

BRISBANE PLANNING COMMISSION
Summary Minutes of January 28, 2016
Regular Meeting

A. CALL TO ORDER

Chairperson Do called the meeting to order at 7:32 p.m.

B. ROLL CALL

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

Absent: None.

Staff Present: Community Development Director John Swiecki, Senior Planner Ken Johnson, Associate Planner Julia Capasso.

C. ADOPTION OF AGENDA

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

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

Barbara Ebel addressed City's Green Building Ordinance and the State's Green Building Code, Title 24, Parts 11 and 6 in relation to the Planning Commission's review of projects. She distributed summaries of the Building Code excerpts to the Commissioners. She said it was important to incorporate green building strategies early in the design and planning stages.

Commissioner Munir spoke as a private citizen and said he was concerned with the water quality problem in Flint, Michigan. He said the City of Brisbane's switch from chlorine to chloramine recently was a concern to him, as recent studies showed chloramine is not effective in killing water-borne bacteria. He asked the City Engineer to address Brisbane's water quality and infrastructure in a City publication such as the Luminary.

E. WRITTEN COMMUNICATIONS

Chairperson Do acknowledged a letter from Susan Sullivan Maynard regarding agenda item F.1, and a letter from Rita Sorrentino and the Young Citizens of Brisbane and a document from Commissioner Anderson, both regarding the Baylands deliberations.

F. OLD BUSINESS

1. **PUBLIC HEARING: 23 San Bruno Avenue; Use Permit UP-2-15 and Design Permit DP-1-15;** Use Permit and Design Permit to allow for the construction of an approximately 31-foot high, three-story, mixed-use building, including four 1,250 sq. ft.

to 1,323 sq. ft. residential units on the second and third floors and an approximately 550 sq. ft. ground floor commercial space and ground floor parking, to replace the existing single-story commercial building on a 5,000 sq. ft. lot; Joseph J. Railla, applicant; Lon Carter, owner; APN 007-223-080.

Senior Planner Johnson gave the agenda report presentation. He answered Commissioners' questions regarding staff's concerns with access and maintenance of the third floor planter and access to third floor windows for washing.

Chairperson Do opened the public hearing.

Lon Carter, property owner, said the planter box was added to enhance the articulation of the building.

Commissioner Parker asked Mr. Carter whether he preferred the original design or the design presented tonight with the third floor planter box.

Mr. Carter responded he preferred the original design. He said if the third floor planter boxes were retained, the plants would be local native plants and would be irrigated with drip irrigation. He said the windows could be operable to provide access to maintain the planter box.

Commissioner Munir said he was generally satisfied with the revised design so long as maintenance issues were addressed.

Commissioner Parker said she liked both designs but that the original design was much stronger.

Commissioner Reinhardt said he liked both designs but preferred the vertical nature of the original design.

Commissioner Anderson said that he had no preference as to the aesthetics of the building.

Chairperson Do said she like the original design.

Commissioner Anderson asked Mr. Carter if he spoke with the Park Pointe Homeowners Association (HOA) regarding the dividing wall.

Mr. Carter responded he met with the HOA representatives and they came to an agreement that the concrete masonry wall will extend up to the same level as their wall and from that point forward going up it would be a wooden fence of a design to be determined at a later date as to style and texture. The height would be 6' 8" tall off the patios at 23 San Bruno, so it would be a taller wall.

Joseph Railla, applicant, said the proposed design is meant to mimic the international windows at 1 San Bruno, which are recessed.

Elliott Cohen, 1 San Bruno Avenue, said he represented the Park Pointe HOA and detailed the agreements they made with Mr. Carter. He said they agreed to install a catchment between the two properties to catch debris and to consider installing a French drain system as well. They agreed that bottom-up shades would be installed prior to occupancy in the third floor windows which addressed the HOA's concerns with privacy.

Commissioner Munir moved and Commissioner Anderson seconded to close the public hearing. The motion passed 5-0.

Commissioner Parker read a letter from Susan Sullivan Maynard into the record. Ms. Maynard was concerned with parking impacts on San Bruno Avenue during the project's construction.

