



City of Brisbane

Planning Commission Meeting Agenda

Thursday, September 10, 2026 at 7:30 PM • Hybrid Meeting • 50 Park Place, Brisbane, CA

The public may observe/participate in Planning Commission meetings using remote public comment options or by attending in person. Planning Commissioners shall attend in person unless remote participation is permitted by law. The Commission may take action on any item listed in the agenda.

To Address the Commission

In Person:

Location: 50 Park Place, Brisbane, CA 94005, Community Meeting Room

To address the Planning Commission on any item on or not on the posted agenda, fill out a Request to Speak Form located in the Community Meeting Room Lobby and submit it to the City staff.

Remote Participation:

Members of the public may observe/participate in the meeting by logging into the Zoom Webinar listed below. Planning Commission meetings may also be viewed live and/or on-demand via the City's YouTube Channel, youtube.com/brisbaneca, or on Comcast Ch. 27. Archived videos may be replayed on the City's website, brisbaneca.gov/meetings. Please be advised that if there are technological difficulties, the meeting will nevertheless continue if remote participation is available.

The agenda materials may be viewed online at brisbaneca.gov/meetings at least 72 hours prior to a Regular Meeting, and at least 24 hours prior to a Special Meeting.

Remote Public Comments:

Meeting participants are encouraged to submit public comments in writing in advance of the meeting to jayres@brisbaneca.org. Remote meeting participants may address the Planning Commission via Zoom Webinar using the link or the call in number listed below. Note, the above email will **not** be monitored during the meeting and emails received during the meeting will not be responded to or brought to the attention of the Planning Commission during the meeting.

Join Zoom Webinar: zoom.us (please use the latest version: zoom.us/download)
brisbaneca.gov/pc-zoom

Webinar ID: 970 0458 3387
Call In Number: 1 (669) 900-9128

Special Assistance:

If you need special assistance to participate in this meeting, please contact the Community Development Department at (415) 508-2120 in advance of the meeting. Notification in advance of the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Writings that Are Received After the Agenda Has Been Posted

All written communications are provided to the Planning Commission. Any written communication that is received after the agenda has been posted but before 4:00 PM of the day of the meeting will be available for public inspection at the front lobby in City Hall and online at brisbaneca.gov/meetings. Any writings that are received after 4:00 PM of the day of the meeting will be distributed to the Planning Commission and made available for public inspection at the front lobby and on the internet the day after the meeting (brisbaneca.gov/meetings).

Commissioners

Funke, Gooding, Lau, Sayasane, and Wodziak

Call to Order

Roll Call

Adoption of the Agenda

Consent Calendar

Please Note: Items listed here as Consent Calendar Items are considered routine and will be acted upon collectively by one motion adopting the Planning Department's recommendation unless a member of the public, the Commission, or its staff asks to remove an item to discuss it. Prior to the motion, the Chairperson will ask if anyone wishes to remove an item from the Consent Calendar.

- A. Approval of draft meeting minutes of July 23, 2026
- B. Approval of draft meeting minutes of August 13, 2026

Oral Communications

Written Communications

Old Business

New Business

- C. **PUBLIC HEARING: Baylands Subarea; Development Agreement 2026-DA-01;** Development Agreement for the Brisbane Baylands Specific Plan that will address vested rights of the Baylands Specific Plan and define public benefits offered in exchange the project's vested development rights; Baylands Development Inc., applicant; Sunquest Properties, majority owner; see Attachment B for a complete list of owners. A Final Environmental Impact Report (FEIR) has been prepared for this project in accordance with the California Environmental Quality Act (CEQA).

Items Initiated by Staff

Items Initiated by the Commission

Adjournment

D. Adjournment to the regular meeting of September 24, 2026, at 7:30 PM

Appeals Process

Anyone may appeal the action of the Planning Commission to the City Council. Except where specified otherwise, appeals shall be filed with the City Clerk not later than 15 calendar days following the Planning Commission's decision. Exceptions to the 15-day filing period include the following: appeals shall be filed with the City Clerk within 6 calendar days of the Planning Commission's action for use permits and variances and 10 calendar days for tentative maps and advertising sign applications. An application form and fee are required to make a formal appeal. For additional information, please contact the City Clerk at (415) 508-2113.

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BRISBANE PLANNING COMMISSION
Action Minutes of July 23, 2026
Regular Hybrid Meeting

CALL TO ORDER

Chairperson Gooding called the meeting to order at approximately 7:50 p.m.

ROLL CALL

Present: Commissioners Funke, Gooding, Lau, Sayasane, and Wodziak

Absent: None

Staff Present: Community Development Director Ayres, Deputy Public Works Director/City Engineer Yip, City Attorney Phillips, and Senior Planner Robbins

ADOPTION OF AGENDA

A motion was made by Commissioner Funke and seconded by Commissioner Wodziak to adopt the agenda. Motion approved 5-0.

