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July 7, 2016

RECEIVED

JUL 07 2016

Comm. Dev. Dept. Brisbane

Planning Commission  
City of Brisbane  
50 Park Place  
Brisbane, CA

Re: OSEC Comment Letter to Planning Commission Regarding Brisbane Baylands,  
dated May 2016

Honorable Members of the Planning Commission:

I am writing to respond to the Open Space and Ecology Committee (OSEC) letter sent to you on June 3rd. The following will address various comments made throughout the OSEC letter in an effort to underscore factual errors and misleading statements that should be highlighted for the record.

**1. Introductory Comments**

**A. "...ways Brisbane might add some new housing without exposing Baylands residents to toxics..."**

- a. The Developer-Sponsored Plan (DSP) and the variant plan do not expose Brisbane residents to toxics. In fact, the proposed plan remediates the Brisbane Baylands to the standards set by the State of California. To imply that residents will be exposed to toxics by building housing on the Baylands is misleading and ignores state requirements and the remediation efforts that are central to the proposed plan. In addition, OSEC's comments imply that remediation of the site is not a priority for the community.



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***“...and the Baylands are a very likely location for a high-speed rail hub...”***

- b. The OSEC appears to be misinformed regarding High Speed Rail (HSR) – HSR is looking for a large maintenance railyard and is considering Brisbane as a location. A maintenance yard is not a stop, nor is it a “hub,” which implies access to other modes of transit. Furthermore, transit stops must be situated near jobs and housing centers to be viable. HSR is considering a mid-Peninsula stop in Mountain View or Redwood City. Brisbane is not on the list as a location.
  
- c. High Speed Rail’s proposal is not part of the Brisbane Baylands application and we are confused as to why a recommendation for HSR is included in OSEC’s letter. The Baylands EIR does not cover any HSR proposal, as no Project Description for a HSR project was submitted to Brisbane for consideration in the Baylands EIR

## **2. Health and Happiness**

***“Both the Developer Supported Plan (DSP) and developer sponsored Community Proposed Plan (CPP) feature high-density development.”***

- a. The CPP is not the developer’s “sponsored” plan. As part of the EIR process in selecting DSP alternatives from 2007-2010, the Developer supported the community in producing a “Community Proposed Plan”, though the more comprehensive, feasible and well-planned program, the DSP, is the developer’s preferred plan.

***“Their high densities, increased traffic and noise, and less abundant open space make the DSP and CPP less desirable options from a***



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***health and happiness standpoint"***

- b. Locating high density housing near transit follows best practices for smart growth and helps lower regional greenhouse gas emissions by reducing regional commute traffic by providing housing closer to jobs. The EIR demonstrates that greenhouse gas emissions generated by operation of the DSP and DSP-V scenarios would be less than the (Bay Area Air Quality Management District(BAAQMD) "efficiency threshold" of 4.6 metric tons of CO<sub>2</sub>e per service population per year, whereas the heavy commercial and zero residential land uses planned in the CPP and CPP-V scenarios would exceed the BAAQMD efficiency threshold. Even with the implementation of mitigation measures, the CPP and CPP-V scenarios would result in significant unavoidable environmental effects on greenhouse gas reduction planning efforts.

***"If the DSP is adopted, full-time residents of the Baylands would live in close proximity not only to a range of toxics, but to a bulk fuel storage facility, a major freeway, Caltrain"***

- c. Current national, state and regional best practices actually encourage building residential uses near transit to increase walkability, access to transit, and reduce car use and greenhouse gas emissions reductions. For example:
- (1) National:** To encourage successful transit-oriented development (TOD) projects in communities across the country, the Federal Transit Administration (FTA) launched the Transit-Oriented Development Technical Assistance Initiative. The FTA has engaged Smart Growth America to advance TOD through technical assistance. Furthermore, FTA launched a Pilot Program for TOD Planning to help support FTA's mission of improving public transportation for America's communities by providing funding to local communities to integrate land use and transportation planning.



