


# *City of Brisbane*

## *Planning Commission Agenda Report*

**TO:** Planning Commission For the Meeting of 3/9/17

**FROM:** Ken Johnson, Senior Planner, via  John A. Swiecki, Community Development Director

**SUBJECT:** **Zoning Text/Map Amendment RZ-3-16**, Amending Title 17 of the Municipal Code to add the TC-2 Southeast Bayshore Trade Commercial District, Chapter 17.21, and apply the TC-2 to the zoning map and rezone the Southeast Bayshore General Plan Subarea from M-1 Manufacturing District to TC-2, and rezone the adjacent site designated Open Space from M-1 to O-S Open Space; City of Brisbane, applicant; M&L Associates, 150 Spear Street Associates, and City of Brisbane, owners; APN Various, including 007-150-020, -030, -040, -060, -070, and -999 (por).

### **Request**

To:

A) amend Title 17 of the Municipal Code by:

- 1) adding Chapter 17.21 to create the TC-2 Southeast Bayshore Trade Commercial District;
- 2) rezoning properties within the Southeast Bayshore Trade Commercial General Plan Subarea from M-1 Manufacturing District to TC-2; and
- 3) rezoning City right-of-way (located along the west side of Bayshore Boulevard at the south end of the Southwest Bayshore subarea) that is currently designated OS- Open Space from M-1 to O-S Open Space: and

B) amend the City's Official Zoning Map to reflect the changes described above.

See the attached exhibits which show existing general plan designations and existing and proposed zoning.

### **Recommendation**

Recommend that the City Council adopt the ordinance amending Title 17 of the Brisbane Municipal Code (BMC) to add Chapter 17.21 TC-2 Southeast Bayshore Trade Commercial District and to amend the Zoning Map to rezone the subject properties to TC-2 and O-S Open Space, based on the discussion and analysis presented in the agenda report, via adoption of RZ-3-16.

## **Background**

In 2015, the City Council approved Ordinance No. 599 to amend the permitted and conditionally permitted uses section of the M-1 zone in response to an application by a property owner of M-1 zoned property in the Southeast Bayshore subarea. In considering this application, the City Council noted that the 1994 General Plan eliminated the ‘Industrial’ land use category from the General Plan and directed through the adoption of Resolution of Intention No. 2015-47 that the ‘M-1’ zoning district be renamed to provide consistent terminology between the zoning ordinance and the 1994 General Plan.

In moving forward to implement the City Council’s direction, it became clear that renaming the M-1 zone was not an optimal solution. As was discussed at the Planning Commission study session on January 12, 2017 (see attached report), the areas of Brisbane currently zoned M-1 are physically separated from each other, lie within different General Plan subareas, and have distinctly different physical forms, characteristics, and land use patterns. Based on these factors, the work program to implement Resolution of Intention No. 2015-47 is structured to address each unique subarea now zoned M-1, recognizing that there is not a “one size fits all” solution. This application addresses the southerly-most area of M-1 zoned property within Brisbane, comprised primarily of the Southeast Bayshore General Plan subarea.

## **Staff Analysis**

*Proposed Trade Commercial TC-2 District:* As noted above, this application primarily addresses the approximately 26 acre, Southeast Bayshore General Plan Subarea, which was historically occupied by VWR. The northern building in that district is currently undergoing tenant improvements for The RealReal, an internet based consignment retailer. The southern warehouse area has ongoing soil and groundwater investigations, being conducted with oversight by the Regional Water Quality Control Board, and is currently unoccupied. Other properties include a vacant, former railroad tunnel parcel and City-owned CalTrain right-of-way parcels.

The 1994 General Plan designates the Southeast Bayshore Subarea as TC Trade Commercial. Per the General Plan Land Use element, the TC Trade Commercial land use designation:

“Represents a mix of commercial uses including warehouses, distribution facilities, office, retail uses, restaurants, commercial recreation, personal services, as well as light industrial, research and development, and uses of a similar character. Public and semi-public facilities and educational institutions may be located under this designation. Repair and maintenance services, such as auto body repair shops, may be conditionally permitted in the implementing zoning districts.”

As presented and discussed during the hearings regarding Ordinance 599 in 2015, the permitted uses and development standards for the M-1 Zone are consistent with the 1994 General Plan and appropriate for the Southeast Bayshore subarea. The current M-1 zoning provisions are provided for reference as an attachment with this report.

Since the substance of the M-1 zone is consistent with the General Plan and appropriate for the Southeast Bayshore subarea, the primary objective of this zoning amendment is to bring the title of the zoning district into conformity with the General Plan. As such, staff recommends that a new Trade Commercial (TC-2) zoning designation be created and that the Southeast Bayshore subarea be rezoned from M-1 to TC-2. The new TC-2 zone will incorporate the substantive provisions of the existing M-1 Zone.

The only substantive change proposed in the new TC-2 zone is to address medical cannabis uses. On February 9<sup>th</sup>, the Planning Commission recommended approval of a zoning ordinance amendment to regulate a range of medical cannabis businesses in specific zoning districts. Consistent with that Planning Commission recommendation, it is recommended that the new TC-2 zone include medical cannabis research and development as a permitted use with other medical cannabis businesses included as conditionally permitted uses. Proposed revisions are shown in red in the attached draft ordinance. Such uses are consistent with the warehouse, research and development and light industrial uses permitted under the General Plan's trade commercial land use designation. Inclusion of medical cannabis business uses in the proposed TC-2 zoning district assumes that the City Council approves the medical cannabis ordinance as recommended.

*Proposed O-S Open Space District:* In researching this application staff identified an inconsistency between the General Plan and City adopted zoning map. Specifically, an approximately 3 acre section of unimproved Bayshore Boulevard right-of-way, owned by the City of Brisbane and situated westerly of Bayshore Boulevard at the south end of the Southeast Bayshore subarea, is designated as Open Space under the General Plan but zoned M-1. The General Plan states that Open Space designation is for

“...properties that have been purchased, given or offered for dedication to a public agency for open space use or conservation purposes and are essentially unimproved by urban structures.”