CONSENT CALENDAR

A. Approval of draft meeting minutes of May 28, 2026

B. Approval of draft meeting minutes of June 11, 2026

C. Approval of draft meeting minutes of June 25, 2026

A motion was made by Commissioner Wodziak and seconded by Commissioner Funke to adopt the consent calendar. Motion approved 5-0.

ORAL COMMUNICATIONS

There were none.

WRITTEN COMMUNICATIONS

Chair Gooding acknowledged written correspondence received since the June 30, 2026, special meeting from the following senders:

- Anthony Walker, regarding greenhouse gases
- Bayshore Sanitary District, regarding compliance and agreement between the proposed plan and their protocols
- Kim Follien, in support of the Specific Plan
- Clara Johnson, regarding numerous items in the EIR
- Baylands Development Inc. (BDI), in response to questions from the last meeting (resubmission of its July 17 letter also included in the agenda report)

DRAFT

Brisbane Planning Commission Minutes

July 23, 2026

Page 2

- Christina Florkowski, regarding the Geneva Avenue extension

PUBLIC HEARING

- A. CONTINUED PUBLIC HEARING: Baylands Subarea; Environmental Review 2021-ER-1, Specific Plan 2021-SP-1, Zoning Amendment 2021-RZ-3, General Plan Amendment 2021-GPA-2 (continued from June 30, 2026); Proposed Baylands Specific Plan including 2,200 residential units; 6.5 million square feet of commercial, office, retail, conference, life science, and office campus uses; 500,000 square feet of hotel use (approximately 800 rooms); a grade 6–8 middle school; 157 acres of open space/open area, parks, and trails; water, recycled water, sewer, drainage, electrical, and other utilities improvements on approximately 680.1 acres generally situated easterly of Bayshore Boulevard and west of Highway 101; related actions include amending the Brisbane General Plan Land Use and Circulation Elements, amending Title 17 of the Brisbane Municipal Code to establish zoning regulations, and adopting the Bayshore Mobility Plan. A Final Environmental Impact Report (FEIR) has been prepared for this project in accordance with the California Environmental Quality Act (CEQA). Baylands Development Inc., applicant; Sunquest Properties, majority owner.**

The in-person consultant team consisted of: Terri Avila of ESA (with additional ESA specialists in air quality, energy, GHG, noise, cultural resources, hazards, and water), Matt Goynes of Fehr & Peers, SiteLab (urban design), and Michelle King of EKI. The remote consultant team included John Montgomery Brown of EKI and additional ESA land use and planning staff.

Staff recapped the five topics addressed in response to the Commission's direction from June 30, 2026, and presented follow-up information on four additional topics raised by the Commission: (1) the Bayshore Mobility Plan's (BMP) relationship to regional transportation plans and the feasibility of right-of-way improvements without a road diet – regional and state plans do not require Bayshore Boulevard to remain four lanes, though a continuous Class I bike path while retaining four lanes would require additional engineering study in constrained segments; (2) examples of California projects with required or voluntary net-zero greenhouse gas commitments – none of the cited projects' circumstances apply to the Baylands; (3) remediation requirements related to the Schlage Lock groundwater plume – development will be required to prevent vapor-intrusion exposure to chlorinated volatile organic compounds through a site-specific risk assessment or vapor-intrusion mitigation, per the approved remedial action plan; and (4) the role of site-specific environmental management associations (SEMAs) in overseeing large contaminated sites – modeled on the Sierra Point Environmental Management Association (SPEMA), a mandatory property-owner association created by Regional Water Board order in 1999.

Staff also presented recommended clarifications to the Specific Plan: Chapter 3 clarifications on how minimum density and intensity are averaged across the plan area, including the Caltrain station area; a modification to permit hospitality uses in both high-density and mid-density commercial designations; and Chapter 9 clarifications on how the state-regulated remediation

and monitoring process relates to city permitting and development review. Staff reaffirmed its recommendation that the Commission recommend the City Council certify the Final EIR, adopt the 2026 staff-recommended Specific Plan with the stated clarifications, approve related General Plan and Title 17 zoning amendments, and approve the Bayshore Mobility Plan.

The Commission's questions to staff, the applicant, and consultants covered: how a SEMA-type association would be governed, funded, and enforced, including quarterly groundwater monitoring, quarterly and five-year regulatory inspections, environmental insurance, and land use covenants running with the land; the feasibility of a Class I sidewalk or path along Bayshore Boulevard outside the project frontage without reducing travel lanes; whether a road-diet configuration could be reversed for emergency access; whether the Specific Plan requires any ongoing greenhouse gas tracking following removal of the net-zero mitigation measure from the Final EIR; whether the future battery storage field could be made a binding or enforceable commitment (staff indicated this is better addressed through the Development Agreement, which the Commission will also review); further detail on the proposed Chapter 9 remediation-monitoring and reporting clarifications; and a summary of Modified Alternative 1, which reduces the number and height of towers near the Caltrain right-of-way, shifts density to lower- and medium-density designations further east, and accommodates the high-speed rail light maintenance facility (LMF). The applicant confirmed it does not yet have a position on Sierra Club's request for a conservation easement or San Bruno Mountain Watch's request that the Mission Blue Nursery remain at its current location, noting design and community-outreach work is ongoing.

