MEMORANDUM

DATE: March 23, 2017

TO: Planning Commission

FROM: Ken Johnson, Senior Planner

SUBJECT: Study Session No. 2 on General Plan and Zoning Amendments for Northwest 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 General Plan.

In January 2017 the Planning Commission held a study session regarding this matter and the work program going forward. At that study session the Planning Commission recognized that the multiple areas zoned M-1 (General Plan subareas of Northeast Bayshore, Northwest Bayshore and Southeast Bayshore) are diverse and have very different site and land use characteristics. As such, the Commission concurred with addressing each geographic subarea separately.

The attached table identifies all areas within Brisbane currently zoned M-1. The table further identifies each area's general plan designation, key properties, and suggested approach to dealing with the existing M-1 zoning. As noted in the table, the Planning Commission, on March 9, 2017, recommended zoning changes within the Southeast and Southwest Bayshore subareas to eliminate the M-1 zone. The Northeast Bayshore subarea is being addressed in the ongoing Baylands planning process.

That leaves the Northwest Bayshore subarea, which is the focus of tonight's study session. While the Planning Commission discussed this area and provided some policy guidance at the previous study session, staff was directed to agendize another study session to discuss this area in further detail before moving forward with a formal General Plan and Zoning Text Amendment.

DISCUSSION

The Northwest Bayshore subarea encompasses an approximately 87 acre area generally bounded by Guadalupe Canyon Parkway to the south, Bayshore Boulevard to the east, and the Brisbane/Daly City boundaries to the north and west. Development in the subarea includes the

Technology Park at the southern end of the district and the PG&E substation, the 7 Mile House and V&A Auto Service facility at the northern end. The central portion of the subarea includes approximately 31 acres of vacant lands referred to as "Levinson" and "Peking Handicraft" along with an approximately 3.8 acre marsh, located along the north side of Main Street.

As was discussed at the last study session and shown in the attached General Plan and Zoning maps, the subarea is zoned M-1 at the north end, PD-SC/R/O Planned Development-Subregional Commercial/Retail/Office at the south end of the subarea and AA Aquatic Area at the middle. Given the diversity of uses and physical characteristics of the area, the Planning Commission was open to revisiting the general plan subarea designation along with the zoning, with the intent that the general plan and implementing zoning fit the City's vision for the area, are appropriate for existing uses, and can reasonably be implemented over time.

Some of the ideas discussed by the Planning Commission at the previous workshop included:

- **Southern Area (Technology Park):** Incorporating the Technology Park into the Crocker Park TC-1 Trade Commercial District to the south.

- **Central Area (primarily "Levinson" and "Peking Handicraft"):** Retaining the General Plan designation of PD-SC/R/O Planned Development Subregional Commercial/Retail/Office, but clarify implementing procedures pertaining to requirements for specific plans along with planned development permits.

- **Northern Area (PG&E and 7 Mile House/V&A Auto):** Establishing both a new General Plan subarea and zoning district to better reflect the unique character of this area.

Staff has prepared a preliminary draft amendment to the 1994 General Plan Land Use Map along with the companion preliminary draft zoning map and text amendments (see attached) for discussion at tonight's study session. The purpose is to obtain further direction from the Commission and move forward with formal general plan and zoning amendment applications which would be subject to public hearings before the Planning Commission and City Council.

The following brief discussion is also provided for each of the above listed areas of the Northwest Bayshore subarea.

Southern Area: The approximately 10 acre, Technology Park was developed with three, 2-story research and development buildings, circa 2000, under the requirements of the current zoning requiring a specific plan and planned development permit. At the last study session it was suggested that the area might be incorporated into Crocker Park, so staff reviewed the project relative to the Crocker Park General Plan designation and zoning standards.

Staff's review of the development plans shows that the existing development is consistent with the current TC-1 Trade Commercial zoning and the Trade Commercial General Plan designation, which allows for office and research and development uses and similar or greater intensity. The

TC-1 zoning district is located immediately across Guadalupe Canyon Parkway, to the south. The planned development permit for the project allowed for a mix of research and development uses that are also allowed by right in the TC-1, so there would be no land use inconsistencies created. Likewise, the project complies with development standards (height, setbacks, etc) of the TC-1 Zone.

Given the compatibility of the project with Crocker Park and its proximity to Crocker Park, staff is supportive of amending the General Plan subarea boundaries to encompass this area and rezoning the property to TC-1, essentially treating it as an extension of Crocker Park. These amendments would be primarily mapping tasks and staff does not envision text amendments will be necessary to the General Plan or zoning for Crocker Park.

Central Area: The central area of the Northwest Bayshore subarea, primarily consists of the vacant lands of "Levinson" and "Peking Handicraft", which together total approximately 31 acres. Also included in this area is the approximately 5.4 acre linear strip of land where PG&E transmission lines are sited, connecting the substation to points south. Only the Levinson and Peking Handicraft parcels are considered as reasonably having development potential, given PG&E's use of its land for transmission lines.

For this area, it is suggested that the General Plan's subarea title be renamed to Guadalupe Hills to reflect its existing geographic location, but retain its PD-SC/R/O land use designation. Text would also be added to the General Plan to define the new subarea with the same uses and intensity as currently allowed. This would distinguish it from the southern and northern portions of the Northwest Bayshore subarea, without changing the essence of the development regulations for either the Levinson or Peking Handicraft sites. As discussed in the Commission's previous study session, it is suggested that the requirement for a specific plan be eliminated from both the General Plan and the PD Planned Development zoning ordinance text, since it is duplicative and results in a confusing regulatory permitting process. Other than the change to remove the specific plan requirements, the zoning text for PD Planned Development District (BMC Chapter 17.28) would remain as is (see attached).

Specific Plans and Planned Developments: The Commission also requested further information on the relationship of Specific Plans and Planned Developments.

In terms of a city's land use regulatory hierarchy, specific plans are a step below general plans, but above the zoning ordinance. In some cases, they may be structured to serve as the zoning as well. Given this hierarchy, it is unusual to embed a requirement for preparation of a specific plan into the zoning ordinance, as is the case with BMC Chapter 17.28. Also, as discussed in the previous study session, specific plans are not required by state law, but when used, there are specific statutory requirements that apply to them. The requirements for what is required for a specific plan are not well suited on a site by site basis and at the scale of the Levinson and Peking Handicraft sites. For further background on specific plans, an excerpt from "The Planner's Guide to Specific Plans", by the Governor's Office of Planning and Research, dated 2001, is attached. The entire document may be found at the website, https://www.opr.ca.gov/docs/specific_plans.pdf.

Planned development refers to both a zoning designation and a type of permit for development. The attached PD Planned Development District zoning text (BMC Chapter 17.28), shows the redlined, preliminarily proposed amendments to remove the specific plan references. Again the aim is to eliminate the redundancy in requiring a specific plan in addition to the planned development permit. Both a specific plan and planned development permit would require components such as diagrams showing the location of uses of land, public and private infrastructure to support the development and standards and criteria by which the development will proceed. By statute, the specific plan would also contain a statement of the relationship of the specific plan to the general plan, but in this case, it is not clear how the specific plan would play a separate role in implementing the General Plan than that of the planned development permit.