Chairperson Do asked staff to address Ms. Maynard's letter.

Senior Planner Johnson said there was no legal basis for the Planning Commission to require construction trucks not park in the public right-of-way during construction.

The Planning Commission discussed the two designs presented by the applicant. After discussion, Commissioner Anderson moved and Commissioner Parker seconded to approve draft Resolution UP-2-15/DP-1-15 with the added conditions that the third floor planter box be included at the discretion of the applicant, the dividing wall would extend 6' 8" from the patios of 23 San Bruno Avenue, and that drainage between the two buildings would be addressed during the building permit process to direct water away from the space between the two buildings. The motion passed 4-1, with Commissioner Munir dissenting.

Chairperson Do announced a brief break.

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

i. Discussion of Deliberations Process

Note: Staff's presentation may be viewed on the City's website:

<http://brisbaneca.org/sites/default/files/01-28-2016%20Presentation.pdf>.

The Planning Commission reconvened. Director Swiecki introduced Lloyd Zola of Metis Consulting. Mr. Zola gave the agenda report and presentation. He noted that information requested by the Commission from staff and the applicant was attached to the agenda report.

He said staff was presenting basic principles which could be used as filters or tests for later policy discussions. He said interim decisions or discussions would be subject to modification at later stages in the deliberations prior to a final recommendation; nothing is final until a final recommendation is made. After listening to comments made at the public hearings and

discussions and questions from the Commission, staff and the consult put together a series of propositions as a starting point for deliberations. If the Commission wanted to put any other discussion topics on the topic, they could suggest them.

Commissioner Munir said the presentation appeared to deviate from the outline previously provided by staff.

Mr. Zola replied that the outline provided in the staff memo was a broad overview and the evening's presentation was focusing on Part 1 of the suggested outline addressing site value and features, planning and environmental goals, and sustainability. He said if there are any planning and environmental goals or overarching sustainability issues or goals that should apply to all discussions, the Planning Commission is welcome to bring them up.

Commissioner Munir said he looked at "site value" as pertaining to the value of the site itself. As a hazardous site, is it a valuable asset or not? He said the commission should look at whether the project meets the General Plan, which is different from what staff presented. He preferred to go with the outline from the staff memo which is the essence of the deliberation. He said whether the project meets the planning issues and goals of the City of Brisbane must be addressed.

Mr. Zola said he heard Commissioner Munir articulating a principle that whatever land use is ultimately recommend it must be consistent with community values for the Baylands.

Commissioner Anderson said he thought the Commission could agree with all the suggested principles on a high level. He said it was difficult for him to start with a principle and say what all the things that might impact that would be. He looked at it from the opposite standpoint of going through all the material and dropping it into the areas of the General Plan it applied to. He could see the logic in staff's suggested method but said he thought the Commission had a desire to say what they think about specific elements beyond the basic principles.

Mr. Zola said each Commissioner could discuss their own opinions on the direction of the Baylands development throughout the deliberations process. Regarding Commissioner Munir's point about the General Plan consistency, Mr. Zola said that State law requires all discretionary approvals to be consistent with the General Plan. The Commission may recommend amendments to the General Plan depending on their ultimate land use recommendations.

Chairperson Do reviewed a memorandum from May 26, 2013 regarding City Council Resolution 2013-12, which had been emailed to the Planning Commission prior to the meeting. She read the letter which outlined the adopted hearing procedure for the Planning Commission, including the role and timing of public comment. She invited any interested speakers to fill out a comment card and return it to staff.

Commissioner Munir asked if the Commission could review Commissioner Anderson's presentation. Chairperson Do stated it was submitted as a written communication.

Alison Krumbein, Special CEQA Counsel to the City, stated the presentation was a written communication and could not be discussed as it was not agendaized. She stated the Commission could vote to agendaize the presentation at a future meeting.

