

Measure JJ Frequently Asked Questions



We encourage you to reach out with any questions or comments to:



citymanager@brisbaneca.org



(415) 508-2110

1. What is Measure JJ?

The voters are being asked to decide on Measure JJ, an amendment to the City's General Plan related to the Baylands. The City's General Plan defines a vision for the future physical development of Brisbane and establishes a legal framework to ensure that land use decisions are consistent with that vision. The complete General Plan amendment can be found here: <http://bit.ly/2xtm8ub>

In summary, the General Plan Amendment does the following:

- Allows for a range of 1,800 - 2,200 residential units and up to 7 million square feet of new commercial development. Under current City regulations, at least 15% of the residential units are required to be affordable housing units.
- Limits housing to the northwest corner of the Baylands. See map here: <http://bit.ly/2psHvqZ>
- Requires the preparation of a single Specific Plan for the entire site.
- Requires the following policies to be addressed in the future Specific Plan:
 - › development must support ground level residential uses and comply with the associated higher level remediation standard;
 - › secure an adequate water supply;
 - › require that future development be revenue positive for the City;
 - › incorporate sustainability principles;
 - › protect key habitat areas; and
 - › address flood protection and sea level rise.

2. What happens next if the voters approve Measure JJ?

If Measure JJ passes, the Baylands property owner (Universal Paragon Corporation) will have the opportunity to prepare a Specific Plan and development agreement for its property that is consistent with the amended General Plan and to submit the Specific Plan and development agreement to the City for consideration. The Specific Plan and development agreement would be subject to extensive review and public hearings before the Brisbane Planning Commission and City Council. The City would prepare an environmental impact report (EIR) to analyze and disclose the potential environmental impacts of the proposed Specific Plan. The City retains the right to approve, deny or modify any proposed

Specific Plan and development agreement. There is no time-line or deadline for a Specific Plan or development agreement to be submitted for City review.

3. What happens next if the voters do not approve Measure JJ?

If Measure JJ does not pass, the City Council will need to consider further whether to approve, deny or modify the property owner's current application for development of the Baylands. In addition, because the Brisbane Baylands has been the focus of a great deal of attention not only in the region but also by the State Legislature - primarily due to the statewide housing shortage, which is most acutely felt in the Bay Area - it is likely there will be efforts outside the City's control to permit residential development of the Baylands.

For example, for the better part of two years, Bay Area state representatives, other local elected officials, and housing advocates have pressured Brisbane to build housing on the Baylands. Brisbane was presented with draft State legislation that would have fast-tracked development of 4,400 units of housing on the Baylands. The City argued successfully that the proposed legislation should not be pursued in order to allow the City Council to continue and complete its local review of the Baylands development and present a City Council-developed alternative plan to City voters. As a result, Measure JJ was developed and approved by the City Council for voter consideration. Nevertheless, interested politicians and local activists will watch closely the outcome of Measure JJ.

Notably, in the last few years the Legislature has passed new laws that limit local control over land use decisions with the stated goal of increasing the amount and pace of housing development throughout the State. One recent example of this type of legislation is AB 2923 (Chiu) which passed the Legislature in August over the strong objections of many local governments and the League of California Cities. The bill would give the Bay Area Rapid Transit Authority (BART) the ability to develop housing on BART-owned land by streamlining local review of high density housing projects near transit. Governor Jerry Brown has until September 30th to either sign or veto the bill before it becomes law.

Another example of a potential state law that inserts uncertainty in the planning process at the local level is SB 828 (Weiner) that, like AB 2923, is pending before the Governor. SB 828 amends State Housing Element law which defines how cities plan to accommodate future projected housing needs. Under current state law the City is obligated to ensure that sufficient sites are planned and zoned to accommodate enough housing to satisfy the City's 'fair share' of projected future housing demand as set forth in the Regional

Housing Needs Allocation (RHNA) determined by the state of California. While the City is obligated to identify adequate sites, local governments do not produce housing units, and existing state law does not establish numeric requirements for the production of housing. SB 828 ignores the fundamental reality that the market-driven private sector (not local government) produces housing units. Instead, SB 828 establishes the legislative intent for local governments to take “reasonable actions to ensure that future housing production meet, at a minimum, the regional housing need established for planning purposes.” It is unclear exactly what steps a city would be required to do to achieve this objective in the event the private sector fails to produce the housing units called for in the RHNA. As with AB 2923, the City has sent a letter to the Governor requesting that he veto this bill.

To view the letters submitted by Mayor Conway opposing these two bills, visit <http://bit.ly/2QL1jIU>.

