	SU	SU
Impact 4.N-3: Would the Project result in a substantial increase in traffic under Cumulative With Project conditions at the study intersections?	SU	SU	SU	SU
Impact 4.N-4: Would the Project's contribution to future cumulative traffic impacts at freeway mainline segments be significant?	SU	SU	SU	SU
Impact 4.N-5: Would the Project (DSP-V scenario) result in a substantial increase in PM peak hour traffic at study intersections and freeway mainline segments that would operate unacceptably due to weekday evening events at the arena?	-	SU	-	-
Impact 4.N-7: Would the Project cause an increase in transit demand that could not be accommodated by San Francisco Muni or SamTrans transit capacity?	SU	SU	SU	SU
Impact 4.N-8: Would the Project cause an increase in delays or operating costs resulting in substantial adverse effects on transit service levels (i.e., additional buses or trains could be required due to Project transit trips)?	SU	SU	SU	SU
O. Utilities, Service Systems, and Water Supply				
Impact 4.O-3: Would the Project result in the construction of new water, wastewater treatment, and/or stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	SU	SU	SU	SU

Key Environmental and Planning Issues

In addition, the Baylands EIR identified several key environmental and planning issues.

- **Biological Resources.** Icehouse Hill represents the only portion of the Baylands that retains native terrestrial soils and plants, and supports habitat for special status plants and invertebrates, including the mission blue and callippe butterflies and the host plants needed for their life cycles. Other portions of the Baylands Project primarily sit on artificial fill that was placed in San Francisco Bay between 1860 and the 1930's. As a result, terrestrial habitats within the Baylands (other than those on Icehouse Hill and the area adjacent to the Brisbane Lagoon) are those that established in and around the former railyard and landfill

Nearly all existing biological resources within the upland portion of the Baylands with the exception of Icehouse Hill and Visitacion Creek will be subject to site remediation, Title 27 landfill closure, and/or grading, and will thus be removed. Mitigation is therefore required.

Requirements for protection of biological resources within the Brisbane Lagoon would effectively prevent water-based recreational activities within the lagoon. Thus, environmental analysis of potential impacts of water-based recreation within the lagoon was unnecessary.

- **Traffic and Circulation.** The large amount of development approved and proposed within San Francisco and Daly City will increase traffic to the extent that certain intersections along Bayshore Boulevard will fail to meet applicable Brisbane General Plan level of service standards under future cumulative conditions, even if no development occurs within the Baylands or the City of Brisbane.
- **Hazardous Materials.** While adequate information exists to evaluate impacts in relation to hazardous materials, site remediation, and Title 27 landfill closure at a General Plan level, the EIR determined that adequate information did not exist to support approval of a specific plan. Thus, Mitigation Measure 4.G-2a requires that Remedial Action Plans and a Title 27 landfill closure plan be prepared to the satisfaction of the RWQCB and DTSC for this areas of authority prior to approval of a specific plan within the Baylands.
- **Proposed Water Supply Planning and Environmental Review.** Based on the types and intensity of development the City determines is appropriate for the Baylands, operations planning and project-level environmental analysis will be required prior to execution of water supply agreements.
- **Relationship between Land Development and the Provision of Public Services, Facilities, and Community Amenities.** While adequate planning and engineering work was undertaken to ensure adequate public facilities to support buildout of proposed development within the Baylands, mechanisms are needed to ensure that:
 - Each increment of development within the Baylands is provided with adequate public facilities;
 - The level of public services being provided to the Baylands are adequate to support each increment of development;
 - Proposed roadway facilities and transit services identified in the EIR's traffic analysis to be provided by others will, in fact, be provided to support proposed development within the Baylands;

- Development approvals and initiation of physical construction within the Baylands is tied to the execution of agreements for the provision of adequate water supply to the Baylands, and
- The rate of land development within the Baylands is tied to the provision of community amenities.
- **Police and Fire Service Protection Plans.** Prior to approval of the first increment of development, plans for the provision of police and fire protection facilities within the Baylands are needed.