Commissioner Munir asked about the process of the subcommittee consisting of Commissioner Anderson and Commissioner Parker who met with the consultant prior to the evening's meeting. Commissioner Anderson said the subcommittee did meet with the consultant and reviewed his presentation at that time. Commissioner Munir voiced appreciation for the presentation and suggested that it be presented at a future meeting before they move forward with further deliberations.

Commissioner Anderson said he thought there was value in giving the presentation and having an overarching discussion.

Commissioner Munir reiterated his support for Commissioner Anderson to give a presentation.

Commissioner Parker said the Commission should discuss slide 10, General Plan Goals, and slide 47, Sustainability, before deciding on Commissioner Anderson's presentation.

Commissioner Reinhardt expressed support for scheduling the full presentation at a future meeting.

Chairperson Do asked staff to give a debriefing on the subcommittee meeting.

Director Swiecki said the consultant and staff met with the subcommittee to review the presentation and the subcommittee provided feedback on content as requested by Commissioner Anderson. He added that the deliberation process as proposed would provide the opportunity to address the issues raised in Commissioner Anderson's presentation.

Chairperson Do asked Commissioner Anderson to estimate the length of time a full presentation would require. Commissioner Anderson estimated between 30-60 minutes.

Ms. Krumbein advised that the Commission could entertain additional presentations from individual Commissioners.

Chairperson Do asked everyone to keep in mind that the proposed presentation is one way to process the Baylands information and she didn't want the public to think it was the only way. She said the slides marked "deliberation" should be considered as impartial decisions.

Commissioner Anderson clarified the slides marked "deliberation" are topics to be discussed and decided on, and are not intended to be actual decisions.

Chairperson Do said she wanted to give an opportunity for all the Commissioners to make presentations if they so choose.

Commissioner Parker moved and Commissioner Munir seconded that Commissioner Anderson present his slideshow at a future Planning Commission meeting.

Director Swiecki suggested it be scheduled for the upcoming February 2, 2016 special meeting.

The motion passed 5-0 to schedule the presentation for the February 2 meeting.

Commissioner Parker read slide 10, General Plan Goals, and slide 47, Esthetic and Cultural Value, from Commissioner Anderson's presentation. Commissioner Parker said she thought the General Plan Goals were particularly relevant to the community's values for the development of the Baylands. She said the Sustainability Framework excerpt was a good general outline of what the Commission was trying to accomplish.

Mr. Zola summarized slide 5 of his presentation regarding open space and wetland areas. Commissioner Parker asked if open space included "open areas," and whether the open space should somehow connect the different parts of the ecology of the Baylands which might be different than a block. Commissioner Anderson agreed with the sentiment and question and said he liked the applicant's design with the green causeway in the more developed portion of the site. He said he agreed with the general principle of large unbroken swaths, but said it was partially in conflict with General Plan intent to have a continuity and flow in Brisbane. He said it was desirable to have large unbroken areas but development should also have green spaces incorporated into it.

Commissioner Munir discussed the difference between open space and open area in the General Plan. He said he agreed that open space should be incorporated into site development. He said there are many questions still unanswered about this project, including the housing. Stating that open space is an important component of development is good, but for this particular project the Commission must decide whether the project meets the requirement of the Brisbane General Plan and it does not.

Director Swiecki clarified the purpose of tonight's meeting is for the Commission to confirm general principles that would apply to any development for the Baylands, not to make a determination if any given plan or scenario meets the principle.

Commissioner Munir said he agreed with that principle.

Mr. Zola said he heard general agreement that continuity within the site, solid areas of open space, continuity and flow within the site, and incorporating open space into individual site-specific projects were parts of the principle as defined by the Commission. He reiterated that any development must meet the General Plan standards.

Chairperson Do asked Mr. Zola to clarify the definition of open space within the General Plan. Mr. Zola said "open areas" are located on private lands part of an individual site-specific development, while open space was publicly owned and typically accessible to the public.

Commissioner Parker said at the Baylands speaker series several years ago, some speakers presented ideas for remediating soil using wetlands and suggested adding that to the General Principles. Mr. Zola said this principle would include open space for recreation, resource protection, and for protection of public health.

