







**09**

# IMPLEMENTATION



# 09 | IMPLEMENTATION

## 9.1 PURPOSE

This chapter provides an overview of the implementation process for the Specific Plan area, including completion of remediation and landfill closure, phased completion of public park, infrastructure and new development, and the subsequent approval process for completion of the Specific Plan area.

## 9.2 PHASING

Overview. The Specific Plan area includes two development phases: the West Side and the East Side. Each side has been further divided into Districts as described in Chapter 3, Section 3.5.

Completion of the West Side remediation construction activities are not required before the West Side development can commence. However, the East Side landfill closure construction must be completed before East Side development can begin. For both East and West, remediation and landfill closure require ongoing monitoring and maintenance, which will allow ground floor occupancy for sensitive uses such as residences. Required remediation will also include completion of subsurface clean corridors for the safe installation and maintenance of new wet and dry utilities.

Pre-development grading activities will occur concurrently on both the West and East Side through the Specific Plan implementation period because the East Side includes the stockpiled soils that provide the on-site source of the fill required for the West Side and other areas to assure that the finished site elevation achieves required standards to mitigate sea level rise risks. The East Side fill has been placed well above the legacy municipal waste layer, and over a period of years has also compacted the municipal waste layer. Site grading and fill activities will not disturb this municipal waste layer, except where required for improvements in open space areas, Visitacion Creek, stormwater detention and utility installations, and as

required by the Landfill Closure Plan a thick cap of fill, appropriately compacted, is also required prior to East Side Development.

### 9.2.1 PHASE I: WEST SIDE DEVELOPMENT, SUSTAINABILITY INFRASTRUCTURE, AND OPEN SPACE.

The West Side will be developed in a single phase, beginning with the commercial development of the Icehouse Hill District on the south, then moving in sequence immediately north to the mixed-use Roundhouse District, and concluding in the mixed-use Bayshore District. Major site infrastructure such as the solar field, wastewater treatment plant and constructed wetlands (all located on the East Side) are also required to be completed concurrently with West Side development as these provide the sustainable water treatment and renewable energy generation infrastructure for the development.

Following completion of remediation in OU-2 (spanning the Icehouse District and Roundhouse District), fill from the East Side will be placed first on the Icehouse Hill District to raise the elevation to the planned finished grade, then further surcharged with overburden fill and associated wick drains to achieve geotechnical conditions suitable for development. This surcharge ground improvement process will then move immediately north, and be repeated in the Roundhouse Hill District. Remediation construction in OU-SM must be completed before this geotechnical ground improvement process commences in the Bayshore District.

### PHASE I TRAIL AND PARK AMENITIES

The construction of public park and trail amenities will begin concurrently with the commencement of soil import fill to Icehouse Hill and on the Visitacion Creek (East Side) and be completed as described in Table 9.1 Phasing Sequence. The construction of the Visitacion Creek trail amenity must be completed concurrently with the sustainability infrastructure required for the Icehouse Hill

District. The trail from Icehouse Hill to the Lagoon must be completed prior to issuance of a certificate of occupancy in the Icehouse Hill District, with remaining Lagoon and Visitacion Creek open space area public park improvements required to be completed before issuance of a certificate of occupancy for a residential unit in Roundhouse District

**ROADS**

Project circulation plan roadways and co-located subsurface utility improvements must be completed after pre-development grading improvements. Lateral utility connections and final street improvements (curbs and driveways) must be completed prior to approval of certificates of occupancy for new development. The southern segment of Baylands Blvd, must also be completed prior to issuance of certificates of occupancy for any new development in the Icehouse Hill District. Baylands Blvd must be extended to remaining Districts, and Geneva Avenue west of the planned future bridge,

must be completed, before issuance of a certificate of occupancy for residential development in the Roundhouse or Bayshore Districts.

**9.2.2 PHASE II: EAST CAMPUS DEVELOPMENT**

The East Campus is the planned final phase of development, and can occur only after removal of the soil stockpile currently situated on the East Side, and completion of Landfill Closure construction activities. The eastern segment of Geneva and the Geneva Bridge, Sierra Point Parkway, Lagoon Road, Visitacion Creek Road and the Bay Trail improvements, must be completed before a certificate of occupancy is approved for the East Campus.

