MEMORANDUM

DATE: January 12, 2017

TO: Planning Commission

FROM: Ken Johnson, Senior Planner

SUBJECT: Study Session on M-1 Manufacturing District Zoning Amendments for Northwest and Southeast Bayshore

BACKGROUND

In November 2015, City Council adopted a resolution of intent to initiate a zoning amendment to bring the terminology used in the zoning ordinance for the existing M-1 Manufacturing zoning district into conformity with the terminology used in the Brisbane General Plan. This study session provides an opportunity for the Planning Commission to provide input regarding the forthcoming zoning amendments.

DISCUSSION

There are currently three Brisbane General Plan subareas that are zoned M-1 Manufacturing. These include the following:

- Northeast Bayshore
- Northwest Bayshore
- Southeast Bayshore.

Each of these areas has its own unique set of considerations and timeline.

Northeast Bayshore

The Northeast Bayshore subarea and the corresponding M-1 zoning district is comprised of the warehouse properties along Industrial Way. These properties are also included within the Brisbane Baylands planning area, which is currently the subject of public hearings at City Council. The disposition of this area will be determined as part of the Baylands and will not be addressed as part of the M-1 rezoning effort under discussion tonight.

Southeast Bayshore

The Southeast Bayshore General Plan subarea is designated TC Trade Commercial under the General Plan and zoned M-1 Manufacturing. In 2015, as recommended by staff and the

Planning Commission, the City Council approved a zoning text amendment for the Southeast Bayshore district. That amendment included changes to the permitted and conditional uses consistent with the potential land uses identified in Brisbane's General Plan. City Council further directed that the zoning district be renamed to match the nomenclature in the General Plan. It is anticipated that a zoning amendment application for that area will be brought before the Planning Commission later this winter or early spring, depending on the Planning Commission's calendar. Since the zoning text amendment approved in 2015 specifically addressed permitted uses within this district, it is not anticipated that there will be other significant amendments proposed for this district.

Northwest Bayshore

The third M-1 district, M-1 Northwest Bayshore, is the primary topic of this study session. The M-1 zoning district currently allows for a diverse mix of uses, both permitted by right and as conditional uses. However, a narrower suite of uses appears to be appropriate to the area given the existing development and limited potential for new development or redevelopment of the sites included therein. Additionally, the Northwest Bayshore subarea, as defined in the 1994 General Plan, includes both the area zoned M-1 and properties to the south that are zoned PD-SC/R/O Planned Development-Subregional Commercial/Retail/Office and AA Aquatic Area (see the attached General Plan and Zoning maps). The discussion of the M-1 zoning opens the door to a broader discussion of the land use designations for this General Plan subarea.

General Plan, Specific Plan and Zoning Background: The following is provided by way of background on general plans, specific plans and zoning, since these are all applicable to the Commission's discussion.

A general plan is a city's overarching planning document for future development and provides the basis for the zoning of land uses. The general plan's land use element divides a city into various subareas, with each subarea having a distinct set of geographical characteristics that distinguishes it from the next subarea. A given subarea may then have one or more land use designations and development intensity associated with it. The general plan provides the basis for a city's zoning ordinance.

A specific plan is a step below the general plan in the land use regulatory hierarchy and it may be used as a tool to implement the general plan in particular geographical areas of a city. Specific plans are used to implement the general plan in three key ways:

1. Act as statements of planning policy that refine the general plan policies
2. Directly regulate land use
3. Bring together policies and regulations into a focused development scheme

While cities are required by state law to have a general plan, they are not required to have specific plans. Where a city does use the specific plan as a planning tool, state law imposes a number of requirements on their contents. Procedurally, the Planning Commission would review

a specific plan as an advisory body to the City Council. Adoption of a specific plan would then be a legislative act by City Council.

If a specific plan is sufficiently comprehensive and detailed, it may be adopted by ordinance as zoning for the plan areas. Property owners may then be required to apply for design permits and/or use permits to implement the specific plan on a site-by-site basis.

A city's zoning ordinance is used to implement the land uses and provide development regulations for site specific development. A zoning ordinance may be part of a specific plan or standalone. The subject area has a portion zoned planned development (PD). In that case no specific development standards apply, but those are determined through the planned development permit application process, so that future alterations to an approved development may then amount to a rezoning. A benefit of a planned development permit is that it may allow for a combination of uses that may not otherwise be permitted within the same zone. The planned development substitutes for both use permits and design permits. While a PD designation can be useful to allow that combination of different uses, it may also be problematic in areas where there is existing development that predates the zoning, since there are no regulations governing potential alterations to historic properties.

Area Specific Considerations: This study session, in addition to providing an opportunity to review consistency between the General Plan and the zoning, is also an opportunity for the Commission to comment on the regulatory entitlement process laid out in the zoning ordinance for entitlement of potential future development, such as that required by the PD designation. That process is further complicated by inconsistent terminology between the General Plan and the zoning for the subarea and additional requirement for a specific plan, as further described below.

The 1994 General Plan designation for the Northwest Bayshore subarea is PD-SC/R/O Planned Development Subregional Commercial/Retail/ Office for the entire subarea, with the exception of the Aquatic Area (or marsh). The zoning is currently split across the subarea between PD-SC/R/O to the north and M-1 to the south. The marsh area, zoned AA is not part of this discussion, since it is already consistent between the General Plan and zoning.

The specific land uses that are designated in the General Plan for this Northwest Bayshore subarea include:

- Retail Commercial
- Restaurants
- Commercial Recreation
- Research & Development
- Storage & Distribution
- Marsh & Open Space and
- Potentially Residential as part of a mixed use development

There are a few general observations regarding the uses and zoning for the overall subarea.

First, the existing uses and the uses allowed by the M-1 zoning generally fit under these broad General Plan land use categories and no new uses are being proposed. The PG&E power transmission facilities are allowed by preemption of local jurisdiction regulations as essential utilities. Although warehouse and office buildings that are not determined to be essential may not have preemptive rights over local regulations.

Also, regarding the Planned Development designation, the 1994 General Plan states that, "Planned Development (PD) designates subareas that are primarily vacant and present unique development constraints." So there is a General Plan imposed planned development permit requirement on the lands throughout the subarea. However, the M-1 zoning does not recognize this General Plan PD designation.

In addition to a PD permit, both the General Plan and the Planned Development Chapter of the Brisbane Municipal Code (BMC) call for a specific plan to be prepared for new development. It is unusual for a City to call for a specific plan through its zoning ordinance. This places the task of preparing a specific plan on property owners/applicants, on a site-by-site basis, whereas this level of policy/zoning direction is one usually reserved for the City to provide up front for large areas of land, to provide that specific policy and zoning direction to potential applicants.

Note that, while either a specific plan or a planned development permit may be appropriate planning tools for the City to use in certain circumstances, imposing the requirement of a specific plan on a site by site basis and imposing a planned development permit requirement on historical sites may not serve the functions intended. Considerations for the northern and southern areas are further discussed as follows.