Also, it should be noted that the City's planned development application requirements are more detailed in its application requirements than the state's specific plan statutory requirements, since the City's planned development application requirements include such items as site specific architectural drawings, grading and drainage plans, and a geologic soils investigation report.

Finally, with regard to the planned development designation, the aforementioned amendments would not impact other areas of the City that are either general plan designated or zoned as planned development. The Northeast Ridge is zoned as planned development, but it has been developed already and the remaining undeveloped lands are designated for open space. The Quarry is in the City's sphere of influence, outside the City limits, and has been designated in the General Plan as planned development. In the event that an application is submitted to the City to annex the Quarry, to reclaim and develop it, the proposed planned development zoning amendments would not impact the Quarry's General Plan requirements, which, per General Plan Policy No. 275, would continue to require a specific plan. The Baylands is also designated PD in the General Plan with the requirement for a specific plan.

Northern Area: The northern area of the Northwest Bayshore subarea is unique in that it includes the approximately 32.4 acre PG&E substation site and the approximately 5,000 square foot commercial site, located at its northeast corner of the subarea occupied by the 7 Mile House and V&A Auto Service facility. It is envisioned that both the General Plan land use designation and zoning encourage both the utility and commercial uses to continue, since one is an essential utility which is highly unlikely to relocate and the other has played a historic role and continues to be part of the ongoing social life and fabric of the City.

To recognize these uses and to allow for potential modification of the sites, in keeping with the existing commercial and utility uses, it is suggested the General Plan designation be changed from PD-SC/R/O to C/P-U Commercial/Public Utilities. The General Plan subarea name would remain as Northeast Bayshore, to reflect its location at the northeast corner of the City, separate from the newly proposed Guadalupe Hills district to the south.

The new C/P-U designation would be more restrictive than the existing PD-SC/R/O designation in that it would allow for fewer uses than are currently allowed. The uses allowed would be the

same as those that already exist in this area, commercial and public utility related uses, and the eliminated uses would include such uses as sub-regional retail sales, distribution facilities and research and development. On the other hand, the separation from the PD-SC/R/O designation, to the south, would allow for a more straightforward permitting process for PG&E to add infill development of support buildings, such as offices, and potential modification of the 7 Mile House, if needed.

To implement the new General Plan designation and mapping, it is further suggested that a new C/P-U zoning district be established and applied to these properties. The preliminary draft text (attached) includes development regulations tailored to the limited types of uses that are appropriate in this new zoning district.

These draft development regulations recognize that much of the large PG&E site is located behind a block wall and new buildings may be set back and largely unseen from the public right-of-way areas. On the other hand, the 7 Mile house/V&A Auto property is a single small parcel, of less than 5,000 square feet that already has no setback or very little setback from its front, side and the rear lot lines. Also, while providing parking on-site is virtually impossible given the small lot size and location at the intersection of Geneva Ave. and Bayshore Blvd., the City has recently installed a number of improvements, including a bus shelter to encourage pedestrian use and street parking along Bayshore Blvd. The proposed zoning regulations therefore do not require additional on- site parking for any expansion of the 7 Mile House into the auto repair side. This is modeled on the Central Brisbane Neighborhood Commercial Retail Office zoning, along Visitacion Avenue. However, given the visual exposure, significant modifications to the building would require a design permit application. As the draft provisions are structured, if the ownership were to propose expansion of the auto repair side to replace the 7 Mile House, in addition to a design permit, the City would also require a use permit, since that could raise other concerns related to vehicle movements on site.

OTHER ITEMS

In its last study session, the Commission requested information on development agreements. As detailed in the attachments, development agreements are essentially a negotiated contract between a City and private developer. Development Agreements are separate from the General Plan or zoning ordinance. The purpose of a Development Agreement is typically to provide a developer greater certainty regarding the terms of project approvals in exchange for the developer providing additional project amenities or community benefits beyond what can be legally required by the jurisdiction. As a negotiated contract, the City cannot mandate or compel a developer to enter into a Development Agreement as a condition of site development.

NEXT STEPS

Following the Commission's discussion and direction tonight, staff will prepare the proposed amendments to the General Plan and zoning as a formal application for Planning Commission review at a public hearing.

ATTACHMENTS

A. Table – Summary of M-1 Zoning and Related Amendments
B. 1994 General Plan Land Use Map
C. Current Zoning Map
D. Preliminary Draft Land Use Map Amendment
E. Preliminary Draft Zoning Map Amendment
F. Preliminary Draft Zoning Text Amendment to Add BMC Chapter 17.22 C/P-U Northeast Bayshore Commercial/Public Utilities District
G. Draft Amendments to BMC Chapter 17.28 PD Planned Development District
H. January 12, 2017 Planning Commission Minutes
I. January 12, 2017 Study Session Memorandum
J. Planner's Guide to Specific Plans, by OPR, 2001 (excerpt)
K. Development Agreement Provisions (Gov't Code Section 65864-65869.5)

