

CITY COUNCIL RESOLUTION NO. 2018-62

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE, CALIFORNIA,
APPROVING A GENERAL PLAN AMENDMENT FOR THE BAYLANDS, BEATTY, AND
NORTHEAST BAYSHORE SUBAREAS AND REFERRING THE GENERAL PLAN
AMENDMENT TO THE BRISBANE VOTERS FOR THEIR CONSIDERATION**

WHEREAS, an application was filed in 2005 by Universal Paragon Corporation (Applicant or UPC) requesting approval of a General Plan Amendment and Specific Plan for development of approximately 449 acres of the 684-acre portion of the City of Brisbane (City) commonly referred to as the Brisbane Baylands (Baylands); and

WHEREAS, UPC's Phase I Specific Plan proposed a mix of, commercial, office/institutional, and open space uses on 449 acres of the Baylands site located to the east of the Caltrain tracks; and

WHEREAS, UPC's application also included a Concept Plan (referred to at the time as a framework plan) addressing basic parameters associated with circulation, land use, open space, infrastructure and utilities for potential future development of a larger, approximately 659-acre area, including the Phase I Specific Plan area along with adjacent properties between the Caltrain rail line and Bayshore Boulevard; and

WHEREAS, UPC subsequently revised their proposed General Plan Amendment and Specific Plan to include total of 684 acres within the Baylands; and

WHEREAS, the City determined that an Environmental Impact Report (EIR) was required to evaluate the proposed General Plan Amendment and Specific Plan pursuant to the requirements of the California Environmental Quality Act (CEQA) (Pub. Resources Code § 21000 *et seq.*) and the CEQA Guidelines (14 Cal. Code Regs, tit. 14 ch. 3, § 15000 *et seq.*); and

WHEREAS, the Brisbane City Council directed that, in addition to evaluating the two development scenarios proposed by UPC (referred to as Developer Sponsored Plan or DSP, and Developer Sponsored Plan – Entertainment Variant or DSP-V), the EIR be expanded to include analysis of two additional development scenarios, referred to as the Community Prepared Plan (CPP) scenario and the Community Prepared Plan-Recology Variant (CPP-V) scenario; and

WHEREAS, in addition to the 684-acre area included as part of the UPC's proposed development, the CPP and CPP-V scenarios include the 44.2-acre Recology site, which spans the cities of Brisbane and San Francisco, encompassing the Beatty Subarea as designated in the Brisbane General Plan and adjacent roadway rights-of-way; and

WHEREAS, the EIR was prepared in accordance with CEQA and the CEQA Guidelines to evaluate the proposed Baylands development; and

WHEREAS, regarding proposed Baylands development and the EIR, the Planning Commission conducted two public workshops, ten public hearings, and eleven deliberations

meetings, along with an additional public hearing prior to making its recommendation to the City Council; and

WHEREAS, on September 29, 2016, and June 15, 2017, the City Council conducted public workshops regarding proposed Baylands development and the EIR, at which time interested persons and organizations had the opportunity to testify and provide comments; and

WHEREAS, the City Council conducted eight public hearings on proposed Baylands development and the EIR on November 17 and December 15, 2016, January 24, February 16, April 8, May 4, May 23, and June 7, 2017, at which time interested persons and organizations had an opportunity to testify and provide comments; and

WHEREAS, after closing the public hearing on June 7, 2017, the City Council met in public session on June 19, 2017 to discuss the deliberation process for the Baylands development; and

WHEREAS, the City Council conducted five deliberations meetings on June 13, July 24, and August 7, 2017, and January 16, and March 22, 2018; and

WHEREAS, although the public hearing had been formally closed, the City Council afforded interested persons and organizations an opportunity to provide additional public comment at each of its deliberations meetings; and

WHEREAS, the City Council reopened the public hearing on June 7, 2018 to consider its proposed action regarding Baylands development and the EIR, and

WHEREAS, the City Council held additional public hearing on July 12 and July 19, 2018 to consider its proposed action regarding Baylands development and the EIR; and

WHEREAS, notice of the time and place of all workshops, public hearings, and deliberations meetings where proposed Baylands development and the EIR were considered by the City Council was given pursuant to State law and the City's Municipal Code by mailing notices to all property owners within a 300-foot radius of the Baylands site, all organizations, entities, and individuals who commented on the Draft EIR, adjacent jurisdictions, responsible and trustee agencies, and all interested parties on record in the project file maintained by the Community Development Department, by publication of hearing notices on the City's website, and by posting of the hearing notices at the three official city posting locations as set forth in the Brisbane Municipal Code Section 1.12.010; and

