



CITY of BRISBANE

Planning Commission Meeting Agenda

Thursday, April 13, 2023 at 7:30 PM • Hybrid Regular Meeting
• Brisbane City Hall 50 Park Place, Brisbane CA

The public may observe/participate in Planning Commission meetings using remote public comment options or 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 on the agenda.

TO ADDRESS THE COMMISSION

In Person:

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

Masks are no longer required but are highly recommended in accordance with California Department of Health Guidelines. To maintain public health and safety, please do not attend in person if you are experiencing symptoms associated with COVID-19 or respiratory illness.

To address the Planning Commission on any item on or not on the posted agenda, fill out a Request of 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 at youtube.com/brisbaneca, or on Comcast Channel 27. Archived videos may be replayed on the City's website, brisbaneca.org/meetings. Please be advised that if there are technological difficulties, the meeting will nevertheless continue.

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

Remote Public Comments:

Meeting participants are encouraged to submit public comments in writing in advance of the meeting. Aside from commenting while in the Zoom webinar the following email and text line will be also monitored during the meeting and public comments received will be noted for the record during Oral Communications or during an Item.

Email: jswiecki@brisbaneca.org or **Text:** 415-713-9266

Zoom Webinar: (please use the latest version: zoom.us/download)

brisbaneca.org/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 p.m. of the day of the meeting will be available for public inspection at the front lobby in City Hall and online at brisbaneca.org/meetings. Any writings that are received after the agenda has been posted but after 4 p.m. of the day of the meeting will be available on the internet at the start of the meeting (brisbaneca.org/meetings), at which time the materials will be distributed to the Planning Commission.

Commissioners: Funke, Gooding, Lau, Patel, and Sayasane

CALL TO ORDER

ROLL CALL

ADOPTION OF 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 February 23, 2023](#)

ORAL COMMUNICATIONS (Limited to a total of 15 minutes)

WRITTEN COMMUNICATIONS

OLD BUSINESS

None

NEW BUSINESS

- B. [**PUBLIC HEARING: 11-B Industrial Way; Interim Use Permit 2022-UP-8; C-1 Commercial Mixed-Use District; Extension of Interim Use Permit UP-2-16, to continue the use of an approximately two-acre area of the Baylands former railyard at the corner of Bayshore Blvd., and Industrial Way as a contractor's storage yard, for up to five years; and finding that this project is categorically exempt from environment**](#)

[review under CEQA Guidelines Section 15301; Sam Khodja, applicant; Oyster Point Properties Inc., \(Baylands Development Inc.\) owner.](#)

- C. [**PUBLIC HEARING: 600 Tunnel Ave; Interim Use Permit 2022-UP-6;**](#) C-1 district; [Interim Use Permit to continue Golden State Lumber's storage of lumber on a vacant, approximately 2-acre portion of the Baylands; and finding that this project is categorically exempt from environmental review under CEQA Guidelines Section 15301; Seth Nobmann, applicant; Oyster Point Properties Inc., \(Baylands Development Inc.\) owner.](#)

ITEMS INITIATED BY STAFF

ITEMS INITIATED BY THE COMMISSION

ADJOURNMENT

- D. Adjournment to the regular meeting of April 27, 2023

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 is required to make a formal appeal. For additional information, please contact the City Clerk at 415-508-2110.

File Attachments for Item:

A. Approval of draft meeting minutes of February 23, 2023

DRAFT
BRISBANE PLANNING COMMISSION
Action Minutes of February 23, 2023
Hybrid Meeting

CALL TO ORDER

Chairperson Patel called the meeting to order at 7:30 p.m.

ROLL CALL

Present: Commissioners Funke, Gooding, Patel, and Sayasane

Absent: Commissioner Lau

Staff Present: Director Swiecki, Senior Planner Johnson, Senior Planner Ayres, and Associate Planner Robbins

ADOPTION OF AGENDA

A motion by Commissioner Funke, seconded by Commissioner Gooding to adopt the agenda. Motion approved 4-0.

CONSENT CALENDAR

A motion by Commissioner Funke, seconded by Commissioner Sayasane to adopt the consent calendar (agenda items A & B). Motion approved 4-0.

ORAL COMMUNICATIONS

There were no oral communications.

WRITTEN COMMUNICATIONS

There were two written communications regarding agenda item C.

NEW BUSINESS

- C. **PUBLIC HEARING: 1000 Marina; Grading Review 2023-EX-1;** SP-CRO Sierra Point Commercial District; Grading review for Bay Trail extension involving 1,724 CY of soil cut, 222 CY of soil fill, and 1,502 CY of soil export from the subject property; and finding that this project is categorically exempt from environment review under CEQA Guidelines Sections 150301(c) and 15304(a), (b) and (c); Kyle Marrs, applicant; Bp3 Sf4 1000 Marina LLC, owner.

Senior Planner Ayres gave the staff presentation; there were no questions from the Commission.

Chairperson Patel opened the public hearing.

Kyle Marrs, applicant, spoke in favor of the project; there were no questions from the Commission.

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Written correspondence received in opposition to the proposal was acknowledged.

With no one wishing to address the Commission, a motion by Chairperson Patel, seconded by Commissioner Gooding to close the public hearing was approved 4-0.

After deliberation, a motion by Commissioner Gooding, seconded by Chairperson Patel, to approve the application via adoption of Resolution 2023-EX-1 was approved 4-0.

Chairperson Patel read the appeals process.

- D. PUBLIC HEARING: 575-B Tunnel Road; Interim Use Permit 2023-UP-1;** C-1 Commercial Mixed Use District; 5-year extension of Interim Use Permit UP-8-16 to continue storage of up to 750 rental, passenger vehicles for Avis Budget Group on a vacant, approximately 4.8-acre portion of the Baylands; and finding that this project is categorically exempt from environmental review under CEQA Guidelines Section 15304(e), Minor Alterations to Land; Sam Khodja, applicant; Tuntex (USA) Inc., (Baylands Development Inc.) owner.

Senior Planner Johnson gave the staff presentation; there were no questions from the Commission.

Chairperson Patel opened the public hearing.

Avis' representatives spoke in favor of the project and offered to answer any questions; there were no questions from the Commission.

With no one wishing to address the Commission, a motion by Chairperson Patel, seconded by Commissioner Gooding to close the public hearing was approved 4-0.

After deliberation, a motion by Chairperson Patel, seconded by Commissioner Funke, to approve the application via adoption of Resolution 2023-UP-1 was approved 4-0.

Chairperson Patel read the appeals process.