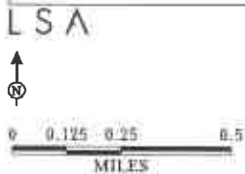
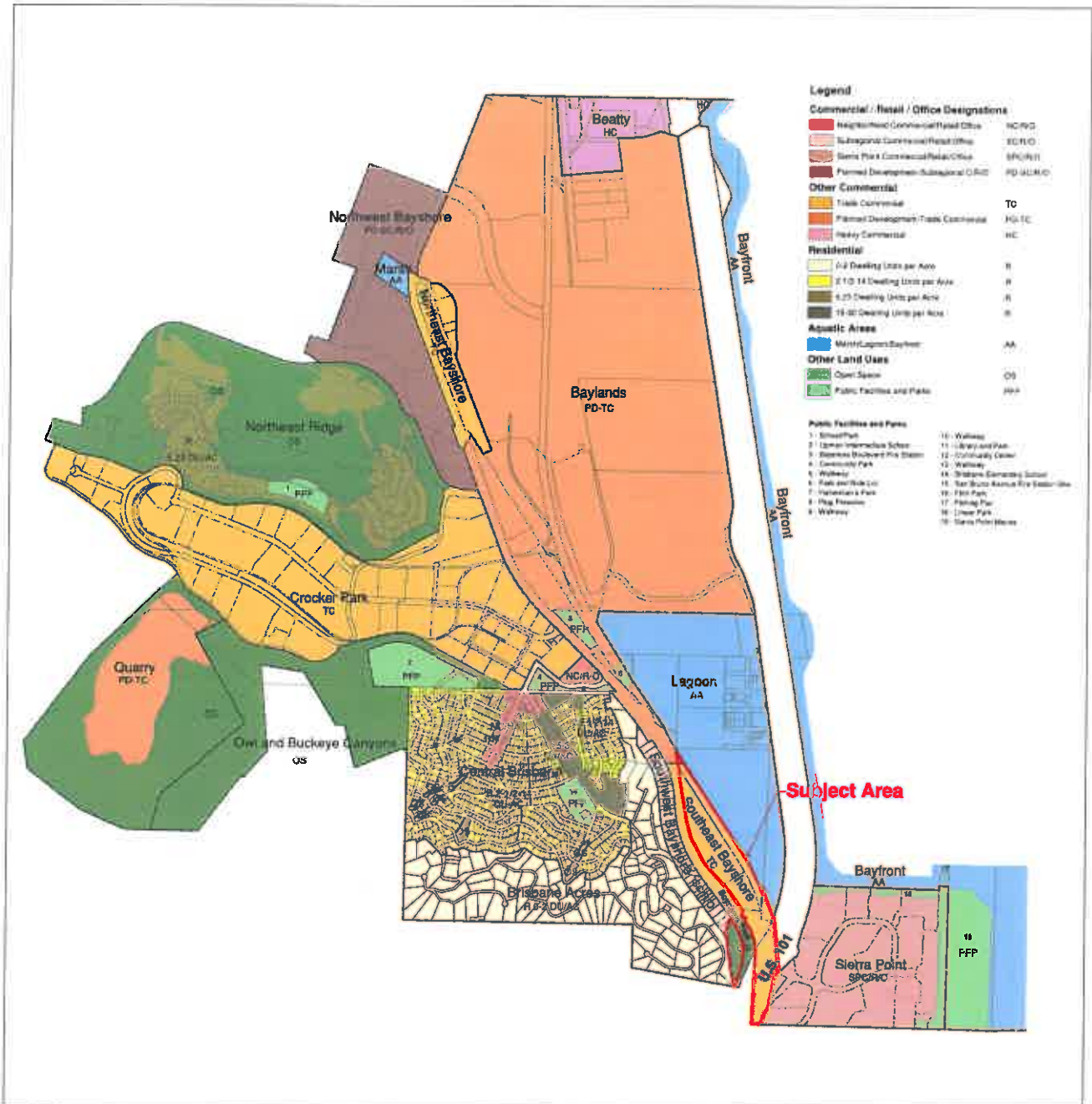
The subject property is already in City ownership and would include that unimproved area of the City's right-of-way that extends beyond the road-cut area, to the west of Bayshore Boulevard. While it is not altogether clear why this City-owned right of way was designated as Open Space, it would be appropriate to eliminate the General Plan/zoning inconsistency by rezoning this right of way remnant to O-S Open Space. Since the subject area is already in public ownership as City right-of-way, there would be no loss of land development rights incurred by private owners and no loss of rights for adjacent property owners.

*Amendment to City Zoning Map:* The final component of this zoning amendment application is to amend the City's Official zoning map to reflect the mapping changes described herein. These changes are shown as Exhibit B of Draft Resolution RZ-3-16.

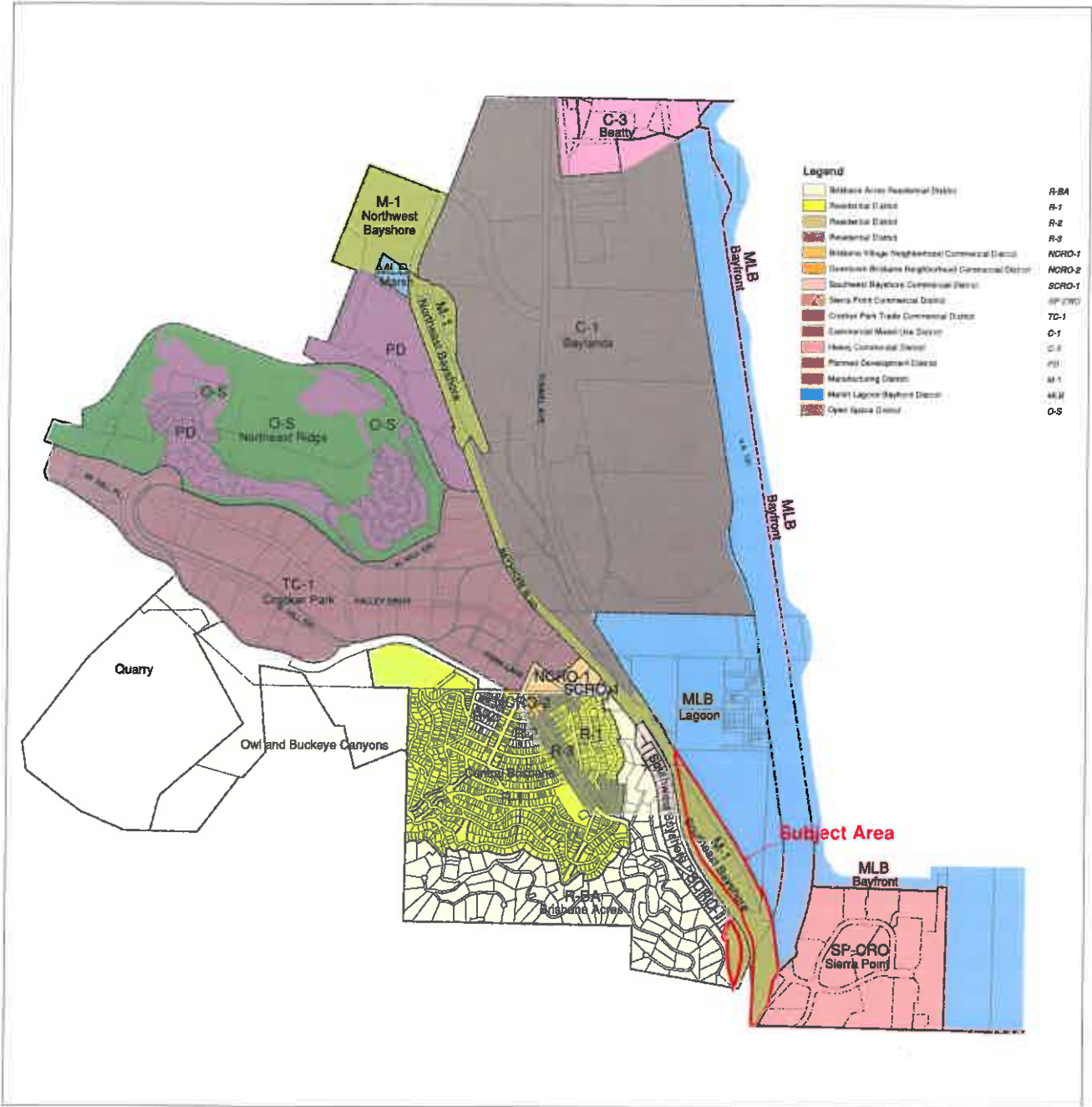
## **Attachments**

- A. 1994 General Plan Land Use Map
- B. Current Zoning Map
- C. Draft Resolution RZ-3-16 with Draft Ordinance and Proposed Zoning Map
- D. Chapter 17.20 - M-1 Manufacturing District Zoning Text
- E. Chapter 17.26 - O-S Open Space District Zoning Text
- F. M-1 Study Session Memorandum to the Planning Commission, dated January 12, 2017 (including the City Council's Resolution of Intention No. 2015-47)