Commissioner Parker said open space should follow the natural habitat of the land and should not cut off areas of habitat from each other. She suggested that open space be used to connect Central Brisbane with the Baylands.

Mr. Zola moved on to slide 7 in his presentation, regarding habitat protection throughout the Baylands, for the Commission's consideration.

Commissioner Anderson said he was in agreement with the principle as long as the wetlands include Guadalupe Creek. He said in some of the applicants drawings there were buildings on the lagoon, and the General Plan addresses conditional uses for recreation in the future but it is designated open space. He said there should be discussion on the appropriateness of recreation if it could be safe in the open space area while protecting the habitat.

Commissioner Munir asked if there were any other areas that should be designated for protection. He said he agreed with the principle as written.

Mr. Zola said based on Commissioner Anderson's comment, they could look at whether active recreation in the lagoon would meet the principle of habitat protection. He moved on to slide 8 of his presentation regarding restoration of the Roundhouse. He noted this was already a mitigation measure proposed in the EIR. He said the Commission should establish whether the opportunity for rail activities at the roundhouse was an important principle, in which case it would impact the compatibility of adjacent land uses.

Commissioner Munir said the Roundhouse was a historically rail-related structure and if it was restored as a museum, it was a good opportunity to allow for restored rail use as well.

Commissioner Parker suggested that the principle include restoration of the Roundhouse and adjacent buildings which also had historic significance.

Commissioner Reinhardt agreed with the principle and said it was also important to include an educational component to the restoration process.

Commissioner Anderson supported the general principle with supporting rail activities, but said it was hard to say off the cuff what impact that may have on adjacent issues. He said the spur line serving Golden State Lumber was also worthy of preserving.

Chairperson Do said she thought it was more of an open-ended question that would be shaped by the Commission's land use discussion later in deliberations. She said generally she supported that principle.

Mr. Zola moved on to slide 9 of his presentation regarding maintaining a transit orientation for new development. He said this was complex as transit orientation would push development further north, which could potentially conflict with the request of the windsurfing community to move development farther south. He said the Commission would have to discuss tradeoffs between the two concepts regarding location and intensity of uses.

Commissioner Anderson said after living in Tokyo for 3 years without a car, he appreciates the ability to not own a car and walk or take transit anywhere. He said he would rather forego some transit orientation in order to encourage more connection to Central Brisbane. He wanted to find a way to have continuity between the two parts of Brisbane. He said transit orientation also means that Central Brisbane and the Ridge have connections to transit as well.

Commissioner Munir said connecting “old” Brisbane to “new” Brisbane implies they need to study where to locate the transit station. Right now it is planned to move to the north. If the Roundhouse will be operation and the high speed rail maintenance yard is built, he doesn’t see why the other agencies wouldn’t support moving the transit station south. He said the biggest obstacle to achieving transit orientation is the money to support an influx of more people on the transit network because the infrastructure isn’t there. He agrees with the concept but he doesn’t know how achievable it is in the near future, and that shows this project is in its infant stages.

Chairperson Do asked that staff provide maps in future deliberations so the Commission can refer to them during their discussion. Mr. Zola said maps would be provided in the future.

Mr. Zola said in response to Commissioner Anderson’s comments, he made note of the potential to use the Baylands development to enhance access from Central Brisbane to the transit station. He also heard that connectivity between the Baylands and Central Brisbane should be provided.

Mr. Zola moved on to slide 10 of his presentation regarding how to incorporate the Baylands Sustainability Framework into future development. He said the Framework could be a standalone document that each individual issue would refer to, or it could be incorporated into the General Plan, most logically into the Baylands Subarea discussion in the Land Use Element. He said some of the Framework’s recommendations may be better suited to General Plan policies and some may be more suited to individual site development applications.

Chairperson Do asked Commissioner Reinhardt to highlight the Framework’s components. Commissioner Reinhardt said the Framework is an aspirational document produced by a subcommittee, of which he was a member, in cooperation with the City and the developer to focus on different elements of sustainability. He said one of the focuses of the group was to incorporate it into the General Plan, which he supported.