Recommendation Regarding Certification of Environmental Impact Report

The Baylands EIR was reviewed by the Planning Commission during its public hearings, and again during its deliberations. The direction provided by the Planning Commission during its deliberations was that the Commission could recommend certification of the EIR for the level of development it was recommending, but that a number of additional studies would be required before the Commission would consider recommending certification of the EIR for the DSP, DSP-V, CPP, or CPP-V scenarios, or for any increased development intensity above the Commission's recommendation to the Council.

Proposed Planning Commission Resolution

Based on the direction provided by the Planning Commission's during its deliberations, staff has prepared a draft resolution for the Commission's consideration. The draft resolution describes the Commission's review process, and incorporates its interim direction into a final recommendation.

ATTACHMENTS:

1. Draft Resolution GP-2-10/GP-1-06/SP1-06

Draft

RESOLUTION GP-01-06/GP-02-10/SP-01-06

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BRISBANE
RECOMMENDING THAT THE BRISBANE CITY COUNCIL DENY THE GENERAL PLAN
AMENDMENT AND SPECIFIC PLAN REQUESTED BY
UNIVERSAL PARAGON CORPORATION AND APPROVE GENERAL PLAN AMENDMENTS
FOR THE BAYLANDS, BEATTY, AND NORTHEAST BAYSHORE SUBAREAS**

WHEREAS, an application was filed in 2005 by Universal Paragon Corporation (Applicant or UPC) requesting approval of a General Plan Amendment and Specific Plan for development of approximately 449 acres of the 684-acre portion of the City of Brisbane (City) commonly referred to as the Brisbane Baylands (Baylands); and

WHEREAS, UPC's Phase I Specific Plan proposed a mix of commercial, office/institutional, and open space uses on 449 acres of the Baylands site located to the east of the Caltrain tracks; and

WHEREAS, UPC's application also included a Concept Plan (referred to at the time as a framework plan) addressing basic parameters associated with circulation, land use, open space, infrastructure and utilities for potential future development of a larger, approximately 659-acre area, including the Phase I Specific Plan area along with adjacent properties between the Caltrain rail line and Bayshore Boulevard; and

WHEREAS, the City determined that an Environmental Impact Report (EIR) was required to evaluate the proposed Specific Plan pursuant to the requirements of the California Environmental Quality Act (CEQA) (Pub. Resources Code § 21000 *et seq.*) and the CEQA Guidelines (14 Cal. Code Regs, tit. 14 ch. 3, § 15000 *et seq.*); and

WHEREAS, the City issued a Notice of Preparation (NOP) for the Draft EIR on February 24, 2006, which was sent to each responsible and trustee agency and the Office of Planning and Research (OPR); and

WHEREAS, after issuance of the NOP, the City held five public scoping meetings (on March 2 and 21, April 27, and June 13 and 26, 2006) to solicit comments from individuals, organizations and agencies regarding the environmental analysis, mitigation measures and alternatives to be included in the Draft EIR; and

WHEREAS, on July 20, 2009, the Brisbane City Council directed that the EIR be expanded to include analysis of two additional development scenarios, referred to as the Community Prepared Plan (CPP) and Community Prepared Plan-Recology Variant (CPP-V) scenarios to be addressed in the EIR at an equal level of detail to the applicant's proposed Specific Plan; and

WHEREAS, prior to preparation of the Draft EIR, UPC amended its application for proposed General Plan Amendment and to accommodate an expanded Specific Plan covering 684 0acres of the Brisbane Baylands; and

WHEREAS, UPC's revised application included two proposed development scenarios for the expanded Specific Plan area, referred to as the Developer Sponsored Plan (DSP) and the Developer Sponsored Plan–Entertainment Variant (DSP-V); and

WHEREAS, the DSP scenario proposes approximately 7 million square feet of office/retail/industrial/institutional uses, 4,434 residential units, approximately 169.7 acres of "open space/open area" and approximately 135.6 acres of "lagoon" area, totaling approximately 12.1 million square feet of building area within the 684-acre portion of the Baylands located in Brisbane; and