Northern Portion of Subarea: Existing development within the Northwest Bayshore M-1 zoning district, the northern portion of the General Plan subarea, includes the PG&E substation across almost the entirety of the district. There is also a small commercial property at the far northeast corner of the subarea/district that includes the historic, 7-Mile House and V&A Auto Service facility. Those two businesses share a parcel of less than 5,000 square feet in area, which is bordered by the PG&E facility, Geneva Avenue and Bayshore Boulevard. There are no vacant parcels in the zoning district.

The PG&E substation has ongoing operational requirements and as indicated above, local development regulations may be preempted by state law for certain projects. However, local regulations may apply to non-essential aspects of the utility's operation. In short, this review raises the question as to the most appropriate tools to regulated non-essential buildings (warehouse and office buildings), given the nature of the existing development. Note that most of PG&E's substation facilities are located behind a block wall, so the buildings are largely screened from street level views.

Regardless of the utility's ability to preempt local regulations, which would be evaluated on a project case-by-case basis, the City's General Plan land use designations and zoning need to be consistent. For both the PG&E property and the 7 Mile House, neither a planned development

permit or specific plan are well suited planning tools to regulate potential future modification to the development of those properties, given their unique existing buildout, and in the case of the 7 Mile House its small scale.

Also, given the small size and isolated nature of the 7 Mile House, surrounded by PG&E to the south and west, Geneva Avenue and Daly City to the north and Bayshore Boulvard and the Baylands to the east, one cannot reasonably consider the site without including it within the larger area of the PG&E site. To do otherwise may be considered spot zoning, which state law prohibits.

An alternative is that both the PG&E and 7 Mile House properties may be regulated through standard zoning development regulations, including a design permit requirement for buildings that would be visibly prominent from street level views.

Southern Portion of Subarea: The area to the south of the M-1 zoning district, within the Northwest Bayshore subarea, is zoned PD-SC/R/O. This area is comprised of vacant lands of a marsh and privately owned vacant parcels referred to as "Levinson" and "Peking Handicraft". The developed Technology Park is located at the far southern end of the General Plan's Northwest Bayshore subarea and the PD-SC/R/O zoning district, at the northern corner of Guadalupe Canyon Parkway and Bayshore Boulevard.

At the time that the General Plan was adopted the entire area south of the PG&E substation was comprised of vacant lands. The Technology Park was completed under a PD permit circa 2000, in accordance with the General Plan and zoning requirements, which also included a specific plan. The specific plan requirement is discussed further below. The roughly 31 acre area of "Levinson" and "Peking Handicraft" located between the Technology Park and PG&E remain vacant.

While these large, vacant lots may be more suited to the planned development and specific plan requirements than those to the north, the Planning Commission may consider whether this combination of a design permit and specific plan is the appropriate tool-kit to allow for their potential development.

Potential General Plan/Zoning Amendment Scenarios:

There are three key questions that the review of this General Plan subarea and its zoning districts raise. They are as follows:

1. Should the General Plan land uses be amended to more specifically spell out the designated uses, to differentiate the northern and southern areas of the subarea?

2. Should the General Plan's Northwest Bayshore land use and subarea policies and the PD zoning chapter (BMC Chapter 17.28) be amended to separate the Specific Plan requirement from a PD application? (Note that generally a PD permit process along with the requisite environmental review under CEQA could be considered adequate for

development entitlement and a Specific Plan is not necessary and is redundant. Also note that, imbedded within the current PD findings are requirements that the land uses and improvements be consistent with the General Plan, that they not be detrimental to public health, safety or general welfare and that all of the applicable design permit findings could also be made. As indicated in BMC Chapter 17.28, the PD permit precludes the need for a use permit or a design permit.)

3. Following on the above questions, what would the Planning Commission like to suggest with regard to the naming and uses of the zoning districts within the subarea?

To provide examples of how these decision points could play out, three potential scenarios are provided for the Commission's consideration, as outlined below. The specific proposed text and proposed maps would follow, for any direction that the Planning Commission would like to pursue. Note that none of these scenarios would be to expand on the General Plan's designated land uses, but scenarios "a" and "b" could be more restrictive in the northern area, while providing for more planning process clarity. Scenario "c" would address the different nomenclature used between the general plan and zoning ordinance, but would not serve to provide clarity to property owners in planning for future development and would retain the specific plan requirements for the pre-existing PG&E and 7 Mile House sites. The Planning Commission may also suggest other scenarios that are not included here.

a. Amend the **General Plan and Zoning** for both the **Northern and Southern** Portions of the Subarea:

   i. Amend the General Plan to retain the PD-SC/R/O designation in the southern area, but remove the requirement for a specific plan.

   ii. Amend the General Plan to designate the northern area as C/P-U Commercial Public Utilities land uses only.

   iii. Amend the PD zoning district regulations to remove the requirement for a specific plan.

   iv. Add a new C/P-U zoning district regulations chapter (see the summary table of preliminary draft development regulations and preliminarily proposed map edits).

b. Amend both the **General Plan and the Zoning** for the **Northern** Portion of the Subarea only:

   i. Retain the existing General Plan land use designation and the existing zoning of PD-SC/R/O across the southern portion of the subarea, from "Levinson" to the south, as is.

ii. Amend the General Plan to designate the northern area as C/P-U Commercial Public Utilities land uses only.

iii. Add a new C/P-U zoning district regulations chapter (see the summary table of preliminary draft development regulations and preliminarily proposed map edits).

c. Amend the **Zoning** for the **Southern** Portion of the Subarea Only:

i. Retain the existing PD-SC/R/O General Plan land use designation across the entire subarea, as is.

ii. Amend the zoning for the M-1 district (PG&E and 7 Mile House) to be consistent with the General plan, as PD-SC/R/O, to be the same as the northern portion of the subarea.

NEXT STEPS

Staff intends to bring a zoning text and map amendment application for the Planning Commission's consideration on Southeast Bayshore later this winter or early spring. For the Northeast Bayshore M-1 district, that is part of the ongoing Baylands EIR hearings as a separate process, as indicated above, and is only mentioned since it is zoned M-1, but not part of tonight's discussion.

For the Northwest Bayshore subarea, staff encourages the Planning Commission's discussion and feedback prior to staff preparing a draft general plan amendment and/or zoning amendment for your consideration. We anticipate that would then follow later in 2017, at which time the Planning Commission would provide a formal recommendation to Council by way of resolution.

ATTACHMENTS

A. City Council Agenda Report and Resolution No 2015-47 regarding the M-1 Zoning
B. General Plan Land Use Maps (existing and preliminarily proposed)
C. Zoning Maps (existing and preliminarily proposed)
D. M-1 Zoning Text
E. PD Planned Development Zoning Text
F. Table – Summary of Preliminarily Proposed Development Regulations for the C/P-U Zoning District

Attachment A

City of Brisbane
Agenda Report

TO: Honorable Mayor and City Council

FROM: Community Development Director via City Manager

SUBJECT: **RESOLUTION NO. 2015-47** Resolution of Intent to amend zoning ordinance provisions pertaining to the M-1 Zone

DATE: Meeting of November 19, 2015

City Council Goals:

To provide for effective and efficient delivery of City services. (Goal #1)

Purpose:

For the City Council to initiate a zoning code text amendment to bring the terminology used in the Zoning Ordinance for the existing M-1 Zone into conformity with the terminology used in the General Plan and to consider appropriate zoning categories for the multiple geographic areas now zoned M-1.