ITEMS INITIATED BY STAFF

Director Swiecki informed the Commission that the City Council introduced the R&D Zoning text amendment considered by the Commission at their last meeting without any substantive changes. He also reminded the Commission that beginning in March all Commissioners are to attend public meetings in person.

Senior Planner Ayres informed the Commission that the Zoning Administrator recently approved a minor modification at 77 Golden Aster Court to allow landscaping and other minor modifications in the backyard and requested their help in crafting a resolution to recognize former Planning Commissioner Napallo Gomez.

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ITEMS INITIATED BY THE COMMISSION

There were none.

SELECTION OF PLANNING COMMISSION OFFICERS

A motion by Chairperson Patel, seconded by Commissioner Sayasane to nominate Commissioner Funke as the new Chairperson was approved 4-0.

A motion by Commissioner Sayasane, seconded by Commissioner Gooding to nominate Commissioner Lau as the new Vice-Chair was approved 4-0.

ADJOURNMENT

With the cancellation of the March 9, 202 meeting, Chairperson Patel declared the meeting adjourned to the next regular meeting of March 23, 2023 at approximately 8:15 p.m.

Attest:

John A. Swiecki, 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.

File Attachments for Item:

B. PUBLIC HEARING: 11-B Industrial Way; Interim Use Permit 2022-UP-8; C-1 Commercial Mixed-Use District; Extension of Interim Use Permit UP-2-16, to continue the use of an approximately two-acre area of the Baylands former railyard at the corner of Bayshore Blvd., and Industrial Way as a contractor's storage yard, for up to five years; and finding that this project is categorically exempt from environment review under CEQA Guidelines Section 15301; Sam Khodja, applicant; Oyster Point Properties Inc., (Baylands Development Inc.) owner.



PLANNING COMMISSION AGENDA REPORT

Meeting Date: April 13, 2023

From: Jeremiah Robbins, Associate Planner

Subject: 11-B Industrial Way; Interim Use Permit 2022-UP-8; C-1 Commercial Mixed-Use District; Extension of Interim Use Permit UP-2-16, to continue the use of an approximately two-acre area of the Baylands former railyard at the corner of Bayshore Blvd., and Industrial Way as a contractor's storage yard, for up to five years; and finding that this project is categorically exempt from environment review under CEQA Guidelines Section 15301; Sam Khodja, applicant; Oyster Point Properties Inc. (Baylands Development Inc.), owner.

REQUEST: The applicant requests approval of the above-referenced permit to allow for the continued use of a contractors' storage and staging yard on an approximately two-acre portion of land located on APN 005-340-080 within the Baylands, located immediately northeast of the Bayshore Boulevard and Industrial Way intersection and known as 11-b Industrial Way. There would be no hazardous materials storage, no permanent structures, no storage of construction waste products, and no vehicle or equipment maintenance onsite.

RECOMMENDATION: Approve Interim Use Permit 2022-UP-8 via adoption of Resolution 2022-UP-8 containing the findings and conditions of approval.

ENVIRONMENTAL DETERMINATION: The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per Section 15301 - this project falls within a class of projects which the State has determined not to have a significant effect on the environment. The exceptions to this categorical exemption referenced in Section 15300.2 of the CEQA Guidelines do not apply.

APPLICABLE CODE SECTIONS: Brisbane Municipal Code (BMC) [Chapter 17.41](#) establishes procedures and required findings for the approval of interim uses in the Baylands subarea. Required findings are set forth in BMC [§17.41.060](#), and mandatory conditions of approval are listed in BMC [§17.41.070](#). The mandatory conditions of approval are included in the draft conditions of approval.

ANALYSIS AND FINDINGS:

Background

The proposed use would represent a continuation of the historic uses of this area of the Baylands for outdoor storage. In addition to its historic use as a railyard, in the early to mid-1900's, in 2001 an interim use permit was approved for outdoor storage of statuary in this area and follow-on interim use permits were granted in 2003, 2006, and 2011.

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In 2016, an interim use permit was approved to allow a contractors storage yard, a continuation of the basic use of the two-acre site as a storage yard, with greater flexibility that would not be specific to a particular tenant. The site had already been subdivided into three contractors' yard areas in 2016; today, there are six contractor yards. That interim use permit has since expired.

The perimeter of the yard has been fenced since the approved statutory storage use in 2001 and in 2016 it was replaced with a new eight-foot, chain-link fence with brown slats to provide a neat and uniform appearance along the Bayshore Boulevard and Industrial Way frontages.

Since 2016, the primary hours of activity at the site have generally been during the daytime, but some equipment and materials drop off and pick-up activities would occur after dawn or before dusk depending on the individual contractors' schedules. The interim use permit in 2016 prohibited hazardous materials storage, construction of structures or buildings, storage of construction waste products and vehicle or equipment maintenance on the site, among other restrictions.

Project Description

As noted above, the applicant proposes to continue the current and historical use of an approximately two-acre area of the Baylands former railyard as a construction storage and staging yard, for up to five years. The application would not expand the current size of the yard nor eliminate any of the previous conditions of approval applied in 2016.

Details on the current use of the yards and the types of vehicles and equipment currently stored are provided in the applicant's statements (Attachment C). While these details have been provided for the Commission to gain an understanding of the use, the request is not to limit the numbers or types of vehicles and equipment to those listed in that description, but rather to allow for continued flexibility of storage uses with performance standards governing the use through the permit's conditions of approval.

Analysis

The required findings under BMC §17.41.060.A-F and project analysis are as detailed below.

a) The interim use will not be detrimental to the public health, safety or welfare, or injurious to nearby properties or improvements;

The proposal complies with this finding. The proposed use is consistent with the surrounding uses in this neighborhood.

The site is comprised of a portion of the vacant lands immediately northeast of the Industrial Way intersection. The surrounding uses include the light industrial and manufacturing uses along Industrial Way to the south, Lazarri Fuel to the north, and Bayshore Boulevard and PG&E's Martin

substation to the west. The Roundhouse is located to the northeast of the proposed storage yard, and would not be affected by the proposed use.

The site is separated from the residential population centers, with the nearest Brisbane residential uses approximately four tenths of a mile to the southwest. Residential uses to the west in Daly City are approximately two tenths of a mile away.

Both the Police Department and North County Fire Authority reviewed the conditions of approval to ensure the continued use would not be injurious to nearby properties and uses or detrimental to public health, safety, and welfare. For example, conditions of approval are included to limit the type of materials that may be stored and how those materials may be stored at the site to prevent adverse impacts, limit onsite uses to storage uses only, and the permit would not allow for maintenance of vehicles, processing of materials, nor fabrication.

b) The interim use will not create any significant environmental impacts;

The proposal complies with this finding. The site has been previously graded and compacted and used as a storage yard. The applicant has previously added gravel to even out the area for this use as well.