WHEREAS, the DSP-V scenario encompasses the same 684-acre area as the DSP and is similar to the DSP scenario in its development intensity (approximately 12.0 million square feet of building area) and land use pattern, differing primarily by replacing the retail and office/research and development (R&D) uses proposed under the DSP in the northeast portion of the site with entertainment-oriented uses, including a 17,000 to 20,000 seat sports arena, a 5,500 seat concert theater, a multiple-screen cinema, and more conference/exhibition space and hotel rooms than are proposed under the DSP; and **WHEREAS**, in addition to the 684-acre area included as part of the DSP scenario, the CPP and CPP-V scenarios include the 44.2-acre Recology site, which spans the cities of Brisbane and San Francisco, encompassing the Beatty Subarea as designated in the Brisbane General Plan and adjacent roadway rights of way; and

WHEREAS, the CPP scenario provides for approximately 7.7 million square feet of office, industrial, commercial and institutional uses, along with approximately 300 acres of open space/open area and the 135.6-acre lagoon; and

WHEREAS, the CPP-V scenario differs from the CPP scenario in that it proposes consolidating Recology's existing offsite recycling and corporation yard facilities into its existing Tunnel Avenue facility in the northeast portion of the Baylands by expanding the facility within Brisbane, which would increase Recology's total area from 44.2 acres to a 65.5 acres, and increase Recology's building area from 260,000 square feet to 1,011,000 square feet, resulting in a total building area under the CPP-V scenario of approximately 8.1 million square feet; and

WHEREAS, on December 10, 2010, a revised NOP was published and circulated to each responsible and trustee agency and OPR for a 30-day review period to reflect changes in the EIR's project description, including UPC's proposed General Plan amendment and revisions to its Specific Plan and the DSP and DSP-V scenarios, and the City Council's identification of the CPP and CPP-V scenarios; and

WHEREAS, a subsequent NOP was published and circulated to each responsible and trustee agency and OPR on October 22, 2012 for a 30-day public review period to provide notice that a proposed water transfer agreement between the City and the Oakdale Irrigation District to supply water to the Baylands would also be analyzed in the Draft EIR; and

WHEREAS, the Draft EIR was prepared in conformance with CEQA and the CEQA Guidelines to evaluate the environmental effects of the proposed development of the Brisbane Baylands; and

WHEREAS, the Draft EIR analyzed five alternatives to proposed Baylands development as reflected in the DSP, DSP-V, CPP and CPP-V scenarios, including a Renewable Energy Generation Alternative based on a proposal by the Committee for Renewable Energy for the Baylands (CREBL) to develop utility-scale renewable energy generation at the Baylands, as well as No Project-No Build, No Project-Existing General Plan, Reduced Intensity Mixed Use, and Reduced Intensity Non-Residential alternatives; and

WHEREAS, land uses under the Renewable Energy Generation Alternative would include 170 acres of alternative energy uses consisting of a large photovoltaic (PV) solar farm, small vertical-axis wind turbines, wind turbines placed within development, and rooftop PV solar panels; 654,900 square feet of research and development facilities on 59 acres; and 173,800 square feet of retail/entertainment uses on 26 acres; a new recycled water facility (seven acres); and the proposed Recology expansion; and relocated industrial uses (three acres), with the remainder of the site designated open space/public uses; and

WHEREAS, the Draft EIR was circulated for public review from June 11, 2013 to January 24, 2014; and

WHEREAS, a Final EIR was prepared consisting of: (a) the Draft EIR and proposed revisions to the Draft EIR, (b) comments received on the Draft EIR during the public review period, (c) a list of persons, organizations, and public agencies commenting on the Draft EIR; (d) the City's responses to the significant environmental issues raised in these comments, and (e) a Mitigation Monitoring and Reporting Program; and