ATTACHMENT A

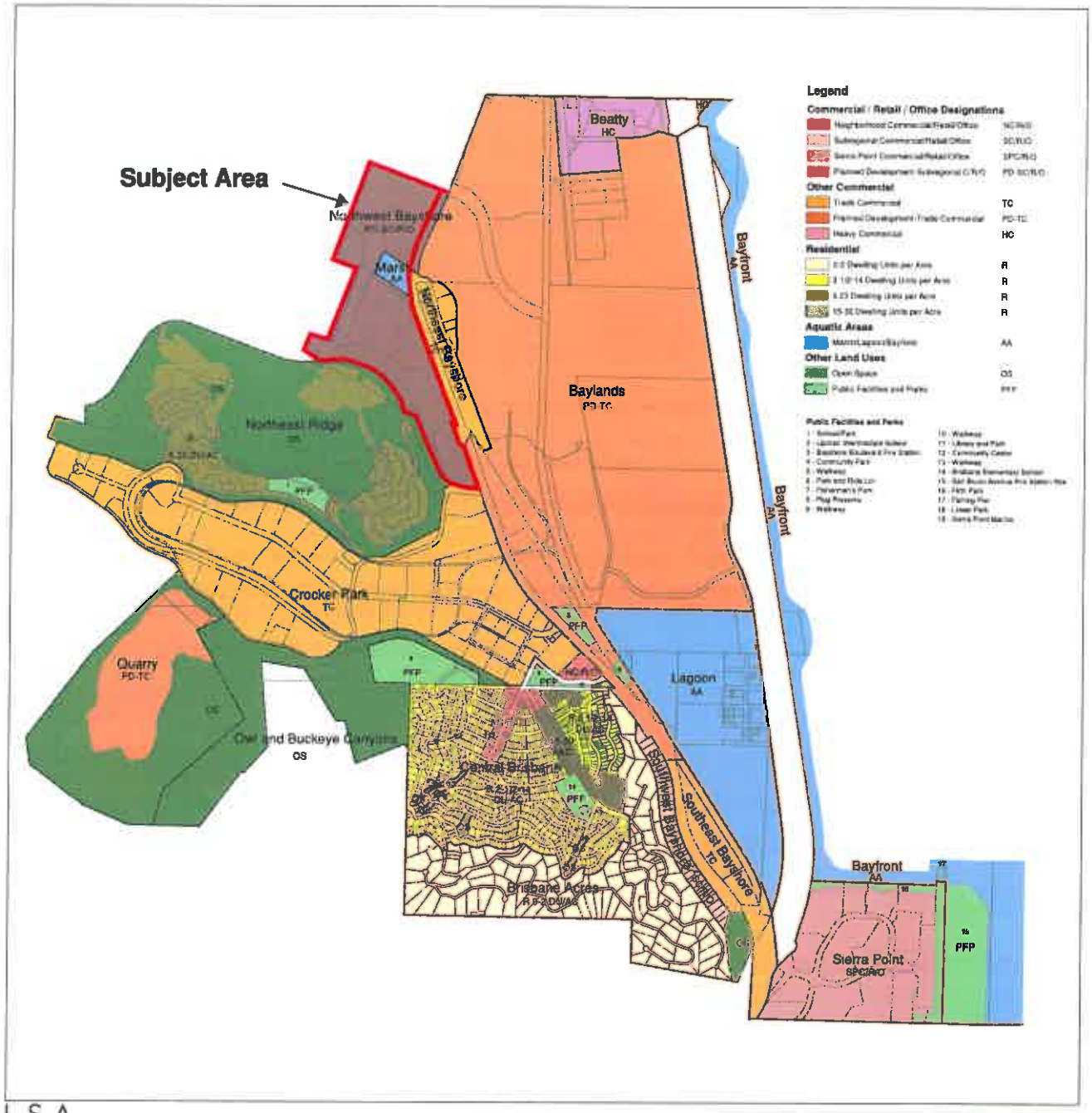
Table
Summary of M-1 Zoning and Related Amendments

General Plan Subarea/Designation	Zoning Designations	Key Properties	Status/Comments
Southeast Bayshore/ Trade Commercial	M-1 Manufacturing	Prologis Site (tenant: The RealReal)	Planning Commission recommended zoning amendments to City Council. Anticipated introduction of Ordinance in late April.
Southwest Bayshore/ Open Space	M-1 Manufacturing	City Public Right-of-Way	
Northeast Bayshore/ Trade Commercial	M-1 Manufacturing	Industrial Way warehouse sites	Part of the on-going Baylands EIR planning process.
Northwest Bayshore/ Planned Development Subregional Commercial/Retail/Office	M-1 Manufacturing	PG&E substation, 7 Mile House/V&A Auto	**Tonight's Study Session topics** – potential General Plan and Zoning Amendments, pending Planning Commission recommendation and Council approval.
	PD Planned Development	Technology Park, and the vacant "Levinson" and "Peking Handicraft" sites	
Northwest Bayshore/Marsh	MLB Marsh	Marsh	No changes recommended

ATTACHMENT B

1994 General Plan
Land Use Diagram

City of Brisbane



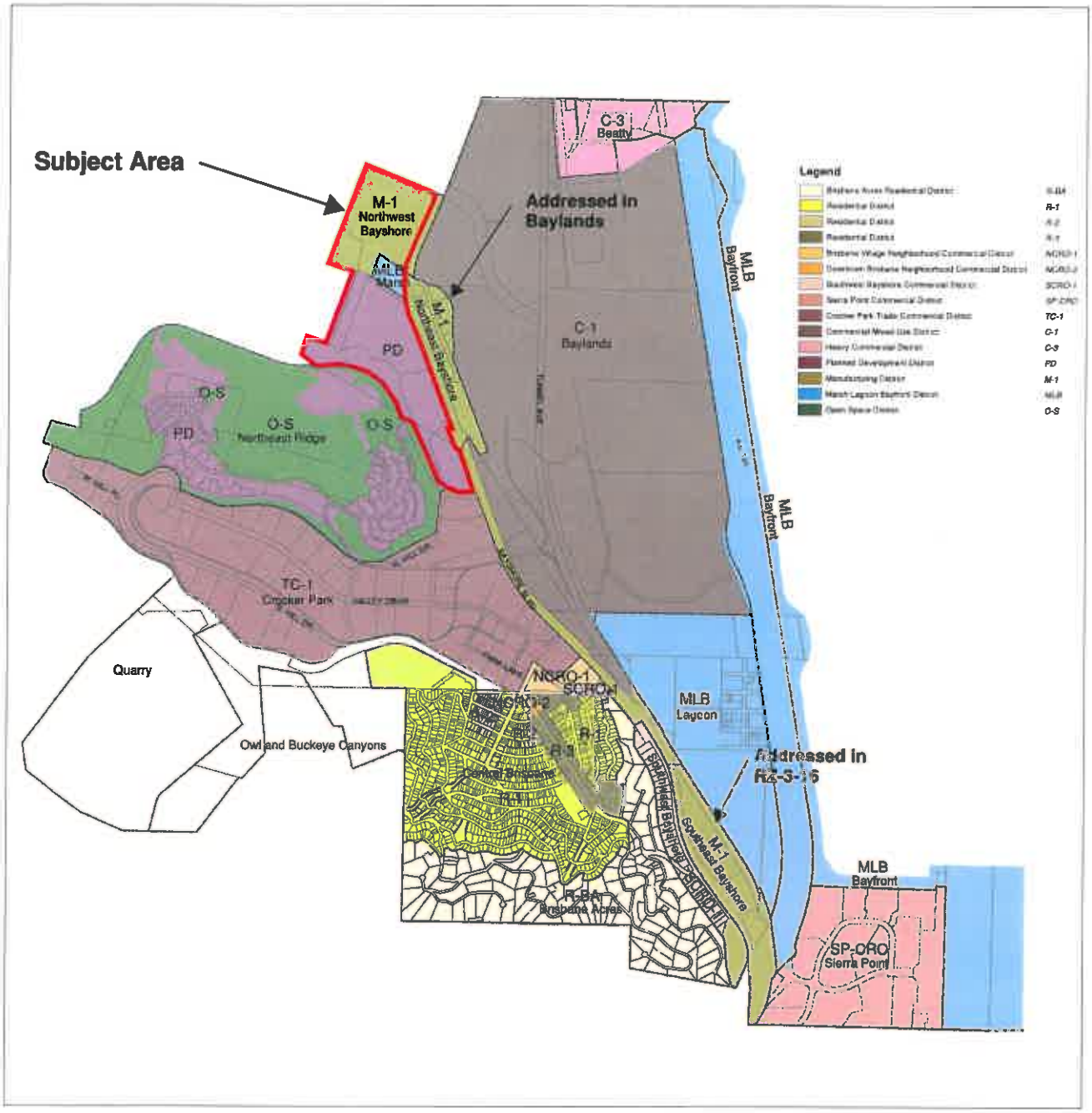
LSA

N

0 0.125 0.25 0.5
MILES

H.1.8

Zoning Map
City of Brisbane



LSA

N

0 0.125 0.25 0.5
MILES

Revised: May 16, 1988
Revised: May 29, 1992
Revised: April 1996
Revised: February 2000
Revised: February 2002
Revised: July 2003

