

BRISBANE PLANNING COMMISSION  
Summary Minutes of August 25, 2016  
Regular Meeting

A. CALL TO ORDER

Chairperson Do called the meeting to order at 7:36 p.m.

B. ROLL CALL

Present: Commissioners Anderson, Do, Munir, Parker, and Reinhardt.

Absent: None.

Staff Present: Community Development Director Swiecki and Associate Planner Capasso.

C. ADOPTION OF AGENDA

Commissioner Reinhardt moved and Commissioner Parker seconded to adopt the agenda. The motion was approved 5-0.

D. CONSENT CALENDAR

1. APPROVAL OF DRAFT ACTION MINUTES

- i. July 7, 2016 special meeting
- ii. July 28, 2016 regular meeting

Commissioner Anderson moved and Commissioner Munir seconded to adopt the consent calendar. The motion was approved 5-0.

E. ORAL COMMUNICATIONS (limit to a total of 15 minutes)

Linda Dettmer stated her support of the Planning Commission's draft Resolution regarding Item G.1.

F. WRITTEN COMMUNICATIONS

Chairperson Do acknowledged Bay Area Monitor newsletter.

G. OLD BUSINESS

1. **PUBLIC HEARING: Baylands Planning Applications (Baylands Concept Plans, Brisbane Baylands Specific Plan, General Plan Amendment Case GP-01-06) and related Final Environmental Impact Report;** Universal Paragon Corporation, applicant; Owners: various; APN: various. Ongoing Planning Commission deliberations.

Director Swiecki reminded the Commission they had closed the public hearing at the July 28, 2016 meeting and continued their deliberations to tonight's meeting. He turned the floor over to the Chairperson.

Chairperson Do acknowledged a memo from the City Attorney, attached to the agenda report, addressing concerns of Commissioner bias brought up by a speaker at the July 28 meeting.

Alison Krumbein, consulting legal counsel, confirmed that the City Attorney's memo states that the law does not prohibit a Commissioner from expressing an opinion on a legislative matter prior to deliberating on it.

Chairperson Do said another resident had inquired how many residents vs. non-residents spoken for or against housing in the Baylands at public meetings. She indicated that about half of meeting attendees were residents and half were non-residents. However, based on all comments received on the matter (written and verbal), the majority of Brisbane residents who submitted comments were against housing in the Baylands.

Chairperson Do presented a matrix she had prepared to compare the Planning Commission's recommendation with the applicant's proposal. [[View Chairperson Do's matrix here on the City website.](#)]

Chairperson Do asked if any other Commissioners wanted to share any information.

Commissioner Parker thanked all who had worked on the project, including the citizen's group that studied it for over a year, City staff and Lloyd Zola's group, UPC, and all others who had helped at the Planning Commission meetings. The other Commissioners agreed.

Chairperson Do referred to Table 3 in the agenda report listing significant unavoidable impacts, and asked staff where the biological section was.

Lloyd Zola said Table 3 only showed unavoidable significant impacts and that biological impacts could be mitigated to a less than significant level.

Chairperson Do noted that page G.1.16 of the staff report listed biological resources as having significant unavoidable impacts.

Mr. Zola said page G.1.16 was incorrect and Table 3 accurately showed the EIR findings.

Chairperson Do pointed out a typo on page G.1.21, first paragraph, second sentence, which read “684 0acres.”

Mr. Zola noted the typo and said it should read “684 acres.”

Chairperson Do said paragraph 4 on page G.1.21 needed a line break between the two “Whereas.” She asked if the wording on page G.1.18 under “Hazardous Materials” was correct.

Mr. Zola said the wording was correct. The EIR found that adequate information was available to conduct a General Plan-level analysis and inform the City’s process of determining land use. DTSC and the Regional Board would need to go through remediation and Title 27 landfill closure review before a Specific Plan could be approved.

Chairperson Do continued reviewing her matrix and said it clarified where the applicant’s proposal diverged from the Commission’s established framework. After reviewing the matrix, she asked if other Commissioners had anything to add.

Commissioner Munir suggested each Commissioner explain their thought process so the citizens can understand the reasons behind the recommendation to the City Council.

Chairperson Do asked if there was anything in particular Commissioner Munir wanted to bring up that had not been previously brought up.

Commissioner Munir said he wanted to explain his own thought process.

Chairperson Do asked Commissioner Munir to break up his comments by topic so each Commissioner could share their thoughts on a particular topic.

Commissioner Munir stated his opinion regarding affordable housing in the Bay Area, including what “affordable” meant relative to current real estate prices, the cost of development, ineffectiveness of inclusionary housing requirements, the ongoing Parkside planning process, municipal fiscal impacts of residential development. He stated housing on the Baylands would not solve regional housing needs. He stated the renewable energy alternative would not negatively impact the City and would be environmentally friendly.