WHEREAS, the Final EIR was released for public review on June 1, 2015; and

WHEREAS, on September 10 and 24, 2015, the Planning Commission conducted two public workshops regarding proposed Baylands development and the Baylands EIR, at which time interested persons and organizations had the opportunity to testify and provide comments; and

WHEREAS, the Planning Commission conducted ten public hearings on proposed Baylands development and the Brisbane Baylands EIR on October 1, 8, 13, 22, and 29, 2015; November 4, 12, and 16, 2015; and December 1 and 10, 2015, at which time interested persons and organizations had an opportunity to testify and provide comments; and

WHEREAS, after closing the public hearing on December 10, 2015, the Planning Commission began its deliberations on proposed Baylands development and the Brisbane Baylands EIR in 2016; and

WHEREAS, the Planning Commission conducted 11 deliberations meetings on January 14 and 28, 2016; February 2 and 25, 2016; March 19, 2016; April 14 and 28, 2016; May 18, 2016; June 9 and 23, 2016; and July 7, 2016; and

WHEREAS, although the public hearing had been formally closed, the Planning Commission afforded interested persons and organizations an opportunity to provide additional public comment at their deliberations meetings; and

WHEREAS, the Planning Commission reopened the public hearing on July 28, 2016 to consider its recommendations to the City Council regarding proposed Baylands development and the Baylands EIR, including its recommendation regarding UPC's proposed General Plan amendment and Specific Plan; and

WHEREAS, notice of the time and place of all workshops, public hearings, and deliberations meetings where proposed Baylands development and the Baylands EIR were considered by the Planning Commission was given pursuant to State law and the City's Municipal Code by mailing notices to all property owners within a 300-foot radius of the Baylands site, all organizations, entities and individuals who commented on the Draft EIR, adjacent jurisdictions, responsible and trustee agencies, and all interested parties on record in the project file maintained by the Community Development Department, by publication of the hearing notice on the City's website; and by posting of the hearing notice at the three official city posting locations as set forth in Brisbane Municipal Code Section 1.12.010; and

WHEREAS, the Planning Commission has reviewed and considered the General Plan amendments and Specific Plan proposed by UPC, which includes the DSP and DSP-V scenarios; and

WHEREAS, the Planning Commission has reviewed and considered the CPP and CPP-V scenarios presented in the EIR, as well as the five development alternatives analyzed in the EIR, including the Renewable Energy Generation Alternative; and

WHEREAS, the Planning Commission has reviewed and considered all of the information set forth in staff reports and presentations provided at the Commission's public workshops, public hearings, and deliberations meetings, including the testimony and comments provided by the public, as well as presentations by the Applicant and other organizations; and

WHEREAS, the Planning Commission has reviewed and considered the EIR for the Brisbane Baylands as required by CEQA Guidelines § 15025(c); and

WHEREAS, the Planning Commission has reviewed and considered the significant unavoidable impacts set forth in the EIR, including significant unavoidable impacts to aesthetics, air quality, biological resources, noise, population, traffic, and utilities and service systems; and

WHEREAS, based on its review of the EIR's traffic analysis, the Planning Commission has noted that the level of service performance standards set forth in the Brisbane General Plan would be exceeded by cumulative development projects in San Francisco and Daly City, even in the absence of any future development within the Baylands; and

WHEREAS, the Planning Commission has concluded that, given the extent of existing development within the Baylands and the large number of significant unavoidable impacts that would result from the proposed development analyzed in the Final EIR, including cumulative traffic

impacts, it would be appropriate to minimize the amount of new development permitted in the Baylands to reduce or avoid these impacts; and

WHEREAS, the Planning Commission finds that the type and amount of development proposed under the DSP and DSP-V scenarios is inconsistent with the development intensity and land uses that the Commission believes are appropriate for the Baylands and that will reduce or avoid significant and unavoidable impacts.