# 1994 General Plan Land Use Diagram City of Brisbane



# Zoning Map City of Brisbane



LSA



Revised: May 16, 1988  
 Revised: May 25, 1992  
 Revised: April 1995  
 Revised: February 2000  
 Revised: February 2002  
 Revised: July 2003



F:\BRIS\GIS\Map\Zoning (Power)1.mxd (10/20/04)

**Draft  
RESOLUTION NO. RZ-3-16**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BRISBANE  
RECOMMENDING ZONING TEXT AND MAP AMENDMENT RZ-3-16  
TO THE CITY COUNCIL, SUCH TEXT AMENDMENTS BEING TO ADD THE TC-2  
SOUTHEAST BAYSHORE TRADE COMMERCIAL DISTRICT, CHAPTER 17.21, AND TO  
DESIGNATE ON THE ZONING MAP CERTAIN PROPERTIES AS TC-2 COMMERCIAL  
DISTRICT AND CERTAIN OTHER PROPERTIES AS O-S OPEN SPACE**

**WHEREAS**, following City Council’s adoption of Ordinance 599 in 2015 amending the allowable permitted and conditionally permitted uses in the M-1 Manufacturing District , City Council adopted a resolution of intent, Resolution No. 2015-47, to initiate an amendment to the zoning ordinance and zoning map to replace references to M-1 Manufacturing in the zoning ordinance and on the zoning map in the southeastern part of the City to other zoning district designations a to ensure consistency in terminology between the 1994 General Plan and the zoning ordinance and zoning map; and

**WHEREAS**, the General Plan designates as “TC Trade Commercial” lands identified by San Mateo County Assessor Parcel Numbers 007-150-020, -030, -040, -060, -070, and -999 (por) within the Southeast Bayshore subarea and TC-2 Commercial zoning is consistent with that General Plan designaton; and

**WHEREAS**, the General Plan designates as “OS Open Space” an area at the south end of the Southwest Bayshore subarea that is within the Bayshore Boulevard public right-of-way, and O-S Open Space zoning is consistent with that General Plan designation; and

**WHEREAS**, the permitted and conditional uses currently designated within the M-1 zoning district are consistent with the City’s General Plan and such uses and other development standards may be applied to a new TC-2 Commercial District, as well as to any medical cannabis research and development and medical cannabis businesses that would locate in the TC-2 Commercial District; and

**WHEREAS**, the Zoning Map of the City of Brisbane designates San Mateo County Assessor Parcel Numbers 007-150-020, -030, -040, -060, -070, and -999 (por) and the area of Bayshore Boulevard public right-of-way as M-1 Manufacturing, which designation is inconsistent with the land use designations (TC Trade Commercial and OS Open Space, respectively) on the General Plan; and

**WHEREAS**, on March 9, 2017, the Planning Commission held a duly noticed public hearing on the draft ordinance; and

**WHEREAS**, since the proposed amendments to the Zoning Ordinance and the Zoning Map are consistent with the City’s General Plan, adoption of this Ordinance falls within a class of projects which does not require further environmental review (CEQA Guidelines, Section 15183 (a)) and the exception to Section 15183 (a) of the CEQA Guidelines requiring environmental review as might be necessary to examine project specific significant effects does not apply; and

**NOW, THEREFORE**, based upon the evidence presented, both written and oral, the Planning Commission of the City of Brisbane hereby **RECOMMENDS** that the City Council adopt the attached ordinance.

**AYES:**

**NOES:**

**ABSENT:**

\_\_\_\_\_  
TuongVan Do  
Chairperson

**ATTEST:**

\_\_\_\_\_  
John A. Swiecki  
Community Development Director



**Note:** Section 1, Chapter 17.21 - TC-2 Southeast Bayshore Trade Commercial District (“TC-2 Commercial District”), is based on Chapter 17.20 M-1 Manufacturing District Zoning Text. Substantive differences between the M-1 and proposed TC-2 are to the permitted and conditional uses only and are shown in red.

## EXHIBIT A

### DRAFT ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF BRISBANE TO AMEND TITLE 17 OF THE MUNICIPAL CODE TO ADD THE TC-2 SOUTHEAST BAYSHORE TRADE COMMERCIAL DISTRICT, CHAPTER 17.21, AND TO DESIGNATE ON THE ZONING MAP CERTAIN PROPERTIES AS TC-2 COMMERCIAL DISTRICT AND CERTAIN OTHER PROPERTIES AS O-S OPEN SPACE.**

**WHEREAS**, following adoption of Ordinance 599 in 2015 amending the allowable permitted and conditionally permitted uses in the M-1 Manufacturing District, City Council adopted a resolution of intent, Resolution No. 2015-47, to initiate an amendment to the zoning ordinance and zoning map to replace references to M-1 Manufacturing in the zoning ordinance and on the zoning map in the southeastern part of the City to other zoning district designations to ensure consistency in terminology between the 1994 General Plan and the zoning ordinance and zoning map; and

**WHEREAS**, the General Plan designates as “TC Trade Commercial” lands identified by San Mateo County Assessor Parcel Numbers 007-150-020, -030, -040, -060, -070, and -999 (por) within the Southeast Bayshore subarea and TC-2 Commercial zoning is consistent with that General Plan designation; and

**WHEREAS**, the General Plan designates as “OS Open Space” an area at the south end of the Southwest Bayshore subarea that is within the Bayshore Boulevard public right-of-way, and O-S Open Space zoning is consistent with that General Plan designation; and

**WHEREAS**, the permitted and conditional uses currently designated within the M-1 zoning district are consistent with the City’s General Plan and such uses and other development standards may be applied to a new TC-2 Commercial District, as well as to any medical cannabis research and development and medical cannabis businesses that would locate in the TC-2 Commercial District; and

**WHEREAS**, the Zoning Map of the City of Brisbane designates San Mateo County Assessor Parcel Numbers 007-150-020, -030, -040, -060, -070, and -999 (por) and the area of Bayshore Boulevard public right-of-way as M-1 Manufacturing, which designation is inconsistent with the land use designations (TC Trade Commercial and OS Open Space, respectively) on the General Plan; and

**WHEREAS**, on March 9<sup>th</sup>, 2017, the Brisbane Planning Commission held a duly noticed public hearing and recommended that the City Council approve the proposed Zoning Text and Map Amendment RZ-3-16; and

**WHEREAS**, there is a certified EIR for the 1994 General Plan and the proposed amendments to the Zoning Ordinance and the Zoning Map are consistent with the above referenced General Plan Land Use Element and General Plan Map; and

**WHEREAS**, since the proposed amendments to the Zoning Ordinance and the Zoning Map are consistent with the City’s General Plan, adoption of this Ordinance falls within a class of projects which does not require further environmental review (CEQA Guidelines, Section 15183 (a)) and the exception

to Section 15183 (a) of the CEQA Guidelines requiring environmental review as might be necessary to examine project specific significant effects does not apply; and