Following staff's presentation and Commission questions, the Commission took comments from the following members of the public:

Ali Sapirman, Housing Action Coalition and Bay Area Council — Urged the Commission to act, noting the State's recent revocation of Brisbane's housing element compliance finding and the resulting exposure to Builder's Remedy, loss of funding, and litigation risk; urged recommending approval of the Specific Plan and Final EIR.

Darren Clark, Carpenters Local 217 — Supported the project, urging a responsible general contractor committed to area-standard wages, apprenticeships, and healthcare.

Arturo Sainz, Laborers Local 261 — Supported the project, citing the training and safety qualifications of union laborers to safely perform remediation and construction work.

Erin Becker — Asked that the Commission recommend updating the City's Dark Skies Ordinance to include the Baylands zoning district, and urged consideration of Alternative 7 (reduced density and height) rather than committing to the full 2,200 units.

Storrs Hoen — Requested that drilled-shaft and rectangular-barrette pile-installation methods be included as options to reduce construction noise, and requested a continuous, low-friction bicycle route through the project connecting San Francisco to Sierra Point/Oyster Point.

DRAFT

Brisbane Planning Commission Minutes

July 23, 2026

Page 4

Melissa Foley, San Francisco Estuary Institute (remote) — Supported the project's native-plant and wildlife-safe design commitments, calling the plan's landscape-scale approach to habitat connectivity commendable.

Jordan Grimes, Greenbelt Alliance (remote) — Supported the project, welcomed removal of the greenhouse gas offset-credit mitigation measure as appropriate for transit-oriented infill housing, and urged the Commission to advance the plan without pursuing Alternative 7.

Eileen McLaughlin, Citizens Committee to Complete the Refuge (remote) — Requested that a conservation easement, which runs with the land, be used to permanently protect restored habitat, whether in the Specific Plan or the Development Agreement.

Linda Salmon — Opposed siting single-family homes on landfill caps, citing seismic and sea-level-rise risk; suggested rental housing over commercial uses as an alternative, and renewed a suggestion for light-rail connection through Brisbane to South San Francisco in place of the road diet.

Anthony Walker, (speaking as an individual) — Raised concerns that the plan relies on community-choice (clean) energy procurement without first pursuing an intermediate step of additional community-scale renewable generation within Brisbane, as called for in the City's sustainability framework.

Nicole Westrom — Asked the Commission to consider stakeholders without a voice in the process, including the land's original inhabitants and future residents, and to continue seeking broad, accessible public participation.

Michele Salmon — Raised concerns about the adequacy of long-term testing given the site's undocumented, unlined landfill history, distinguished the site from the more thoroughly closed and monitored Sierra Point landfill, and opposed the Bayshore Mobility Plan.

Cynthia Gomez, Unite Here Local 2 — Reiterated opposition to the project's jobs-housing imbalance, noting no state law requires the City to accept 6.5 million square feet of commercial development.

Elana S — Opposed the Bayshore Mobility Plan's lane reduction, citing anticipated diversion of Tunnel Avenue traffic during construction, and requested robust enforcement of nighttime noise limits during pile driving.

Christina F. — Raised concerns about the scale and pace of the proposed transformation relative to the size of Brisbane, and asked that the project be considered incrementally rather than as a single, unified approval.

Following public comment, the applicant, represented by Stephanie Shakofsky of Baylands Development Inc., invited the project's engineer of record Jay Merani of Geosyntec to review the remediation implementation approach, including removal of identified soil contamination, import of approved clean fill, installation of a demarcation layer and clean soil cap, and procedures for maintaining the cap during future utility work, sampling, or foundation installation.

DRAFT

Brisbane Planning Commission Minutes

July 23, 2026

Page 5

After the presentation from the applicant, a motion was made by Commissioner Sayasane and seconded by Commissioner Wodziak to close the public hearing. Motion approved 5-0.

The Commission then began deliberations, starting with the Bayshore Mobility Plan. Individual commissioners expressed a range of views: several commissioners opposed the road diet's lane reduction, citing concerns about traffic diversion and a desire to explore alternative traffic-calming and multimodal safety measures instead; one commissioner expressed openness to the complete-streets concept underlying the road diet while acknowledging the need for further study.

A motion was made by Chairperson Gooding and seconded by Commissioner Sayasane to adopt Resolution PC-01-26, recommending that the City Council adopt the Bayshore Mobility Plan, modified to retain only those elements directly benefiting the Baylands project's circulation, eliminate the road-diet lane-reduction elements, and direct further study of the feasibility of a continuous Class I path or comparable sidewalk improvement along the remainder of Bayshore Boulevard. Motion approved 4-1 (Funke voting "no").

The Commission then began preliminary discussion of the remaining General Plan and Title 17 zoning amendments. Given the significance of topics remaining and the lateness of the meeting, the Commission agreed to continue its deliberations at another meeting.