Recommendation:

That the City Council adopt attached Resolution 2015-47.

Background/Discussion:

In conjunction with introducing Ordinance 599 on November 5, 2015 to revise the list of permitted and conditionally permitted uses in the M-1 Zone, the City Council further directed staff to come back with a Resolution of Intention to initiate a zoning code text amendment.

The two specific issues to be addressed in the text amendment include the following:

1. **General Plan Consistency**. It was pointed out that the terminology the Zoning Ordinance uses for the M-1 zone predates and is different from the terminology used in the 1994 General Plan In particular, the Zoning Ordinance calls the zoning district "Manufacturing", while the General Plan labels the same geographic area "TC-Trade Commercial land use." Although the particular land uses set forth in the Zoning Ordinance for this zone are fully consistent with land uses designated for the same

geographic area in the General Plan, the difference in terminology has created some confusion. It would be appropriate to amend the title and text of the current M-1 zone as needed to ensure that the Zoning Ordinance uses the same terminology for that zone that is used in the General Plan.

2. **Geographic Applicability.** It was brought up that the existing M-1 zone applies to multiple geographic areas (Northwest Bayshore, Northeast Bayshore, and Southeast Bayshore) and concerns were raised about whether a single zoning category is appropriate for all three of these distinct geographic areas. This issue will be evaluated in the forthcoming zoning text amendment if initiated by the City Council.

Attachment:

Resolution 2015-47

John A Swiecki, Community Development Director

Clay Holstine, City Manager

RESOLUTION NO. 2015-47

A RESOLUTION OF INTENTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE TO INITIATE AN AMENDMENT TO THE ZONING ORDINANCE OF THE CITY OF BRISBANE TO AMEND THE M-1 ZONE AS APPROPRIATE TO ENSURE CONSISTENCY IN TERMINOLOGY BETWEEN THE ZONING ORDINANCE AND THE ADOPTED 1994 GENERAL PLAN AND TO CREATE DISTINCT GEOGRAPHIC DISTRICTS AS NEEDED

WHEREAS, Section 17.50.010 of the Brisbane Municipal Code provides in part that the process to initiate an amendment to the Zoning Ordinance whereby a new regulation would be imposed on property is by the filing of a resolution of intention by the City Council; and

WHEREAS, on November 5, 2015 the City Council by a vote of 4 ayes and 1 no introduced Ordinance No. 599 amending the M-1 Manufacturing District zoning text, Brisbane Municipal Code (BMC) Chapter 17.20 to expand the permitted uses and the uses which may be allowed subject to conditional use permit; and

WHEREAS, the City Council in its deliberations on Ordinance 599 expressed its concern that the terminology used in the current title and text of the M-1 Zone is different than the terminology used in the adopted 1994 General Plan, which unlike the Zoning Ordinance, does not recognize the term "Industrial" as a distinct General Plan land use designation; and

WHEREAS, the City Council in its deliberations on Ordinance 599 expressed its concern that the existing M-1 zone covers multiple distinct geographic districts, and the appropriateness of the zoning category for these multiple geographic districts should be re-evaluated and modified as needed.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRISBANE AS FOLLOWS:

1. The City Council files this Resolution of Intention to initiate the process by which the City's Zoning Ordinance may be amended by bring the terminology used in the existing M-1 zone title and text into conformance with the terminology used in the General Plan, and to establish zoning designations as appropriate for areas now zoned M-1 to ensure the adopted zoning designations are suitable and appropriate for the affected geographic areas.
2. This Resolution of Intention is referred to City staff to prepare and present to the Planning Commission for its consideration and recommendation to the City Council a report and proposed amendments to the Zoning Ordinance as described herein.
3. This resolution of intention is effective immediately upon its adoption.

_____
Terry O'Connell, Mayor

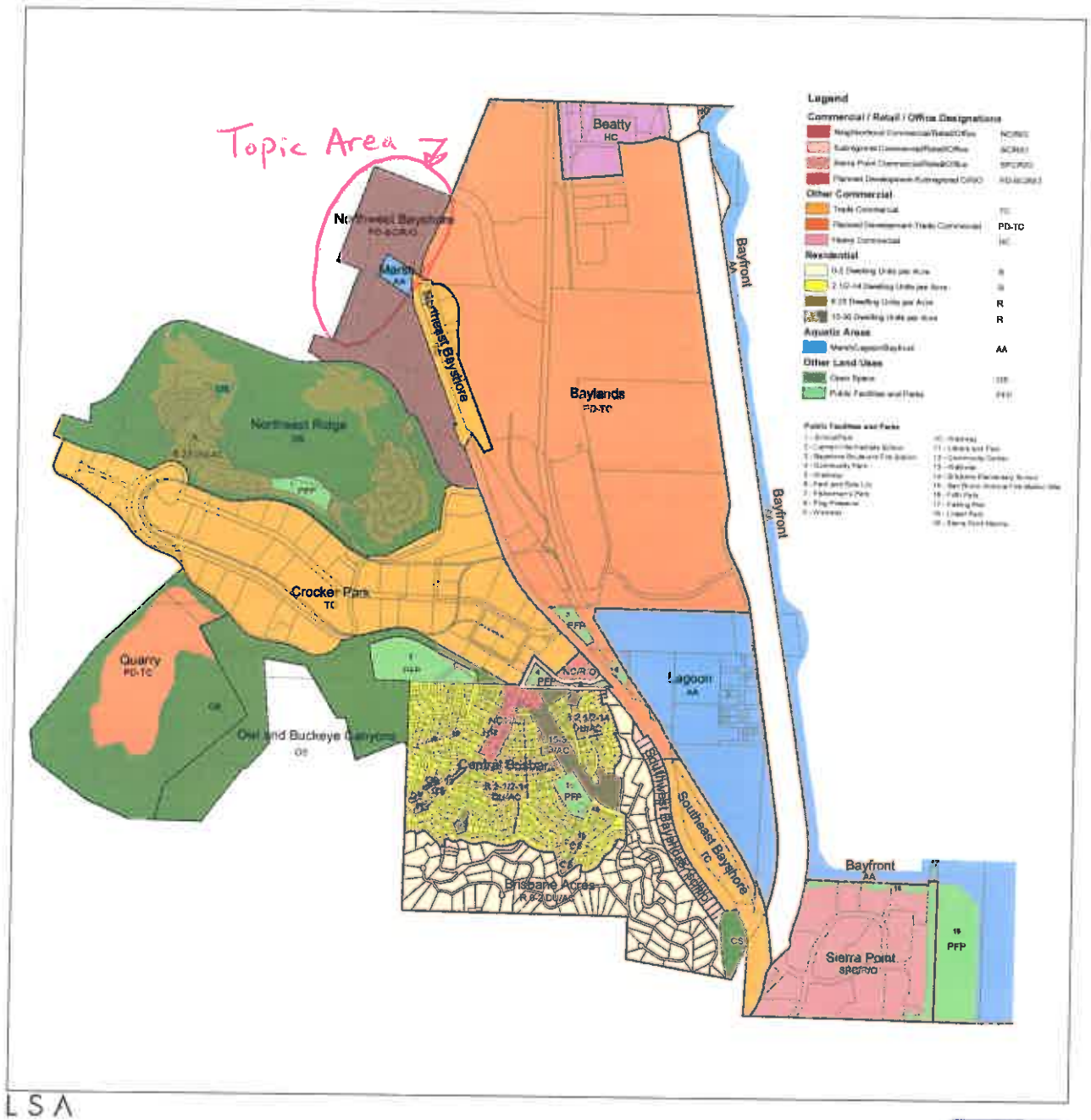
I hereby certify that the foregoing Resolution No. 2015-47 was duly and regularly adopted at the regular meeting of the Brisbane City Council on November 19, 2015 by the following vote:

AYES:
NOES:
ABSENT:

_____
Sheri Marie Spediacci, City Clerk

1994 General Plan
Land Use Diagram

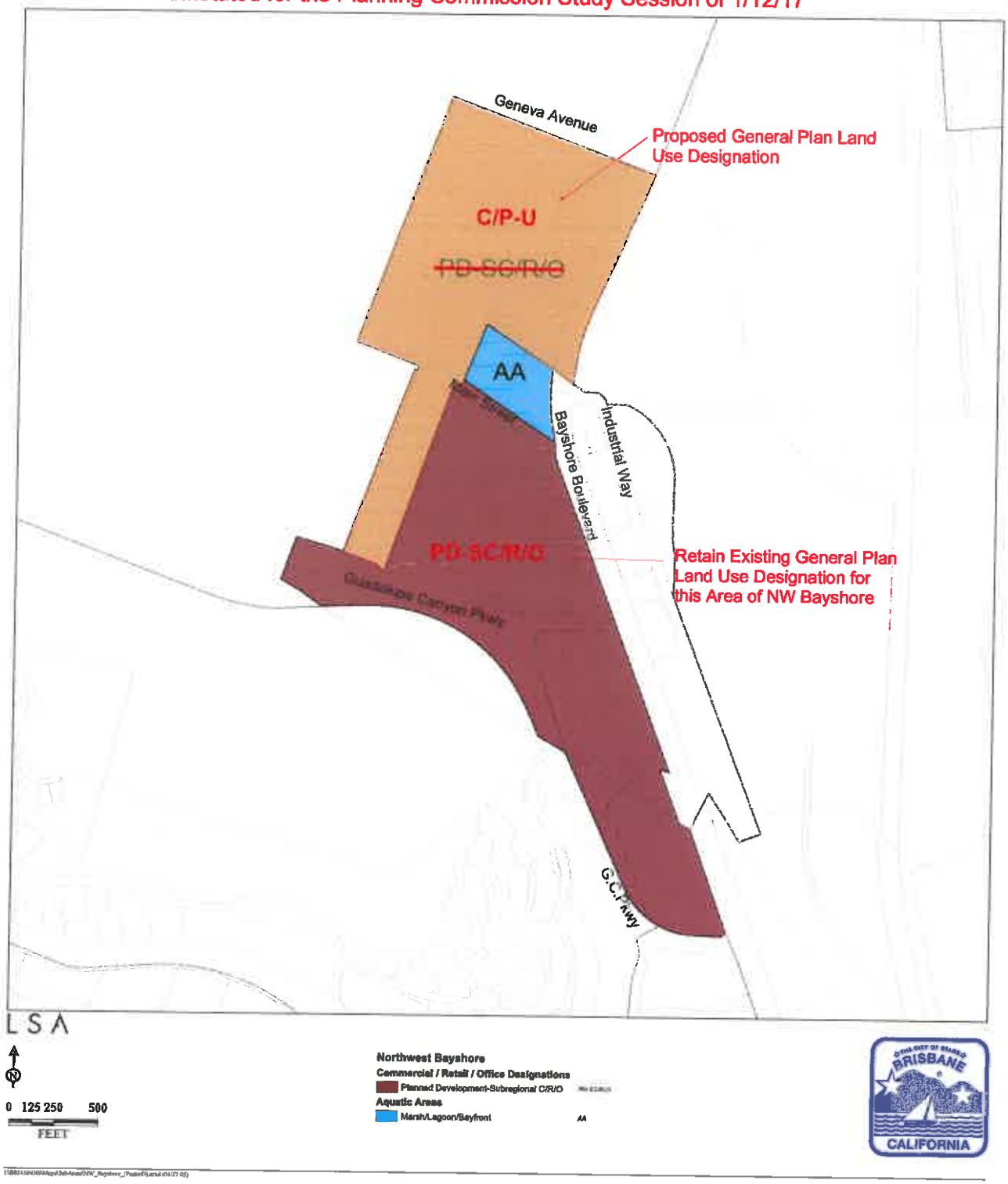
City of Brisbane



1994 General Plan Land Use Diagram

Northwest Bayshore

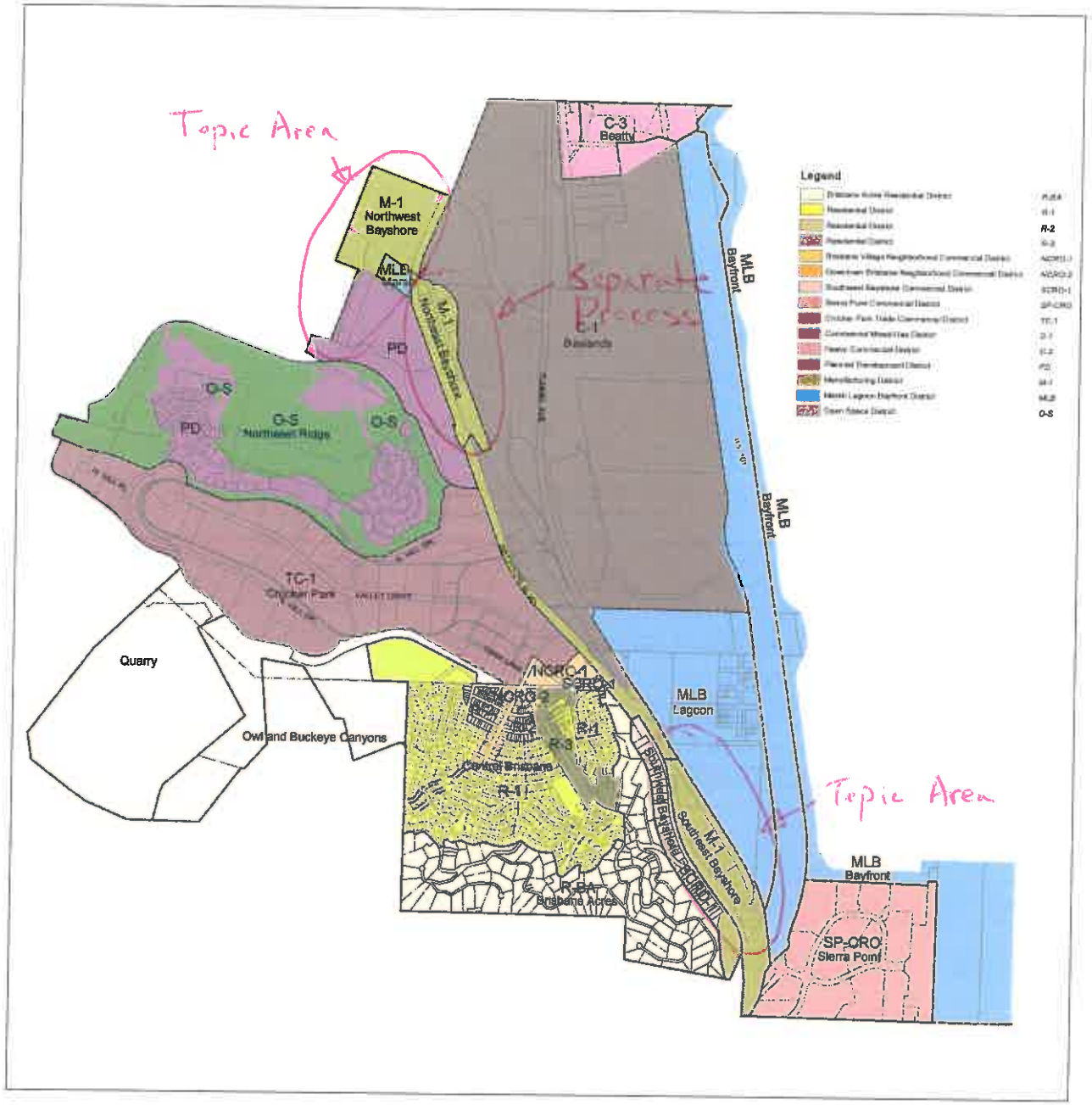
Annotated for the Planning Commission Study Session of 1/12/17



Current

Zoning Map

City of Brisbane



LSA

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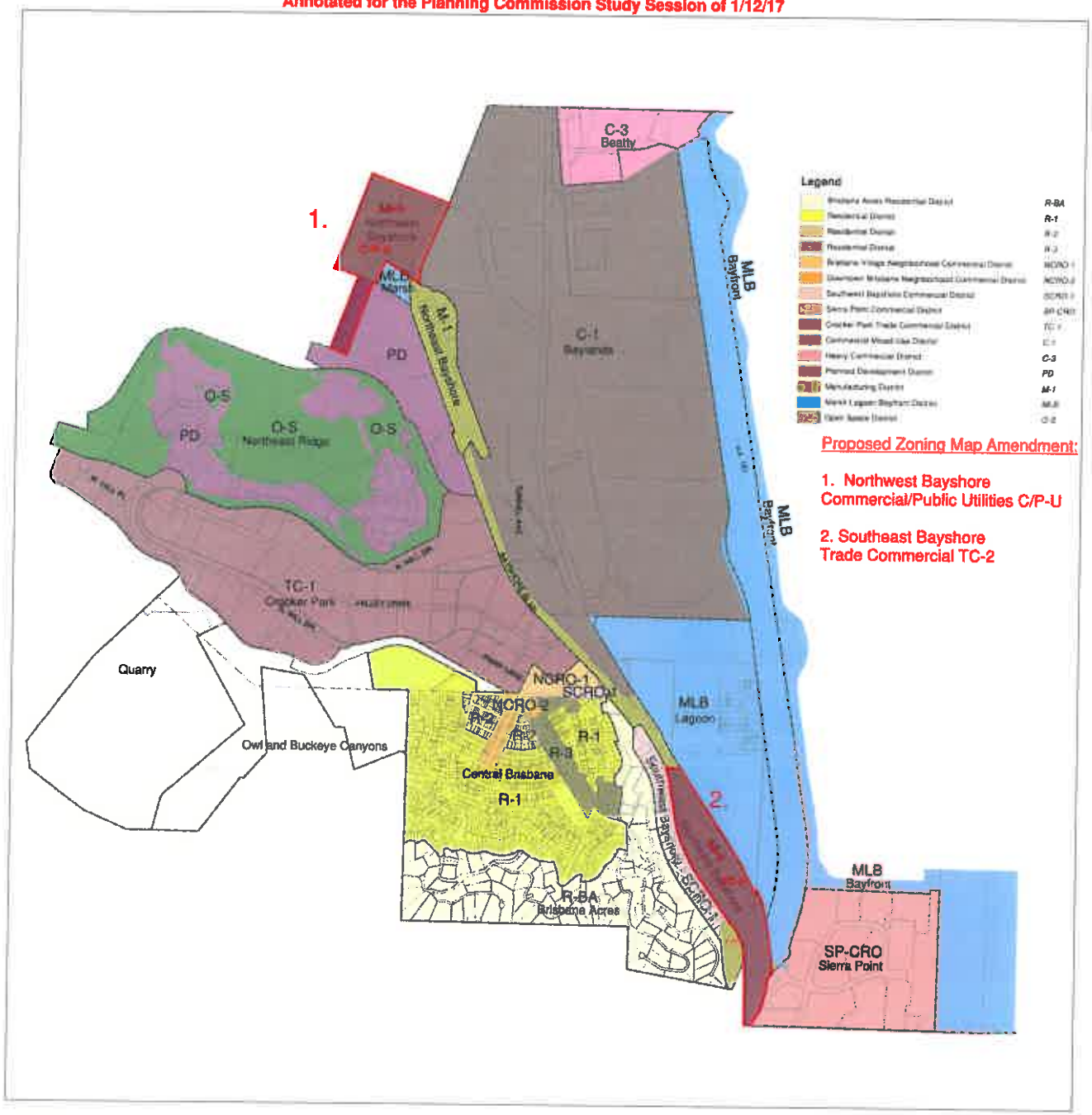
MILES

Attachment C
2 of 2

Zoning Map

City of Brisbane

Annotated for the Planning Commission Study Session of 1/12/17



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Revised: May 16, 1985
Revised: May 29, 1992
Revised: April 1998
Revised: February 2000
Revised: February 2002
Revised: July 2003

THE CITY OF BRISBANE CALIFORNIA

Chapter 17.20 - M-1 MANUFACTURING DISTRICT

Sections:

17.20.010 - Permitted uses.

The following uses are permitted in the M-1 district, all within a building, except for limited outside storage of vehicles and equipment related to the interior use, and all submitting evidence of safe, clean, quiet operation:

A. Commercial gyms and health facilities;
B. Data centers;
C. Food production and distribution, provided that odors from such use shall not be generally or distinctly detectable from any off-site location;
D. Freight forwarding;
E. Light manufacturing, assembling, processing;
F. Offices;
G. Printing;
H. Research and development;
I. Retail sales and rental; and
J. Warehousing.