**WHEREAS**, a notice of public hearing was posted and mailed to property owners of the subject properties and within 300 feet of the boundaries of the proposed TC-2 AND O-S zoning districts, per BMC Section 17.54.020 prior to the Planning Commission and City Council hearings; and

**WHEREAS**, on \_\_\_\_\_, the City Council conducted a public hearing on the proposed changes to the zoning ordinance and zoning map, at which time any person interested in the matter was given the opportunity to be heard; and

**THE CITY COUNCIL OF THE CITY OF BRISBANE DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1. Chapter 17.21 is added to Title 17 to read as follows:**

**Chapter 17.21 - TC-2 SOUTHEAST BAYSHORE TRADE COMMERCIAL DISTRICT (“TC-2 COMMERCIAL DISTRICT”)**

Sections:

**17.21.010 - Permitted uses**

The following uses are permitted in the TC-2 Commercial District, all within a building, except for limited outside storage of vehicles and equipment related to the interior use, and all submitting evidence of safe, clean, quiet operation:

- A. Commercial gyms and health facilities;
- B. Data centers;
- C. Food production and distribution, provided that odors from such use shall not be generally or distinctly detectable from any off-site location;
- D. Freight forwarding;
- E. Light manufacturing, assembling, processing;
- F. Offices;
- G. Printing;
- H. Research and development, including for medical cannabis subject to the requirements of Chapter 17.33;
- I. Retail sales and rental; and
- J. Warehousing.

**17.21.020 - Conditional uses**

Conditional uses allowed in the TC-2 Commercial District, subject to obtaining a use permit, are as follows:

- A. As specified in [Chapter 17.32](#);
- B. Commercial recreation;
- C. Gasoline service stations;
- D. Heavy equipment repair and automotive repair shop (both automobile light repair and automobile heavy repair, including for vehicle fleets), including EPA-compliant fueling facilities accessory to such operations;

- E. [Medical cannabis businesses as defined in Chapter 17.33](#);
- F. Outside storage of trucks and equipment, when properly screened; and
- G. Restaurant and bars connected with restaurant use.

**17.21.030 - Development regulations.**

Development regulations in the TC-2 Commercial District are as follows:

- A. Minimum building site required, ten thousand (10,000) square feet;
- B. Minimum lot dimensions; one hundred (100) feet width;
- C. Required minimum yards:
  - 1. Front yard, twenty-five (25) feet;
  - 2. Side yards, ten (10) feet;
  - 3. Rear yard, ten (10) feet;
- D. Maximum coverage by all structures, sixty percent (60%);
- E. Maximum allowable height for all structures, fifty (50) feet, provided gross floor area ratio to land may not exceed two (2) to one (1);
- F. Landscaping Requirements.
  - 1. Not less than fifteen percent (15%) of the gross lot area shall be improved with landscaping;
  - 2. Landscaping required under this section, including replacement landscaping, shall be according to detailed plans approved by the planning director. The landscape plans shall be consistent with the following objectives:
    - a. Use of plants that are not invasive;
    - b. Use of water conserving plants; and
    - c. Use of plants and other landscape features that are appropriate to the context.
  - 3. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to [Chapter 15.70](#)) or the latest state provisions, whichever is more effective in conserving water.
- G. Recycling Area Requirements.
  - 1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.
  - 2. This requirement shall apply to all new commercial, industrial, or institutional buildings, and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. This requirement shall also apply to any existing development for which building permit applications are submitted within a twelve (12) month period collectively adding thirty percent (30%) or more to the existing floor area of the development project. For existing developments occupied by multiple tenants, this requirement shall apply to applications for one or more building permits for a single or multiple alterations submitted by any tenant within a twelve (12) month period collectively adding thirty percent (30%) or more to the existing floor area of that portion of the development which said tenant leases. Such recycling areas shall, at a minimum, be sufficient in capacity, number, and distribution to serve that portion of the development project which said tenant leases.
- H. In the case of conditional uses, additional regulations may be required.

**17.21.040 - Exceptions.**

Exceptions are as specified in [Chapter 17.32](#).

**17.21.050 - Parking.**

The parking requirements in the TC-2 Commercial District are as specified in [Chapter 17.34](#).

**17.21.060 - Signs.**

Signs allowed in the TC-2 Commercial district are as specified in [Chapter 17.36](#).

**17.21.070 - Design review.**

Design review in the TC-2 Commercial District is as specified in [Chapter 17.42](#).

**SECTION 2. The Zoning Map of the City of Brisbane is amended per the attached Exhibit B, as follows:**

The parcels of land within the General Plan's Southeast Bayshore subarea identified as County of San Mateo's Assessor Parcel Numbers 007-150-030, 007-150-040, 007-150-070 and the southern portions of discontinuous City-owned land identified as County of San Mateo's Assessor Parcel Number 007-150-999 shall be designated on the Zoning Map of the City of Brisbane as TC-2 Southeast Bayshore Trade Commercial District.

The public right-of-way located immediately west of Bayshore Boulevard and at the south end of the Southwest Bayshore subarea, being that land area between the Bayshore Boulevard road-cut and the eastern edges of San Mateo County Assessor Parcel Numbers 007-570-010, 007-570-020 and 007-560-010 and the southeast edge of San Mateo County Assessor Parcel Number 007-560-020 shall be designated on the Zoning Map of the City of Brisbane as O-S Open Space.

**SECTION 3: This Ordinance shall be in full force and effect thirty days after its passage and adoption.**

\* \* \*

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the \_\_\_\_\_ day of \_\_\_\_\_, 2017, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
LORI S. LIU, Mayor