A motion was made by Commissioner Funke and seconded by Commissioner Sayasane to continue the meeting to August 13, 2026, with a special start time of 6:30 p.m. Motion approved 5-0.

ITEMS INITIATED BY STAFF

There were none.

ITEMS INITIATED BY THE COMMISSION

There were none.

ADJOURNMENT

- B. Chairperson Gooding adjourned the meeting to the regular meeting of August 13, 2026, at a special start time of 6:30 p.m., at approximately 10:35 p.m.

Attest:

Julia Ayres, Community Development Director

NOTE: A full video record of this meeting can be found on the City's YouTube channel at www.youtube.com/BrisbaneCA, on the City's website at <http://www.brisbaneca.org/meetings>, or on DVD (by request only) at City Hall.

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BRISBANE PLANNING COMMISSION
Action Minutes of August 13, 2026
Special Hybrid Meeting

CALL TO ORDER

Chairperson Gooding called the meeting to order at approximately 6:30 p.m.

ROLL CALL

Present: Commissioners Funke, Gooding, Lau, Sayasane, and Wodziak
Absent: None

Staff Present: Community Development Director Ayres, Director of Public Works Bozorginia, Deputy Public Works Director/City Engineer Yip, City Attorney Phillips, and Associate Planner Whitney

ADOPTION OF AGENDA

A motion was made by Commissioner Funke and seconded by Commissioner Wodziak to adopt the agenda. Motion approved 5-0.

CONSENT CALENDAR

A. Approval of draft meeting minutes of June 30, 2026

A motion was made by Commissioner Wodziak and seconded by Commissioner Funke to adopt the consent calendar. Motion approved 5-0.

ORAL COMMUNICATIONS

There were none.

WRITTEN COMMUNICATIONS

Chair Gooding acknowledged the following written correspondence received since the July 23, 2026 meeting:

- Michele Salmon, regarding the Bayshore Mobility Plan
- Melissa Foley, regarding ecological planning and design guidance

OLD BUSINESS

- A. **CONTINUED: Baylands Subarea; Environmental Review 2021-ER-1, Specific Plan 2021-SP-1, Zoning Amendment 2021-RZ-3, General Plan Amendment 2021-GPA-2 (public hearing closed July 23, 2026; Commission deliberations continued); Proposed Baylands Specific Plan including 2,200 residential units; 6.5 million square feet of commercial, office, retail, conference, life science, and office campus uses; 500,000 square feet of hotel use (approximately 800 rooms); a grade 6–8**

middle school; 157 acres of open space/open area, parks, and trails; water, recycled water, sewer, drainage, electrical, and other utilities improvements on approximately 680.1 acres generally situated easterly of Bayshore Boulevard and west of Highway 101; related actions include amending the Brisbane General Plan Land Use and Circulation Elements, amending Title 17 of the Brisbane Municipal Code to establish zoning regulations, and adopting the Bayshore Mobility Plan. A Final Environmental Impact Report (FEIR) has been prepared for this project in accordance with the California Environmental Quality Act (CEQA). Baylands Development Inc., applicant; Sunquest Properties, majority owner; see Attachment 9 for a complete list of owners.

The in-person consultant team consisted of: Brian Boxer of ESA and Michael Burns of ESA. The remote consultant team consisted of: John Montgomery Brown of EKI, Terri Avila of ESA, Susan Yogi of ESA, Brian Schuster of ESA, Chris Dugan of ESA, Brian Pittman of ESA, Ashleigh Sims of ESA, Kathy Cleveland of ESA, Matt Brennan of ESA, Todd Gordon of ESA, Beverly Choi of ESA, Erik Calloway of ESA, John Holmes of Fehr & Peers, Ashutosh Singhal of SiteLab, and Woody Hanson of SiteLab.

Director Ayres recapped the July 23, 2026 meeting. Staff then summarized the topics identified by the Commission to guide deliberations:

1. Connectivity between the Baylands, Central Brisbane, and Sierra Point, including pedestrian and bicycle infrastructure and downtown shuttle options.
2. Inclusion of amenity and active ground-floor uses serving residential districts.
3. Consistency with Measure JJ's sustainability framework and energy-neutrality requirement, including reliance on off-site renewable energy procurement to close any remaining gap beyond on-site generation.
4. Post-development monitoring of the closed landfill and remediated operating units, including anticipated inspection and testing frequencies pending final regulatory approval.
5. Specific use considerations, including the biosafety-level threshold for by-right versus conditionally permitted laboratory uses (by-right up to BSL-3, conditional use permit above that level, consistent with Sierra Point) and whether cross-referencing the City's Dark Skies Ordinance is necessary given that the Specific Plan's lighting standards are at least as stringent.

Commission discussion and questions covered clarification that off-site renewable energy procurement (through PG&E or a community energy provider) would supplement on-site generation to maintain carbon neutrality, with a smaller anticipated gap than originally projected; whether a future battery storage field should be a binding requirement; and confirmation that the City's Dark Skies Ordinance applies citywide regardless of zoning, and that the Specific Plan's lighting standards meet or exceed its requirements. The Commission also discussed the Sierra Club's June 10, 2026 letter requesting expanded conservation easements and San Bruno Mountain Watch's request that the Mission Blue Nursery remain at its current location.