No disturbance of underlying soil is proposed and the use involves no permanent structures. It is a temporary use with negligible or no permanent effects on the environment.

Also, with the recommended conditions of approval, no staging of soils or other waste materials that could create dust or leach materials into the subsurface would be allowed at the site.

c) The interim use will not obstruct redevelopment;

The proposal complies with this finding. The application does not include any permanent structures, nor would it otherwise alter the land and so redevelopment would not be obstructed.

d) All required public utilities and other infrastructure are or will be available;

This proposal complies with this finding. The applicant will be required to bring power to the site for lighting, if necessary, based on further review by the Police Department. Electrical connections would be available from Bayshore Boulevard or Industrial Way.

e) The use will benefit the property and/or the public;

The proposal complies with this finding. The use provides a benefit to the public in supporting the local contracting trades which may provide construction services to the community.

f) Encourage the employment of Brisbane residents to the extent it is reasonably possible to do so.

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The proposal complies with this finding. A condition of approval is included that each tenant shall provide the Community Development Director with a program to provide outreach to the local community to the extent reasonable. Each current tenant has provided a letter demonstrating compliance with this condition of approval.

In closing, this application has been routed to the applicable City departments, Public Works, Police, Fire, and City Attorney, also to the Regional Water Quality Control Board and the County Environmental Health Department. Conditions of approval addressing potential stormwater discharges, materials storage, and indemnification, among others, have been added or modified based on the comments received.

ATTACHMENTS

- A. Draft Resolution 2022-UP-8
- B. Aerial vicinity map
- C. Applicant's project description and supporting statements


Jeremiah Robbins, Associate Planner


John Swiecki, Community Development Director

Draft
RESOLUTION 2022-UP-8
A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE
CONDITIONALLY APPROVING INTERIM USE PERMIT 2022-UP-8
TO ALLOW CONTINUED OPERATION OF A CONSTRUCTION STORAGE/STAGING YARD
AT 11-B INDUSTRIAL WAY

WHEREAS, Sam Khodja, the applicant, applied to the City of Brisbane for approval of Interim Use Permit 2022- UP-8 to continue to allow for a contractors' storage and staging yard at 11-B Industrial Way, such application being identified as Use Permit 2022-UP-8; and

WHEREAS, on April 13, 2023, the Planning Commission conducted a public hearing on the application, publicly noticed in compliance with Brisbane Municipal Code Chapters 1.12 and 17.54, at which time any person interested in the matter was given an opportunity to be heard; and

WHEREAS, the Planning Commission reviewed and considered the staff memorandum relating to said applications, the applicant's plans and supporting materials, and the written and oral evidence presented to the Planning Commission in support of and in opposition to the application; and

WHEREAS, the Planning Commission finds that the proposed project is categorically exempt from the provisions of the California Environmental Quality Act; pursuant to Section 15301 of the State CEQA Guidelines; and

WHEREAS, the Planning Commission of the City of Brisbane hereby makes the findings attached herein as Exhibit A in connection with the Interim Use Permit application.

NOW THEREFORE, based upon the findings set forth hereinabove, the Planning Commission of the City of Brisbane, at its meeting of April 13, 2023, did resolve as follows:

Interim Use Permit 2022-UP-8 is approved per the findings and conditions of approval attached herein as Exhibit A.

ADOPTED this 13th day of April, 2023, by the following vote:

AYES:

NOES:

ABSENT:

Roel Funke
Chairperson

ATTEST:

**Interim Use Permit 2022-UP-8
ATTACHMENT A**

JOHN A SWIECKI, Community Development Director

**Draft
EXHIBIT A**

Action Taken: Conditionally approve Interim Use Permit 2022-UP-8 per the staff memorandum with attachments, via adoption of Resolution 2022-UP-8.

Findings:

- A. The proposed interim use and the conditions under which it would be operated will not be detrimental to the public health, safety or welfare, or injurious to properties or improvements in the vicinity;
- B. The proposed interim use will not create any significant unmitigated adverse environmental impacts, pursuant to the California Environmental Quality Act;
- C. Given that no permanent structures are proposed, the proposed interim use will not obstruct, interfere with, or delay the intended redevelopment of the property in accordance with the uses anticipated in the general plan or any adopted specific plan applicable to the site;
- D. All public utilities and other infrastructure improvements required in order for the interim use to be conducted in a safe, sanitary, and lawful manner are either available at the site or shall be installed by the applicant, in a manner approved by the City Engineer.
- E. The use will provide either or both of the following benefits:
 - i. A benefit to the property, including, but not limited to, the elimination of blight or unsightly or hazardous conditions, or the installation of improvements that will facilitate redevelopment of the property. This benefit does not apply. However,
 - ii. The use will provide a benefit to the public, such as the creation of jobs or revenues or the provision of needed goods or services, in that it will support the local construction industry.
- F. In accordance with Policy BL.2 of the General Plan, a program will be established and maintained by each tenant of the storage yard to encourage employment of Brisbane residents, to the extent it is reasonably possible to do so. Implementation and maintenance of such program is a condition of the interim use permit.

Conditions of Approval:

1. The use of the site (or storage yard) is limited to the area shown on the site plan, as provided in Exhibit B, that being within the pre-existing fenced storage area.
2. Use of the site is limited to outdoor storage used in the construction trades, generally consisting of operable vehicles, equipment, tools, containers, trailers, and inert materials such as steel and wood materials (including milled lumber for construction and temporary staging of logs from tree cutting job sites).
3. Approval of this application is to allow for the project as detailed in the Project Description contained in the Planning Commission staff report dated April 13, 2023, except where project parameters are modified expressly by this Resolution.

Prohibited Uses and Activities:

4. Asphalt, concrete, soil or other similar raw materials that could pose an impact to stormwater shall not be stored on site, except that construction materials (not waste products) may be contained in vehicles or trailers for active use at job sites, only if covered to prevent wind-blown materials or contact with stormwater. Use of the yard may also include statuary storage, as has been historically approved at this site. Other outdoor storage which does not fit strictly within the categories of contractors' yard or statuary storage, but can be demonstrated to be of a similar character may be approved by the Community Development Director, upon written request. At the Community Development Director's discretion any such request may be referred to the Planning Commission, via interim use permit.
5. No hazardous waste materials are allowed on the site and no waste products, excavated soil, or similar waste products from job sites are to be stored, handled, or processed on site.
6. No on-site building construction or fabrication of building components for use on job sites is authorized with this interim use permit.
7. No dumping, processing, sorting, recycling, recovery, or storage of garbage, debris, scrap materials, or similar items shall be allowed on site.
8. No firewood chopping or chipping is allowed on site.
9. Scrap vegetation, palm fronds, branches, and other loose organics are not permitted onsite.
10. Fueling and equipment or vehicle maintenance activities shall not be conducted on the site.
11. Non-operable vehicles are not to be stored on site, except as may be specifically authorized by the Community Development Director.
12. Overnight sleeping quarters are prohibited.