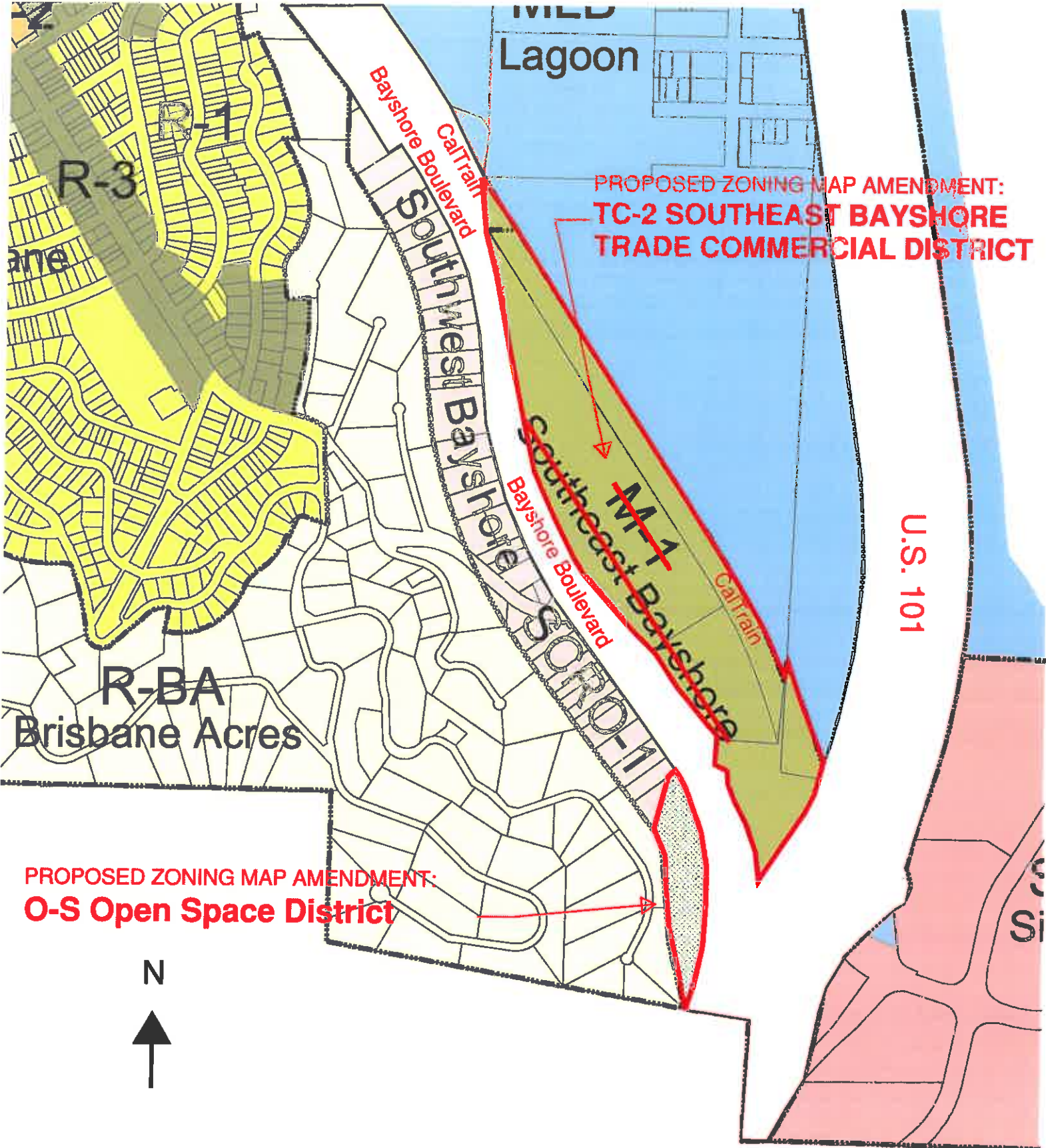
ATTEST:

\_\_\_\_\_  
INGRID PADILLA, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael Rouse, City Attorney

**EXHIBIT B**



**PROPOSED ZONING MAP AMENDMENT:  
O-S Open Space District**



**PROPOSED ZONING MAP AMENDMENTS  
TC-2 SOUTHEAST BAYSHORE  
TRADE COMMERCIAL DISTRICT &  
O-S OPEN SPACE DISTRICT**

## Chapter 17.20 - M-1 MANUFACTURING DISTRICT

### 17.20.010 - Permitted uses.

The following uses are permitted in the M-1 district, all within a building, except for limited outside storage of vehicles and equipment related to the interior use, and all submitting evidence of safe, clean, quiet operation:

- A. Commercial gyms and health facilities;
- B. Data centers;
- C. Food production and distribution, provided that odors from such use shall not be generally or distinctly detectable from any off-site location;
- D. Freight forwarding;
- E. Light manufacturing, assembling, processing;
- F. Offices;
- G. Printing;
- H. Research and development;
- I. Retail sales and rental; and
- J. Warehousing.

### 17.20.020 - Conditional uses.

Conditional uses allowed in the M-1 district, subject to obtaining a use permit, are as follows:

- A. As specified in [Chapter 17.32](#);
- B. Commercial recreation;
- C. Gasoline service stations;
- D. Heavy equipment repair and automotive repair shop (both automobile light repair and automobile heavy repair, including for vehicle fleets), including EPA-compliant fueling facilities accessory to such operations;
- E. Outside storage of trucks and equipment, when properly screened; and
- F. Restaurant and bars connected with restaurant use.

### 17.20.030 - Development regulations.

Development regulations in the M-1 district are as follows:

- A. Minimum building site required, ten thousand (10,000) square feet;
- B. Minimum lot dimensions; one hundred (100) feet width;
- C. Required minimum yards:
  - 1. Front yard, twenty-five (25) feet;
  - 2. Side yards, ten (10) feet;
  - 3. Rear yard, ten (10) feet;
- D. Maximum coverage by all structures, sixty percent (60%);
- E. Maximum allowable height for all structures, fifty (50) feet, provided gross floor area ratio to land may not exceed two (2) to one (1);
- F. Landscaping Requirements.
  - 1. Not less than fifteen percent (15%) of the gross lot area shall be improved with landscaping;

2. Landscaping required under this section, including replacement landscaping, shall be according to detailed plans approved by the planning director. The landscape plans shall be consistent with the following objectives:
  - a. Use of plants that are not invasive;
  - b. Use of water conserving plants; and
  - c. Use of plants and other landscape features that are appropriate to the context.
3. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to [Chapter 15.70](#)) or the latest state provisions, whichever is more effective in conserving water.

**G. Recycling Area Requirements.**

1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.
2. This requirement shall apply to all new commercial, industrial, or institutional buildings, and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. This requirement shall also apply to any existing development for which building permit applications are submitted within a twelve (12) month period collectively adding thirty percent (30%) or more to the existing floor area of the development project. For existing developments occupied by multiple tenants, this requirement shall apply to applications for one or more building permits for a single or multiple alterations submitted by any tenant within a twelve (12) month period collectively adding thirty percent (30%) or more to the existing floor area of that portion of the development which said tenant leases. Such recycling areas shall, at a minimum, be sufficient in capacity, number, and distribution to serve that portion of the development project which said tenant leases.

H. In the case of conditional uses, additional regulations may be required.

**17.20.040 - Exceptions.**

Exceptions are as specified in [Chapter 17.32](#).

**17.20.050 - Parking.**

Parking in the M-1 district as specified in [Chapter 17.34](#).

**17.20.060 - Signs.**

Signs allowed in the M-1 district are as specified in [Chapter 17.36](#).

**17.20.070 - Design review.**

Design review in the M-1 district are as specified in [Chapter 17.42](#).



**Chapter 17.26 - O-S OPEN SPACE DISTRICT****17.26.010 - Purpose.**

The purpose of the O-S district is to provide for the preservation, conservation and use of open space lands which form a part of the open space system of the city. It is the further purpose of the O-S district to limit the use of such lands to appropriate open space uses and related uses so long as the lands shall remain in the O-S district, and, in the event of an application for the reclassification of any such lands to other than open space zoning, to insure sufficient time prior to reclassification to enable the city or other responsible agency to negotiate for the purchase or other acceptable arrangement to continue the land in open space use. This section is not intended as authorizing the city to adopt or reclassify open space lands in any manner which will take or damage private property for public use without the payment of just compensation therefor.

**17.26.020 - Lands to be included.**

All lands designated as open space in the open space element of the Brisbane general plan may be included in the O-S district. Such lands may include but are not limited to the following:

- A. Public parks, playgrounds and school grounds;
- B. Private school grounds and church grounds of a predominantly open character;
- C. Golf course and country clubs;
- D. Privately and jointly-owned open spaces reserved for open space use as part of a planned development;
- E. Land which, because of steep slope, geotechnical hazard, or similar reason, is unsuitable for development;
- F. Any other publicly or privately owned open space which in the opinion of the planning commission functions as a part of the open space system of the city and is included in the open space element of the Brisbane general plan.