(Ord. 353 § 4, 1989: Ord. 298 § 4.8(A), 1984).

(Ord. No. 599, § 2, 11-19-15)

17.20.020 - Conditional uses.

Conditional uses allowed in the M-1 district, subject to obtaining a use permit, are as follows:

A. As specified in Chapter 17.32;
B. Commercial recreation;
C. Gasoline service stations;
D. Heavy equipment repair and automotive repair shop (both automobile light repair and automobile heavy repair, including for vehicle fleets), including EPA-compliant fueling facilities accessory to such operations;
E. Outside storage of trucks and equipment, when properly screened; and

F. Restaurant and bars connected with restaurant use.

(Ord. 353 § 5, 1989: Ord. 298 § 4.8(B), 1984).

(Ord. No. 599, § 2, 11-19-15)

17.20.030 - Development regulations.

Development regulations in the M-1 district are as follows:

A. Minimum building site required, ten thousand (10,000) square feet;

B. Minimum lot dimensions; one hundred (100) feet width;

C. Required minimum yards:

1. Front yard, twenty-five (25) feet;
2. Side yards, ten (10) feet;
3. Rear yard, ten (10) feet;

D. Maximum coverage by all structures, sixty percent (60%);

E. Maximum allowable height for all structures, fifty (50) feet, provided gross floor area ratio to land may not exceed two (2) to one (1);

F. Landscaping Requirements.

1. Not less than fifteen percent (15%) of the gross lot area shall be improved with landscaping;
2. Landscaping required under this section, including replacement landscaping, shall be according to detailed plans approved by the planning director. The landscape plans shall be consistent with the following objectives:
   a. Use of plants that are not invasive;
   b. Use of water conserving plants; and
   c. Use of plants and other landscape features that are appropriate to the context.
3. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

G. Recycling Area Requirements.

1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent

storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

2. This requirement shall apply to all new commercial, industrial, or institutional buildings, and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. This requirement shall also apply to any existing development for which building permit applications are submitted within a twelve (12) month period collectively adding thirty percent (30%)or more to the existing floor area of the development project. For existing developments occupied by multiple tenants, this requirement shall apply to applications for one or more building permits for a single or multiple alterations submitted by any tenant within a twelve (12) month period collectively adding thirty percent (30%)or more to the existing floor area of that portion of the development which said tenant leases. Such recycling areas shall, at a minimum, be sufficient in capacity, number, and distribution to serve that portion of the development project which said tenant leases.

H. In the case of conditional uses, additional regulations may be required.

(Ord. 298 § 4.8(C), 1984).

(Ord. No. 548, § 9, 11-1-10; Ord. No. 556, § 21, 2-22-11; Ord. No. 607, § 10, 4-7-16)

17.20.040 - Exceptions.

Exceptions are as specified in Chapter 17.32.

(Ord. 298 § 4.8(D), 1984).

17.20.050 - Parking.

Parking in the M-1 district as specified in Chapter 17.34.

(Ord. 298 § 4.8(E), 1984).

17.20.060 - Signs.

Signs allowed in the M-1 district are as specified in Chapter 17.36.

(Ord. 298 § 4.8(F), 1984).

17.20.070 - Design review.

Design review in the M-1 district are as specified in Chapter 17.42.

(Ord. 298 § 4.8 (G), 1984).

Chapter 17.28 - PD PLANNED DEVELOPMENT DISTRICT

Sections:

17.28.010 - Purposes of chapter.

PD planned development district (hereinafter referred to as the "PD district") is included in the zoning ordinance to achieve the following purposes:

A. To provide a permit process for implementation of a specific plan which as been adopted for a particular site or geographic area of the city, including the review and approval of land uses, site development plans, infrastructure improvements, architectural designs, environmental protection measures, and performance standards for operation of allowable uses;

B. To ensure that development of the vacant land areas within the city is conducted in a coordinated manner, consistent with the established land use objectives and policies set forth in the general plan and the applicable specific plan, while at the same time providing a flexible mechanism for development of distinct portions of such vacant land areas;

C. To promote the beneficial use of certain areas of the city that present unique problems and development constraints by reason of their size, location, environmental setting, lack of infrastructure improvements, and potential impact upon neighboring districts; and

D. To enable appropriate responses to future conditions and circumstances through the exercise of continuing jurisdiction over the development, use and operation of property which is regulated by the PD permit.

(Ord. 448 § 1(part), 2000).

17.28.020 - Requirement for adopted specific plan.

A. Applications for a PD permit may only be submitted with respect to property which is included within a PD district and within the boundaries of a specific plan prepared and adopted in accordance with Section 65450 of the Government Code. As used in this chapter, the term "specific plan" shall mean the adopted specific plan that would be implemented, in whole or in part, by the PD permit.

B. The property which is the subject of the PD permit application may consist of any portion or all of the area covered by the specific plan. Where the application for the PD permit covers property which does not correspond with the lot lines of existing lots of record, the permit

application may be combined with appropriate applications for subdivision of a larger parcel or lot line adjustments to existing parcels, if such boundary changes would be consistent with the specific plan.

C. The approving authority may issue any number of individual PD permits relating to property which is the subject of a single specific plan. Each individual permit shall indicate the extent to which the project authorized by such permit shall be responsible for implementation of the objectives and requirements for the entire area covered by the specific plan, including, but not limited to, infrastructure improvements, open space, and public facilities.

(Ord. 448 § 1(part), 2000).

17.28.030 - Requirement for PD permit.

No uses may be conducted and no buildings or other structures shall be constructed, installed, altered, enlarged, moved or used upon any property for which a PD permit is required except as specifically authorized by and in conformity with the terms and conditions of such permit. Notwithstanding the foregoing, nothing herein shall prevent or restrict the installation of any structure or equipment or the conduct of any activities for the purpose of testing, investigation, remediation, or monitoring of existing conditions on the property, as determined by the city engineer.

(Ord. 448 § 1(part), 2000).

17.28.040 - Application for PD permit.

A. Contents of Application. Application for a PD permit shall be filed with the planning director on such form as the planning director shall prescribe. The application shall include such of the following items as the planning director deems appropriate in order to evaluate and process the application:

1. A detailed site plan of the land area to be covered by the PD permit, drawn to scale, showing the exact location of the existing or proposed lot lines, the location of all buildings and other improvements on the site, including streets, sidewalks, pathways, parking and loading areas, and the location of parks, recreation facilities, landscaped areas, and open space, as applicable;

2.