Performance Standards:

13. All tenants of the site shall keep their business licenses active through the Finance Department and shall comply with any requirements that may be imposed through the

Interim Use Permit 2022-UP-8
ATTACHMENT A

Planning Department for documentation of their ability to comply with the conditions of this use permit, prior to issuance of a business license. No undocumented or unapproved tenants shall occupy the yard.

14. This interim use permit does not provide authorization for construction of buildings or structures on the site for offices or any other use.
15. Storage of wood, steel, or other similar materials shall be screened from offsite views. Generally, storage heights are to be maintained below the height of the fence as viewed from pedestrian level views along Bayshore Boulevard, except as may be allowed in areas screened by vegetation or otherwise subject to Community Development Director approval.
16. Temporary storage of wood (lumber and logs only) shall comply with North County Fire Authority and San Mateo County Environmental Health requirements.
17. Firewood shall be split prior to storage on site and stacked in neat organized rows separated into one (1) cord size with 10 feet between rows and 5 feet between cords in a row. A cord is defined as measuring four feet high by four feet wide by eight feet long (4 ft. x 4 ft. x 8 ft.) and has a volume of 128 cubic feet. The storage shall be segregated away from other combustibles and vehicles and 10 feet from the property lines.
18. Over-sized vehicles or equipment may be prohibited by the Community Development Director, if their presence on the site would create unsightly visual impacts.
19. Lighting shall be provided to the satisfaction of the Police Department. Lighting shall only be required as may be needed for security and to the extent necessary to conduct operations at the site at night and shall not be directed onto the adjacent roadways so as to result in a glare or distraction to motorists, nor shall it be directed upward into the night sky to result in a nuisance to the Brisbane residential areas. A lighting plan shall be submitted to the Police Department and Community Development Department for review and approval prior to installation of lights.
20. If generators are to be used to power lighting, they shall not produce noise that creates a nuisance to off-site sources. Any generator(s) that is identified as a nuisance and is confirmed as being distinctly detectable to off-site sources, above the surrounding ambient noise levels, will be required to be abated or removed and replaced with suitable lighting. The applicant shall be responsible for the cost of any noise testing that may be required.
21. The site operations shall be conducted in a way so as to minimize noise, especially at night, and shall not create a nuisance to Brisbane residential areas. Noise levels shall be subject to the Brisbane Municipal Code Noise Control Chapter 8.28.
22. All tenants (whether it from the original tenant or by a sub-leased business from the tenant) shall obtain an appropriate County solid waste program permit (or EA Notification), where applicable.

Interim Use Permit 2022-UP-8
ATTACHMENT A

23. The site shall comply with National Pollutant Discharge Elimination System (NPDES) requirements, as required under the Regional Water Quality Control Board's Municipal Regional Permit (MRP).
24. All tenants shall comply with the most current Stormwater Best Management Practices (BMPs) as published by California Stormwater Quality Association (CASQA).
25. Applicant and tenants shall be subject to Commercial Industrial Stormwater Discharge Compliance Inspections no less frequently than yearly, and shall remain in compliance with all conditions imposed on the City via the MRP. Repeat noncompliance or single-event gross noncompliance may result in the revocation of the interim use permit (see condition 42). In addition to any administrative fines and penalties that the City may assess against the permittee, the permittee shall also indemnify, defend and hold harmless any fines or penalties that the Regional Water Quality Control Board or the State Water Resources Board imposes on the City arising from any of permittee's acts or failure to act on the site resulting in stormwater violations.
26. The yard shall be subject to City, County or State inspections as needed to confirm compliance with applicable regulations, which are not limited to these conditions of approval.

Site Improvements and Maintenance:

27. The applicant shall install a stabilized construction entrance per the CASQA BMPs within six months of the effective date of this permit, and maintain the construction entrance thereafter to the satisfaction of the Public Works Director.
28. The site shall be maintained in a neat and orderly manner and shall not create unsightly visual impacts or the appearance of blight.
29. The existing chain-link fence along the Bayshore Boulevard and Industrial Way frontages shall be shall be maintained in good repair. Replacement fencing shall match existing and/or conform to the requirements described below:
 - i. An eight-foot, chain-link fence to provide a neat and uniform appearance along these frontages. The fence shall be green or black vinyl coated with brown slats. No barbed wire or razor wire is to be included.
 - ii. The Community Development Director may approve fencing alternatives which also provide screening and are consistent with the Fences, Hedges and Walls Ordinance, BMC §17.32.050.
30. The yard shall be maintained in an orderly manner to provide for adequate fire apparatus access. It shall comply with Fire Safety per 2013 CFC Chapter 33 and also maintain a 20-foot wide fire access between rows. Lumber is to be stored per CFC for lumber yards.
31. The site shall be maintained such that it does not create airborne dust.

Interim Use Permit 2022-UP-8
ATTACHMENT A

32. Vehicle parking and storage shall be maintained such that all vehicles can make turn-around movements on-site and vehicles shall not back into the common driveway or onto Industrial Way. The Public Works Director shall maintain the right to place prohibitions on vehicles due to unusually large size, weight or other issues that may be deemed to cause a safety hazard.
33. Yard and driveway surfaces shall be maintained to prevent tracking of mud onto public streets, to the satisfaction of the Public Works Director.

BMC §17.41.070 Mandatory Conditions:

34. The property owner and tenants of this site shall provide the City with a copy of the lease agreement between the owner and tenant indicating that:
- i. the tenant's right to possession of the premises for the purpose of conducting the interim use is dependent upon the interim use permit having been granted and maintained in full force and effect; and
 - ii. the tenant's right to possession of the premises for the purpose of conducting the interim use will terminate upon any expiration or revocation of the interim use permit; and
 - iii. it shall be the responsibility of the owner to terminate the tenant's possession of the premises upon any expiration or revocation of the interim use permit if the tenant continues to utilize the premises for the conduct of such interim use.
35. The Applicant and the property owner shall be jointly and severally liable for all costs and expenses, including attorney's fees, the City may incur to enforce the conditions of the interim use permit upon any breach thereof by the Applicant, or to abate and remove the interim use upon any failure by the Applicant to discontinue such use upon the expiration or revocation of the interim use permit.