NOW, THEREFORE, based upon the findings set forth hereinabove, the Planning Commission of the City of Brisbane, at its meeting of July 28, 2016 did resolve as follows:

Section 1

The Planning Commission recommends that the City Council deny the General Plan Amendment and Specific Plan proposed for the Brisbane Baylands by the Applicant, Universal Paragon Corporation.

Section 2

The Planning Commission recommends to the City Council that the Brisbane General Plan be amended as follows in regard to the Baylands:

1. Incorporate the land uses and development concept for the Baylands set forth in Exhibit 1 into the General Plan.
2. Modify the General Plan Land Use map to merge the Beatty and Northeast Bayshore subareas into the Baylands Subarea.
3. Modify the existing Baylands Subarea General Plan text to:
 - a. Incorporate applicable provisions of the Brisbane Baylands Sustainability Framework into the General Plan.
 - b. Provide for a maximum 1-2 million square foot net increase in building area, and require specific plan(s) for the Baylands to distribute the maximum allowable development intensity to individual planning subareas within the Baylands. Existing building area within the Baylands is estimated to be 639,900 square feet, including:
 - i. Recology: 260,000 s.f.
 - ii. Industrial Way: 231,400 s.f.
 - iii. Lumber Yards: 142,500 s.f.
 - iv. Misc. smaller buildings: 6,000 s.f.
 - c. Incorporate the following principles into the General Plan text for the Baylands Subarea:
 - i. Preserve large unbroken blocks of open space that provide for restoration of wetland areas and provide continuity and flow of open space throughout the Baylands.
 - “Open space,” as used in these principles means:
 - Lands for the provision of active and passive recreation;
 - Lands for the protection of resources (e.g., sensitive habitat areas); and

- Lands for the protection of public health.
- Site-specific developments will be provided with independent open space areas.
- ii. Protect key habitat areas, including the Brisbane Lagoon and potential habitat areas adjacent to it, Icehouse Hill, and wetlands.
 - Water-based recreational use of the lagoon or other uses that would disturb aquatic habitats are not to be permitted.
- iii. Restore the Roundhouse, provide opportunities for rail-related and educational uses at the Roundhouse, and maintain compatible development adjacent to it.
- iv. Maintain a transit orientation for new development, including use of the Baylands to enhance access from Central Brisbane to the Bayshore Caltrain Station and other transit services within the Baylands.
- v. Ensure that the Baylands site is safe for the future uses approved for development by the City in relation to:
 - Site remediation and Title 27 landfill closure;
 - Seismic and geologic hazards;
 - Flooding, including hazards related to sea level rise;
 - Traffic safety and emergency response; and
 - Provision of public safety services.
- ii. Natural solutions to protect development within the Baylands from the effects of sea level rise are to be given priority over manufactured solutions.
- d. Specify the relationship between the City's planning review, and the remediation review being undertaken by RWQCB and DTSC for the Baylands as summarized below.
 - i. The City of Brisbane will actively participate in the regulatory and CEQA processes undertaken by DTSC and RWQCB to ensure that the City's interests in protecting public health are addressed.
 - ii. Plans for Title 27 landfill closure and Remedial Action Plans for OU-1 and OU-2 be completed by the applicant to the satisfaction of the RWQCB and DTSC prior to approval of a specific plan.
 - iii. Subsequent project-level environmental documentation under CEQA would be required for adoption of a specific plan by the City.
 - iv. Following completion of CEQA documentation and approval of landfill closure and remedial action plans, physical remediation of the Baylands could be undertaken.
 - v. Remedial actions required for the former Brisbane Landfill must be completed prior to grading or development within the area of the former landfill.
 - vi. Remedial actions within OU-1 must be completed to the satisfaction of DTSC prior to initiation of any grading or development within OU-1.
 - vii. Remedial actions within OU-2 must be completed to the satisfaction of the RWQCB prior to initiation of any grading or development within OU-2.
- e. Specify the relationship between the City's proposed water supply agreement and its development planning and review for the Baylands as summarized below.