WHEREAS, the City Council has reviewed and considered the General Plan amendment and Specific Plan proposed by UPC, which includes the DSP and DSP-V scenarios; and

WHEREAS, the City Council has reviewed and considered the CPP and CPP-V scenarios presented in the EIR, as well as the five development alternatives analyzed in the EIR; and

WHEREAS, the City Council has reviewed and considered all of the information set forth in staff reports and presentations provided at the City Council's public workshops, public hearings, and deliberations meetings, including the testimony and comments provided by the public, as well as presentations by the Applicant and other organizations; and

WHEREAS, the City Council has reviewed and considered the Planning Commission's recommendation regarding the General Plan Amendment and Specific Plan proposed by UPC; and

WHEREAS, the City Council has reviewed and considered the Planning Commission's recommendation regarding the EIR; and

WHEREAS, the City Council has reviewed and considered the significant unavoidable impacts set forth in the EIR, including significant unavoidable impacts to aesthetics, air quality, biological resources, noise, population, traffic, and utilities and service systems; and

WHEREAS, the City Council concluded that the Brisbane General Plan should be amended to permit development capacities less than those proposed by the applicant but greater than would be permitted by the current General Plan, along with changes to General Plan policies affecting the Baylands, Northeast Bayshore, and Beatty Subareas, collectively and hereinafter described as the "Baylands General Plan Amendment" or "Amendment;" and

WHEREAS, the City Council held duly noticed public hearings on the EIR and the Baylands General Plan Amendment on July 12 and July 19, 2018; and

WHEREAS, the City Council has determined that the Baylands General Plan Amendment would accommodate multiple statewide, regional, and local interests and address community concerns while resulting in similar or lesser impacts than the proposed development analyzed in the EIR; and

WHEREAS, in adopting Resolution No. 2018-33, the City Council has certified the EIR pursuant to Guidelines Section 15090, made CEQA findings pursuant to Guidelines Section 15091, and adopted a Mitigation Monitoring and Reporting Program consistent with Guidelines Section 15097, and

WHEREAS, the City Council has determined that there are significant environmental effects arising from the Baylands General Plan Amendment that remain significant even after mitigation, but there are overriding considerations that outweigh those effects; and

WHEREAS, a Statement of Overriding Considerations has been prepared by the City and is included as Attachment #1 hereto; and

WHEREAS, the documents, staff reports, technical studies, appendices, plans, and other materials that constitute the record of proceedings on which this resolution is based are on file and available for public examination during normal business hours in the Brisbane Community Development Department and with the Director of Community Development, who serves as the custodian of these records; and

WHEREAS, the City Council has reviewed and considered all oral and written testimony that it has received; and

WHEREAS, the City Council has expressed to the voters of Brisbane that if it adopts the Baylands General Plan Amendment that it will submit that Amendment to the voters for their

consideration and that the Baylands General Plan Amendment will not be effective unless and until the voters approved the Amendment.

NOW, THEREFORE, BE IT RESOLVED by the City Council as follows:

Section 1.

A. The above recitals are true and correct and are incorporated herein by reference as if set forth in full.

B. The City Council adopts the Statement of Overriding Considerations contained in Attachment #1 of this Resolution.

C. The City Council adopts the Baylands General Plan Amendment set forth in Attachment #2 of this Resolution.

D. The Baylands General Plan Amendment shall be submitted to the Brisbane voters at the November 6, 2018 election and that the Baylands General Plan Amendment shall not be effective unless the voters approve the Amendment.

E. The City Council takes no action on the Specific Plan proposed by the Applicant, thereby providing the Applicant the opportunity to modify its proposed Specific Plan to be consistent with the General Plan Amendment set forth in Attachment #2 of this Resolution.

F. The City Council directs staff to prepare for Council's consideration any other amendments to the General Plan or zoning ordinance as may be needed for implementation of the General Plan Amendment set forth in Attachment #2 of this Resolution.

Section 2.

This Resolution shall take effect immediately upon its adoption.