Hold Harmless Requirement:

36. The owner and tenants shall indemnify, defend and hold the City and its officers, officials, boards, commissions, employees and volunteers harmless from and against any claim, action or proceeding brought by any third party to attack, set aside, modify, or annul the approval, permit or other entitlement given to the Applicant, or any of the proceedings, acts or determinations taken, done or made prior to the granting of such approval, permit or entitlement.

Other Conditions:

37. The owner shall amend all existing lease agreements and/or include the following language in any future lease agreement:
- The San Francisco Bay Regional Water Quality Control Board has issued a permit ("Permit") that governs stormwater and non-stormwater discharges resulting from activities performed within the City of Brisbane. To comply with this order, the City requires adherence to Best

Interim Use Permit 2022-UP-8
ATTACHMENT A

Management Practices (BMPs) as published by the California Stormwater Quality Association to contain pollution prevention and source control techniques to minimize the impact of business activities upon dry-weather urban runoff, stormwater runoff, and receiving water quality.

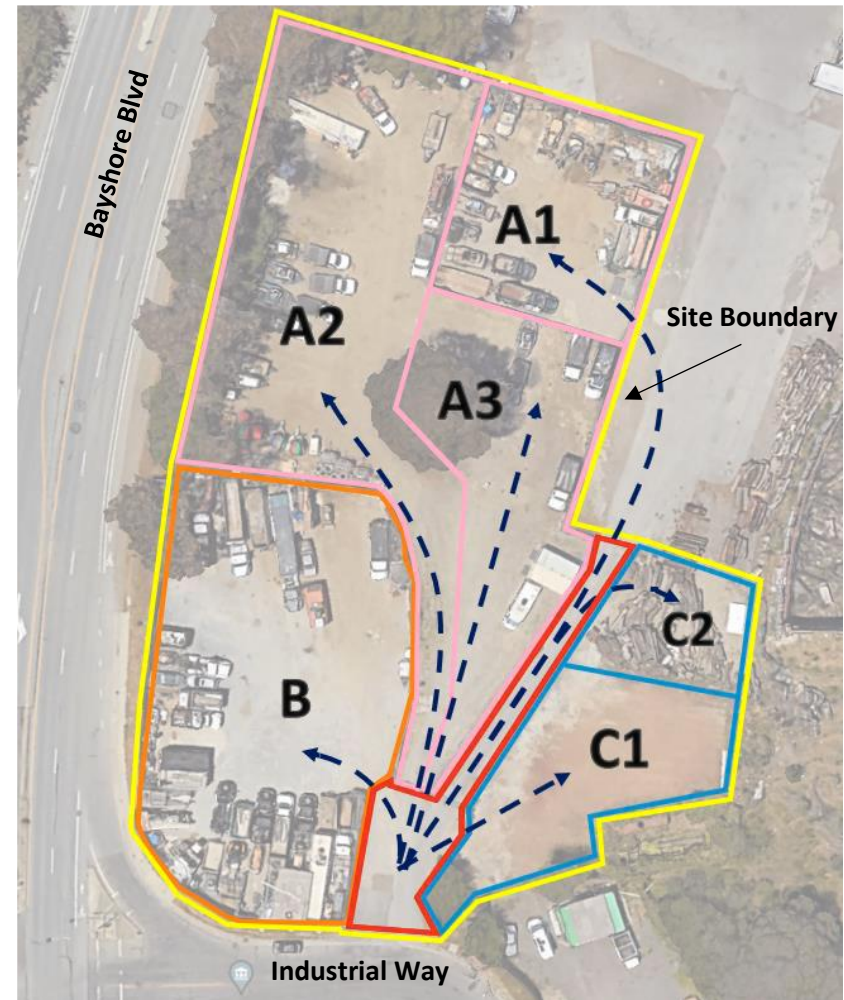
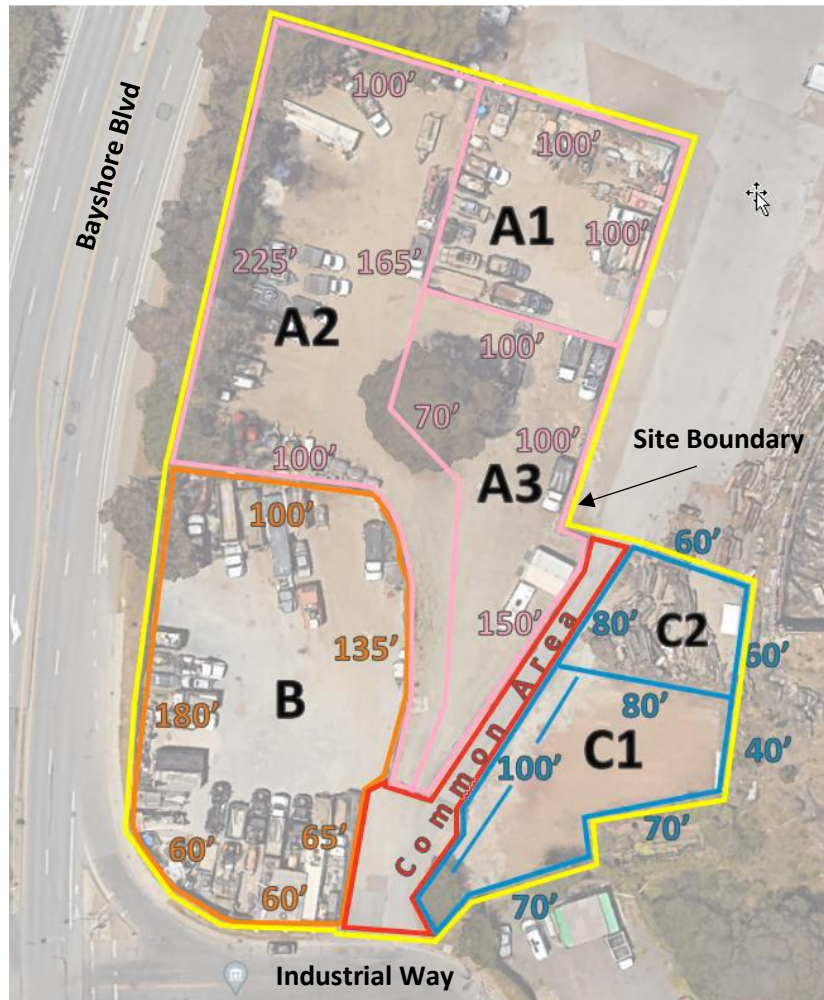
Activities performed by lessee under this agreement shall conform to the Permit and BMPs and shall be performed as described within all applicable BMPs. Evaluation of activities subject to Permit will be conducted by City of Brisbane staff to verify compliance with BMP requirements. City of Brisbane staff will issue inspection results and/or notices and requirements for compliance with Permit to lessor, who shall obtain compliance with said requirements. Failure of lessee to promptly comply may result in termination of this lease.