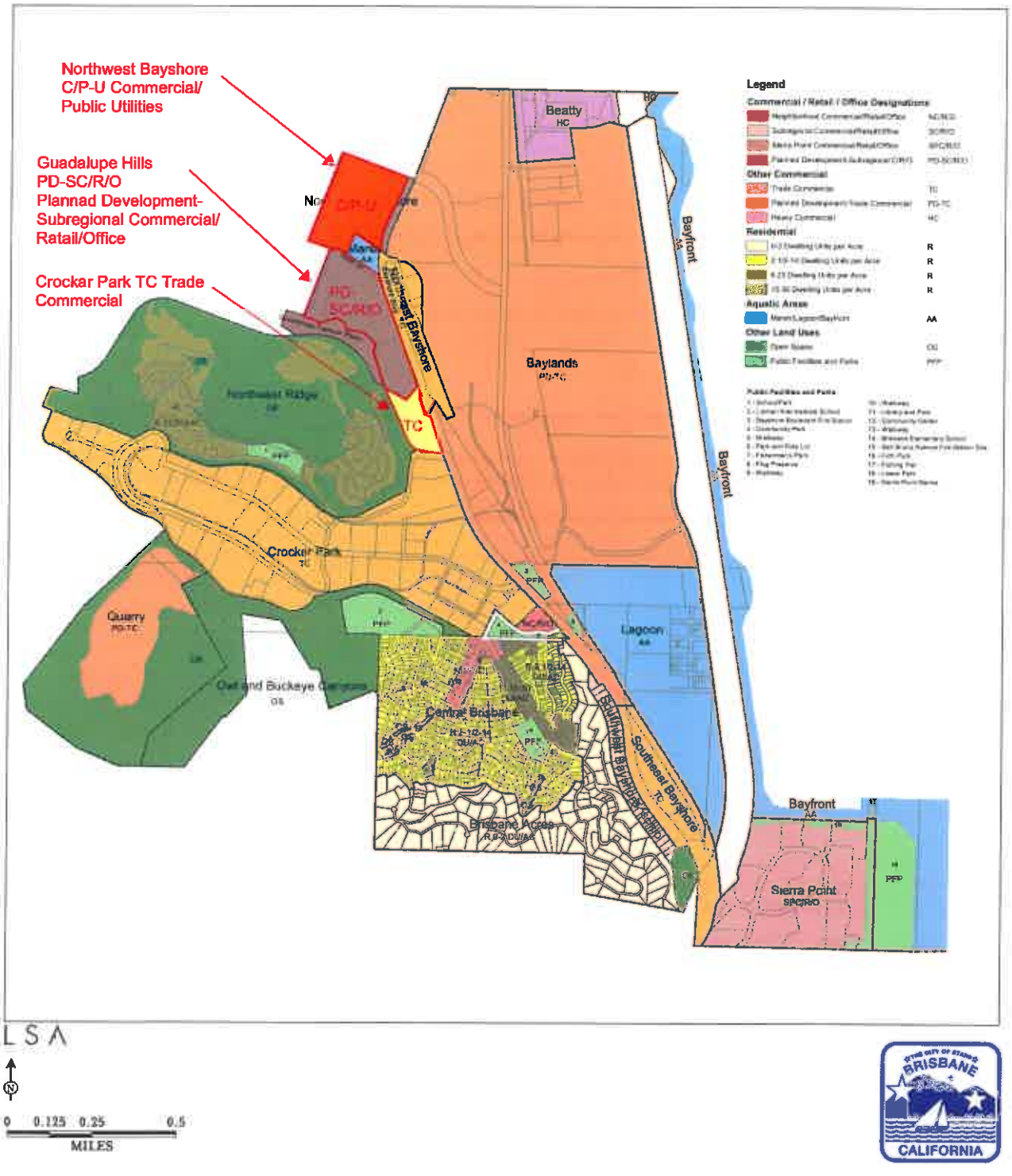
THE CITY OF STARS
BRISBANE
CALIFORNIA

ATTACHMENT D

Draft Map Amendments

1994 General Plan Land Use Diagram

City of Brisbane

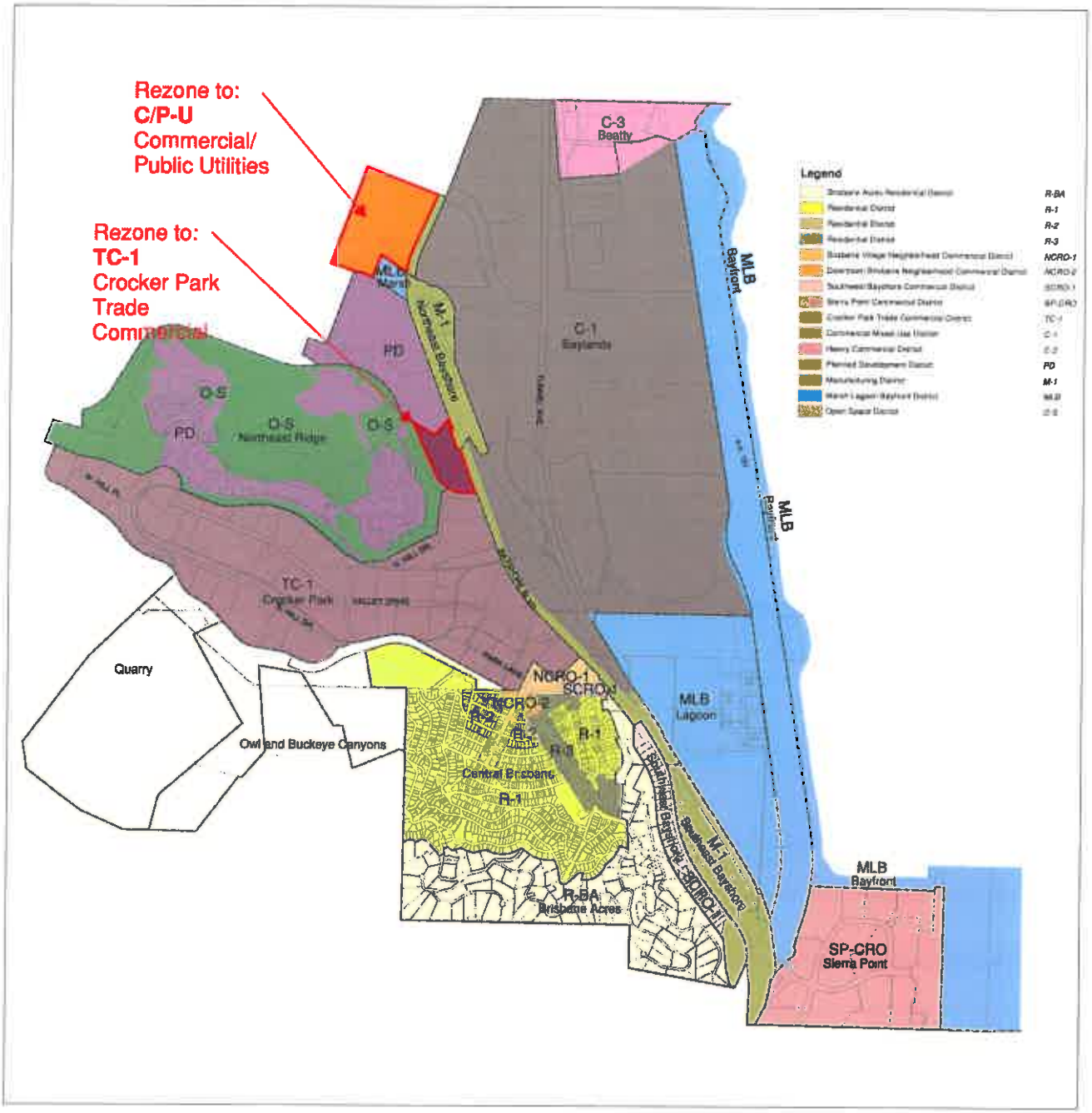


ATTACHMENT E

Draft Map Amendments

Zoning Map

City of Brisbane



LSA

0 0.125 0.25 0.5
MILES

Revised: May 16, 1988
Revised: May 29, 1992
Revised: April 1996
Revised: February 2000
Revised: February 2002
Revised: July 2003

CITY OF BRISBANE CALIFORNIA

ATTACHMENT F

PRELIMINARY DRAFT

NEW CHAPTER: Chapter 17.22 - C/P-U NORTHEAST BAYSHORE COMMERCIAL/PUBLIC UTILITIES DISTRICT

Sections:

17.20.010 - Permitted uses.

The following uses are permitted in the C/P-U district:

A. Public Utilities:
   1. Essential public utility facilities, as defined in state law.
   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.

B. Commercial Uses:
   1. Restaurants and bars;

17.20.020 - Conditional uses.

A. Public Utilities:
   1. Non-essential public utility facilities or buildings, when not screened from views along Bayshore Bouvlevard or Geneva Avenue.

B. Commercial Uses:
   1. Vehicle service and repair.

17.20.030 - Development regulations.

Development regulations in the C/P-U district are as follows:

A. Public utilities. The following development regulations shall apply to public utility lots and structures, except as exempted by state law pertaining to essential utility structures:
   1. Lot Area. The minimum area of any public utility lot in the C/P-U district shall be ten thousand (10,000) square feet
   2. Setbacks. The minimum setbacks from any lot line shall be fifty (50) feet.
   3. Height. The maximum height of any structure shall be fifty (50) feet.
   4. Lot Coverage. The maximum lot coverage shall be sixty percent (60%)

B. Commercial:
   1. Lot Area. The minimum area for any commercial lot shall be four thousand, five hundred (4,500) square feet.
   2. Setbacks. NA
   3. Height. The maximum height of any structure shall be twenty-eight (28) feet.
   4. Lot Coverage. The maximum lot coverage shall be ninety percent (90%)
   5. Landscaping Requirements.
      a. Not less than five percent (5%) of the gross lot area shall be improved with landscaping;
      b. 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:

i. Use of plants that are not invasive;
ii. Use of water conserving plants; and
iii. Use of plants and other landscape features that are appropriate to the context.

c. 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.

C. 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.

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

17.20.050 – Parking.

Off-street parking facilities shall be provided for each use on the site in accordance with the requirements set forth in Chapter 17.34 of this title; provided however, that no off-street parking shall be required for commercial uses in the C/P-U district.

17.20.060 – Signs.

Signs allowed in the C/P-U district are as specified in Chapter 17.36.

17.20.070 - Design review

A. Public utility structures. Non-essential public utility structures in the C/P-U district that are not screened from public views, along the frontages of Bayshore Bouvlevard or Geneva Avenue, shall be subject to the granting of a design permit in accordance with the provisions of Chapter 17.42 of this title. The Planning Director shall have the authority to refer any project to the Planning Commission for design review that does not appear to be screened, or based on other unusual circumstances.

B. Commercial structures. The construction of any principal commercial structure in the C/P-U district shall be subject to the granting of a design permit in accordance with the provisions of Chapter 17.42 of this title.

*****

ATTACHMENT G

PRELIMINARY DRAFT

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~~planned development applications for a particular site or geographic area of the city zoned as planned development, 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.