W. Clarke Conway
Mayor

I, the undersigned, hereby certify that the foregoing Resolution No. 2018-62, was adopted by the City Council of the City of Brisbane, at a regular meeting thereof held on the 19th day of July, 2018, by the following roll call vote:

AYES:
NOES:
ABSENT:

Ingrid Padilla
City Clerk

Attachment #1**STATEMENT OF OVERRIDING CONSIDERATIONS
FOR THE BRISBANE BAYLANDS FINAL EIR**

CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental effects when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.” (CEQA Guidelines § 15093.) CEQA requires that, when a lead agency approves a project which will result in the occurrence of significant effects that are identified in the final EIR but are not avoided or substantially lessened, the agency must state in writing the specific reason to support its actions based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record. (Id.)

Having (i) adopted all feasible mitigation measures, (ii) recognized all significant, unavoidable impacts, and (iii) balanced the benefits of the Baylands General Plan Amendment against its significant and unavoidable impacts, the City of Brisbane City Council finds that the Baylands General Plan Amendment’s benefits outweigh and override its significant unavoidable impacts for the reasons stated below. Each benefit set forth below constitutes an overriding consideration warranting approval of the Baylands General Plan Amendment, independent of the other benefits, despite each and every unavoidable impact.

The Final EIR has identified and discussed significant environmental effects that will occur as a result of proposed Baylands development. With implementation of the mitigation measures discussed in the EIR, these effects can be mitigated to levels considered less than significant except for project-related significant, unavoidable adverse impacts in relation to aesthetics, air quality, biological resources, noise, population, traffic, and utilities and service systems.

Public Resources Code Section 21081 provides that no public agency shall approve or carry out a project for which an EIR has been certified which identifies one of more significant effects on the environment that would occur if the project were carried out unless the agency makes findings that “specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.”

In making this determination, the Lead Agency is guided by CEQA Guidelines Section 15093, which provides as follows:

- (a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.”

- (b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.
- (c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition, findings required pursuant to [CEQA Guidelines] Section 15091.

Having considered the unavoidable adverse impacts of the Baylands General Plan Amendment, the City Council hereby determines that all feasible mitigation measures have been adopted to reduce or avoid the significant impacts identified in the EIR, and that no additional feasible mitigation is available to further reduce significant impacts. Further, the City Council finds that economic, social and other considerations of the Baylands General Plan Amendment outweigh its unavoidable adverse impacts. In making this finding, the City Council has balanced the benefits of the Baylands General Plan Amendment against its unavoidable environmental impacts and has indicated its willingness to accept those impacts.

The following statements are in support of the City's action based on the EIR and/or other information in the record. The benefits from approving the Baylands General Plan Amendment include the following.

The Baylands General Plan Amendment will assist in eliminating blighted conditions within the Baylands.

The long-term temporary use of the east side of the Baylands for soil stockpiling and processing and concrete and asphalt processing has created an unsightly visual condition as the stockpiles have grown in height, size and visual prominence over time. Heavy truck traffic and dust generation associated with temporary operations have long been a community concern. Temporary operations also present potential health and safety concerns associated with soils imported to the site. While there are numerous safeguards and protocols in place to ensure soil quality, the potential for unforeseen incidents or events exists. Final development of the site in accordance with the approved General Plan Amendment will eliminate these temporary uses and the related impacts and concerns endured by the community for the past approximately 30 years.

The Baylands General Plan Amendment will assist in providing housing to meet regional housing needs.

The Bay Area's rate of housing construction has lagged behind its rate of jobs creation since the mid-1970s. Each subsequent decade has seen lower levels of overall housing being permitted and constructed. According to the Metropolitan Transportation Commission, "there has been a particular mismatch between employment growth relative to the housing supply. Overall, the Bay Area has added nearly two jobs for every housing unit built since 1990." The deficit in housing production has been particularly severe in terms of housing affordable to lower- and middle-wage workers, especially in many of the jobs-rich, high-income communities along the Peninsula and in Silicon Valley." The Bay Area's booming regional economy combined with increased household

formation among the millennial generation has further contributed to an increasingly acute housing crisis.

The Baylands General Plan Amendment will provide for development of 1,800 to 2,200 housing units adjacent to the Bayshore Caltrain Station that are badly needed within the Bay Area and San Mateo County. By accommodating a doubling of the City's current population, the Baylands General Plan Amendment means that Brisbane will be a regional leader by making an unprecedented contribution to addressing the Bay Area's severe housing shortage.

The Baylands General Plan Amendment will facilitate responsible site remediation and Title 27 Landfill closure.