Commissioner Munir then addressed traffic, including the ineffectiveness of the Geneva extension in regards to eliminating congestion on local roads and Highway 101, the inability of Caltrain to meet an increased service demand at a transit center, and the difficulty of procuring funds for public transit.

Chairperson Do asked if other Commissioners could have the opportunity to add comments regarding housing.

Commissioner Munir said he wanted to finish discussing traffic first and then the other Commissioners could share their thoughts. He addressed the lack of funding for a Muni extension and the unreliability of Muni for commuters, as well as its limited reach within San Francisco. He

addressed the auto-centric nature of the Bay Area and the need for a transit system that connects all parts of the Bay Area.

Commissioner Munir described the concerns he had with driverless car technology. He added the level of service in Brisbane is already at Level of Service D or lower and they would have to modify the General Plan to accommodate their recommended alternative since cumulative traffic levels would exceed Level of Service D. He stated he did not want to amend the General Plan standards, but rather wanted to grant the recommended project a variance to this General Plan standard.

Chairperson Do asked for Commissioner's comments on housing.

Commissioner Anderson said he submitted written comments on the housing issue. [[View Commissioner Anderson's written comments here on the City website.](#)] He discussed the difficulty of solving the housing crisis and the unsuitability of the Baylands site for housing. He addressed the need for Brisbane to accommodate housing development in other areas of the city and to meet the RHNA requirement and recognized the jobs-housing imbalance in the region as a critical issue. He agreed with Commissioner Munir's comments about inclusionary housing requirements. He addressed limitations to continued development, including water availability.

Commissioner Reinhardt appreciated Commissioner Anderson's comments and agreed that housing should be accommodated in Brisbane on more suitable sites. He discussed the results of the citywide survey and supported inclusion of the Sustainability Framework into the General Plan.

Commissioner Munir indicated that State legislation was under consideration that would allow residential development to exceed the maximum permitted density on a given site established by the City.

Commissioner Parker explained why she could not support housing on the Baylands, including the lack of infrastructure, liquefaction danger, potential for future discovery of hazardous materials after remediation, and inability of below market rate homeowners to build equity or pay for future remediation.

Commissioner Munir shared his opinion that the Housing Element requirements were not enforceable.

Chairperson Do stated her support for building sustainable housing in Brisbane and mentioned the Parkside Plan as an example of the City's commitment to meeting Housing Element requirements. She stated her concern with potential health hazards posed by building housing on the Baylands and shared a paper written by Alison Pappé entitled "A Question of Settlement: Emeryville's Landfill Problem" about Watergate that was unsettling [[A senior thesis paper published in 1985 by UC Berkeley.](#)] She did not think that the developer's proposal of 4400 housing units would provide meaningful amounts of affordable housing.

Commissioner Munir added the Commission was unable to get technical information regarding residential projects on landfills more than 10-15 years old.

Commissioner Anderson said Watergate in Emeryville was 30 years old and a Mission Bay building was 16 years old, but the materials they received were not detailed studies.

Chairperson Do read a portion of the paper she referenced by Alison Pappé. She asked if any Commissioners had any comments to add to the traffic topic. There were none.

Commissioner Munir shared comments on the lack of verification that the required water was guaranteed by the Modesto Irrigation District, the concerns of the Sierra Club on the impact on the San Joaquin River, and the importance of water availability as a “critical path” to development at the site. He noted East Palo Alto halted residential development due to lack of water and he has heard San Jose is considering the same.

Commissioner Anderson appreciated the agenda report’s discussion on water and noted his submitted written comments on the agenda report. He emphasized the importance of water and was concerned with the impact on poor communities as water becomes more expensive. He thought it should be addressed at the State level or else the affordable housing issue will be exacerbated.

Chairperson Do noted that water supply was a significant unavoidable impact in Table 3.

Commissioner Munir discussed the unknown location of the water tank, the expense to build it and a new water system, and the ability of the renewable energy alternative to power the water delivery system. He addressed the geotechnical work and the need for additional information regarding soil profiles across the site. He said soil profiles were needed so the pile driving can avoid the hazardous materials and to determine the liquefaction potential throughout the site. He spoke of the risk of sink holes, the fluctuation of the water table and the impact on soils, and how deep bedrock was and what type of pile driving methods would be appropriate to reduce the sound. More analysis geotechnical analysis was required related to hazardous materials release into the air or water. He expressed his opinion that they needed to know exactly what hazardous materials were in the soil.

Commissioner Anderson said the staff report and DEIR cover adequately well what the Commission had to consider in regards to geotechnical analysis. He suggested that the draft resolution be modified to require that a pile driving study be done regardless of the approved land use program. He also had a comment on Section 3.1.C about the EIR approval process, that the EIR mitigation measure review will include a line-item review of individual mitigation measures.