~~**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.~~

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.

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.

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.

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.

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.

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.

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.

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.

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 17.28.1S0.

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.

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.

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.

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.

Attachment H

Commissioner Parker moved and Commissioner Munir seconded to close the public hearing. The motion was approved 3-0.

After deliberation, Commissioner Munir moved adoption of Resolution DA-1-16, seconded by Commissioner Parker. The motion was approved 3-0.

H. STUDY SESSION

1. M-1 Manufacturing District Zoning Amendments for Northwest and Southeast Bayshore

Senior Planner Johnson gave the staff presentation. He noted that the Southeast Bayshore M-1 district was amended in 2015 and another amendment would be brought back to match the nomenclature of the General Plan, which designates the area as Trade Commercial. He pointed out the inconsistencies between the Northwest Bayshore subarea General Plan designation and the zoning and the need for a holistic review of the General Plan and the zoning for that area. He presented several potential scenarios for the Commission's consideration. He noted that the Northeast Bayshore M-1 district is part of the Baylands draft specific plan area. As such it will be addressed as part of that ongoing planning process, not part of tonight's discussion.

Senior Planner Johnson answered questions from the Commission regarding how Planned Development Permits are processed, how a Specific Plan is currently required by the City in conjunction with a Planned Development Permit, and what General Plan land use designations and implementing zoning districts may be appropriate in the Southeast and Northwest Bayshore subareas.

Acting Chairperson Anderson invited audience members to address the Commission.

Ray Miller provided historical context to the relationship between the General Plan land use designations and the M-1 zoning district, and the origin of the Planned Development zoning designation. He stated the Planned Development designation was intended to address primarily undeveloped areas and that a different zoning designation was appropriate for the PG&E and 7 Mile House properties. He suggested that the City consider the possibility of expanding the TC-1 district to include the Brisbane Technology Park. Mr. Miller also suggested that the Commission review the requirements of development agreements, in the context of this area. He noted that Northeast Bayshore and the larger Baylands area is overdue for being rezoned for General Plan consistency, and while the timing is now uncertain given the ongoing Baylands EIR review, it should not wait indefinitely.

Following discussion, it was the consensus of the Commission that separate zoning districts were warranted for the different areas within the Northwest Bayshore subarea, and that the specific plan should be separate from the planned development requirements. The Commission asked for more information outlining the differences between these requirements and regarding development agreements. They requested an additional study session to consider these topics further along with draft General Plan and zoning amendment language prior to scheduling a formal public hearing.