DRAFT

Brisbane Planning Commission Minutes

August 13, 2026

Page 3

Following discussion, the Chair proposed, and the Commission reached consensus on, a framework motion to adopt the staff-recommended Baylands Specific Plan dated May 2026, including the clarifications and cleanup edits presented on July 23, 2026, along with the related General Plan Land Use and Circulation Element amendments and Title 17 zoning amendments, and to recommend the following items for City Council consideration:

- Remediation: Require that all reporting submitted to regulatory agencies be concurrently submitted to the City for the City to make available to the public. Require that regulatory reports be current at time of permit issuance, inspection, and occupancy; if not, the City will withhold permits or cease processing. Post-occupancy, require that regulatory reports remain current and be submitted concurrently to the City to make available for public inspection; if not, direct that the City address the matter through various oversight mechanisms, including discretionary permit revocation (if applicable), or code enforcement.
- Energy: Require implementation of an audit mechanism monitoring the project's energy use and generation over build out, with built-in consequences should targets not be reached.
- Lab Uses: Require that Chapter 3 land use regulations be amended to require Conditional Use Permit approval for laboratory uses classified as BSL-3 and above.
- Circulation: Direct Council to consider restricting use and/or design of Class I bicycle facilities specifically to avoid collisions between pedestrians and cyclists with e-bikes and e-scooters, and to consider upgrading the Baylands-Central Brisbane shuttle schedule to serve during the afternoon and later in the evening.
- Mission Blue Nursery: Recommend that Council allow the nursery to remain in its current location unless or until a feasible option can be provided.
- Open Space: Require conservation easements beyond what the Plan presently envisions for all open space areas, per the Sierra Club's June 10 letter.
- Implementation: Direct Council to implement staff's recommended edits presented in the 7/23 agenda report to clarify the anticipated remediation process and relationship to city permitting.
- Hospitality Zoning and Building Types: Direct Council to implement staff's recommended edits to Chapter 3 presented in the 7/23 agenda report to clarify that hospitality uses and building types are permitted in the medium density commercial district.
- Residential Density and Commercial Intensity: Direct Council to implement staff's recommended edits to Chapter 3 presented in the 7/23 agenda report to clarify that minimum residential density and commercial intensity standards are applied on an average basis by land use designation and are not evaluated on a block-by-block basis.

A motion was made by Chairperson Gooding and seconded by Commissioner Funke to adopt the Staff-Recommended Specific Plan (May 2026), including the staff-suggested July 23, 2026 edits, via adoption of Planning Commission Resolution No. 2021-ER-1/2021-SP-1/2021-RZ-3/2021-GPA-2, modified to incorporate the Commission's recommendations. The motion was approved 5-0.

DRAFT

Brisbane Planning Commission Minutes

August 13, 2026

Page 4

The Chair noted that the Bayshore Mobility Plan recommendation was acted on separately via adoption of Resolution PC-01-26 at the July 23, 2026 meeting, and that community-benefits topics raised during discussion will be considered separately as part of the forthcoming Development Agreement, which will be reviewed by the Commission before proceeding to the City Council.

ITEMS INITIATED BY STAFF

There were none.

ITEMS INITIATED BY THE COMMISSION

There were none.

ADJOURNMENT

- B. Chairperson Gooding adjourned the meeting to the regular meeting of August 27, 2026, at approximately 8:51 p.m.

Attest:

Julia Ayres, Community Development Director

NOTE: A full video record of this meeting can be found on the City's YouTube channel at www.youtube.com/BrisbaneCA, on the City's website at <http://www.brisbaneca.org/meetings>, or on DVD (by request only) at City Hall.



PLANNING COMMISSION AGENDA REPORT

Meeting Date: September 10, 2026

From: Julia Ayres, Community Development Director and Jeremiah Robbins, Senior Planner

Subject: **Baylands Subarea; Development Agreement 2026-DA-01;** Development Agreement for the Brisbane Baylands Specific Plan that will address vested rights of the Baylands Specific Plan and define public benefits offered in exchange the project's vested development rights; Baylands Development Inc., applicant; Sunquest Properties, majority owner; see Attachment B for a complete list of owners. A Final Environmental Impact Report (FEIR) has been prepared for this project in accordance with the California Environmental Quality Act (CEQA).

REQUEST: The applicant requests approval of a development agreement (DA) with the City to address vested rights of the Baylands Specific Plan and define public benefits offered in exchange. Under the California Government Code, the Planning Commission is responsible for reviewing a proposed development agreement as the City's planning agency and making a recommendation on the development agreement to the City Council.

RECOMMENDATION: Staff recommends that the Commission open the public hearing and immediately continue the hearing to the Commission's **September 24, 2026**, meeting to allow additional time for preliminary contract terms to be drafted.