38. Advertising signs are not included with this interim use permit. Billboard vehicles shall not be parked on the site such that they could serve as advertising.
39. In accordance with Policy BL.2 of the general plan, a program will be established by each operator and submitted to the Community Development Director for approval, to encourage employment of Brisbane residents to the extent it is reasonably possible to do so. Such programs shall be provided to the City for approval within 30 days of the effective date of this permit for existing tenants and prior to storage "occupancy" of yard space for all prospective tenants. Programs deemed inadequate must show compliance within 2 weeks of notice by the Community Development Department for existing tenants.

Interim Use Permit Cessation, Revocation Procedures, and Term Limit

40. In the event that the continuation of the use approved with this interim use permit would obstruct, interfere with or delay the intended redevelopment of the property in accordance with the uses anticipated in the general plan or any adopted specific plan applicable to the site, the operator shall vacate the site and remove improvements as required by the City or property owner, within 90 days written notice by the City or property owner.
41. Material violation of any of the conditions, including material deviation from the approved project description, may be cause for revocation of this Interim Use Permit and termination of all rights granted there under.
42. As detailed in BMC §17.41.100, this interim use permit may be revoked upon a determination by the planning commission that the holder of such permit has failed to comply with any of the conditions thereof or has violated any applicable provision of the BMC.
43. Minor modifications to the interim use permit may be approved by the Community Development Director in conformance will all applicable requirements of the Municipal Code.
44. This Interim Use Permit shall be valid for no more than 5 years following the effective date of its approval. That expiration date being April 20, 2028.

EXHIBIT B
11-B Industrial Storage Yard Site Boundaries and Tenant Access



Note: Site Boundary in Yellow; A1 thru C2 denote the current number of tenants/contractor yards in 2023; Interim Use Permit 2022-UP-8 does not regulate the total number of tenants allowed

Aerial Vicinity Map
11-B Industrial Way





Project Description 11-B Industrial Way Yard, Sunquest Properties, Inc.

Sunquest Properties is requesting the renewal of its Interim Use Permit UP-2-16 to allow for the continued use of an approximately 1.8-acre area as a construction storage and staging yard, for a 5-year term.

Site Location: The site is located immediately northeast of Bayshore Blvd and Industrial Way intersection. Please see **Attachment A. Aerial map of the Site.**

Site Usage: The primary use of this site is to support local construction business and their activities which serve clients in Brisbane and the surrounding Bay Area by renting them staging yard and storage space for the purpose of storing vehicles, tools, equipment, containers, trailers, and other machinery. There are no employees on site, but approximately 12-20 contractor employees will access the site daily to pick up and drop-off vehicles and/or materials. Please see **Attachment B.**

Hours Of Operation: The primary hours of activity are generally confined to regular business hours, 5am to 7pm. During the early hours of the day, contractors will arrive to inspect equipment, gather materials, supplies, and mobilize into the field. During most of the day, contractors are working in the field and the yard is non-operational resulting in no activity or noise. At the end of the day, contractors arrive back to the yard to prepare for the next day. Some equipment drop-offs may occur outside general business hours depending on the individual contractor's schedules.

Site Modifications for Usage: Please see **Attachment C. Contractor Site Map and dimensions.** The proposed modifications represent a continuation of the historic uses for outdoor storage in this area of the Baylands. In addition to its historic use as a railyard, in 2001 an interim use permit was approved for outdoor storage of statuary; this use continued with follow-on interim use permits in 2003, 2006, and 2011. In 2016, an interim use permit was granted which divided the property among three (3) different contractors for equipment storage and staging yards. This use permit application modifies the current map by dividing the site again among six (6) different contractors for the historically consistent use of the site for storage and staging. The following is the breakdown of current contractor usage.

Section A of the site was divided into 3 areas to allow the use of multiple contractors:

- A1. Daly Pipeline
- A2. F. Flores Trucking
- A3. M&M Hauling

Section B

- Basset Engineering

Section C was divided into 2 areas:

- C1. NCL LEASE
- C2. Vacant

List of Vehicles and Equipment currently stored by Contractors:

- *Daly Pipeline*: 5 trucks (approx. 18' in length), 2 construction trailers (approx. 20' in length), 2 excavators, traffic control boards, steel plates, piping, and 2 containers (approx. 40' in length) for tool storage.
- *F. Flores Trucking*: 10 trucks (approx. 18' in length), 1 excavator, 1 bobcat, and 2 containers (approx. 20' in length) for tool storage.
- *M&M Hauling*: 10 dump trucks (approx. 20' in length), 2 pick-up trucks (approx. 10 ft' in length), 2 construction trailers (approx. 20' in length), 1 backhoe, and 2 containers (approx. 20' in length) for tool storage.
- *Basset Engineering*: 5 excavators, 4 bobcats, 2 asphalt rollers, 6 utility trucks (approx. 25' in length), traffic control boards, steel plates, utility piping, and 6 containers for storage of pipe fittings.
- *NCLLEASE*: 3 trucks (approx. 16' in length), 2 trailers (approx. 40' in length), 1 asphalt roller, 2 bobcats, and 1 container (approx. 20' in length) for tool storage.

