

BRISBANE PLANNING COMMISSION  
Summary Minutes of February 2, 2016  
Special 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 (arrived at 7:35), Vice Chairperson Reinhardt, and Chairperson Do.

Absent: None.

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

C. ADOPTION OF AGENDA

Commissioner Munir moved and Commission Reinhardt seconded to adopt the agenda. The motion was approved 4-0.

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

None.

E. WRITTEN COMMUNICATIONS

Chairperson Do acknowledged written communications from Sustainable San Mateo County.

F. OLD BUSINESS

1. **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.

- a. Presentation by Commissioner Anderson

[Commissioner Anderson's presentation may be viewed on the City's website:

<http://brisbaneca.org/sites/default/files/1-26-16%20Anderson%20Presentation%20Reduced.pdf>]

Commissioner Anderson gave the presentation.

Following the presentation, Chairperson Do invited audience members to fill out speaker cards if they wanted to address the Commission and noted comments would be limited to 3 minutes per

person. She reviewed the Commission's guidelines for Baylands public hearings and the agreed upon deliberation process accepted by the Commission at the January 28, 2016 meeting from page F.2.3 of the staff report [available on the City's website at: <http://brisbaneca.org/sites/default/files/Baylands%20Planning%20Appl%20Agenda%20Report%201-28-16.pdf>.] She shared her notes from Commissioner Anderson's presentation regarding which slides fell under the deliberations structure by issue: Item 1.B, slides 24 and 25; Item 2, slides 29, 71, 87, 88, and 121; Item 3.A, slides 71, 87, and 88; Item 3.B, slides 40, 41, and 50; Item 3.C, slides 46, 48, and 86; Item 3.D, slides 17, 84, 85, 86, 93, 106, 109, and 121; Item 3.E, slide 109; Item 3.F, slides 53, 79, 93, and 115. She noted many slides fit within multiple issue categories. She asked the Commission to keep the established deliberations structure in mind and said all Commissioners would have the opportunity to present their approach and thoughts on the project.

Commissioner Munir said there had been confusion in the past whether the City could adopt stricter standards than State or Federal law, and he stated his opinion that the City could impose stricter standards. He said this applies to the Remedial Action Plan (RAP) process. Regarding traffic, he said the traffic issue is not as simple as running one or two models, but the long-term impact on the capacity of the roads and freeways and how it would affect overall congestion was needed. He said that could in turn impact human health and safety. He said construction impacts were a big issue, particularly noise. He said the long duration of the construction requires guidelines limiting certain construction activities. He also said impacts of the drilling on wildlife and disturbance of toxic materials would also need to be analyzed. He commended Commissioner Anderson on his presentation which he found very helpful.

Commissioner Parker said she was concerned with the impact of short-term rentals on the housing supply. She read an article recently in the San Francisco Examiner on the problem in San Francisco. She said if people will be renting out rooms because they can't meet their mortgage on a short-term basis rather than having long-term roommates, then the housing shortage will never end. She asked how short-term rentals were impacting the housing supply across the Bay Area.

Commissioner Reinhardt said the presentation was an excellent organization tool that helped him structure his comments. He said there were a few instances like in noise mitigation where additional research on alternatives was necessary instead of accepting the standard. For example, there are alternative methods to pile driving that cost more but produce less noise and he wanted to investigate how those costs could be absorbed by the owner. He said the technology has changed a lot and there may be alternatives available to many issues. He said the traffic analysis would take meticulous investigation and time, since it impacts the community's overall health and happiness.

Chairperson Do said the presentation was a useful tool and she said she would love more discussion on the site values and features, sustainability, distribution of the land uses, and intensity of land uses. She said Commissioner Anderson's slides identify many of those issues but the Commission has not yet made determinations on the broader principles.

Commissioner Munir said he was concerned that the EIR does not meet the General Plan. He said the central question was if the Commission was going to move ahead with it or decide how it could be brought into compliance with the General Plan. He said process-wise, the Commission should have looked at the General Plan amendment first, and then considered the Specific Plan amendment. He said the Commission should make a decision on that first before proceeding further.

Commissioner Parker said the plan has five different aspects, one of which was not studied in as much detail (the CREBL Plan). She asked how the Commission could review a project in regards to the General Plan when they didn't know what the plan would be.

Commissioner Munir said there are a number of areas where the project doesn't meet the General Plan, such as housing.

Commissioner Parker said there were sections that did not include housing.

Commissioner Munir said that the Commission's deliberation on approval or acceptance of the EIR was needed.

Commissioner Parker asked Commissioner Munir to clarify whether he thought that the developer's proposals for non-residential development should not be considered.

Commissioner Munir said one particular plan does not meet the General Plan and the Commission needed to decide if it should be discarded or if a recommendation should be made to amend the General Plan, or if the Commission should say that a plan meets the General Plan.

Commissioner Parker said she respected what Commissioner Munir was saying.

Commissioner Munir said his point was if the specific plan meets the General Plan the Commission needed to decide whether it should be considered at all or whether the General Plan needs to be amended first.

Director Swiecki stated for the record that the applicant had requested a General Plan amendment to which would make the Specific Plan consistent with the General Plan. They have the right to make that application and the Commission is obligated to consider it.

Chairperson Do reminded everyone of the deliberation process outcomes, as listed on page F.2.2 of the January 28, 2016 staff report:

- Recommend approval of an applicant's approval, with major or minor revisions
- Recommend denial of proposed specific plan and general plan amendment
- Recommend approval of updated General Plan land use programs and policies.

Commissioner Munir said the Planning Commission should be able to recommend approval of an EIR alternative.