Attachment I

MEMORANDUM

DATE: January 12, 2017

TO: Planning Commission

FROM: Ken Johnson, Senior Planner KAJ

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~~ Not Included
~~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

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)

Attachment J

Governor Gray Davis

– Excerpt –

The Planner's Guide to Specific Plans

Governor's Office of Planning and Research
1400 Tenth Street
Sacramento, CA 95814
(916) 445-0613

Steven A. Nissen, *Director*

Terry Roberts, *Manager, State Clearinghouse*

January 2001 Edition

Contents

Introduction 3

Part I.
The Specific Plan 4

Part II.
Guidelines for Preparing Specific Plans 7

Part III.
CEQA and Specific Plans 23

Part IV.
Adoption, Amendment, Repeal, and Administration 25

Part V.
Relationship to Other Planning Measures 29

Part VI.
Implementation Measures 33

Part VII.
Plan Summaries 37

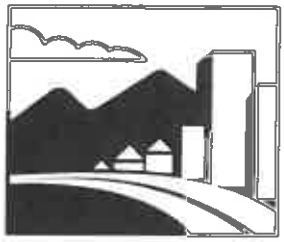
Appendix A.
Court Cases 40

Appendix B.
Selected Statutes 43

Appendix C.
Local Specific Plan Guidelines 45

Bibliography 46

Introduction



This guideline was originally produced in 1998 as a replacement for an earlier publication entitled *Specific Plans in the Golden State,* written by the Office of Planning and Research in 1989. Since the original publication, specific plans have evolved in use and creative application. However, specific plans continue to function as versatile tools for implementing general plans without substantial legal challenge to the nature of their use. They systematically implement the general plan for all or part of the area under its scope in any of three ways: 1) by acting as statements of planning policy that refine the general plan policies applicable to a defined area, 2) by directly regulating land use, or 3) by bringing together detailed policies and regulations into a focused development scheme.

The use of specific plans, in many cases, has gone beyond the original legislative intent and combined detailed development plans with environmental policies, programs and goals to create defined areas which are functional, livable, and affordable and which offer the sense of place commonly envisioned in the creation of the general plan. Although specific plans are being used for projects ranging from "new towns" to manufacturing and warehousing developments, there remain many basic uncertainties about what a specific plan is, how it functions, its relationship to the implementation of the general plan, and the extent of its powers.

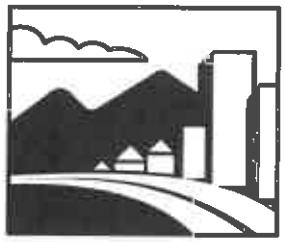
The purpose of this document is to clarify these uncertainties and provide new and innovative examples of specific plans and their use. It examines the pertinent statutes (Government Code §65450 et seq.), suggests guidelines for the preparation and implementation of a plan, and provides examples and references to unique or innovative plans prepared throughout the state.

While researching this guide, the Office of Planning and Research reviewed the preparation and adoption of specific plans and the related environmental documents. In addition, we examined those specific plans which have received APA Comprehensive Planning Awards and others which are commonly viewed as exceptional. We have reviewed California court cases concerning specific plans and detailed the most relevant cases on the subject.

The Planner's Guide To Specific Plans is written primarily as a guide to counties and general law cities; however, charter cities will find the information contained herein to be relevant in their use of specific plans as well. Although charter cities are exempt from the specific plan statutes contained in Government Code §65450-65457, once a charter city adopts a specific plan, the city must make findings of consistency between the specific plan and any proposed tentative subdivision map before the subdivision can be approved.

The information contained in this document is meant to provide direction and references to planning practitioners for the development of specific plans. Interested individuals and other participants involved in local land use planning may also find it useful. The suggestions for style, format and techniques are meant to be advisory only and should not be construed as being mandatory. All references are to the Government Code unless otherwise noted.

Part One:
The Specific Plan



The Specific Plan

A specific plan is a tool for the systematic implementation of the general plan. It effectively establishes a link between implementing policies of the general plan and the individual development proposals in a defined area. A specific plan may be as general as setting forth broad policy concepts, or as detailed as providing direction to every facet of development from the type, location and intensity of uses to the design and capacity of infrastructure; from the resources used to finance public improvements to the design guidelines of a subdivision.

A specific plan may encompass an area as large or larger than the 2,800 acres affected by the Ahmanson Ranch Specific Plan in Ventura County, or as small as a single acre. A specific plan may be developed in response to a single policy issue, or to address each applicable policy of the general plan. It may also diverge from the issues contained in the general plan into other subjects viewed by the community as being of relevance.

To an extent, the range of issues that is contained in a specific plan is left to the discretion of the decision-making body. However, all specific plans, whether prepared by a general law city or county, must comply with Sections 65450 - 65457 of the Government Code. These provisions require that a specific plan be consistent with the adopted general plan of the jurisdiction within which it is located. In addition, specific plans must be consistent with any Airport Land Use Plan pursuant to Public Utilities Code §21676. In turn, all subsequent subdivision and development, all public works projects and zoning regulations must be consistent with the specific plan.

The initiation of the specific plan process may be motivated by any number of factors including development issues or the efforts of private property owners, elected officials, citizen groups, or the local planning agency. As with a general plan, the authority for adoption of the specific plan is vested with the local legislative body pursuant to §65453(a). However, unlike the general plan, which is required to be adopted by resolution (§65356), two options are available for the adoption of a specific plan: 1) adoption by resolution, which is designed to be policy driven, or 2) adoption by ordinance, which is regulatory by design.

The adoption of a specific plan is a legislative act similar to adoption of a general plan or zoning ordinance. Therefore, specific plans may be subjected to voter initiative and referenda (*Yost v. Thomas* (1984) 36 Cal.3d 561 and *DeVita v. County of Napa*, (1995) 9 Cal. 4th 763). (For further discussion see Part 4.)

Specific Plan Attributes & Disadvantages

A thorough specific plan can enable planners to effectively implement selected long term general plan objectives in a short time frame. The enabling statutes are flexible, allowing public agencies to create standards for the development of a wide range of projects or solutions to any type of land use issues. The plan may present the land use and design regulations which guide the development of a city center, such as the City of Brea's Towne Plaza Specific Plan, or incorporate land use and zoning regulations, infrastructure plans, and development approval processes for the development of residential, office, commercial and open space uses, such as the City of Folsom's Parkway Specific Plan and Design Guidelines. The plan may be organized into a concise set of development policies and include land use regulations, a capitol improvement program, or financing program within a single document.

A specific plan may be used to implement the policies of an optional economic development element of a general plan. Policies of the general plan which are specific to financing infrastructure improvements and extensions, or cost recovery programs may be implemented by matching land uses with supporting public facilities. This is done to assist development engineering departments and developers avoid ineffective or undersized streets, sewers, water lines, and other necessary improvements. In addition, it may directly impose exactions in association with the general plan's capitol improvement policies.