**17.26.030 - Permitted principal uses.**

Following are the principal uses permitted in the O-S district:

- A. Active and passive recreation including any structures incidental to such use existing at the time of inclusion in the O-S district;
- B. Educational and cultural uses including any structures incidental to such uses existing at the time of inclusion in the O-S district;
- C. Agriculture and horticulture including any structures incidental to such uses existing at the time of inclusion in the O-S district;
- D. Open space as a reserve for fire protection, seismic safety, water conservation, protection of view or similar appropriate purpose;
- E. Open space as conserved wildlife habitat.

**17.26.040 - Permitted accessory uses.**

Following are the accessory uses permitted in the O-S district:

- A. Uses and buildings normally incidental and accessory to a principal use.

**17.26.050 - Conditional uses.**

Following are the uses which may be permitted in an O-S district subject to securing of a use permit:

- A. Any addition to an existing structure which will increase the coverage of the structure, or any new structure, except minor recreational or horticultural structures such as playground equipment, trellises, fences and the like;
- B. Any commercial use which may be conducted on open space land without substantially detracting from its value as open space.

**17.26.060 - Reclassification.**

The procedure for the reclassification of land set forth in [Chapter 17.50](#) shall apply to property in the O-S district subject to the following modifications:

- A. Following a public hearing the planning commission shall determine whether it is in the public interest of the city to retain the subject property in open space use as against permitting its reclassification to the use applied for. The decision on this question shall be made by resolution and the decision of the planning commission shall be transmitted to the city council together with a report setting forth reasons for said decision.
- B. Following receipt of the recommendation of the planning commission, the city council shall hold a public hearing. Following such hearing the council may decide by resolution either to:
  - 1. Seek means to retain the property in question in open space, or
  - 2. Permit a reclassification of the subject property.
- C. Should the council's decision be the first alternative, all further proceedings for the reclassification of the property shall be halted for a period of not to exceed ninety (90) days from the date of council action, during which time the city council shall actively seek to negotiate arrangements, which may include purchase or other acceptable means, to retain the property in open space use. The period set forth herein may be extended by mutual agreement of the council and the applicant for reclassification. If, at the end of the ninety (90) days, or such longer period as may be agreed upon, no satisfactory arrangement has been concluded, the matter shall be remanded to the planning commission for consideration of the reclassification applied for. The commission shall thereafter proceed in accordance with the provisions of [Chapter 17.50](#).
- D. Should the council's decision be the second alternative as listed in subdivision 2 of subsection B of this section, the matter shall thereupon forthwith be returned to the planning commission which shall consider the reclassification applied for in accordance with the procedure set forth in [Chapter 17.50](#).

**17.26.070 - Development regulations.**

**A. Recycling Area Requirements.**

- 1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.
- 2. This requirement shall apply to all new commercial or institutional buildings, and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. This requirement shall also apply to any existing development for which building permit applications are submitted within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of the development project.



Attachment F

## MEMORANDUM

DATE: January 12, 2017  
TO: Planning Commission  
FROM: Ken Johnson, Senior Planner <sup>KPJ</sup>  
SUBJECT: **Study Session on M-1 Manufacturing District Zoning Amendments for Northwest and Southeast Bayshore**

### **BACKGROUND**

In November 2015, City Council adopted a resolution of intent to initiate a zoning amendment to bring the terminology used in the zoning ordinance for the existing M-1 Manufacturing zoning district into conformity with the terminology used in the Brisbane General Plan. This study session provides an opportunity for the Planning Commission to provide input regarding the forthcoming zoning amendments.

### **DISCUSSION**

There are currently three Brisbane General Plan subareas that are zoned M-1 Manufacturing. These include the following:

- Northeast Bayshore
- Northwest Bayshore
- Southeast Bayshore.

Each of these areas has its own unique set of considerations and timeline.

#### **Northeast Bayshore**

The Northeast Bayshore subarea and the corresponding M-1 zoning district is comprised of the warehouse properties along Industrial Way. These properties are also included within the Brisbane Baylands planning area, which is currently the subject of public hearings at City Council. The disposition of this area will be determined as part of the Baylands and will not be addressed as part of the M-1 rezoning effort under discussion tonight.

#### **Southeast Bayshore**

The Southeast Bayshore General Plan subarea is designated TC Trade Commercial under the General Plan and zoned M-1 Manufacturing. In 2015, as recommended by staff and the

Planning Commission, the City Council approved a zoning text amendment for the Southeast Bayshore district. That amendment included changes to the permitted and conditional uses consistent with the potential land uses identified in Brisbane's General Plan. City Council further directed that the zoning district be renamed to match the nomenclature in the General Plan. It is anticipated that a zoning amendment application for that area will be brought before the Planning Commission later this winter or early spring, depending on the Planning Commission's calendar. Since the zoning text amendment approved in 2015 specifically addressed permitted uses within this district, it is not anticipated that there will be other significant amendments proposed for this district.

### **Northwest Bayshore**

The third M-1 district, M-1 Northwest Bayshore, is the primary topic of this study session. The M-1 zoning district currently allows for a diverse mix of uses, both permitted by right and as conditional uses. However, a narrower suite of uses appears to be appropriate to the area given the existing development and limited potential for new development or redevelopment of the sites included therein. Additionally, the Northwest Bayshore subarea, as defined in the 1994 General Plan, includes both the area zoned M-1 and properties to the south that are zoned PD-SC/R/O Planned Development-Subregional Commercial/Retail/Office and AA Aquatic Area (see the attached General Plan and Zoning maps). The discussion of the M-1 zoning opens the door to a broader discussion of the land use designations for this General Plan subarea.

***General Plan, Specific Plan and Zoning Background:*** The following is provided by way of background on general plans, specific plans and zoning, since these are all applicable to the Commission's discussion.

A general plan is a city's overarching planning document for future development and provides the basis for the zoning of land uses. The general plan's land use element divides a city into various subareas, with each subarea having a distinct set of geographical characteristics that distinguishes it from the next subarea. A given subarea may then have one or more land use designations and development intensity associated with it. The general plan provides the basis for a city's zoning ordinance.

A specific plan is a step below the general plan in the land use regulatory hierarchy and it may be used as a tool to implement the general plan in particular geographical areas of a city. Specific plans are used to implement the general plan in three key ways:

1. Act as statements of planning policy that refine the general plan policies
2. Directly regulate land use
3. Bring together policies and regulations into a focused development scheme

While cities are required by state law to have a general plan, they are not required to have specific plans. Where a city does use the specific plan as a planning tool, state law imposes a number of requirements on their contents. Procedurally, the Planning Commission would review

a specific plan as an advisory body to the City Council. Adoption of a specific plan would then be a legislative act by City Council.

If a specific plan is sufficiently comprehensive and detailed, it may be adopted by ordinance as zoning for the plan areas. Property owners may then be required to apply for design permits and/or use permits to implement the specific plan on a site-by-site basis.