A topographic map of the site showing existing and proposed contour lines at an interval of not more than one foot in areas of cross slope less than five percent (5%); not more than two (2) feet in areas of cross slope between five percent (5%) and ten percent (10%); and five (5) feet in areas of cross slope in excess of ten percent (10%). The topographic map shall extend at least fifteen (15) feet beyond the boundary lines of the site;

3. Designation of land uses to be conducted on the site, including the location on the site and the amount of floor area to be occupied by each individual use;
4. Architectural drawings showing the elevations of all structures as they will appear upon completion. The drawings shall include a description of all exterior surfacing materials and their colors. At the request of the planning director, material and color samples shall also be provided;
5. For covered projects as defined by Section 15.80.030, green building documentation per Section 15.80.060(A) sufficient to be approved per Section 15.80.060(C);
6. Calculation of the total coverage on the site, including a breakdown of the amount of coverage to be occupied by structures, parking areas, streets, sidewalks and plazas, and a calculation of the total area of the site to be devoted to open space or open areas;
7. Location and character of all existing easements and rights-of-way affecting the site together with a description of any existing utility installations or facilities;
8. Utility plan showing the proposed on-site and off-site location and design of all utility services, including water, sanitary sewer, gas and electricity, and the manner in which such utilities will be delivered to the site. The utility plan shall also show the location and nature of all easements, installations and facilities that will be offered for dedication to the public;
9. Grading and drainage plan, including all provisions for storm drainage and flood control;
10. Landscape and irrigation plan showing the location and design of landscaped areas and the varieties of plant materials to be planted therein and all other landscape features;
11. Lighting plans showing the location, design and intensity of all external lighting fixtures to be installed on the site, including ornamental fixtures along pedestrian pathways and within landscaped areas;
12. Traffic circulation plan showing the locations of entrances and exits and the estimated traffic flow into and out of the parking and loading areas, the location and dimension of each parking and loading space, the areas for turning and maneuvering vehicles, and estimates of the traffic volumes and impacts to be created by the proposed development of the site;
13. Geologic and soils investigation report on the site prepared by a certified engineering

geologist or registered civil engineer qualified in soil mechanics;

14. Sign program showing the location, size, design, illumination, and other features of all signs to be constructed or installed on the site;
15. Location of all creeks, streams, watercourses, or drainage channels on the site, showing top of existing banks and creek or channel depth. If requested, cross-sections of the creek or channel shall also be furnished;
16. A market analysis for proposed commercial developments, including projected tax revenues to the city from each of the proposed uses;
17. Construction schedule for the proposed improvements which are the subject of the application and any off-site improvements to be constructed in connection therewith;
18. Such other studies, drawings, reports and documents as may be requested by the planning director.

B. Application Fee. The application shall be accompanied by the payment of a processing fee in such amount as established from time to time by resolution of the city council. Such fee may be separately calculated for each individual application in accordance with a formula or schedule based upon the size, nature, complexity, or other characteristics of the proposed development. In addition to the processing fee, the applicant shall also deposit such amounts as the planning director may require from time to time to cover the cost of any environmental investigations or reports, traffic studies, noise studies, geotechnic and engineering reports, review of green building documentation, and such other investigations and reports to be obtained by the city in connection with the processing of the application.

(Ord. 524 § 2, 2007: Ord. 448 § 1(part), 2000).

17.28.050 - Public hearing by planning commission—Notice.

The planning commissions shall conduct a public hearing on the application for PD permit. Notice of the public hearing shall be given not less than ten (10) days nor more than thirty (30) days prior to the date of the hearing by mailing, postage prepaid, a notice of the time and place of the hearing to the applicant and to all persons whose names appear on the latest available assessment roll of the county as owning property within three hundred (300) feet of the boundaries of the site which is the subject of the PD permit application. Notice of the public hearing shall also be posted at each location within the city where agendas for planning commission meetings are routinely posted.

(Ord. 448 § 1(part), 2000).

17.28.060 - Recommendation by planning commission.

The planning commission shall act in an advisory capacity with regard to the application for a PD permit and shall adopt, by resolution, a recommendation to the city council as to whether the PD permit application should be approved or denied. If approval of the application is recommended in whole or in part, the resolution shall include a statement of the findings made by the planning commission in accordance with Section 17.28.080, the proposed conditions of approval suggested by the planning commission, and such other matters pertaining to the application or the PD permit which the planning commission recommends be considered by the city council. If denial of the application is recommended in whole or in part, the resolution shall generally describe the reason for such recommendation but no specific findings by the planning commission are required to be made.

(Ord. 448 § 1(part), 2000).

17.28.070 - Action by city council.

A. Upon receipt of the recommendation from the planning commission, the city council shall conduct a public hearing on the PD permit application and notice thereof shall be given in the same manner as prescribed in Section 17.28.050.
B. The city council may either grant or deny the application for PD permit. The city council may also, in its discretion, refer the application or any portion thereof back to the planning commission for such further proceedings thereon as may be directed by the city council.
C. If granted, the PD permit may be revocable, may be granted for a limited period of time, and may be granted subject to such conditions as imposed by the city council.

(Ord. 448 § 1(part), 2000).

17.28.080 - Findings required for issuance of PD permit.

The city council may grant a PD permit as applied for or in modified form if, on the basis of the application and the evidence submitted, the city council makes all of the following findings:

A. The land uses and improvements authorized by the PD permit are consistent with the specific plan and the general plan.
B. The land uses and improvements authorized by the PD permit to be established or operated on the site will not be detrimental to the public health, safety or general welfare or materially injurious to other uses or improvements in the vicinity.
C.

The project authorized by the PD permit effectively mitigates or resolves any constraints on the development of the site and serves to enhance and improve the use and occupancy of the property which is the subject of the PD permit.

D. All of the applicable findings required for the granting of a design permit, as set forth in Chapter 17.42 of this title, can be made.

(Ord. 448 § 1(part), 2000).

17.28.090 - Contents of PD permit.

The PD permit shall constitute authorization for development and use of the site in the manner specified in the permit, and may include, but shall not be limited to, any or all of the following:

A. Designation of the specific uses that may be conducted on the site, including the quantity of lot area or floor area that may be occupied by individual uses;

B. Design and location of all improvements to be constructed on the site, including architectural elevations and site plan establishing the structure size, height, coverage, setbacks, distances between structures, and public or private amenities, open space and open areas;

C. Designation of streets, pedestrian pathways, easements, utility installations, parks, open space areas, recreation facilities, and other improvements or areas to be offered for dedication to the city or other public agency;

D. Sign program, which shall comply with the requirements set forth in Chapter 17.26 of this title;

E. Conditions for mitigation and control of adverse impacts created by construction activity authorized by the PD permit to be conducted upon the site or elsewhere;

F. Conditions for prevention and control of potential adverse geologic impacts, including erosion, slope instability, landslide, or loss of lateral or subjacent support;

G. Conditions and performance standards for mitigation and control of potential adverse impacts created by the operation of the authorized uses on the site, including restrictions on the type and number of commercial vehicles or equipment, restrictions on the hours of operation, and implementation of measures to control noise, glare, vibration, odors, or other effects upon neighboring properties;

H. Conditions requiring completion of all necessary proceedings for subdivision or lot line adjustment of the property which is the subject of the PD permit;

I.

Conditions relating to compliance with the requirements of any other regulatory agencies having jurisdiction over the site, including the Regional Water Quality Control Board, the State Department of Toxic Substances Control, and the State Solid Waste Management Board.