The specific plan process must provide opportunities for the general public, as well as residents located within planning areas, to assist in the planning of their particular communities. Public involvement helps define the community's vision of future growth and development.

Future development proposals may benefit from the foundation created by the specific plan. For example, a Program EIR adopted to fulfill the plan's CEQA obligation may streamline the processing of subsequent discretionary projects by obviating the need for additional environmental documentation.

The specific plan represents a good tool for developing a community "sense of place." A creative and innovative specific plan may bridge the gap between monotonous urban development and a livable neighborbood.

The specific plan also has disadvantages. These include the time, cost, and obligation of staff resources to prepare and implement the plan. To be effective, the plan requires the collection and analysis of significant amounts of detailed data. Since most planning agencies do not bave the staff to commit to the preparation process, most plans include the involvement and cost of outside consultants. Similarly, the incorporation of the plan into the day to day planning processes may require the commitment of additional staff time, particularly when the plan establisbes regulations wbich are only applicable to the area affected by the plan.

Further, specific plans prepared for a single project may become obsolete if the project is not implemented. The result could include the need for extensive revision or repeal.

The adoption of a specific plan does not vest development by statute, but its entitlements may be defined by development agreements and vesting tentative maps. Specific plans themselves are dynamic documents and may be subject to cbange. There are no assurances to residents and project proponents that the plan will not be subject to future revisions.

Statutory Requirements

Section 65451 of the Government Code mandates that a specific plan be structured as follows:

(a) A specific plan shall include a text and a diagram or diagrams wbicb specify all of the following in detail:
(1) Tbe distribution, location, and extent of the uses of land, including open space, within the area covered by the plan.
(2) The proposed distribution, location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan.
(3) Standards and criteria by which development will proceed, and standards for the conservation, development, and utilization of natural resources, where applicable.
(4) A program of implementation measures including regulations, programs, public works projects, and financing measures necessary to carry out paragrapbs (1), (2), and (3).
(b) The specific plan shall include a statement of the relationship of the specific plan to the general plan.

(The entire specific plan statute is included in Appendix B of this report for reference.)

The statutes apply to all counties and general law cities. They do not apply to charter cities unless incorporated by local cbarter or code. However, charter cities are required to comply with the Subdivision Map Act's findings requirements pertaining to a subdivision's consistency with an adopted specific plan pursuant to §65455.

Legal Adequacy

A specific plan must meet the minimum requirements of the statute listed above in order to be legally adequate. Numerous specific plans reviewed by OPR commonly lack one or more of the following:

- Maps, diagrams or descriptions to adequately describe the distribution, location, extent, and size of the major infrastructure components needed to serve the project. Energy and solid waste facilities are commonly overlooked.
- A thorough discussion of the implementation measures necessary to carry out §65451 (a)(1-4).
- A discussion of tbe methods to be used for infrastructure financing and a program for implementation.
- A detailed statement of the relationship of the specific plan to the general plan, including consistency between both plans and a comparison of goals, objectives, and policies.
- A discussion of bow the plan implements the policies of the general plan.

Area And Community Plans

Practicing planners in California have used a variety of euphemisms to describe specific plans. The creative use and combination of planning terms to describe various planning tools has blurred the distinction between specific plans, community plans, and area plans to the extent that the terms are often misused. Tbe following discussion bighlights the differences among such plans.

A community plan is defined in Public Resources Code §21083.3 as a part of the General Plan wbich (1) applies to a defined geographic portion of the total area included in the general plan, (2) includes or references eacb of the mandatory elements specified in §65302 of the Government Code, and (3) contains specific development policies adopted for the area, and identifies measures to implement those policies, so that tbe policies which will apply to each parcel can be determined.

Area plans are not specifically mentioned in statute; however, they are authorized under §65301(b), which allows individual sections of the general plan to be devoted to a particular subject or geograpbic area. In addition, they are also allowed as optional elements or subjects under §65303.

Area and community plans address a particular region or community within the overall planning area of the general plan. An area or community plan is adopted as a general plan amendment. It refines the policies of the general plan as they apply to smaller geograpbic areas, and is implemented by local ordinances such as those regulating land use and subdivision. Area or community plans also provide forums for resolving local conflicts among competing interests. An area or community plan must be consistent with the general plan of which it is a part.

Specific plans differ from area and community plans in the following ways:

- A specific plan is not a component of a general plan. It is a separately adopted general plan implementation document.
- Specific plans are described by statute (§65450 et seq.). There are no statutes that specify the contents of area plans.
- The purpose of a specific plan is the "systematic implementation" (§65450) of the general plan. Neither community plans nor area plans have an emphasis on implementation. They are used to refine the policies of the general plan relating to a defined geographic area.
- Although a specific plan must be "prepared, adopted, and amended in the same manner as general plans" (§65453), it may be adopted by resolution or ordinance and may be amended as often as necessary. Community and area plans may only be adopted or amended by resolution, and the number of amendments is subject to the limits set out in §65358 for general plan amendments.

Specific plans are required under §65451(a)(2) to identify proposed major components of infrastructure needed to support planned land uses. Community plans and area plans may, but are not required to, contain similar analyses.

Attachment K

CALIFORNIA CODES
GOVERNMENT CODE
SECTION 65864-65869.5

Development Agreement Provisions

65864. The Legislature finds and declares that:

(a) The lack of certainty in the approval of development projects can result in a waste of resources, escalate the cost of housing and other development to the consumer, and discourage investment in and commitment to comprehensive planning which would make maximum efficient utilization of resources at the least economic cost to the public.

(b) Assurance to the applicant for a development project that upon approval of the project, the applicant may proceed with the project in accordance with existing policies, rules and regulations, and subject to conditions of approval, will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development.

(c) The lack of public facilities, including, but not limited to, streets, sewerage, transportation, drinking water, school, and utility facilities, is a serious impediment to the development of new housing. Whenever possible, applicants and local governments may include provisions in agreements whereby applicants are reimbursed over time for financing public facilities.

65865. (a) Any city, county, or city and county, may enter into a development agreement with any person having a legal or equitable interest in real property for the development of the property as provided in this article.

(b) Any city may enter into a development agreement with any person having a legal or equitable interest in real property in unincorporated territory within that city's sphere of influence for the development of the property as provided in this article. However, the agreement shall not become operative unless annexation proceedings annexing the property to the city are completed within the period of time specified by the agreement. If the annexation is not completed within the time specified in the agreement or any extension of the agreement, the agreement is null and void.

(c) Every city, county, or city and county, shall, upon request of an applicant, by resolution or ordinance, establish procedures and requirements for the consideration of development agreements upon application by, or on behalf of, the property owner or other person having a legal or equitable interest in the property.

(d) A city, county, or city and county may recover from applicants the direct costs associated with adopting a resolution or ordinance to establish procedures and requirements for the consideration of development agreements.

(e) For any development agreement entered into on or after January 1, 2004, a city, county, or city and county shall comply with Section 66006 with respect to any fee it receives or cost it recovers pursuant to this article.