A city's zoning ordinance is used to implement the land uses and provide development regulations for site specific development. A zoning ordinance may be part of a specific plan or standalone. The subject area has a portion zoned planned development (PD). In that case no specific development standards apply, but those are determined through the planned development permit application process, so that future alterations to an approved development may then amount to a rezoning. A benefit of a planned development permit is that it may allow for a combination of uses that may not otherwise be permitted within the same zone. The planned development substitutes for both use permits and design permits. While a PD designation can be useful to allow that combination of different uses, it may also be problematic in areas where there is existing development that predates the zoning, since there are no regulations governing potential alterations to historic properties.

***Area Specific Considerations:*** This study session, in addition to providing an opportunity to review consistency between the General Plan and the zoning, is also an opportunity for the Commission to comment on the regulatory entitlement process laid out in the zoning ordinance for entitlement of potential future development, such as that required by the PD designation. That process is further complicated by inconsistent terminology between the General Plan and the zoning for the subarea and additional requirement for a specific plan, as further described below.

The 1994 General Plan designation for the Northwest Bayshore subarea is PD-SC/R/O Planned Development Subregional Commercial/Retail/ Office for the entire subarea, with the exception of the Aquatic Area (or marsh). The zoning is currently split across the subarea between PD-SC/R/O to the north and M-1 to the south. The marsh area, zoned AA is not part of this discussion, since it is already consistent between the General Plan and zoning.

The specific land uses that are designated in the General Plan for this Northwest Bayshore subarea include:

- Retail Commercial
- Restaurants
- Commercial Recreation
- Research & Development
- Storage & Distribution
- Marsh & Open Space and
- Potentially Residential as part of a mixed use development

There are a few general observations regarding the uses and zoning for the overall subarea.

First, the existing uses and the uses allowed by the M-1 zoning generally fit under these broad General Plan land use categories and no new uses are being proposed. The PG&E power transmission facilities are allowed by preemption of local jurisdiction regulations as essential utilities. Although warehouse and office buildings that are not determined to be essential may not have preemptive rights over local regulations.

Also, regarding the Planned Development designation, the 1994 General Plan states that, "Planned Development (PD) designates subareas that are primarily vacant and present unique development constraints." So there is a General Plan imposed planned development permit requirement on the lands throughout the subarea. However, the M-1 zoning does not recognize this General Plan PD designation.

In addition to a PD permit, both the General Plan and the Planned Development Chapter of the Brisbane Municipal Code (BMC) call for a specific plan to be prepared for new development. It is unusual for a City to call for a specific plan through its zoning ordinance. This places the task of preparing a specific plan on property owners/applicants, on a site-by-site basis, whereas this level of policy/zoning direction is one usually reserved for the City to provide up front for large areas of land, to provide that specific policy and zoning direction to potential applicants.

Note that, while either a specific plan or a planned development permit may be appropriate planning tools for the City to use in certain circumstances, imposing the requirement of a specific plan on a site by site basis and imposing a planned development permit requirement on historical sites may not serve the functions intended. Considerations for the northern and southern areas are further discussed as follows.

*Northern Portion of Subarea:* Existing development within the Northwest Bayshore M-1 zoning district, the northern portion of the General Plan subarea, includes the PG&E substation across almost the entirety of the district. There is also a small commercial property at the far northeast corner of the subarea/district that includes the historic, 7-Mile House and V&A Auto Service facility. Those two businesses share a parcel of less than 5,000 square feet in area, which is bordered by the PG&E facility, Geneva Avenue and Bayshore Boulevard. There are no vacant parcels in the zoning district.

The PG&E substation has ongoing operational requirements and as indicated above, local development regulations may be preempted by state law for certain projects. However, local regulations may apply to non-essential aspects of the utility's operation. In short, this review raises the question as to the most appropriate tools to regulated non-essential buildings (warehouse and office buildings), given the nature of the existing development. Note that most of PG&E's substation facilities are located behind a block wall, so the buildings are largely screened from street level views.

Regardless of the utility's ability to preempt local regulations, which would be evaluated on a project case-by-case basis, the City's General Plan land use designations and zoning need to be consistent. For both the PG&E property and the 7 Mile House, neither a planned development

permit or specific plan are well suited planning tools to regulate potential future modification to the development of those properties, given their unique existing buildout, and in the case of the 7 Mile House its small scale.

Also, given the small size and isolated nature of the 7 Mile House, surrounded by PG&E to the south and west, Geneva Avenue and Daly City to the north and Bayshore Boulevard and the Baylands to the east, one cannot reasonably consider the site without including it within the larger area of the PG&E site. To do otherwise may be considered spot zoning, which state law prohibits.

An alternative is that both the PG&E and 7 Mile House properties may be regulated through standard zoning development regulations, including a design permit requirement for buildings that would be visibly prominent from street level views.

*Southern Portion of Subarea:* The area to the south of the M-1 zoning district, within the Northwest Bayshore subarea, is zoned PD-SC/R/O. This area is comprised of vacant lands of a marsh and privately owned vacant parcels referred to as “Levinson” and “Peking Handicraft”. The developed Technology Park is located at the far southern end of the General Plan’s Northwest Bayshore subarea and the PD-SC/R/O zoning district, at the northern corner of Guadalupe Canyon Parkway and Bayshore Boulevard.

At the time that the General Plan was adopted the entire area south of the PG&E substation was comprised of vacant lands. The Technology Park was completed under a PD permit circa 2000, in accordance with the General Plan and zoning requirements, which also included a specific plan. The specific plan requirement is discussed further below. The roughly 31 acre area of “Levinson” and “Peking Handicraft” located between the Technology Park and PG&E remain vacant.

While these large, vacant lots may be more suited to the planned development and specific plan requirements than those to the north, the Planning Commission may consider whether this combination of a design permit and specific plan is the appropriate tool-kit to allow for their potential development.

#### ***Potential General Plan/Zoning Amendment Scenarios:***

There are three key questions that the review of this General Plan subarea and its zoning districts raise. They are as follows:

1. Should the General Plan land uses be amended to more specifically spell out the designated uses, to differentiate the northern and southern areas of the subarea?
2. Should the General Plan’s Northwest Bayshore land use and subarea policies and the PD zoning chapter (BMC Chapter 17.28) be amended to separate the Specific Plan requirement from a PD application? (Note that generally a PD permit process along with the requisite environmental review under CEQA could be considered adequate for

development entitlement and a Specific Plan is not necessary and is redundant. Also note that, imbedded within the current PD findings are requirements that the land uses and improvements be consistent with the General Plan, that they not be detrimental to public health, safety or general welfare and that all of the applicable design permit findings could also be made. As indicated in BMC Chapter 17.28, the PD permit precludes the need for a use permit or a design permit.)

3. Following on the above questions, what would the Planning Commission like to suggest with regard to the naming and uses of the zoning districts within the subarea?

To provide examples of how these decision points could play out, three potential scenarios are provided for the Commission's consideration, as outlined below. The specific proposed text and proposed maps would follow, for any direction that the Planning Commission would like to pursue. Note that none of these scenarios would be to expand on the General Plan's designated land uses, but scenarios "a" and "b" could be more restrictive in the northern area, while providing for more planning process clarity. Scenario "c" would address the different nomenclature used between the general plan and zoning ordinance, but would not serve to provide clarity to property owners in planning for future development and would retain the specific plan requirements for the pre-existing PG&E and 7 Mile House sites. The Planning Commission may also suggest other scenarios that are not included here.