Director Swiecki said that was an option available to the Commission under the proposed deliberations framework.

Chairperson Do said she supported carving out that portion of the third option to a standalone fourth option that any EIR alternative or other concept plan could be recommended for approval.

Commissioner Munir said a concept plan could be approved and the EIR denied. He said a concept plan would require further study.

Director Swiecki said when the Commission decides on a preferred land use scenario, or General Plan policies or programs, and they start testing them against the EIR, they will either be comfortable with the adequacy of the EIR or not. He said that would be part of the Commission's recommendation to the city council. He said determining the CEQA conclusions would follow that discussion.

Commissioner Munir said first the Commission had to decide whether the EIR was adequate or not.

Alison Krumbein said the Commission would consider EIR adequacy when they had reached a preferred land use recommendation. There is no way to determine whether the EIR is adequate without a land use recommendation. An EIR is not a land use approval or entitlement; it is an evaluation of the physical impacts of whatever project is recommended.

Commissioner Munir said the EIR did not fully analyze the traffic impact as well as other impacts throughout the EIR. The commission should be able to decide whether the EIR requires additional analysis or information.

Counsel Krumbein said the Commission could make that recommendation to the City Council.

Commissioner Munir moved and Commissioner Anderson seconded to open up public comment and the motion passed 5-0.

Anja Miller said Commissioner Anderson's presentation was wonderful to hear and she hoped many people at home also listened to it and could understand the complexity of the Commission's review of the project. She had some questions. She heard a reference to a wind study and she thought it had to do with the windsurfing conditions. She reminded the Commission that a wind study was done early on in the process for CREBL with the developer's funding with a year and a half of computer data. The results are known in terms of the average energy-producing wind. She said the Commission was under great pressure to finish this massive job within a couple months and she had a hard time understanding how they could possibly do that. She said there are things she wonders where in the process the timing, for instance the Recology expansion- that was supposed to have its own EIR. She asked when that was coming and how will the Commission would consider that.

Mrs. Miller continued to say that three fiscal analyses were needed for the Commission to make a recommendation: the developer's analysis regarding its costs and profits, an analysis by the City in regards to impacts to municipal services, and an ecological fiscal analysis that considers externalities such as the true cost of greenhouse gas emissions. She said 20 years of noise and traffic congestion would impact property values and those figures should be considered. She suggested that when the Commission knows it wants more research or studies done on a particular topic they should make a record of it and eventually compile those notes into a cumulative list before any EIR determination is made. She agreed that the land use recommendation must be considered first before the EIR. She asked who would prepare the Specific Plan for a concept plan for the CREBL alternative, as that would be a fiscal cost.

Joel Diaz thanked Commissioner Anderson for the presentation and the other Commissioners for their hard work on the project. He said under the Basic Principles, regarding the General Plan amendment and the right of the applicant to apply for the General Plan amendment, he thought the applicant was being given a reasonable consideration of the General Plan amendment. He said the Commission also needed to consider whether a General Plan amendment was feasible. He referenced the Baylands survey which found the majority of respondents not in favor of housing at the Baylands, and that three Council members had stated their opposition to amending the General Plan. He said it was similar to a parole hearing; consideration should be given to the prisoner, but depending on their crimes they may not be paroled. He said the Commission is giving consideration that the General Plan could be amended but it was very unlikely that it would actually happen. In terms of the EIR, he said it seems there are a lot of holes and there should be some modifications, particularly water. He agreed with Anja Miller that financial information is needed to determine whether it would be a financial liability to the city or a revenue "win." He said it was a critical piece that was missing.

In regards to the Sustainability Framework, Mr. Diaz said the specific plan as proposed completely violates some of the major tenets of the Framework. The biggest issue is water supply, as there isn't enough water negotiated to supply the development. The Framework clearly states in the One Planet model that Brisbane wants to be a blueprint for the rest of the world. He said it flies in the face of that goal to design a project that doesn't have enough water to sustain it. He said if everyone in the world did that, there would be a huge problem. He said they should design around a sustainable amount of water use. He said traffic impacts were also contrary to the Sustainability Framework. The project would make existing traffic congestion much worse. He said the Sustainability Framework limits what could be approved. In regards to water, the Framework talks about recycling water and graywater, which sounds like a great idea in a normal situation, but with all the contamination on the site it sounds like a dangerous task. If the City is relying on water recycling, that is problematic. He finished by saying the City has a superior alternative, which is the CREBL plan. He said according to CEQA, the City is prohibited from approving any developer proposal when a superior alternative is before the City. He said the only way to not approve the superior alternative is to adopt a statement of overriding considerations, and he said he didn't know how those overriding considerations could be made with the missing fiscal analyses, lack of water supply, and General Plan inconsistencies. He recommended that the Commission deny the developer proposal, approve the superior alternative, and modify the EIR.

Prem Lall said safety in regards to underground pipelines should be studied. He referenced the explosion that occurred in San Bruno and said that needed to be taken into consideration for any development. He said Kinder-Morgan had pipelines running underneath the Bay as well. He said research should be done on what impacts to the pipelines could result from earthquakes or other land disturbances.

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

#### G. ITEMS INITIATED BY STAFF

None.

#### H. ITEMS INITIATED BY THE COMMISSION

##### 1. Subcommittee Updates

None.

#### I. ADJOURNMENT to the Regular Meeting of February 11, 2016 at 7:30 p.m.

Commissioner Munir moved and Commissioner Anderson seconded to adjourn to the regular meeting of February 11, 2016 at 7:30 p.m. The motion passed 5-0 and the meeting adjourned at 9:27 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).