Phase/District		Public Open Space Amenities to be Completed Concurrently with Vertical Buildout
<b>Phase I: West Side</b>		
Bayshore District	In District: <ul style="list-style-type: none"> <li>Sunnydale Park</li> <li>Baylands Park (north of Geneva)</li> </ul>	Outside District:
Roundhouse District	In District: <ul style="list-style-type: none"> <li>Baylands Park (south of Geneva)</li> <li>Roundhouse Park</li> <li>Ecological Park (north of Main St.)</li> </ul>	Outside District: <ul style="list-style-type: none"> <li>Lagoon Park (Complete)</li> <li>Visitacion Creek (complete)</li> <li>-Mitigation Wetlands</li> <li>-Polishing Wetlands</li> <li>-Bay Trail</li> </ul>
Icehouse Hill District	In District: <ul style="list-style-type: none"> <li>Ecological Park (south of Main Street)</li> </ul>	Outside District: <ul style="list-style-type: none"> <li>Lagoon Park Trail</li> <li>Visitacion Creek Trail</li> <li>Water Detention</li> </ul>
Phase/District		Parks and Open Space in Districts
<b>Phase II: East Side</b>		
Sustainability District	<ul style="list-style-type: none"> <li>Lagoon Park (Constructed concurrently with the Icehouse Hill District and Roundhouse District)</li> <li>Water Detention (Constructed concurrently with the Icehouse Hill District)</li> </ul>	
Campus East District	<ul style="list-style-type: none"> <li>Bay Trail (Constructed concurrently with Roundhouse District)</li> <li>Visitacion Creek (Constructed concurrently with Icehouse District &amp; Roundhouse District)</li> </ul>	

**TABLE 9.1 PHASING SEQUENCE**

## 9.3 SPECIFIC PLAN IMPLEMENTATION

This Specific Plan implements GP-1-18 of the General Plan. The following City environmental review process, and City approvals, are expected to be processed concurrently with the City's consideration of this Specific Plan.

1. Certification of a project Environmental Impact Report (EIR) for The Baylands Specific Plan. Upon certification, The Baylands EIR will supersede a Program EIR, released for review in 2014 and certified by the City Council in 2018, for an earlier project proposed by Sunquest for a much larger development project than was ultimately approved by the voters in Measure JJ and City Council in GP-1-18.
2. Approval of a Development Agreement (DA) for The Baylands, consistent with this Specific Plan, which serves as the contractual agreement between the city and Sunquest describing the infrastructure, public park and trail amenities, development, public financing and fiscal performance requirements which will remain in effect for the expected duration of buildout (taking into account potential delays due to market and other factors) of the Bayshore.

### 9.3.1 SUBSEQUENT CITY APPROVAL PROCESS

Physical construction activities at The Baylands require subsequent City approvals, consistent with the Specific Plan and Development Agreement. These include:

1. Subdivision maps (tentative and final) would be submitted to establish individual parcels for the Specific Plan's districts (e.g., Bayshore, Roundhouse, Icehouse Hill, East Campus, Sustainability), as well as individual parcels for major roadway rights-of-way forming boundaries between districts (e.g., Geneva Avenue, Main Street, Tunnel Avenue, Lagoon Road, Sierra Point Parkway), and open space areas not within a specific district (e.g., Visitacion Creek, Lagoon Park, etc.)

  - Prior to or concurrent with the approval of the first site-specific development project within a district, a subdivision map (tentative and final) would establish one or more parcels for each block and a parcel for

each park within the district, well as establish rights-of-way for local streets within the district.

- Within the Bayshore District, parcels/rights-of-way would, by way of example only, be established for:

*i. Blocks A-1 through A-13*

*ii. Sunnydale Park, the Caltrain Station Plaza, and the portion of Baylands Park north of Geneva Avenue*

*iii. Baylands Boulevard, Park West and East north of Geneva Avenue, local streets, and Frontage Road north of Geneva Avenue.*

- Within the Roundhouse District, parcels/rights-of-way would, for example, be established for:

*i. Blocks B-1 through B-14;*

*ii. Baylands Park and Ecological Park between Geneva Avenue and Main Street*

*iii. Roundhouse Park*

*iv. Baylands Boulevard, Park West and East south of Geneva Avenue, Roundhouse Circle, Shared Green Streets, and Frontage Road.*

- Within the Icehouse Hill District, parcels/rights-of-way would, for example, be established for:

*i. Blocks C-1 through C-5*

*ii. Ecological Park, Icehouse Hill, and Community Fields*

*iii. Baylands Boulevard, Campus Parkway, and Frontage Road.*

- Within the East Campus District, parcels/rights-of-way would, for example, be established for

*i. Blocks D-1, D-2*

*ii. Visitacion Creek Park*

*iii. East Campus Road and Visitacion Creek North*

- Within the Sustainability District, parcels would, for example, be established for:

*i. Blocks E-1 through E-5*

*ii. Lagoon Park, Baylands Preserve, Stormwater Detention*

*iii. Visitacion Creek South and Local Streets*

2. Each of these subdivision maps would be reviewed by staff for consistency with the Specific Plan as described below, and could include minor modifications to the various provisions and figures of the Specific Plan.
3. Grading permits are required for earth movement, both for grading activities during remediation and landfill closure construction activities, and for development-related fill and compaction activities. Grading permits required for The Baylands shall be processed under Section 15.01.080, except that approval of this Specific Plan serves as the Planning Commission approval required under Section 15.01.081.
4. Approval of a Community Financing District (CFD) and other authorized public financing as identified in the DA, which may include public-private partnerships, tax increment financing, approval of a tax increment district such as an enhanced infrastructure finance district. As required by GP-1-18, these financing mechanisms cannot create a new fiscal burden on Brisbane properties located outside the Specific Plan area, and development of The Baylands must be fiscally positive for the City.
5. Interim Uses. Full buildout of The Baylands is expected to occur over a period of many years, and ultimately require the demolition of existing commercial structures. Existing and new interim uses on the Specific Plan Area will continue to be eligible for interim use permits, as permitted under Section 17.41 of the Municipal Code.
6. Future Development Approvals. City approval is required for all new site-specific development. Permitted Uses are identified in Table 2.2 of Chapter 02 Land Use Program and Definitions, and require Design Review approvals under Section 17.42, and further ministerial approvals such as a Section 15.12.160 building permit and Section 15.12.220 mechanical electrical and plumbing permits. Conditional Uses are also identified

in Table 2.2 of Chapter 02 Land Use Programs and Definitions, and require a Chapter 17.40 conditional use permit and the ministerial permits required for permitted uses. Applications for uses not enumerated in Table 2.2 are conditionally permissible as allowed in Section 17.32.020. Applicants for use permits and building permits are required to document compliance with applicable Specific Plan and EIR Mitigation Measures, and include a signed authorization consent from Sunquest (or its successor or assign) and include a signed authorization consent from Sunquest (or its successor or assign) confirming that the use and/or building permit application complies with all applicable additional development requirements (such as CC&Rs and design criteria). Prior to applying for a building permit, applicants constructing principal structures or substantially modifying an existing principal structure for which no design permit has previously been issued shall first obtain a design permit under Section 17.42 as described above.

### **9.3.2 SUBSTANTIAL CONFORMANCE REVIEW AND SUBSEQUENT MODIFICATIONS OF THE SPECIFIC PLAN**

The Baylands is anticipated to be developed in substantial conformance with the Specific Plan. Any proposed modification of the Specific Plan is required to be submitted to staff for review and concurrence. Ministerial conformance review is completed by staff to approve minor deviations and other approvals that substantially conform to this Specific Plan, including by way of example minor deviations and equivalency determinations, changes to Specific Plan maps and graphics not requiring a tentative map modification, changes to the order or configuration of phasing on approved tentative map(s), inter-district transfers of up to 20% of residential units or commercial square feet of development that do not exceed the total number of allowed residential units and commercial development square feet in the Specific Plan; approval of substantially similar uses to those identified in the Specific Plan; adjustments to district, open space and infrastructure boundaries affecting less than 20% of the relevant acreage; detailed designs of public parks, open space and infrastructure; and other modifications as determined by staff, constitute substantial conformance

covered by the Project EIR. If staff determines that the proposed modification is not in substantial conformance with the Specific Plan, then the modification require an amendment of the Specific Plan.