ENVIRONMENTAL DETERMINATION: The Development Agreement is a component of the Baylands Specific Plan Project. A Final Environmental Impact Report (FEIR) (SCH #2006022136) has been prepared for this project in accordance with the California Environmental Quality Act (CEQA). The FEIR includes the Draft EIR (DEIR), revisions to the DEIR, comments received on the DEIR, a list of commenters, the City's responses to significant environmental points raised during the DEIR comment period, and any other information added by the City. The Planning Commission recommended the City Council certify the EIR via adoption of Resolution 2021-ER-1/2021-SP-1/2021-RZ-3/2021-GPA-2 on August 13, 2026. City Council consideration of the Final EIR will begin on September 14, 2026.

APPLICABLE CODE SECTIONS: Development agreements are authorized and governed by Sections 65864 *et seq.* of the California Government Code. In addition to these State laws, procedures and requirements for consideration and adoption of development agreements have been established by the Brisbane City Council, as set forth in Resolution No. 88-10, adopted April 25, 1988.

Discussion

The City Council has appointed an ad hoc subcommittee (Mayor pro tem Davis and Council member Lentz) to guide the DA process, engage with the applicant and identify preliminary contract terms. The subcommittee continues to work on this effort. At this time, additional time is required to finalize preliminary terms for the Commission's consideration.

Staff is recommending continuing the public hearing to the Commission's next regularly scheduled meeting on September 24, 2026 at 7:30 PM. The agenda report for that meeting will contain preliminary contract terms.

ATTACHMENTS

- A. Brisbane City Council Resolution No. 88-10 (Development Agreement procedures)
- B. List of property owners within the Baylands Specific Plan Area

Jeremiah Robbins
Jeremiah Robbins, Senior Planner

Julia Ayres
Julia Ayres, Community Development Director

RESOLUTION NO. 88-10

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE
ESTABLISHING PROCEDURES AND REQUIREMENTS FOR THE
CONSIDERATION AND ADOPTION OF DEVELOPMENT AGREEMENTS**

WHEREAS, Article 2.5, Division 1 of Title 7 of the Government Code (commencing with Section 65864) provides that a City may enter into a development agreement with any person having a legal or equitable interest in real property for the development of such property; and

WHEREAS, Section 65865 of the Government Code provides that the City may, by resolution or ordinance, establish procedures and requirements for the consideration of development agreements:

NOW, THEREFORE, BE IT RESOLVED, that the following procedures and requirements for the consideration of development agreements be, and hereby are, adopted:

PART 1 – Application

1. Authority for adoption. These regulations are adopted under the authority of Government Code Section 65864 et seq.

2. Applications. Consideration of a development agreement pursuant to Government Code Section 65864 et seq. shall be initiated by the applicant(s). If the applicant(s) is not the fee owner(s), the fee owner(s) must join in the application. The City of Brisbane may, at its sole discretion, enter into a binding agreement with any qualified applicant(s) for the development of such property pursuant to and in accordance with these regulations.

3. Filing application. The application shall be filed in the office of the Planning Director. The form of such application and the information and data to be set forth thereon shall be as prescribed by the Director. Each application shall be accompanied by fees as established by resolution of the City Council.

4. Application contents. Any application for a development agreement made to the Planning Director shall contain a proposed agreement with the following information:

- a. A legal description of the property sought to be covered by the development agreement.
- b. A description of the proposed uses, height and size of the buildings, density or intensity of use, and provision for reservation or dedication of land for public purposes.
- c. All proposed conditions, terms, restrictions and requirements regarding subsequent City discretionary actions.
- d. The proposed time when construction will be commenced and completed, both as to the entire project and as to all phases established therein.

- e. A termination date for the development agreement.
 - f. The location of all public improvements, requirements for landscaping, and any other terms and conditions.
5. The application shall contain sufficient information to enable the Planning Director to perform an initial study pursuant to the California Environmental Quality Act (“CEQA”) Guidelines Section 15063 (14 Cal.Admin. Code §15063).
6. The application shall contain sufficient information to establish that the project is consistent with the General Plan of the City and all other applicable specific plans.
7. The application shall contain such other information as the Planning Director may require to prepare a recommendation.

PART 2 – Action by Planning Commission

1. The application shall be processed by the Planning Director upon receipt. The Planning Director shall report to the Planning Commission the results of any environmental investigation and shall submit a recommendation regarding the proposed development agreement. The Planning Commission shall hold a noticed public hearing to consider the recommendation regarding the adoption of a development agreement in accordance with Section 65854, 65854.5 and 65856 of the Government Code.
2. The Planning Commission shall not recommend approval unless it finds the provisions of the agreement are consistent with the General Plan and any applicable specific plans.
3. The Planning Commission upon completion of the hearing and upon finding the agreement consistent with the General Plan and any applicable specific plans, shall make a recommendation to the City Council.