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**(2) State:** SB375 - "The California Sustainable Communities and Climate Protection Act of 2008" (California Senate Bill 375, Steinberg), requires each of the state's 18 metropolitan areas — including the Bay Area — to reduce greenhouse gas emissions from cars and light trucks. Signed by former Gov. Arnold Schwarzenegger, the law requires that the Sustainable Communities Strategy (SCS) promote compact, mixed-use commercial and residential development. SB 375 streamlines the California Environmental Quality Act (CEQA) for housing and mixed-use projects that are consistent with the SCS and meet specified criteria, such as proximity to public transportation, schools, shopping, parks, recreation and other amenities.

**(3) Regional:** The Bay Area is required by law to develop a SCS that strives to reach the greenhouse gas reduction target established for each region by the California Air Resources Board. To meet the goals of SB 375, Plan Bay Area (the Bay Area's SCS) directs more future development in areas that are or will be walkable and bikable and close to public transit, jobs, schools, shopping, parks, recreation and other amenities. Plan Bay Area directs development to Priority Development Areas (PDAs) which includes the Baylands site, designated a PDA in 2008. According to Association of Bay Area Governments, "this allows the region to reduce the emission of greenhouse gases, house our population in a wide range of neighborhoods, preserve our natural resources, and support the creation of and greater access to new employment opportunities."

d. There are examples across the US that demonstrate that former railyards can be remediated for housing. Many examples were provided in the Planning Commission's Request for Information at the January 28<sup>th</sup> hearing.



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Some of these examples include the following case studies:

- (1) Mission Bay in San Francisco: A prime local example and similar to the Baylands, the 500+ acre site included salt marsh and tidal lagoon with historical uses as a landfill and railyard. The development plan includes 6,000 residential units. The site was deemed safe, and the first few hundred homes were built in 2003. Thirteen years has since passed, and no reported illness has been reported from Mission Bay occupants.
- (2) Bridgecourt in Emeryville: The small, four-acre railyard was redeveloped into 220-unit housing complex and completed in 1997. Nineteen years has since passed, and no reported illness have been reported from Bridgecourt occupants.
- (3) Washington Landing in Pittsburgh: The site's history included railyard and dumping use. Since 1995, the 42-acre site has been home to 88 townhome units and 190,000 square feet of Class A office space. Twenty-one years has since passed, and no reported illness have been reported from Washington Landing occupants.

**3. Equity and local economy**

***“The large solar farm (and possible other renewables) featured in the Alternative Energy Plan (AEP) will help to supply this mandated increase in the demand for renewables.”***

- a. The DSP already includes a large renewable energy site, a 25-acre solar field and an additional 257 acres for constructing buildings, as well as storage facilities, helping to meet Brisbane's interest in serving the County with renewable energy.



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***“Water recycling and sewage treatment/methane recovery are important ways to close the resource/waste loop, and could be appropriately sited in the Baylands.”***

b. There is not enough methane on the site to use as an alternative source of energy. The highest rate of organic decomposition typically occurs on former sanitary landfills during the initial 20- to 30-year period after solid waste is deposited. Decomposition of the organic fraction of the waste will continue to occur over time, with an ongoing decline in the rate of production of landfill gas. Since the Brisbane Landfill has been closed for over 40 years, the rate of methane gas production from the site has diminished over time and is currently infeasible for energy production.

c. Water recycling is not part of the AEP as addressed in the EIR.

***“...the DSP and CPP propose very conventional combinations of uses and other enterprises (i.e., offices and retail) similar to what is already present in the Bay Area.”***

d. Reinstating the site to its former uses along with car-dependent retail and additional industrial uses would lead to adverse quality of life issues for the Brisbane community. A region with too many jobs relative to employed residents is likely to experience escalation in housing prices (with a concurrent decline in affordability for the lower - income segments of the community) due to the effects of supply (limited available housing) and demand (by workers residing outside the area), and intensified pressure for additional residential development. This imbalance can result in a large amount of “in-commuting” for employees, increasing traffic congestion, air pollutant and GHG emissions, and use of non-renewable fossil fuels for vehicular travel. Furthermore, the proposed retail in the DSP and CPP



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would be unique from the high-end retail in the nearby, former Candlestick project.

