



MEMORANDUM

DATE: 10 December 2015

TO: Planning Commission

FROM: John Swiecki 
Community Development Director

SUBJECT: Planning Commission Deliberation Process for the Brisbane Baylands

The purpose of this memo is to describe a proposed conceptual process for the Planning Commission's deliberations as it considers its recommendations to the City Council in relation to (a) the appropriate mix and intensity of land uses (Concept Plan) and General Plan development policies for the Baylands, (b) the applicant's proposed Specific Plan, and (c) certification of the Brisbane Baylands EIR.

Initiating Planning Commission Deliberations

Following the applicant's presentation and additional public testimony on December 10, 2015, the Planning Commission is expected to initiate its deliberation process in January 2016. The first deliberation meeting would focus on setting a foundation and structure for the Commission's deliberations by:

- Providing the Planning Commission with information it requested during public hearings;
- Addressing issues raised during public hearings; and
- Addressing any additional questions the Planning Commission may have.

Suggested Planning Commission's Deliberation Process

As discussed in the September 2, 2014 *Conceptual Brisbane Baylands EIR and Planning Review Process* memo to the City Council, ultimately, one of several potential planning recommendations could result from the Planning Commission's deliberations:

- **Recommend Approval of Applicant Proposal (Requested General Plan Amendments and Specific Plan)** This recommendation would encompass the

applicant's proposal "as-is" or with major or minor revisions. Such a recommendation would require recommending certification of the EIR.

- **Recommend Denial of UPC's proposed Specific Plan and General Plan Amendment (GPA) and recommend no further action.** This recommendation would propose no changes to the existing land use designations for the Baylands, nor any updated General Plan policies. No other scenario or alternative would be recommended for approval, nor would the General Plan be updated to provide revised or more detailed land use guidance for the Baylands. Determination of the appropriate mix and intensity of Baylands development would be deferred to submittal of another proposed specific plan. Such a recommendation would not require recommending certification of the EIR.
- **Recommend Approval of Updated General Plan Land Use Program/Policies.** This would involve recommendations to update the City's General Plan policies, including a land use map incorporating revised or more detailed City policy for future development of the Baylands (Concept Plan) than is currently contained in the General Plan, but would not include a recommendation of approval of a Specific Plan. The updated policies incorporated into the General Plan should identify the appropriate mix and intensity of Baylands development and provide clear direction for future submittal of a specific plan. This recommendation could be based on any of the plans/variants/alternatives analyzed in the DEIR, or a combination of elements of multiple alternatives/variants incorporated into a single concept. For the City Council to adopt an updated General Plan land use map and/or policies the EIR would ultimately need to be certified.

In order to facilitate the Commission's process in developing a recommendation, there are several issues to consider. In a typical linear planning process, the Planning Commission's primary role is to take an action or make a recommendation on a private development application. Under this linear process, the Planning Commission's deliberation process is framed around whether or not a project is considered approvable in some fashion. If the project (as is or as revised) is found to be approvable, the Planning Commission can move forward to recommend an approval. If not, the Commission can move forward swiftly to recommend denial. In most cases, there is rarely swift consensus for project denial, and the Planning Commission's deliberations are spent evaluating a project with an eye on modifying it and imposing conditions of approval as needed to achieve a project that can be approved.

In this context, Planning Commission deliberations begin with a detailed review of the EIR and its adequacy. Once that review is completed, the Commission typically evaluates the proposal from a planning context, ultimately developing a final recommendation for the project which incorporates the necessary CEQA findings and conclusions.

In the case of the Baylands, it is important to understand that the matter before the Planning Commission does not reflect the "typical" scenario outlined above. The project before the Planning Commission consists of a Concept Plan, General Plan policies, and a Specific Plan, which all involve legislative actions on policy/planning documents to guide the long term development of the Brisbane Baylands.

If, as a precursor to its consideration of the applicant's Specific Plan proposal, the Commission begins its deliberations by focusing on the *adequacy* of the Final EIR in the context of how it applies to the applicant's proposed Specific Plan, its decisionmaking process could get bogged down on details without the Commission's first deliberating on the larger policy issues that will drive a decision on the proposed Specific Plan and/or General Plan- level land use policies. Should deliberations on these larger policy issues be missed, the Planning Commission's discussion could also miss considering the environmental *impacts* associated with the various concept plan scenarios and alternatives evaluated in the EIR.

Given the nature and complexity of what is before the Planning Commission, it is recommended that the Planning Commission's deliberation initially be framed around policy issues and the environmental *impacts* of the various policy choices before Commission. Ultimately the Commission's ability to grapple with a series of fundamental policy issues and resulting environmental impacts will frame their recommendation to the City Council.

Therefore staff recommends the Commission's deliberations should specifically focus first on (1) basic principles for development within the Baylands, (2) what the Commission believes to be the appropriate mix and intensity of land use for the Baylands, and (3) other relevant policy issues.

Once these basic policy parameters are established, the Commission should undertake a detailed review of the *adequacy* of the Baylands Final EIR and its analyses, mitigation measures, and conclusions as the EIR applies to these relevant policy issues.

Thus, a deliberation process for the Planning Commission to frame its land use and Final EIR recommendations could involve addressing the following issues.

- 1. Define basic principles for development of the Baylands**
 - a. Site values/features
 - b. Project objectives/goals
 - c. Sustainability
- 2. Determine the appropriate mix and intensity of development within the Baylands**
 - a. Land use types (e.g., residential; retail and office; research and development, warehousing, and industrial uses; renewable energy generation; potential for Recology expansion)
 - b. Appropriate distribution of land uses
 - c. Appropriate intensity of land use
- 3. Other policy considerations**
 - a. General Plan Level of Service (LOS) standard
 - b. Description of permitted land uses within the Beatty subarea
 - c. Development phasing and policies to tie the rate of development to public service performance standards and other development requirements
 - d. Other issues

When the Planning Commission provides direction on these key policy issues, staff can assist the Commission in formulating a draft Commission land use recommendation to

the City Council. The draft land use recommendation would include recommendations regarding UPC's Specific Plan application.

Discussion revolving around these issues (and others raised in the planning documents currently being prepared, public hearing comments, and by Planning Commission members themselves) will assist the Commission to come to a conclusion as to which of the potential recommendations identified above it wishes to make.

With that potential recommendation in mind, attention should turn to the Final EIR. Should the Planning Commission wish to make a Concept Plan/General Plan/Specific Plan recommendation that requires certification of the Final EIR, the Commission would need to specifically discuss the adequacy of the Baylands EIR and make a recommendation regarding EIR certification.

Should the Planning Commission wish to make a Concept Plan/General Plan/Specific Plan recommendation that does not *require* certification of the Final EIR, the Commission would have the *option* of addressing or not addressing the adequacy of the Baylands EIR during its deliberations. In so doing, the Commission should first discuss whether a recommendation regarding EIR certification should be considered as part of its land use and policy recommendation to the City Council.

Once the elements of the Planning Commission's land use recommendation have been determined, the conceptual deliberation process for the Planning Commission to frame its recommendations to the City Council would continue by addressing CEQA issues, as follows.

4. Final Environmental Impact Report

- a. If the Planning Commission's intended land use and policy recommendation to the City Council does not require certification of the Final EIR, there is no legal requirement for the Commission to evaluate the adequacy of the EIR. The Planning Commission has the option of commenting on EIR adequacy if it so chooses.
- b. If the Planning Commission's intended land use and policy recommendation to the City Council requires EIR certification, the Planning Commission would review the adequacy of the Final EIR for purposes of the implementing its recommendation