PART 3 – Action by City Council

1. Upon receipt of the application, the results of any environmental investigation, and the recommendation of the Planning Commission and/or the Planning Director, the City Council shall hold a noticed public hearing regarding the Council's intent to consider the adoption of a development agreement as provided in Section 65854, 65854.5 and 65856 of the Government Code.
2. Upon completion of the public hearing and the closure thereof, the City Council shall approve, modify, or disapprove the proposed development agreement.
3. The agreement shall not be approved by the City Council unless the City Council finds that the proposed development agreement, as submitted or modified, is consistent with the General Plan and any applicable specific plans and this resolution.
4. The City Council may add, modify or delete any provision of the proposed development agreement as a condition of approval.

5. Should the City Council determine to approve the development agreement, it shall be adopted by ordinance and subject to referendum.

6. The effective date of the agreement shall be the effective date of the ordinance unless a later date or the occurrence of an event is specified in the agreement as the effective date.

7. The City may consider adoption of development agreements for property located outside the corporate limits of the City. The application shall be acted upon by the City only if the property is in the sphere of influence of the City and in the City's General Plan or any specific plan(s), if applicable. The agreement shall be conditioned upon the annexation of the property becoming effective. If the annexation is not completed within the time period specified in the agreement for the annexation to occur, or any extension by agreement, the agreement shall become null and void.

PART 4 – Irregularity in Proceedings

No action, inaction or recommendation regarding the proposed development agreement shall be held void or invalid or be set aside by a court by reason of any error, irregularity, informality, neglect or omission (“error”) as to any matter pertaining to petition, application, notice, finding, record, hearing, report, recommendation or any matter of procedure whatever, unless after an examination of the entire case, including the evidence, the court is of the opinion that the error complained of was prejudicial and by reason of the error the complaining party sustained or suffered substantial injury, and that a different result would have been probable if the error had not occurred or existed. There is not a presumption that error is prejudicial or that injury was done if error was shown.

PART 5 – Recordation

1. Within ten (10) days after the effective date of the development agreement, the City Clerk shall have the agreement recorded with the County Recorder.

2. If the parties to the agreement or their successors in interest amend or cancel the agreement as herein provided, or if the City terminates or modifies the agreement for failure of the applicant to comply in good faith with the terms or conditions of the agreement, the City Clerk shall have notice of such action recorded with the County Recorder.

PART 6 – Amendment or Cancellation

1. Any development agreement may be amended or cancelled in whole or in part, by the mutual consent of the parties to the agreement or by their successors in interest. The procedure for amendment or cancellation shall be the same as the procedure for approval except for the findings required to be made by the City Council. An amendment may be granted upon a finding by the City Council that the amendment is consistent with the General Plan, and specific plan and Zoning Codes in effect at the time the ordinance authorizing the agreement was adopted, or at the time of any amendment. Review of the amendment shall be limited to consideration of those elements proposed to be added or changed.

2. The issuance of any land use approval or permit which approves a change in the term, permitted uses, density or intensity of use, height or size of buildings, provisions for reservation and dedication of land, conditions, terms, restrictions and requirements relating to subsequent discretionary actions, monetary contributions by a developer, or in any other vested element set forth in the agreement, shall require an amendment to the development agreement for such change to be vested.

3. Any change in the design elements not specified in the agreement shall not require an amendment of the agreement. The Planning Director shall make the determination as to whether an amendment is necessary.

PART 7 – Compliance

1. The Planning Director shall set a hearing for the Planning Commission for review of developer's compliance with the agreement on an annual basis and at any other time that the Director determines there are reasonable grounds to believe the developer may be in default of the agreement. Developer shall notify the Planning Director of each anniversary date one month in advance of the annual review period.

2. Upon not less than thirty (30) days written notice by the Planning Director, the developer shall provide such information and documents as may be deemed by the Director to be reasonably necessary to ascertain compliance with the agreement.

3. If the Director of Planning intends to recommend that the Planning Commission refer the matter to the City Council, the Director shall so notify the developer. Such notice shall specify the actions which must be taken to cure the noncompliance. If the developer, in writing, requests time to cure the noncompliance, the Planning Commission hearing shall be deferred to allow a reasonable period of time to allow the developer to affect a cure. The reasonable period of time shall be determined by the Director under the circumstances, provided, however, that if the noncompliance presents a threat of eminent harm to the public, the deferral shall not be more than thirty (30) days.

4. At any compliance hearing, the developer shall be given the opportunity to be heard orally or in writing regarding performance under the agreement.

5. If the Planning Commission finds the developer to be in full compliance with all terms and conditions of the agreement, it shall adopt a resolution certifying compliance of the agreement through the applicable period of review. Said resolution may be recorded by the developer with the County Recorder.

6. If the Planning Commission finds that good faith compliance with all terms and conditions of the agreement has not been demonstrated, the Commission shall refer the matter along with its recommendation to the City Council.

7. If the Planning Commission refers the matter, the City Council shall conduct a hearing on compliance at its first available agenda for such referral. The Council shall hear the matter de novo.