**4. Culture and Community**

***"A variety of housing must be provided for a good social and economic mix."***

- a. The DSP attempts to do just this by providing an alternative to owner-occupied, single family homes and providing below market rate housing.

***"Preservation of the small ranch currently located on the north side of Ice House Hill..."***

- b. The DSP already includes preservation of Ice House Hill as open space.

***"Middle class jobs are an important element of a strong community."***

- c. The DSP and CSP include a wide range of jobs and job levels, including "middle class" jobs, as well as population-serving jobs and knowledge-sector jobs.

**5. Land use and wildlife**

***"OSEC feels that the best metric would be to restore the wetlands to their natural pre-Industrial levels."***

- a. Since the Brisbane Baylands was formerly tidal flats and wetlands, it is unclear what OSEC's recommendation entails as restoration/creation of wetlands to pre-industrial levels would require relocation of Caltrain mainline and the US Highway 101. Additionally, OSEC's recommendation would obviate all other proposed uses, including OSEC's AEP recommendation, on the site.



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## 6. Sustainable water

***“OSEC believes that Brisbane would be better served by the Alternative Energy Plan with lower-density development. But no matter which plan is chosen, we recommend that a water recycling facility be located on the Baylands.”***

- a. Recycled water is not included in the AEP, as stated in the EIR: “The recycled water plant would not be developed under this alternative.” (EIR, Chapter 5, Alternatives, Item 5.2.2, Alternatives Intended to Avoid Significant Effects of the Proposed Project, Renewable Energy Generation Alternative). Therefore, it is unknown whether or not the OSEC’s recommendations would in fact avoid significant effects. In addition, OSEC does not discuss who would pay for a recycled water plant. Chapter 2 of the FEIR, Individual Comments 2.7.1-1 states “Midway through the Project Site development buildout (about year 15), an onsite recycled water plant would be constructed to produce recycled water to meet non-potable water needs on the Project Site and reduce potable water demand”. The recycled water plant will not be delivered when build-out is completed, as misstated in OSEC’s comment letter.
- b. Lower density uses consume more water than higher density development per capita; this is just one of the many reasons why the State of California is urging compact, higher density development rather than low density, spread out development.

***“Flooding is a real possibility in the developed Baylands, given that permeable surfaces cannot be used, because of the risk of water percolating into the landfill. The impermeable surfaces that will cover***





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***a significant portion of the site, no matter which plan is chosen, will increase stormwater runoff”***

- a. To address stormwater runoff and increases, the DSP and CPP will implement of low impact development (LID) techniques, including the recreation of natural landscape features and minimizing imperviousness to create functional and appealing site drainage that treats stormwater as a resource, rather than a waste product. For example, Visitacion Creek will be restored to serve as the Central Drainage Channel, running west to east throughout the entire site. Best Management Practices (BMPs) to be employed include rain barrels and cisterns, green roofs, biotreatment through rain gardens, bioretention units, bioswales and planter/tree boxes.
  
- b. The additional amount amount of impermeable surface will result in an increase of stormwater runoff. However, the preliminary site storm drain system has been designed to accommodate those additional storm flows. Additionally, the storm drain system will apply BMPs such as mechanical filters, planter boxes and retention basins to treat stormwater. Finally, a final Leachate Management Plan following the State of California’s Title 27 landfill closure regulations will be based on the approved land uses. For the land uses proposed in the DSP, the Leachate Management Plan includes a low-permeability final cover designed to reduce leachate generation, and it will enhance surface drainage toward a stormwater runoff system.