Commissioner Munir said the Framework should be a standalone reference document and incorporated into the General Plan.

Commissioner Anderson asked staff what the status of the Framework was, legally speaking. Director Swiecki said it was not adopted as law, but rather as aspirational guidance. He said the Commission should consider what elements of the Framework it might want to see embedded into the General Plan and which may be more appropriate to apply to site-specific development.

Commissioner Anderson said that the State's standards are moving in the direction of the Sustainability Framework's provisions in the near future, and he recommended the City tackle that issue before the State mandates.

Chairperson Do summarized by saying that certain aspects of the Framework could be incorporated into either the General Plan or site-specific development standards, based on the Commissioners upcoming deliberations.

Mr. Zola moved on to his slide 11 regarding the safety of any future development on the Baylands. Among the items under the Commission's consideration is what "safe" means, who the regulatory agencies involved are, and Brisbane's role in the remediation process. He said the Sustainability Framework has a series of detailed performance standards regarding safety that would be reviewed under the "Safety" discussion, identified as under Part 3 of the staff's recommendation deliberations framework.

Commissioner Munir said they needed to define the appropriate level of safety first, and asked how they can determine that. Mr. Zola said that right now, the appropriate level of safety is defined by State of California regulations. Once the City identifies the land uses permitted within the Baylands, within Operating Unit 1 (OU-1) and Operating Unit 2 (OU-2) there would be human health risk assessment done to establish the standards for the uses the City recommends as appropriate in those areas. That process was laid out in the State regulatory process as explained previously by the City's consultant, Dr. Susan Mearns.

Chairperson Do said the Sustainability Framework suggested using peer review for any studies prepared by the State.

Commissioner Munir asked if traffic safety would be included in the safety discussion. Mr. Zola confirmed it would.

Commissioner Parker said it was 10 p.m. and asked whether a motion was needed to extend the meeting past 10:30 p.m. Chairperson Do said she thought they could conclude by 10:30 p.m.

Commissioner Parker said that Brisbane should have a role in the regulatory process. She said the Department of Toxic Substances Control and the Regional Water Quality Board would have regulatory powers over the land, but the City should have regulatory oversight.

Commissioner Reinhardt asked whether "safe" would be determined by the regulatory standards. Mr. Zola said that was a question for the Commission to consider at a future meeting.

Mr. Zola moved on to slide 12 of his presentation regarding phasing of infrastructure.

Commissioner Munir asked for clarification of the second paragraph on the slide. Mr. Zola said some infrastructure and site amenities could be tied to increments of development, while others must be built at one time, such as the water recycling facility. Mr. Zola referred to the mitigation measures in the EIR, which require OU-1 to have remediation in place and completed before new buildings and development occurs. In OU-2, that remediation would need to be done prior to physical development including landfill remediation.

Commissioner Munir asked when transit or roadway improvements would be required. Mr. Zola said that as the Commission reviews a specific plan, they would determine whether it ties the rate of development to the provision of services and facilities, consistent with the General Plan. He said at this point we are looking at how the specific plans will be reviewed.

Commissioner Munir said he was concerned with the traffic impact and how to phase development to mitigate the traffic impacts up front.

Mr. Zola moved on to slide 13 of his presentation regarding other policy considerations that should be adopted as key principles. He said Commissioner Munir had brought up consistency with community values. He noted that State law requires all approved development to be consistent with the General Plan.

Commissioner Munir said that water supply sustainability was an important policy consideration. He said the Modesto Irrigation District was left out of the EIR process and that needed to be addressed. San Francisco PUC and Oakdale Irrigation District were involved but Modesto Irrigation District was not.

Mr. Zola said guarantee of water supply appropriate for increments of development could be tied into the infrastructure phasing principle, as well as a standalone principle.

Commissioner Reinhardt said water supply was an important part of the Sustainability Framework.

Commissioner Parker moved and Commissioner Munir seconded to open the public hearing, and the motion passed 5-0.