The Baylands General Plan Amendment provides for remediation of the former rail yard and Title 27 closure of the landfill within the Baylands. As part of the site remediation process, the City will retain a credible, independent third-party consultant to review characterization studies and remediation recommendations, assist the City with participation in the remediation and Title 27 review process undertaken by DTSC and the RWQCB, and assist the City with ongoing monitoring and ensuring implementation of remedial action and Title 27 landfill closure plans approved by DTSC, the RWQCB, and the San Mateo County Environmental Health Division. Through this third-party consultant, the City will independently review and aggressively advocate with State regulatory agencies for (1) adequate characterization studies and human health risk assessments; (2) remediation standards that will maximize protection of public and environmental health; (3) remediation of lands that permit residential use to be remediated to a degree that would permit ground level residential uses and residential-support uses such as daycare, parks and playgrounds; (4) effective remediation and Title 27 landfill closure technologies; (5) robust ongoing monitoring programs; and (6) adequate financial guarantees for proper site remediation, Title 27 landfill closure, ongoing monitoring, and future remedial actions if needed. The result of this remediation and Title 27 closure of the landfill will be a safe location within which development could occur.

The Baylands General Plan Amendment will provide for protection and enhancement of habitat areas and cultural resources within the Baylands.

Implementation of the Baylands General Plan Amendment will be subject to a comprehensive Open Space Plan and a Marsh Wildlife and Habitat Protection Plan to be prepared as part of the specific plan that is required to implement the Baylands General Plan Amendment. These plans will provide for wildlife movement corridors, expand marsh habitat along the northern margin of the Brisbane lagoon, and enhance wetlands and other habitats for native wildlife species. These plans will provide for both east-west and north-south open space areas to promote both linkages between upland habitats and San Francisco Bay and linkages between upland habitats along the Bay shoreline and establish a mosaic of native habitat types that support fauna of the surrounding area, including coastal scrub, grassland, and willow scrub habitats. The result will be permanently protected, cohesive, habitats within the Baylands. Implementation of the proposed General Plan Amendment will further facilitate the restoration and adaptive reuse of the Railyard Roundhouse, a National Register Historic Landmark and Brisbane cultural resource.

The Baylands General Plan Amendment will lead to provision of needed water supplies for the Baylands and City of Brisbane.

The Baylands General Plan Amendment commits to securing a firm water supply not only for the Baylands, but also for the larger Brisbane community. Currently, the City does not have adequate water supply to support buildout of its General Plan, including buildout of employment- and revenue-generating planned land uses. Approval of the Baylands General Plan Amendment will initiate the process of meeting the entire City's future water needs.

DRAFT

Attachment #2

**GENERAL PLAN AMENDMENT NO. GP-1-18
FOR THE BAYLANDS, NORTHEAST BAYSHORE, AND BEATTY SUBAREAS**

Chapter V: Land Use1. **General Plan Land Use Diagram.** Revise as follows:

- a. Delete the Northeast Bayshore subarea and incorporate this former subarea into the Baylands subarea
- b. Revise the boundaries of the Beatty subarea to include the area bordered by the rail line on the west, Highway 101 on the east and the future extension of Geneva Avenue on the south as illustrated in the General Plan Land Use Diagram.
- c. Redesignate the Baylands subarea as “Baylands Planned Development - Mixed Use” specifically identifying locations within the subarea where residential uses are permitted and prohibited as illustrated in the General Plan Land Use Diagram.

2. **Land Use Designations.** Add a Baylands Mixed Use land use designation to read as follows:

Baylands Mixed Use (BMU) provides for a transit-oriented mix of residential, employment- and revenue-generating uses; natural resource management; and public and semi-public facilities. A range of 1800-2200 dwelling units (the upper range of which shall not exceed all units permitted under the State density bonus or other law providing for affordable housing), up to 6.5 million square feet of new commercial development, and 500,000 square feet of hotel development shall be permitted. Non-residential development shall be distributed both to the west and to the east of the rail line. Residential uses shall be permitted only in the northwest quadrant of the site bounded by Bayshore Boulevard on the west, the City and County of San Francisco on the north, the Caltrain rail line on the east, and the line of Main Street (extended) on the south as shown on the General Plan Land Use Diagram.