- a. Amend the General Plan and Zoning for both the Northern and Southern Portions of the Subarea:
- i. Amend the General Plan to retain the PD-SC/R/O designation in the southern area, but remove the requirement for a specific plan.
  - ii. Amend the General Plan to designate the northern area as C/P-U Commercial Public Utilities land uses only.
  - iii. Amend the PD zoning district regulations to remove the requirement for a specific plan.
  - iv. Add a new C/P-U zoning district regulations chapter (see the summary table of preliminary draft development regulations and preliminarily proposed map edits).
- b. Amend both the General Plan and the Zoning for the Northern Portion of the Subarea only:
- i. Retain the existing General Plan land use designation and the existing zoning of PD-SC/R/O across the southern portion of the subarea, from "Levinson" to the south, as is.



- ii. Amend the General Plan to designate the northern area as C/P-U Commercial Public Utilities land uses only.
  - iii. Add a new C/P-U zoning district regulations chapter (see the summary table of preliminary draft development regulations and preliminarily proposed map edits).
- c. Amend the Zoning for the Southern Portion of the Subarea Only:
- i. Retain the existing PD-SC/R/O General Plan land use designation across the entire subarea, as is.
  - ii. Amend the zoning for the M-1 district (PG&E and 7 Mile House) to be consistent with the General plan, as PD-SC/R/O, to be the same as the northern portion of the subarea.

#### NEXT STEPS

Staff intends to bring a zoning text and map amendment application for the Planning Commission's consideration on Southeast Bayshore later this winter or early spring. For the Northeast Bayshore M-1 district, that is part of the ongoing Baylands EIR hearings as a separate process, as indicated above, and is only mentioned since it is zoned M-1, but not part of tonight's discussion.

For the Northwest Bayshore subarea, staff encourages the Planning Commission's discussion and feedback prior to staff preparing a draft general plan amendment and/or zoning amendment for your consideration. We anticipate that would then follow later in 2017, at which time the Planning Commission would provide a formal recommendation to Council by way of resolution.

#### ATTACHMENTS

- A. City Council Agenda Report and Resolution No 2015-47 regarding the M-1 Zoning
- ~~B. General Plan Land Use Maps (existing and preliminarily proposed)~~
- ~~C. Zoning Maps (existing and preliminarily proposed)~~
- ~~D. M-1 Zoning Text~~
- ~~E. PD Planned Development Zoning Text~~
- ~~F. Table – Summary of Preliminarily Proposed Development Regulations for the C/P-U Zoning District~~

(Not Included)

# *City of Brisbane*

## *Agenda Report*

**TO:** Honorable Mayor and City Council

**FROM:** Community Development Director via City Manager

**SUBJECT:** **RESOLUTION NO. 2015-47** Resolution of Intent to amend zoning ordinance provisions pertaining to the M-1 Zone

**DATE:** Meeting of November 19, 2015

**City Council Goals:**

To provide for effective and efficient delivery of City services. (Goal #1)

**Purpose:**

For the City Council to initiate a zoning code text amendment to bring the terminology used in the Zoning Ordinance for the existing M-1 Zone into conformity with the terminology used in the General Plan and to consider appropriate zoning categories for the multiple geographic areas now zoned M-1.

**Recommendation:**

That the City Council adopt attached Resolution 2015-47.

**Background/Discussion:**

In conjunction with introducing Ordinance 599 on November 5, 2015 to revise the list of permitted and conditionally permitted uses in the M-1 Zone, the City Council further directed staff to come back with a Resolution of Intention to initiate a zoning code text amendment.

The two specific issues to be addressed in the text amendment include the following:

1. **General Plan Consistency.** It was pointed out that the terminology the Zoning Ordinance uses for the M-1 zone predates and is different from the terminology used in the 1994 General Plan. In particular, the Zoning Ordinance calls the zoning district "Manufacturing", while the General Plan labels the same geographic area "TC-Trade Commercial land use." Although the particular land uses set forth in the Zoning Ordinance for this zone are fully consistent with land uses designated for the same

geographic area in the General Plan, the difference in terminology has created some confusion. It would be appropriate to amend the title and text of the current M-1 zone as needed to ensure that the Zoning Ordinance uses the same terminology for that zone that is used in the General Plan.

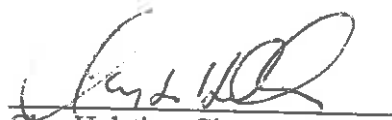
2. **Geographic Applicability.** It was brought up that the existing M-1 zone applies to multiple geographic areas (Northwest Bayshore, Northeast Bayshore, and Southeast Bayshore) and concerns were raised about whether a single zoning category is appropriate for all three of these distinct geographic areas. This issue will be evaluated in the forthcoming zoning text amendment if initiated by the City Council.

**Attachment:**

Resolution 2015-47



John A Swiecki, Community Development Director



Clay Holstine, City Manager

**RESOLUTION NO. 2015-47**

**A RESOLUTION OF INTENTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE TO INITIATE AN AMENDMENT TO THE ZONING ORDINANCE OF THE CITY OF BRISBANE TO AMEND THE M-1 ZONE AS APPROPRIATE TO ENSURE CONSISTENCY IN TERMINOLOGY BETWEEN THE ZONING ORDINANCE AND THE ADOPTED 1994 GENERAL PLAN AND TO CREATE DISTINCT GEOGRAPHIC DISTRICTS AS NEEDED**

**WHEREAS**, Section 17.50.010 of the Brisbane Municipal Code provides in part that the process to initiate an amendment to the Zoning Ordinance whereby a new regulation would be imposed on property is by the filing of a resolution of intention by the City Council; and

**WHEREAS**, on November 5, 2015 the City Council by a vote of 4 ayes and 1 no introduced Ordinance No. 599 amending the M-1 Manufacturing District zoning text, Brisbane Municipal Code (BMC) Chapter 17.20 to expand the permitted uses and the uses which may be allowed subject to conditional use permit; and

**WHEREAS**, the City Council in its deliberations on Ordinance 599 expressed its concern that the terminology used in the current title and text of the M-1 Zone is different than the terminology used in the adopted 1994 General Plan, which unlike the Zoning Ordinance, does not recognize the term "Industrial" as a distinct General Plan land use designation; and

**WHEREAS**, the City Council in its deliberations on Ordinance 599 expressed its concern that the existing M-1 zone covers multiple distinct geographic districts, and the appropriateness of the zoning category for these multiple geographic districts should be re-evaluated and modified as needed.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRISBANE AS FOLLOWS:**

1. The City Council files this Resolution of Intention to initiate the process by which the City's Zoning Ordinance may be amended by bring the terminology used in the existing M-1 zone title and text into conformance with the terminology used in the General Plan, and to establish zoning designations as appropriate for areas now zoned M-1 to ensure the adopted zoning designations are suitable and appropriate for the affected geographic areas.
2. This Resolution of Intention is referred to City staff to prepare and present to the Planning Commission for its consideration and recommendation to the City Council a report and proposed amendments to the Zoning Ordinance as described herein.
3. This resolution of intention is effective immediately upon its adoption.

\_\_\_\_\_  
Terry O'Connell, Mayor,

I hereby certify that the foregoing Resolution No. 2015-47 was duly and regularly adopted at the regular meeting of the Brisbane City Council on November 19, 2015 by the following vote:

AYES:  
NOES:  
ABSENT:

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Sheri Marie Spediacci, City Clerk