***“We suggest creative approaches, such as large sunken concrete structures that could be used for skateboard parks, public plazas, flea/crafts market, parking garages, and/or a farmers’ market under normal conditions, but which could be evacuated and used as temporary rainwater catchment basins in flood conditions”***



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- a. Creating virtual concrete swimming pool-like structures throughout the Baylands as a stormwater management system instead of a more natural, habitat and wildlife-oriented and professionally designed state of the art stormwater management system as proposed by the developer is problematic on a wide variety of levels, for example, the safety for both humans and wildlife, maintenance, cost and management of water extraction equipment and protocols that would require significant additional environmental review and feasibility studies.

#### **7. Local and Sustainable Food**

***“An organic food distribution center, setting minimum standards for Baylands restaurants and businesses, expansion of the farmer's market and businesses that focus on food waste prevention might make some noteworthy contributions to food sustainability on the Baylands.”***

- a. While we understand OSEC's intent is to offer ideas, it should be clarified whether these are suggestions to consider or comments OSEC recommends for inclusion in any final Specific Plan or Development Agreement. The Specific Plan covers sustainable and local food to the extent that is appropriate in a land use document.



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**8. Sustainable Materials**

***“...it is our expectation that they would be sourced from within the US, preferably California, to maintain a minimum level of environmental standards and minimize the transportation footprint.”***

- a. Dictating where the building materials are purchased will very likely lead to significant cost increases for the project and sets a very bad precedent on a number of levels, including
- greatly reducing funds available for community benefits;
  - essentially eliminating any opportunity for funds to be available for community benefits in early phases of the project build out;
  - quite possibly, rendering any project, now or in the future, infeasible;
  - setting a precedent that Brisbane is not business-friendly or a viable investment opportunity.

It is highly recommended that Brisbane encourage but not require use of local materials as other factors such as market supply and demand, pricing, sustainable practices, and types of materials available could play a significant role in decision-making.

**9. Sustainable Transportation**

***“...we think that developing the Baylands into a transportation hub to enable and facilitate rail transportation of goods and people in the Bay Area and in California makes perfect sense.”***

- a. Without density near transit, there will be little increase in ridership, no incentive to expand an underused transit stop into a major transit hub, and no financing available for such a project.

- b. See comment on High Speed Rail in Item 1 (c). It is inappropriate for OSEC



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to be commenting on HSR in this letter regarding the Brisbane Bayland's Proposal.

**10. Zero Waste**

***"Given the presence of Recology on the Baylands, OSEC recommends encouraging waste-to-resource industries such as waste-to-energy ...compost-making, and possibly even the manufacture of recycled paper."***

- a. We believe both the railyard and the zero waste operations can be successfully located elsewhere in the region rather than on a high value, jobs and transit-rich corridor.

**11. Zero Carbon**

***"...we are very concerned about the intense pile driving that will take place under the CPP and DSP and the potential for disruption of distribution lines, and the release of landfill methane."***

- a. Pile driving is a common practice in construction and occurs with stringent safety precautions and collaboration with PG&E and other utilities.

In summary, we trust that the Planning Commission will regard OSEC's comment letter as ideas for consideration only – some viable and some not. We also request that the Commission focus on the facts and the years of expert consultant work put into reviewing the proposed DSP and preparation of the Baylands EIR. Local control is key in land use decisions, but local control should include thoroughly informed decision-making. In addition, we urge the Commission to consider the remediation costs and what level of remediation will be required and financially feasible under the AEP recommendations outlined in this letter. Additionally, we urge consideration of the feasibility of community benefits advocated for in OSEC's comments. We further



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urge the Commission to consider federal, state and regional smart growth planning best practices (such as those outlined by Greenbelt Alliance in their conditional endorsement letter of the DSP for the Brisbane Baylands sent on April 28<sup>th</sup>, 2016) acknowledge Plan Bay Area, SB 375 and AB32 along with renewable energy legislation referenced in this letter, and financing incentives and associated restrictions and requirements when deliberating on this legacy project located in the Peninsula's most critical transit corridor.

Thank you for your consideration in this matter.

Sincerely,

Jonathan Scharfman  
Director of Development  
Universal Paragon Corporation