Chairperson Do agreed with Commissioner Munir and Commissioner Anderson’s statements and said the soil analysis should evaluate the types of Bay Mud underlying the site and the different types of settlement issues. She shared her concern with the unregulated and undocumented nature of the waste in the Baylands.

Director Swiecki suggested the Commission place a motion on the floor to approve the resolution, Assuming the motion is seconded they can continue their discussion in the context of the draft resolution and suggested modifications thereto.

Commissioner Anderson agreed.

Commissioner Munir said he wanted to finish his comments.

Director Swiecki said once the motion was on the floor, the Commission could continue their discussion prior to acting on the motion.

Mr. Zola reiterated the Commission should make a motion and second for approval of the resolution, then discuss the changes to that resolution. They would not take an action until they are done making the desired changes to the resolution.

Commissioner Munir moved adoption of Resolution GP-01-06/GP-02-10/SP-01-06. Commissioner Anderson seconded.

Commissioner Parker suggested modifying the Resolution to include appointment of a citizen oversight committee for the Baylands.

Chairperson Do suggested that was covered on page G.1.27, Section 3.1.C regarding mitigation monitoring and reporting.

Commissioner Parker disagreed.

Mr. Zola said several members of the public had requested establishment of an oversight committee to focus on the hazardous materials remediation.

Commissioner Anderson asked if that was different from BBCAG.

Commissioner Parker said it was since BBCAG was under the auspice of DTSC and most of the Baylands was under the Regional Water Board.

Director Swiecki said BBCAG was a creation of State law. The City cannot impose itself on a regional or state agency or formally provide oversight over the Board or its regulatory responsibilities. If the Commission wants the Council to create an internal oversight board they could make that recommendation. He suggested the Commission would need to articulate the functional purpose of such a body if they are going to recommend one be created.

In response to a Commission inquiry, Director Swiecki noted if the project moves forward, there would be a team of staff and consultants monitoring the mitigation measures and verifying their enforcement and compliance.

Commissioner Munir asked if staff would need an additional oversight body.

Director Swiecki said staff had not made that request or recommendation.

After some discussion, the majority of Commissioners agreed that they did not want to recommend establishment of a citizen oversight board.

Commissioner Munir addressed the need for a containment structure at the Tank Farm in case of leakage, vandalism, or attack, and a flammable plume analysis to ensure it wouldn't harm anyone in the vicinity, and to know the distribution of the gas lines and whether gases are leaking from them. All of those concerns should be addressed in a specific plan. He said any subsequent air quality analysis needed to include on-site conditions and wanted a model to show that there wouldn't be an inversion layer when the construction was going on. He said the specific plan should address how to prevent sea level rise and consider whether sea walls would be appropriate. He said the project must meet the City's sustainability framework.

Commissioner Munir moved on to discuss fiscal impacts to the City, including maintenance and upkeep costs for infrastructure and residential development, and said the fiscal analysis submitted to the city was inadequate particularly regarding the long-term fiscal impacts of the hazardous materials.

Commissioner Munir said he calls the renewable energy alternative a "Hybrid" alternative and said it would have the least environmental impact, reduce greenhouse gases and provide energy to Brisbane and San Mateo County, accommodate Recology's expansion and the High Speed Rail Authority's maintenance yard, a green belt along the Highway 101 to buffer the site from the highway, and would least impact wind surfing.

Commissioner Anderson suggested the resolution should say specifically that any land use plan needs additional financial analysis. He added that the outdated zoning designations on the land use map must be updated to conform to the General Plan.

Chairperson Do asked staff if the prohibition against lagoon use in Section 3.c.2.i was a direct result of the desire to promote biological preservation as presented in the mitigation measures.

Commissioner Anderson said he didn't believe the Commission should say that recreation on the lagoon should be prohibited.

Mr. Zola said there was a mitigation measure relative to protecting biological resources in the EIR. They could delete the bullet point under 3.c.2.i, which would respond to both Commissioner Anderson and Chairperson Do's concerns.

Commissioner Anderson said there was doubt whether the wind study would add any data they could trust. He suggested they "consider" the study rather than require it.

Commissioner Munir said they had to recommend to the City Council whether they approve the EIR or not.

Director Swiecki said that was addressed in Section 3 of the Resolution.

Commissioner Munir asked whether a variance could be granted for the Level of Service established in the General Plan.

Ms. Krumbein, City legal counsel, responded there is no legal process to allow for a Variance from a General Plan policy. She explained that the General Plan was the overarching planning document for the City and has numerous policies. Developments need to be consistent with the General Plan and findings of consistency have to be made for each project.