- i. Based on the level of development set forth in the General Plan for the Baylands, needed operations studies and project-level environmental analysis for the proposed Water Supply and Conveyance Agreements is to be completed prior to consideration of specific plan approval for Baylands development.
 - ii. Prior to approval of site-specific development within the Baylands, final Water Supply and Conveyance Agreements between Brisbane and OID, between OID and MID, and between Brisbane and the SFPUC for individual portions of the proposed water transfer shall be approved by all parties.
 - iii. Prior to issuance of certificates of occupancy within the Baylands, physical water supply pursuant to final Water Supply and Conveyance Agreements shall be available to the Baylands.
- f. Require provision of appropriate infrastructure and site amenities for each increment of development within the Baylands by incorporating specific performance standards into the General Plan.
- i. Each increment of development must be provided with appropriate infrastructure, services and facilities, and site amenities.
 - ii. Development phasing shall include specific milestones for development in relation to provision of:
 - Environmental site mitigation (e.g., open space dedication, habitat restoration, trails).
 - Roadway improvements, including the Geneva Avenue extension and Candlestick interchange, as well as description of allowable development patterns prior to the Geneva Avenue extension.
 - Transit improvements.
 - Other infrastructure (e.g., water, sewer, water recycling plant, drainage improvements; police and fire services and facilities).
- g. To ensure (per General Plan Policy 27) that centrally located police facilities are provided to serve the Baylands and that adequate response times can be maintained throughout the City, incorporate General Plan provisions to require specific plan(s) for Baylands development to prepare and implement a Police Services and Facilities Plan, subject to City approval, to define specific timing requirements for establishment of additional police shifts based on the progression of development within the Project Site as discussed in the EIR.
- h. To ensure adequate fire protection services and facilities to support Baylands development and, specific plan(s) for development within the Baylands would be required to prepare and implement a Fire Protection Services Plan that provides for the timely provision of fire protection facilities, equipment, and staffing needed to maintain adequate response times to the Baylands and throughout the City.
- i. Recognize the potential use of a portion of the Baylands for a high speed rail maintenance yard, and identify City expectations for such a use, including:
- i. Mitigation of the maintenance yard's environmental impacts.
 - ii. Provision of community benefits.
 - iii. Offset loss of existing and anticipated revenues to the City of Brisbane.

Section 3

The Planning Commission recommends to the City Council that the EIR for the Brisbane Baylands be certified as meeting the requirements of CEQA for the level of development recommended by the Planning Commission subject to the following:

1. Prior to certification of the EIR for the Brisbane Baylands, the following modifications should be undertaken:
 - a. Add a requirement that biological resources surveys be undertaken during the spring prior to site remediation and grading to update existing conditions information.
 - b. Evaluate the significance of impacts that would result from the specific type, intensity, and location of Baylands development that the City Council proposes to approve.
 - c. Revise EIR mitigation measures and the Mitigation Monitoring and Reporting program as necessary to reflect the level of development that the City Council proposes to approve for the Baylands.
2. Should the City Council consider increasing the Commission's recommended development intensity (1-2 million square foot net increase in the Baylands' existing building area), the following additional studies should be completed prior to certification of the EIR:
 - a. Analyses to define additional methods of avoiding pile driving and reducing noise from pile driving activities.
 - b. Additional analyses of onsite contamination and characterization of waste within the former landfill.
 - c. Additional analysis of the potential for site remediation to create water quality impacts.
 - d. Additional analyses of soils and geologic conditions.
 - e. Supplement the traffic study to:
 - i. Expand mitigation measures to improve future cumulative with project roadway levels of service;
 - ii. Provide a method of ensuring that the roadway and transit improvements assumed to be provided by others under future cumulative traffic conditions will, in fact occur or provide additional analyses and mitigation measures addressing requirements should such roadway and transit improvements not be provided; and
 - iii. Confirm conclusions regarding internal capture of trips within the Baylands and mode split between vehicular travel and use of transit.
 - f. Undertake additional studies of impacts of future development on windsurfing resources adjacent to the Baylands, including use of computer modeling to supplement the wind tunnel analyses undertaken for the EIR.