4. Measure JJ requires a “development agreement” that is consistent with the policies in the General Plan Amendment. What is a development agreement and how does it protect the City?

A development agreement is an enforceable contract between a city and a property owner/developer that lays out what is planned for the development and the expectations of both the city and developer. A development agreement might include details of community benefits like recreational and open space requirements, and the agreement could impose enforceable obligations on the developer, for example, financing requirements and the timing of infrastructure improvements.

The development agreement would also “freeze” the land use regulations that apply to a specified property to ensure the development will not be affected by changes in regulations or subsequent state laws during the term of the agreement. This provides both parties with assurance that no outside entity, such as the State Legislature, can intervene to adjust the terms of the agreement after the fact.

5. How is the clean-up of the site going to happen and how can city residents be assured of ongoing safety of the site?

In California, there are multiple State agencies that are legally responsible to oversee the remediation of privately-owned contaminated sites. These include the Department of Toxic Substances Control (DTSC) and the Regional Water Quality Control Board (RWQCB). The San Mateo County Health System also has authority over the former landfill site on the Baylands. These agencies will be responsible for approval of the developer’s remediation plans and conducting ongoing

testing of the site to ensure compliance.

While the City of Brisbane does not have approval authority over remediation of the Baylands, the City has included a policy in the General Plan Amendment (GP-1-18) requiring that areas proposed for residential uses must be remediated to a level which allows for ground floor residential uses and residential supportive uses such as school, daycare facilities, and parks. This policy ensures the highest standard of clean-up for these residential areas. Additionally, the City will actively participate in the review of proposed landfill closure and remedial action plans by the regulatory agencies. The City has contracted with Dr. G. Fred Lee to represent the City’s interests in the review of the draft remedial action plans and related technical documents.

Once remediation is completed, the property owners have the responsibility to ensure that all remediation controls are maintained on an ongoing basis and required monitoring is performed. As a means to ensure these obligations will be met over time, the General Plan Amendment includes a policy requiring that the developer provide bonds, environmental insurance, or other means acceptable to the City which demonstrate sufficient financial assurances that long-term obligations for environmental remediation will be met.

6. Are there health risks for the future residents and workforce on the Baylands if Measure JJ is approved? Does the City have any exposure to liability for health risks?

The General Plan Amendment requires all residential development to be designed and remediated (“cleaned up”) to accommodate ground level residential uses and supportive uses such as daycare, parks, schools, playgrounds and medical facilities. This means that those sites must be remediated so that the carcinogenic health risks to people who live, work or play there is no more than one in a million. For non-residential development, the permissible carcinogenic health risk standard is one in one hundred thousand.

The City is not the regulatory agency for approving the remedial action plan or verifying whether remediation has been achieved; State and County agencies have those responsibilities and hence they, not the City, have the potential for exposure to liability. In addition, before the site is developed, the City must approve a Specific Plan for the site, a discretionary action which under State law provides immunity to the City. As a part of that process, regulatory agencies, such as the California Department of Toxic Substance Control and the San Mateo County Environmental Health Department, must approve detailed plans for remediation of the site and landfill closure. As part of that process, the City’s consultant will be reviewing, commenting on and, where appropriate, making recommendations to those agencies concerning those plans, but the final decisions on these plans will remain with regulatory agencies other than the City.

7. Does certain State legislation concerning housing, such as SB 35, apply to the Baylands?

Senate Bill 35 (SB 35) was approved in 2017 and establishes a streamlined development review process for new multi-family residential projects that meet the requirements set forth in that legislation. To be subject to the streamlined process under SB 35, a development project must satisfy a lengthy list of criteria including that the project meet objective development standards established by the local jurisdiction and, for Brisbane developments, the project must dedicate at least 50 percent of the housing will be “affordable housing units.” In addition, SB 35 does not apply to sites that have been designated hazardous waste sites.

The Baylands is not zoned for residential development and as a result there are no objective development standards for the site, as required for SB 35, to apply. Moreover, the Baylands is designated by the Department of Toxic Substances Control as a hazardous waste site. Finally, there has been no proposal as to the number of affordable units to be developed within the Baylands. For at least these reasons, SB 35 does not apply to the Baylands and, unless the criteria of SB 35 were satisfied at some later date, will not apply to the Baylands regardless of whether or not voters pass Measure JJ.

8. Does the California High Speed Rail Authority’s proposal concerning a proposed railyard on the Baylands affect Measure JJ if the voters approve it?