8. If the City Council finds and determines, on the basis of substantial evidence, that the developer has not complied in good faith with all terms and conditions of the agreement, the City Council may terminate or modify the agreement.

PART 8 – Change in State Laws or Regulations

The City is not precluded from applying to development of the subject property changes in City laws, regulations, plans or policies, the terms of which are specifically mandated and required by changes in state or federal laws or regulations. In the event state or federal laws or regulations enacted after the agreement have been executed or action of any governmental jurisdiction other than the City prevents or precludes compliance with one or more provisions of this agreement or requires changes in plans, maps or permits approved by City, the agreement shall be modified, extended or suspended as may be necessary to comply with such state or federal laws or regulations or the regulations of such other governmental jurisdictions.

PART 9 – Default

1. Failure or unreasonable delay by the developer to perform any term or provision of the agreement shall constitute a default. Except in cases where developer's breach of this agreement presents a threat of eminent harm to the public, the City Manager shall give the developer not less than thirty (30) days notice in writing specifying the nature of the alleged default and the manner in which said default may be satisfactorily cured. After notice and expiration of the thirty (30) day period, the City, at its option, may institute legal proceedings for specific performance or other injunctive or declaratory relief to enforce the agreement. In the alternative, the City may, rather than following the default procedure, hold a compliance review pursuant to Part 7 of this resolution.

2. In the event the City does not accept application for review, approval or issuance of necessary development permits or entitlements for use to a developer as required by and in accordance with the terms of a development agreement, or the City otherwise defaults under the terms of the development agreement as to such developer, such developer shall not be obligated to proceed with or complete the improvements required under the development agreement, or any phase thereof, nor shall resulting delays in such developer's performance constitute grounds for termination or cancellation of the development agreement. In addition, the developer may, at developer's option, institute legal proceedings for specific performance or other injunctive or declaratory relief to enforce the agreement. Nothing herein shall limit any legal right under a cooperative agreement underlying an assessment district or similar proceeding entered into between the City and developer for the project.

PART 10 – Reserved Approvals

1. Nothing herein shall be construed to limit the authority or obligation of the City to hold necessary public hearings or to limit the discretion of the City or any of its officers or officials with regard to rules, regulations, ordinances, laws and entitlements of use which require the exercise of discretion by City or any of its officers or officials, provided that the subsequent discretionary actions shall not be in conflict with those elements vested in the development agreement.

2. Nothing herein shall be construed to limit the authority of the City to adopt and apply codes, ordinances or regulations which have the legal effect of protecting persons or property from dangerous or hazardous conditions which create substantial physical risk. This provision is intended to protect and recognize the authority of the City to deal with dangerous or hazardous conditions or situations which were not adequately addressed at the time of the adoption of the development agreement. This section is not intended to otherwise limit intensity of development or use for purposes of general public welfare.

3. Codes, ordinances, and regulations relating to construction standards or permits shall apply as of the time of grant of each applicable construction permit, except to the extent that such are in conflict with a vested element. In the case of conflict, the new codes, ordinances, and regulations shall apply to new construction to the same extent as would be applicable in the case of substantial reconstruction of an existing structure.

THEREFORE, the Brisbane City Council hereby adopts this resolution for establishing the procedures and requirements for consideration and adoption of development agreements.

LEWIS E. GRAHAM II, Mayor

I hereby certify that the foregoing Resolution No. 88-10 was duly and regularly passed and adopted by the City Council of the City of Brisbane at a regular meeting thereof held on the 25th day of April, 1988, by the following vote.

AYES: Nielsen, Miller, Smith, Attard, Graham

NOES: None

ABSENT: None

LYNNE BOWMAN-JONES, City Clerk

Attachment B: List of property owners within the Baylands Specific Plan Area

Property Owners

511 TUNNEL AVENUE LLC
BAYSHORE SANITARY DISTRICT
BRISBANE PROPERTIES
BROOKS MICHELE DAY
BULLOCK JOSEPH J III TR
CALLAN MATTHEW C
CAREY HELEN J TR
CAREY HELEN J TR ET AL EST OF
CITY OF BRISBANE
DENNIS EDWARD J
DENNIS LETA M
DOTY DENNIS C
EARTHSQUEAK LLC
GALLAGHER CONAL
HOLDINGS 22 LLC ET AL
L & C DIVERSIFIED LLC
M&E BRISBANE
MORTIMER JULIE D C
OVERTON DEBRA L TR
OYSTER POINT PROPERTIES INC
PANONTIN IVANA TR
PHILOMENA LLC
PRESCOTT NADINE E ET AL
RECOLOGY PROPERTIES INC
REY GERTRUDE S
SANITARY FILL COMPANY
SCHMITZ STEVEN J TR
SFPP
SIERRA HOTEL MANAGEMENT CORP
SILVESTRI ALFEO & PAOLA
SILVESTRI PAOLA TR ET AL
STATE OF CALIF
SUNTEX PROPERTIES INC
TAMU LUKE AMUKHALE
TUNTEX (USA) INC
TUNTEX U S A INC
WALTERS LOTTIE M