Commissioner Munir asked if they had to change the General Plan language because one way or another it would exceed LOS D specified in the General Plan.

Director Swiecki suggested that would be the case. He suggested that the Commission take a short break to allow staff and the consultant to compose changes to the resolution as suggested by the Commission earlier in the meeting.

Chairperson Do announced a 5-minute break.

The Commission reconvened.

Mr. Zola reviewed the revisions the Commission had discussed, and reiterated that they would need to be accepted by the motion maker and second before moving forward:

- Page G.1.21: Correct typo in second line so it reads "684 acres."
- Page G.1.21: Insert paragraph break after fourth "Whereas."
- Page G.1.22: Add a new "Whereas" regarding the citizens committee after the fourth "Whereas."
- Page G.1.24: In "Now, therefore" paragraph, replace "July 28" with "August 25."
- Page G.1.25: Delete bullet point regarding use of lagoon in Section 2, paragraph 3.C.ii.
- Page G.1.26: In Section 2, add subsection 3.J recommending that the City Council update Baylands zoning to reflect updated General Plan land uses.
- Page G.1.26: In Section 2, add subsection 3.K to recommend adding a General Plan policy that specific plans shall include a cost revenue study that demonstrates feasibility to the City.
- Page G.1.26: In Section 2, add subsection 3.L to recommend modifying the existing General Plan LOS standard to be a goal and to require all feasible mitigations at intersections where cumulative conditions would make achievement of that goal impossible.
- Page G.1.27: In Section 3, amend section 2.C to read "additional analysis of site remediation and the potential to create water quality impacts."
- Mitigation measure in the EIR: Pile-driving noise analysis should be conducted for any land use program, including the Commission's recommendation.

Commissioner Munir said the suggested addition of Section 2, subsection 2.L would be too open-ended. After some discussion, Commissioner's Anderson, Parker, Reinhardt, and Chairperson Do voiced support for Mr. Zola's original wording.

Mr. Zola said several items brought up in the Commission's discussion were already addressed in the Resolution at a General Plan level, including:

- Requirement for approvals of physical development on the site to be tied to water supply.
- The design and location of water tank, which would be part of agreements worked out prior to physical development layout.

- New geotechnical studies, including liquefaction potential, are required by State law prior to grading at the building stage.
- In addition to a regional impact analysis of the amount of emissions, the EIR also includes localized significance thresholds and a health risk assessment and found no significant impacts.
- Mitigations already in the EIR address sea level rise and require that all site design accommodate 100 years of rising sea levels and 100-year floods. There are sea level rise projection maps in the EIR based on the estimates set forth for the Bay Area and development would need to take that into account.
- The NREL study demonstrates the feasibility of the renewable energy use itself, but did not analyze a mix of land uses around it.

Commissioner Munir said he wanted language regarding geotechnical studies for the entire area, not just the studies required by the building code, to determine the distribution of the soils within the project area that would give them a better idea of where particular buildings would be located.

Mr. Zola stated that is already addressed as the entirety of the site needs to be regraded, and the supporting geotechnical and soils studies will encompass the entire area to be graded. He added that would further address protection from liquefaction and load-bearing strength.

Chairperson Do asked if Commissioner Munir and Commissioner Anderson agreed to accept the modifications as stated. Commissioner Munir and Commissioner Anderson accepted the modifications as stated by Mr. Zola and noted in the meeting record.

Chairperson Do called for a vote on the motion. It was approved 5-0.

Commissioner Munir thanked BBCAG for their effort.

Chairperson Do thanked everyone involved in the project.

#### H. ITEMS INITIATED BY STAFF

Director Swiecki said there would be a City Council study session on September 1 for the Parkside Plan. He thanked the Commission for their service regarding the Baylands project.

#### I. ITEMS INITIATED BY THE COMMISSION

Chairperson Do thanked staff and the consultants for their assistance. Commissioner Munir thanked the consultants hired to work on the land use program mapping.

Commissioner Parker asked what projects were coming up.

Director Swiecki said there were several City-initiated code amendments that would be moving forward per the City Council's direction. There may be some private applications coming forward.

Commissioner Munir said he would be on vacation in September and most of January.

Chairperson Do read the appeals process.

J. ADJOURNMENT to the Regular Meeting of September 8, 2016 at 7:30 p.m.

Commissioner Parker moved and Commissioner Anderson seconded to adjourn to the regular meeting of September 8, 2016 at 7:30 p.m. The motion passed 5-0 and the meeting adjourned at 10:01 p.m.

Attest:

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John A. Swiecki, Community Development Director

NOTE: A full video record of this meeting can be found on DVD at City Hall and the City's website at [www.brisbaneca.org](http://www.brisbaneca.org).