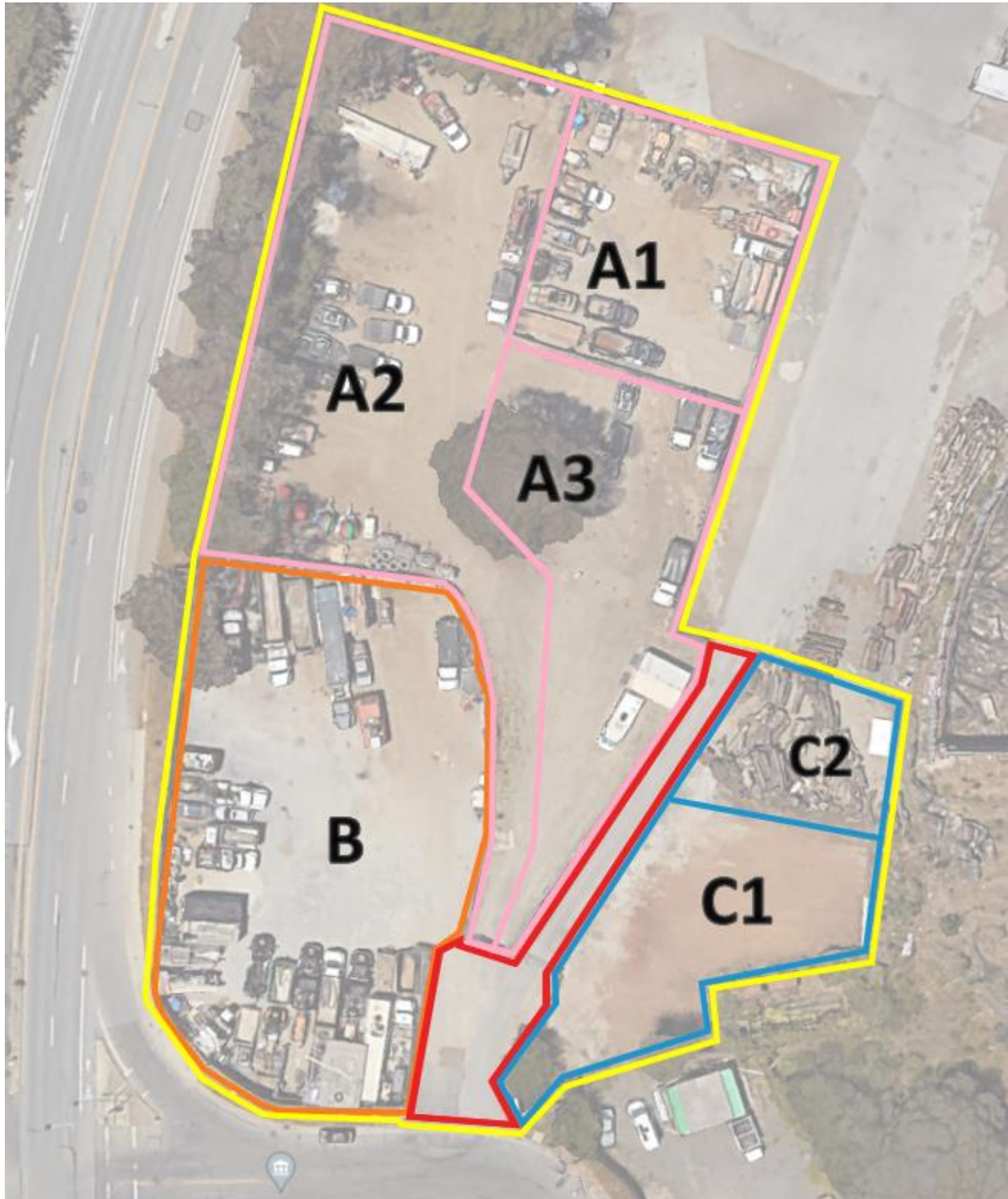
Facility Operation & Vehicles Routing: Vehicles gain access to the freeway system via Bayshore Blvd to obtain north or southbound access to Highway 101. During business hours, trucks will primarily be off-site providing service to customers. Not all equipment and vehicles will be in use; some are back-up, and others are transported to another location to be cleaned or to undergo preventive maintenance. Parking for employees is be provided once the company vehicles are moved to begin their service day.

Vehicles Maintenance: All vehicle and equipment maintenance are conducted offsite. Contractors perform daily site inspection of yard space for spills and drips, and all vehicles are fueled off site.

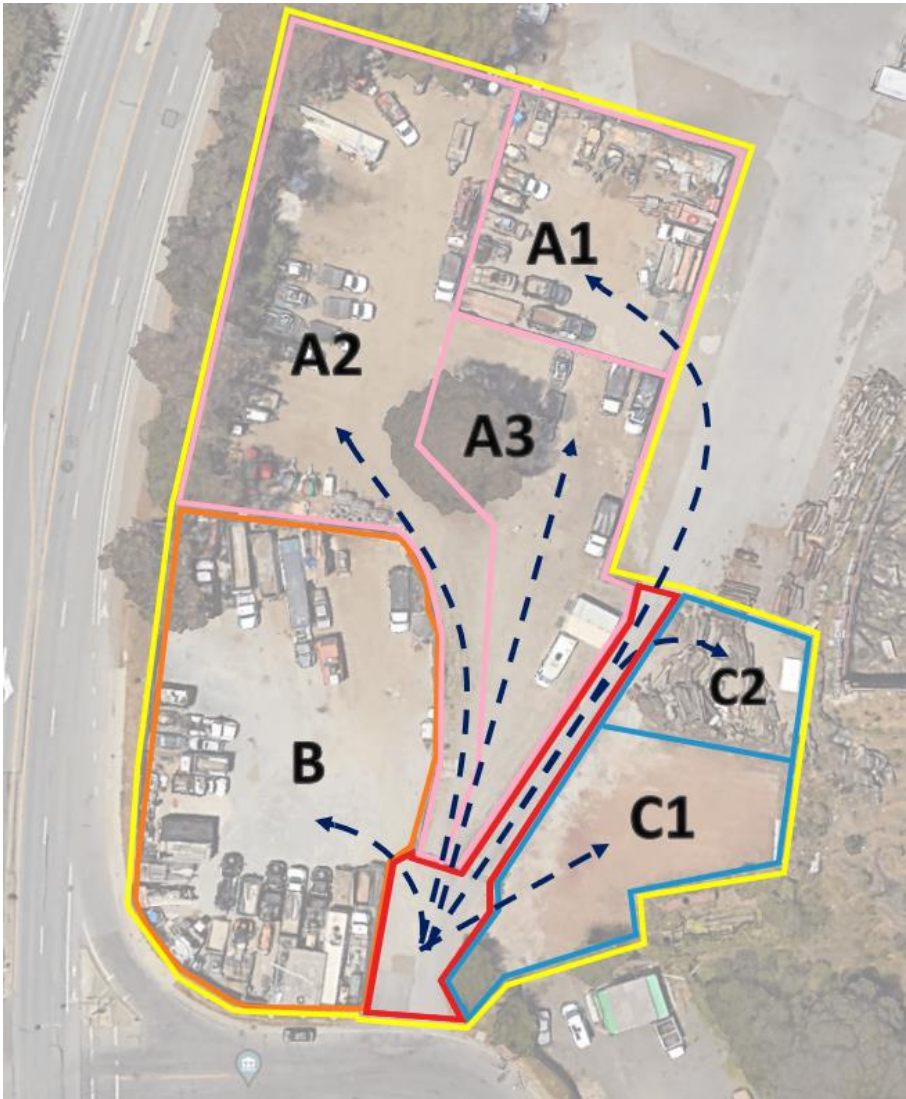
Lighting Plan: The site has no lighting.