3. Development within the Mixed-Use designation shall be subject to the City’s approval of a single specific plan for the entirety of the Baylands Subarea and a development agreement that is consistent with General Plan policies, incorporate all applicable EIR mitigation measures, and is consistent with the following standards:

- A. The single specific plan and development agreement subject to City review and approval referenced above shall include:
 - 1) detailed plans for Title 27 compliant closure of the landfill and Remedial Action Plans for OU-1 and OU-2 that have been approved by all appropriate regulatory agencies, which include, but shall not be limited to, CalRecycle, the San Mateo County Environmental Health Department, the California Department of Toxic Substances Control, the California Regional Water Quality Control Board;

- 2) a specific schedule establishing the time frames by which (i) the landfill must be closed in full compliance with Title 27 and (ii) the remediation of OU-1 and OU-2 must be completed; and
 - 3) specific means by which the City may enforce the applicant's adherence to the schedule for closure and remediation and specific consequences, e.g., monetary penalties, suspension of building permits, etc., that the City may impose on the applicant for failing to adhere to the schedule.
- B. A reliable water supply approved by the City of Brisbane to support proposed uses within the Baylands shall be secured prior to site development.
- C. All residential development shall be designed and remediated to accommodate ground level residential uses and ground level residential-supportive uses such as daycare, parks, schools, playgrounds, and medical facilities.
- D. Each increment of development shall be provided with appropriate transportation related and other infrastructure, facilities, and site amenities as determined by the City. Such transportation related and other infrastructure, facilities, and site amenities (e.g., parks, open space preservation, habitat enhancement) shall be provided at the developer's cost.
- E. Baylands development shall be revenue positive to the City on an annual basis where all City costs (e.g., annual operating costs, maintenance and replacement of equipment, facilities, infrastructure, cultural resource and habitat protection and management etc.) are exceeded by project-generated revenues to the City (e.g., to the City's General Fund, enterprise funds, special funds, etc.) during all phases of development and upon final buildout.
- F. Sufficient assurances for the satisfactory ongoing performance of site remediation and site development (e.g. site monitoring, performance bonds, environmental insurance) shall be provided as determined by the City.
- G. The required specific plan for the Baylands shall include a sustainability program for new development consistent with the principles of the Sustainability Framework for the Brisbane Baylands, Final Report accepted by the City Council on November 5, 2015. Baylands development shall be designed so as to be energy neutral on an ongoing basis.
- H. Key habitat areas, including Icehouse Hill and Brisbane Lagoon and adjacent habitat as identified in the 2001 City Open Space Master Plan shall be preserved, enhanced, and protected.
- I. The historic Roundhouse shall be protected and preserved. The required specific plan shall ensure rehabilitation of the Roundhouse for adaptive reuse at the developer's cost.
- J. Development shall be designed to protect uses from the 100-year flood, including 100 years of projected sea level rise as determined based on regulatory standards or guidelines in effect at the time of project construction, with the reference to guidelines and sea level rise projections approved by the Director of Public Works/City Engineer based on context-specific considerations of risk tolerance and adaptive capacity.

K. Prior to the issuance of a grading permit to export soil or move soil from the existing landfill area for incorporation in a remediation or grading plan, the soil shall be tested in a manner approved by the City.

4. Table 5, 1994 General Plan: Land Use Designations and Density/Intensity by Subarea.

Revise to read as follows:

SUBAREA	LAND USE DESIGNATION	POPULATION DENSITY	NUMBER OF UNITS/ MAXIMUM FLOOR AREA RATIO	MINIMUM OPEN SPACE/ OPEN AREA
Northeast Bayshore	Trade Commercial	1.23 – 3.22 E/1,000	2.0 FAR	Per Zoning Requirements
Baylands	Planned Development Trade Commercial <u>Mixed Use</u>	4,032 – 4,928 <u>residents</u> 1.23 – 3.22 E/1,000	1,800 to 2,200 dwelling units increase of 6.5 million square feet of non-residential building area with an additional 500,00 square feet of hotel development. South of channel** 0-2.4 FAR North of channel** 0-4.8 FAR	Minimum 25% of land area
	Bayfront	0	0	100%
	Lagoon	0	0	100%
Beatty	Heavy Commercial	0 - 1.23 E/1,000	0 -1.0 FAR	Per Specific Plan

* E/1,000 = employees per 1,000 square feet

** as stated in Policy LU.1 “ the intent of the FARs given for the Baylands is to accommodate diversity in the height and intensity of structure in order to encourage interesting, flexible, and variable development. In no event shall the FARs shown be interpreted as permitting the maximum intensities to be established throughout the subarea.”

5. Chapter XII: Policies and Programs by Subarea

Delete Policy BL.5 (formerly Policy 330.1) as follows:

Policy BL.5. ~~Prohibit housing on the Baylands.~~