AYES:
NOES:
ABSENT:

TuongVan Do
Chairperson


ATTEST:

JOHN SWIECKI, Community Development Director

Exhibit 1: Development Concept for the Baylands

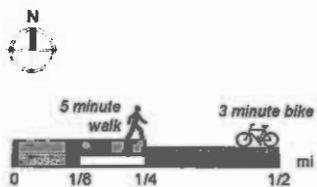
Open Space Framework

Brisbane Baylands Open Space and Pedestrian and Bicycle Circulation

-  Planning Area
-  Caltrain Station
-  Caltrain Line
-  Off-Street Pedestrian, Bicycle and Electric Cart Path (20'+)
-  On-Street Protected Bike Lane (6'+ with planted divider)
-  New Traffic Circle
-  Potential Locations for Caltrain Station Parking

Key Open Spaces

-  (A) Lagoon-Adjacent Habitat Area
-  (B) Icehouse Hill
-  (C) Visitation Creek Corridor
-  (D) Brisbane Bayview Park
-  (E) Active Open Space
-  (F) Community Garden



Land Use Framework



- **Area 1: Recology Area North of Geneva Avenue Extension, East of Caltrain (59.7 ac.)**
 - **Light Industrial**

This area would will permit new light industrial uses in the area between the existing Recology facility and the Geneva Avenue Extension should the facility not expand, and would provide for the Recology facility to expand without requiring an amendment to the General Plan should the City approve expansion in the future.
- **Area 2: Between Geneva Avenue Extension and Visitacion Creek, East of Caltrain (85.5 ac.)**
 - **Renewable Energy Generation**

The primary purpose of this area would be for the generation of renewable energy such that development of the Baylands is net energy positive.
- **Area 3: South of Visitacion Creek, East of Caltrain (63.3 ac)**
 - **Open Space**

Commercial recreation uses may also be considered within this area.
- **Area 4: South of Visitacion Creek, West of Caltrain (27.5 ac.)**
 - **Light Industrial**

Service and light industrial uses within the Industrial Way industrial park would be permitted to continue. However, existing buildings would be replaced with new, well-designed buildings over time.
- **Area 5: Roundhouse Area (27.1 ac.)**
 - **Retail**

The Roundhouse and Lazzarri Fuel Building would be restored. Uses in this area would consists of a combination of retail, restaurant, and small shops. Small office uses could also be permitted.
- **Area 6: Transit Oriented Development Area (67.7 ac.)**
 - **Research and Development/Tech Campus**

This area would provide for research and development uses in the form of an office campus with supporting commercial uses. The desired primary users of this area would be high-tech firms that are on the cutting edge of new technology, as well as consumer good companies engaged in the development of new products and improvement of established products.
- **Area 7: Machinery & Equipment Building Area (15.8 ac.)**
 - **Community Gardens; Open Space**

The existing use of the Machinery and Equipment building would continue. The surround lands would be used as open space, including providing for community gardens, as well as a potential permanent location for the existing nursery on Icehouse Hill. At some future time, the ideal would be to restore the Machinery and Equipment building for community use in conjunction with the community gardens.

- **Area 8: Kinder Morgan Tank Farm (22.8 ac.)**
 - **Industrial**

The tank farm would continue in its existing use. Buffers would be developed adjacent to the tank farm by realigning Tunnel Avenue to the east, along with open space areas to the north (Visitacion Creek), west (Icehouse Hill and community gardens), and south (lagoon-adjacent habitat area).
- **Area 9: West of Tunnel Avenue between Geneva Extension and Visitacion Creek (25.4 ac.)**
 - **Light Industrial**

This area would provide for the relocation of the existing lumberyard, as well as parking for Caltrain, should the existing Bayshore Station be moved to the south.
- **Area 10: Caltrain Parking Area (3.7 ac.)**
 - **Caltrain Parking**

This area would provide for parking for the Caltrain Bayshore Station.