J. Conditions requiring provision of adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area. This requirement shall apply to all new commercial, industrial, or institutional buildings, residential buildings having five (5) or more living units, and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. This requirement shall also apply to any existing development for which building permit applications are submitted within a twelve-month period collectively adding thirty percent (30%)or more to the existing floor area of the development project. For existing developments occupied by multiple tenants, this requirement shall apply to building permit applications submitted by any tenant within a twelve-month period collectively adding thirty percent (30%)or more to the existing floor area of that portion of the development which said tenant leases. Such recycling areas shall, at a minimum, be sufficient in capacity, number, and distribution to serve that portion of the development project which said tenant leases. This requirement shall also apply to new residential subdivisions containing an area where solid waste is collected and loaded in a location which serves five or more living units. Such recycling areas are only required to serve the needs of the living units which utilize the solid waste collection and loading area.

(Ord. 448 § 1(part), 2000).

(Ord. No. 556, § 24, 2-22-11)

17.28.100 - Other land use approvals.

The PD permit shall constitute a comprehensive and integrated authorization for all uses to be conducted and all improvements to be constructed on the site and no separate use permit under Chapter 17.40, or design permit under Chapter 17.42, or sign permit under Chapter 17.36 of this title shall be required.

(Ord. 448 § 1(part), 2000).

17.28.110 - Expiration of PD permit—Extensions.

A. A PD permit granted pursuant to this chapter shall expire twenty-four (24) months from the date on which such permit became effective, unless prior to such expiration date a building permit is issued and construction is commenced on the site or structure constituting the subject of the PD permit, or a certificate of occupancy is issued for such site or structure, or, if no building permit or certificate of occupancy is required, the use or activity authorized by the PD permit is commenced upon the site.

B. A PD permit may be extended for a period or periods of time not exceeding thirty-six (36) months. The application for extension shall be filed prior to the expiration date of the permit and shall be accompanied by payment of a processing fee in such amount as established from time to time by resolution of the city council. A public hearing shall be conducted on the application for extension and notice thereof shall be given in the same manner as prescribed in Section 17.28.050 of this chapter. Extension of a PD permit is not a matter of right and the approving authority may deny the application or grant the same subject to conditions. No extension shall be granted unless the approving authority is able to make all of the findings required for approval of the original permit. The application for extension may be acted upon by the planning commission unless, under the terms of the PD permit, such extension requires approval by the city council or the matter is appealed to the city council pursuant to Section 17.28.150.

(Ord. 448 § 1(part), 2000).

17.28.120 - Amendment or modification of PD permit.

A. Amendments or modifications to a PD permit shall require approval by the city council, except as follows:

1. The planning commission and the zoning administrator shall have authority to approve any items which, under the terms of the PD permit, have been specifically delegated to either of them for approval, either as a condition for issuance of the permit or at any time thereafter.
2. Minor changes during the course of construction which do not materially affect the use, nature, appearance, quality or character of the project may be approved by the zoning administrator.
3.

The relocation of a use or activity authorized by the PD permit to another location regulated by the same permit where no significant adverse impacts are created as a result of such relocation may be approved by the zoning administrator.

B. The application requirements, public hearing procedures and findings required for amendments or modifications to a PD permit shall be as prescribed in Sections 17.28.040, 17.28.050 and 17.28.080 of this chapter.

(Ord. 448 § 1(part), 2000).

17.28.130 - Continuing jurisdiction over PD permit.

A. The city council shall, in all cases, retain continuing jurisdiction over each PD permit and may at any time, either on its own initiative or in response to an application or request to do so, modify or delete any conditions of a PD permit or impose any new conditions if the city council determines that:

1. Such action is necessary for the implementation of the specific plan, or to preserve or promote the public health, safety or general welfare, or to protect the environment, or to prevent the creation or continuance of a public nuisance; and
2. Such action will not violate any vested rights that may have been acquired under the PD permit, unless the modification of such rights has been requested or agreed to by the holder of the permit.

B. A public hearing shall be conducted by the city council and notice thereof shall be given in the same manner as prescribed in Section 17.28.050 of this chapter.

(Ord. 448 § 1(part), 2000).

17.28.140 - Revocation of PD permit.

Subject to any vested rights that may have been acquired under a PD permit issued pursuant to this chapter, a PD permit may be revoked, in whole or in part, upon a determination by the city council that the holder of such permit has failed to comply with any conditions thereof or has violated any applicable provisions of this title. A public hearing on the revocation shall be conducted by the city council and notice thereof shall be given in the same manner as prescribed in Section 17.28.050 of this chapter.

(Ord. 448 § 1(part), 2000).

17.28.150 - Appeals to city council.

Any determination or decision by the planning commission under this chapter may be appealed to the city council in accordance with the procedure set forth in Chapter 17.52 of this title.

(Ord. 448 § 1(part), 2000).

Attachment F

SUMMARY OF PROPOSED C/P-U USES & DEVELOPMENT STANDARDS

Proposed Uses & Development Standard	Public Utility Uses	Commercial Uses	Notes
Permitted Uses	1. Essential public utility facilities. 2. Offices, warehousing and light fabrication associated with public utilities. 3. Outdoor storage of trucks and equipment associated with public utilities, when screened from public views. 4. Vehicle service and repair.	1. Restaurants and bars established prior to the effective date of the ordinance. 2. Vehicle service and repair established prior to the effective date of the ordinance.	Allows for the continuation of the public utility use and the established commercial uses (7 Mile House and V&A Automotive Services)
Conditional Uses	NA	1. As specified in Chapter 17.32 (all districts). 2. Expansion of bars and restaurants or expansion of commercial vehicle service and repair.	The existing commercial uses may be allowed to expand, subject to a use permit.
Minimum Lot Size	NA	4,500 square feet	Recognizes the existing small size of the commercial lot at the corner of Bayshore Boulevard and Geneva Avenue as conforming.
Setbacks	50 feet	NA*	Through the building permit process, the California Building Code may place restrictions on buildings within setback areas or place additional construction requirements on such buildings, such as fire rated materials.
Height	50 feet	28 feet	Would allow for public utility structures to be higher than commercial structures. Given the other provisions, the utility structures would be interior to the lot, by at least a 50 foot setback, and would be screened from public views by the perimeter wall/fence.

Proposed Uses & Development Standard	Public Utility Uses	Commercial Uses	Notes
Off Street Parking, Per BMC Chapter 17.34	Required for new structures	NA	Recognizes street parking for commercial uses, similar to the Downtown Brisbane NCRO-2 Neighborhood Commercial District.
Use Permit, per BMC Chapter 17.40	NA	Required for expansion of existing Commercial Uses	Existing commercial uses, established prior to the effective date of the ordinance (7 Mile House and V&A Automotive Services) would be considered conforming and would have no use permit requirement. This would include change of ownership to continue the existing uses. Only expansion of the existing commercial uses would trigger the requirement for a use permit.
Design Permit, per BMC Chapter 17.42	NA	Required for construction of Commercial Building	The requirement for a Design Permit for commercial structure would apply in a case where one of the commercial uses, such as 7-Mile House, wished to expand and construct a new building, or make significant modifications to their existing building.

(1/12/17)