The California High Speed Rail Authority (CHSRA) has long expressed an interest in building a maintenance yard for high speed rail trains on the Baylands. However, in the many years this matter has been under consideration, CHSRA has presented no precise description of the location, operational details, or potential environmental impacts of a future maintenance yard. CHSRA cannot move forward in establishing a railyard on the Baylands until it completes an environmental review of any such proposal and funding is committed to implement the project.

According to the latest schedule proposed by CHSRA this summer, it plans to release a “preferred alternative” by the end of 2019 and a Draft EIR/EIS by the Spring of 2020 with a final decision possibly in the Spring of 2021. It should be noted that CHSRA’s schedule has changed many times before, and there is no guarantee that its current schedule will not slip again.

In the event CHSRA moves forward with a proposal for a maintenance yard on the Baylands, it will need to negotiate with the Baylands property owner to take possession of the land. The City of Brisbane will not be directly involved in that process, however the City would be actively involved in any EIR process for a maintenance yard in order to secure adequate safeguards for the City’s interests as development moves forward.

9. What will happen to the dirt on the landfill site?

Large quantities of soil have been brought onto the east side of the site over the years. While some of this material may be used on site to cap the former landfill in accordance with State requirements, much of the material will need to be removed from this area. Some or all of this excess material may be used for remediation and regrading of the west side of the site. The developer might also attempt to sell excess material for uses outside of Brisbane. Whether the soil material is reused on site or exported off-site, there are community concerns about these materials and whether they are contaminated in some fashion. While soil brought onto the site since 2010 has been tested, the City will require that additional testing be performed to ensure the material is safe prior to it being reused on site or exported off site.

10. If the General Plan Amendment is approved, is the City legally obligated to obtain water for the development? If not, who is responsible and where will the water come from?

The project developer must find a source of water for the project and have agreements in place to assure long-term water supply is available to the Baylands prior to project construction. If the General Plan Amendment is approved by the voters, the next step would be for the applicant to prepare a Specific Plan. State law requires that a water supply assessment be prepared and approved demonstrating the availability of long-term water supply for future development. Further, City requirements set forth in the General Plan Amendment and Baylands EIR require additional safeguards and enforceable guarantees of adequate water supply before the project is completed.

11. Where will the children living in this area go to school and what impact will that have on our existing schools?

Currently, the Baylands is located within the Bayshore Elementary School District and the Jefferson Union High School District. The City Council has requested a study to determine the impact of the development on the Bayshore and Brisbane Elementary School Districts, as well as the Jefferson Union High School District. As part of this study, the City will explore whether there are different district boundary configurations and if such configurations would benefit the educational opportunities of new residents in the Baylands and the School Districts.

Notice to Voters

California Voter's Choice Act



STARTING IN 2018, CHANGES ARE COMING TO ELECTIONS IN
MADERA, NAPA, NEVADA, SACRAMENTO AND SAN MATEO COUNTIES.

The California Voter's Choice Act is a new law passed in 2016 that will modernize elections in California by allowing counties to conduct elections under a new model which provides greater flexibility and convenience for voters. The Statewide General Election, taking place on November 6, 2018, will be the second time this new election model is enacted.

This new election model allows voters to choose how, when, and where to cast their ballot by:

- Mailing every voter a ballot,
- Expanding in-person early voting, and
- Allowing voters to cast a ballot at any vote center within their county

November 2018's Ballot

This November, there will be one City Measure on the ballot.

Measure JJ: City of Brisbane General Plan Amendment Measure

For the Resolution, Measure and Full Text, Impartial Analysis, Argument in Favor and Against, please visit:

brisbaneca.org/nov-2018-election-information

Where do you vote?

Brisbane City Hall (50 Park Place) will actually be one of the Vote Centers in the County that will be open November 3-5, three days prior to Election Day. Its hours BEFORE Election Day will be 9am - 5pm and 7am - 8pm ON Election Day. There will be 5 Vote Centers open for 10 days before Election Day and 4 Vote Centers open 29 days before Election Day.

Also important to note: The November 6, 2018 Statewide General Election is an all-mailed ballot election for the County. Every eligible voter will be mailed a ballot and can vote by mail or cast their ballot in person at a Vote Center during the times and days specified above.

Not registered to vote?

Visit <https://www.smcacre.org/register-vote> or visit a Vote Center during hours of operation to register to vote. For more information contact Ingrid Padilla, City Clerk at ipadilla@brisbaneca.org or at (415) 508-2113.

Who Created this Document?

This Notice to Voters and Measure JJ FAQs were completed by city staff with no involvement by the City Council. For more information about the November 6, 2018 Statewide General Election, please visit: brisbaneca.org/nov-2018-election-information



Stay connected with the City online!



 Nextdoor