65865.1. Procedures established pursuant to Section **65865** shall include provisions requiring periodic review at least every 12 months, at which time the applicant, or successor in interest thereto, shall be required to demonstrate good faith compliance with the terms of the agreement. If, as a result of such periodic review, the local agency finds and determines, on the basis of substantial evidence, that the applicant or successor in interest thereto has not complied in good faith with terms or conditions of the agreement, the local agency may terminate or modify the agreement.

65865.2. A development agreement shall specify the duration of the agreement, the permitted uses of the property, the density or intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The development agreement may include conditions, terms, restrictions, and requirements for subsequent discretionary actions, provided that such conditions, terms, restrictions, and requirements for subsequent discretionary actions shall not prevent development of the land for the uses and to the density or intensity of development set forth in the agreement. The agreement may provide that construction shall be commenced within a specified time and that the project or any phase thereof be completed within a specified time.

The agreement may also include terms and conditions relating to applicant financing of necessary public facilities and subsequent reimbursement over time.

65865.3. (a) Except as otherwise provided in subdivisions (b) and (c), Section 65868, or Section 65869.5, notwithstanding any other law, if a newly incorporated city or newly annexed area comprises territory that was formerly unincorporated, any development agreement entered into by the county prior to the effective date of the incorporation or annexation shall remain valid for the duration of the agreement, or eight years from the effective date of the incorporation or annexation, whichever is earlier. The holder of the development agreement and the city may agree that the development agreement shall remain valid for more than eight years, provided that the longer period shall not exceed 15 years from the effective date of the incorporation or annexation. The holder of the development agreement and the city shall have the same rights and obligations with respect to each other as if the property had remained in the unincorporated territory of the county.

(b) The city may modify or suspend the provisions of the development agreement if the city determines that the failure of the city to do so would place the residents of the territory subject to the development agreement, or the residents of the city, or both, in a condition dangerous to their health or safety, or both.

(c) Except as otherwise provided in subdivision (d), this section applies to any development agreement which meets all of the following requirements:

(1) The application for the agreement is submitted to the county prior to the date that the first signature was affixed to the petition for incorporation or annexation pursuant to Section 56704 or the adoption of the resolution pursuant to Section 56800, whichever occurs first.

(2) The county enters into the agreement with the applicant prior to the date of the election on the question of incorporation or annexation, or, in the case of an annexation without an election pursuant to Section 57075, prior to the date that the conducting authority orders the annexation.

(3) The annexation proposal is initiated by the city. If the annexation proposal is initiated by a petitioner other than the city, the development agreement is valid unless the city adopts written findings that implementation of the development agreement would create a condition injurious to the health, safety, or welfare of city residents.

(d) This section does not apply to any territory subject to a development agreement if that territory is incorporated and the

effective date of the incorporation is prior to January 1, 1987.

65865.4. Unless amended or canceled pursuant to Section 65868, or modified or suspended pursuant to Section 65869.5, and except as otherwise provided in subdivision (b) of Section **65865**.3, a development agreement shall be enforceable by any party thereto notwithstanding any change in any applicable general or specific plan, zoning, subdivision, or building regulation adopted by the city, county, or city and county entering the agreement, which alters or amends the rules, regulations, or policies specified in Section 65866.

65865.5. (a) Notwithstanding any other provision of law, after the amendments required by Sections 65302.9 and 65860.1 have become effective, the legislative body of a city or county within the Sacramento-San Joaquin Valley shall not enter into a development agreement for property that is located within a flood hazard zone unless the city or county finds, based on substantial evidence in the record, one of the following:

(1) The facilities of the State Plan of Flood Control or other flood management facilities protect the property to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(2) The city or county has imposed conditions on the development agreement that will protect the property to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(3) The local flood management agency has made adequate progress on the construction of a flood protection system that will result in flood protection equal to or greater than the urban level of flood protection in urban or urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas for property located within a flood hazard zone, intended to be protected by the system. For urban and urbanizing areas protected by project levees, the urban level of flood protection shall be achieved by 2025.

(b) The effective date of amendments referred to in this section

shall be the date upon which the statutes of limitation specified in subdivision (c) of Section 65009 have run or, if the amendments and any associated environmental documents are challenged in court, the validity of the amendments and any associated environmental documents has been upheld in a final decision.

(c) This section does not change or diminish existing requirements of local flood plain management laws, ordinances, resolutions, or regulations necessary to local agency participation in the national flood insurance program.

65866. Unless otherwise provided by the development agreement, rules, regulations, and official policies governing permitted uses of the land, governing density, and governing design, improvement, and construction standards and specifications, applicable to development of the property subject to a development agreement, shall be those rules, regulations, and official policies in force at the time of execution of the agreement. A development agreement shall not prevent a city, county, or city and county, in subsequent actions applicable to the property, from applying new rules, regulations, and policies which do not conflict with those rules, regulations, and policies applicable to the property as set forth herein, nor shall a development agreement prevent a city, county, or city and county from denying or conditionally approving any subsequent development project application on the basis of such existing or new rules, regulations, and policies.

65867. A public hearing on an application for a development agreement shall be held by the planning agency and by the legislative body. Notice of intention to consider adoption of a development agreement shall be given as provided in Sections 65090 and 65091 in addition to any other notice required by law for other actions to be considered concurrently with the development agreement.

65867.5. (a) A development agreement is a legislative act that shall be approved by ordinance and is subject to referendum.

(b) A development agreement shall not be approved unless the legislative body finds that the provisions of the agreement are

consistent with the general plan and any applicable specific plan.

(c) A development agreement that includes a subdivision, as defined in Section 66473.7, shall not be approved unless the agreement provides that any tentative map prepared for the subdivision will comply with the provisions of Section 66473.7.

65868. A development agreement may be amended, or canceled in whole or in part, by mutual consent of the parties to the agreement or their successors in interest. Notice of intention to amend or cancel any portion of the agreement shall be given in the manner provided by Section 65867. An amendment to an agreement shall be subject to the provisions of Section 65867.5.

65868.5. No later than 10 days after a city, county, or city and county enters into a development agreement, the clerk of the legislative body shall record with the county recorder a copy of the agreement, which shall describe the land subject thereto. From and after the time of such recordation, the agreement shall impart such notice thereof to all persons as is afforded by the recording laws of this state. The burdens of the agreement shall be binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

65869. A development agreement shall not be applicable to any development project located in an area for which a local coastal program is required to be prepared and certified pursuant to the requirements of Division 20 (commencing with Section 30000) of the Public Resources **Code**, unless: (1) the required local coastal program has been certified as required by such provisions prior to the date on which the development agreement is entered into, or (2) in the event that the required local coastal program has not been certified, the California Coastal Commission approves such development agreement by formal commission action.

65869.5. In the event that state or federal laws or regulations,

enacted after a development agreement has been entered into, prevent or preclude compliance with one or more provisions of the development agreement, such provisions of the agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.