Paul Bouscal said much time was spent reviewing the DEIR and other documents and the landfill site is a significant issue. He said we don't know exactly what's out there; military and hospital waste, and others. He reference General Plan Policy 172 which applied to clean-ups. He said the unregulated landfill sets a dangerous precedent as to possibilities on that site. The railroad site could accommodate housing but he didn't want to address that tonight. Regarding planning and environmental goals, the applicant's proposal violates the General Plan on many levels, especially safety.

Mr. Bouscal continued to say that sustainability was also a big issue. The Sustainability Framework uses the One Planet framework, a set of ten principles designed to achieve an

ecological footprint based on the resources available on one planet. He said the applicant's proposal violates three of these principles: a sustainable water supply, economic vitality, and recreation, health, safety and happiness. He cited the memo from consulting City Attorney Alison Krumbein, dated January 22, 2016, which referenced EIR adequacy standards. He read from the letter regarding the obligation of the EIR to provide good faith disclosure. He said regarding water and "good faith," he questioned whether we had done our due diligence to adequately include all the key players. He said there was no current water allocation from SFPUC, so SFPUC had to look for water rights elsewhere and the Oakdale Irrigation District had decided it had enough water to serve the project. He said the Oakdale Irrigation District is regulated by the Modesto Irrigation District. The City said it recognized the Modesto Irrigation District as a responsible agency and said the District may exercise its right to participate in the public process. He said the Modesto Irrigation District sent a scathing letter to the City of Brisbane that wasn't included in the environmental review process even after it was requested to be. He said the letter from the Modesto Irrigation District states the City had not contacted it regarding the water transfer and had not been notified in any manner, and that it has not considered or approved the water transfer. He said the City had failed to integrate responsible agencies into the CEQA process which is a violation of CEQA.

Jonathan Scharfman said he worked with UPC and directed the Commission's attention to the staff report from June 26, 2006 from a joint City Council and Planning Commission hearing at which project objectives, or driving principles, were considered for the EIR process. He thought it would be informative for the Commission to review those principles as driving principles from which they are developing the policies that will assist in the orderly approvals of any development at the Baylands. He quoted the staff report that at that time it was written, "for the most part, the developer's stated objectives address many of the same concerns identified in the city's objectives for the project- remediation, encouragement of non-vehicular, green building, open space preservation and enhancement, providing choice for Brisbane residents, economic vitality, and project flexibility are among the objectives common to the city and developer." He asked the Commission to review the 22 developer objectives submitted at that time and 19 objectives from the City, which were surprisingly in alignment. He said they were updated in the 2010-2011 revised EIR process with the second NOP.

Commissioner Munir moved and Commissioner Reinhardt seconded to close the public hearing, and the motion passed 5-0.

G. APPROVAL OF DRAFT ACTION MINUTES

1. November 16, 2015 special meeting
2. December 1, 2015 special meeting

Chairperson Reinhardt moved and Chairperson Parker seconded to approve the minutes for the November 16 and December 1, 2015 meetings. The motion passed 5-0.

H. ITEMS INITIATED BY STAFF

1. Discussion of Planning Commission schedule through March 2016.

Director Swiecki reviewed the staff memo. The Commission agreed by consensus to set the February 25 meeting for the next Baylands deliberations. Director Swiecki reminded the Commission of the Planning Commissioners Academy March 2-4. He also announced a Parkside Plan community workshop on February 1st at City Hall.

I. ITEMS INITIATED BY THE COMMISSION

1. Subcommittee Updates

Commissioner Munir asked staff what the City Council had determined in regards to the expiring Commissioner terms. Director Swiecki said the City Council appointed all three incumbents to a limited term expiring April 30, 2016, intended to cover the time estimated for the Planning Commission to conclude its deliberations on the Baylands.

J. ADJOURNMENT to the Special Meeting of February 2, 2016 at 7:30 p.m.

Commissioner Munir moved and Commissioner Parker seconded to adjourn to the special meeting of February 2, 2016 at 7:30 p.m. The motion passed 5-0 and the meeting adjourned at 10:28 p.m.

Attest:

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.