The Baylands development is expected to occur over a period of years, during which it is likely that technology advances will be made, the market will evolve, and applicable State and Federal legal requirements will be modified. The Planning Director is authorized to determine that such changes or new information shall not require an amendment to the Specific Plan development standards and requirements, provided that:

1. The addition of new information to The Baylands Specific Plan, in the form of maps and/or text, clarifies but does not change the intent of the Specific Plan.
2. The changes to accommodate changes in technology, market, and law were not forecast in the Specific Plan, but do not result in any new significant environmental impact, or worsen any significant unavoidable environmental impact, identified in The Baylands EIR.
3. Regarding changes that adjust project area infrastructure locations and/or service providers (such as drainage systems, roads, water and sewer systems, etc.), the agency or utility regulating such infrastructure has approved the changes, and the change does not result in any new significant environmental impact, or worsen any significant unavoidable environmental impact, identified in The Baylands EIR.
4. Change and use boundaries shown on Figure 2.1 Land Use – Base Variant of less than fifteen percent (15%), provided that the land use boundary change does not conflict with Table 3.2 Land Use Program by District– or Table 2.1 Land Use and Development Program, and the change does not result in any new significant environmental impact, or worsen any significant unavoidable environmental impact, identified in The Baylands EIR.
5. Result from final road alignments and/or geotechnical or engineering refinements included in the tentative and/or final tract map, provided that

6. Correct typographical and grammatical errors.
7. Building permit applicants seeking a variance to a Specific Plan development standard not otherwise allowed by this Specific Plan, applicable state law, or city ordinance, require city approval of a variance under Sections 17.46 and 17.56.030.
8. Other proposed amendments to the Specific Plan shall be adopted by ordinance (for mandatory development standards and other mandatory provisions) or resolution (modifying non-mandatory provisions of the Specific Plan).

### **9.3.3 CONDITIONS, COVENANTS, AND RESTRICTIONS**

Conditions, Covenants, and Restrictions (CC&Rs), which are recorded on individual properties and enforced by private associations, are an effective means of maintaining architectural, landscape, and site control so as to ensure the cumulative character intended by this Specific Plan. The CC&Rs may also include continuing obligations imposed by the City as part of the development approval process. The CC&Rs will confer upon the City the right to enforce these City-imposed conditions.

All CC&Rs will be consistent with the requirements contained in the General Plan, the Zoning Code, this Specific Plan, and other applicable laws and regulations. In addition, provisions for the design and maintenance of fencing, landscaping and open space areas and other facilities within projects, as well for the abatement of nuisances, will be set forth in the CC&Rs. CC&Rs are binding on all members and related parties of the association, which may include owners, developers, lessors, and tenants.

### **9.3.4 MONITORING FOR SPECIFIC PLAN COMPLIANCE**

Both the California Environmental Quality Act (CEQA) and Development Agreement (DA) laws require developer submittal of an annual report to the City. Over time, residential and commercial product types will respond to market fluctuations, industry standards, architectural innovations, and local market needs. This will require ongoing monitoring of residential density and product types, and commercial square footage, throughout the

build-out of the Specific Plan to assure compliance with the City's obligations to accommodate its fair share of regional housing with particular emphasis on the needs of low-income, moderate-income and special needs households. While not identifying The Baylands as a potential housing site, the Housing Element incorporates broad goals for residential development, including densities which promote affordability and policies promoting compact, transit-friendly development to limit greenhouse gas emissions.

The Baylands Specific Plan anticipates development of 2,200 residential units and 7.0 million square feet of commercial use, which includes up to 500 thousand square feet of hotel as shown in Table 2.1 in Chapter 02 Land Use Program and Definitions.

In order to ensure that the overall target density ranges are met, while accounting for market fluctuations that may occur over time, a tabulation of residential units and densities, and commercial square feet, shall be included in the DA annual report throughout the build-out of the development plan, to ensure that build-out does not exceed GPA-1-18.

Each of the following building types has two sections: 'Description', which provides an overview of each type and 'Required Standards', which are the measurable controls for each type. 'Required Standards' for each building type function as part of the requirements that must be implemented by future projects and will need variances if requirements are not met. The application process for such variances shall comply with Brisbane's municipal code 17.46 (refer to Chapter 09 Implementation, Section 9.3 for details). Commercial Building Types have an additional section called 'Design Guidelines', which provide a set of recommendations for the design of building elements that are not required to be implemented for future construction. Required Standards are intended to be enforced by the City as part of the subsequent approval processes described in Chapter 09. Design Guidelines are intended to be advisory and help inform the Design Review process described in Chapter 09.