Fencing, Security and Site Layout: The site is fenced with four ingress and egress gates serving the site from Industrial Way with adequate clearance to accommodate contractor operations.

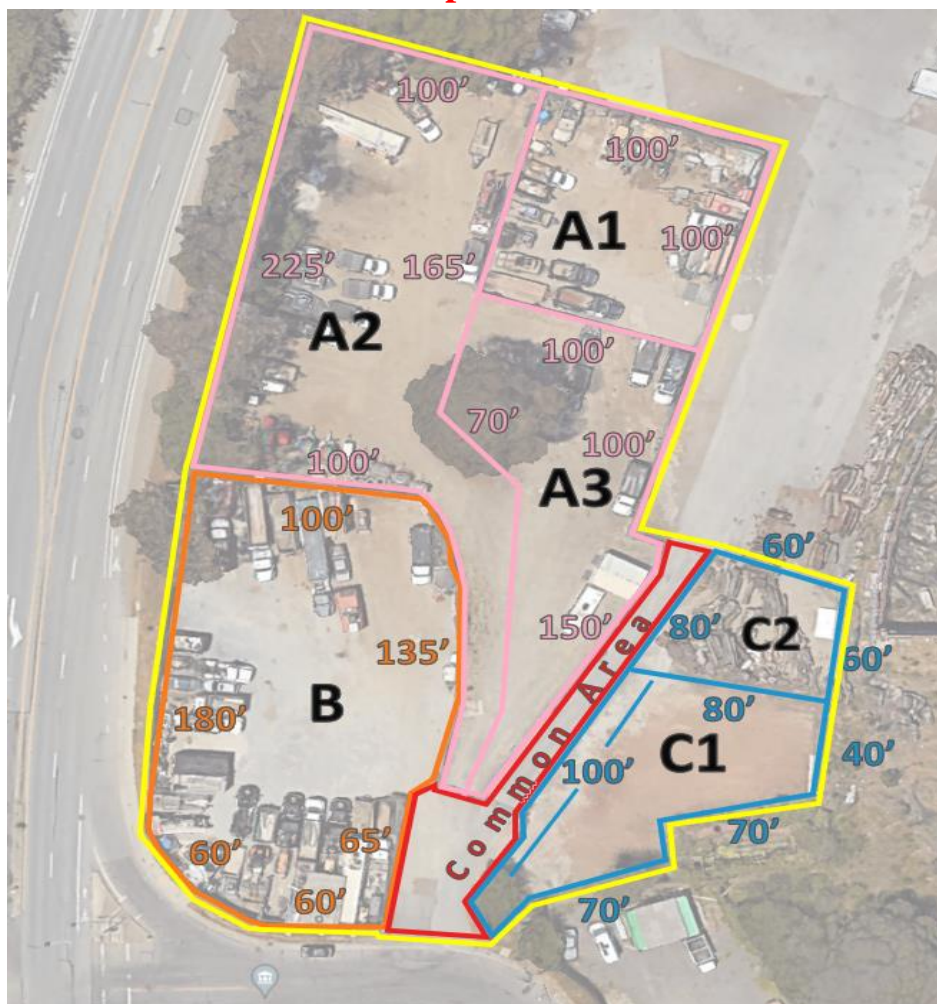
Attachment# A: Site Map



Attachment# B: Site Access and Average Trip Data



Ingress / Egress Dimension + Avg Trips		
Region	Width (ft)	Trips Per Day
A1	20 ft	8 Trips
A2 & A3	20 ft	18 Trips
B	15 ft	10 Trips
C1	24 ft	6 Trips
C2	Open Area	N/A

Attachment# C: Contractors Site Map and Dimensions.

Business and Dimensions		
Region	Current Business	Total Area (Sq Ft)
A1	Daly Pipeline	10,000
A2	Flores Trucking	15,000
A3	M&M Hauling	10,000
B	Basset Engineering	23,500
C1	NCL Lease	7,000
C2	Vacant	5,000
Red	Common Area	5,500
Total		76,000 (~1.7 ac)



Baylands Development Inc
2201 Bayshore Blvd
San Francisco, CA 94134

TO: Jeremiah Robbins, Associate Planner, Community Development Department
FROM: Sam Khodja, Property Manager, Baylands Development Inc.
DATE: February 8, 2023

Re: 11-B Industrial Way, Interim Use Permit 2022-UP-8 to request a 5-year renewal of UP-2-16 for existing storage equipment, materials, and trucking

Dear Mr. Robbins,

Please find our responses to your request for more information in your letter dated January 5, 2023, regarding the permit renewal for 11B Industrial Way. Please do not hesitate to call me if you have any questions.

1. Site Photo of Each Contractor

A1-Daly Pipeline Site:



A2- Flores Trucking Site:



A3- M&M Hauling Site:



B- Basset Engineering Site:



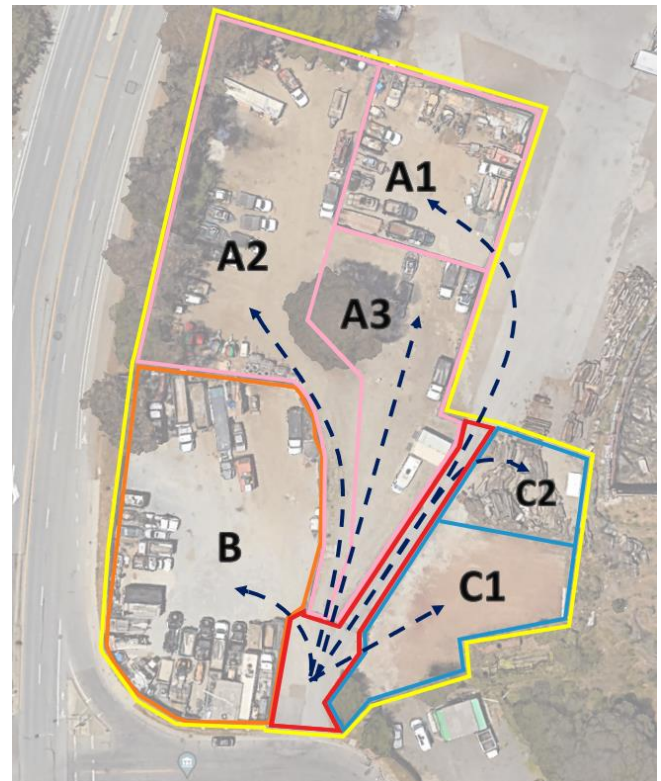
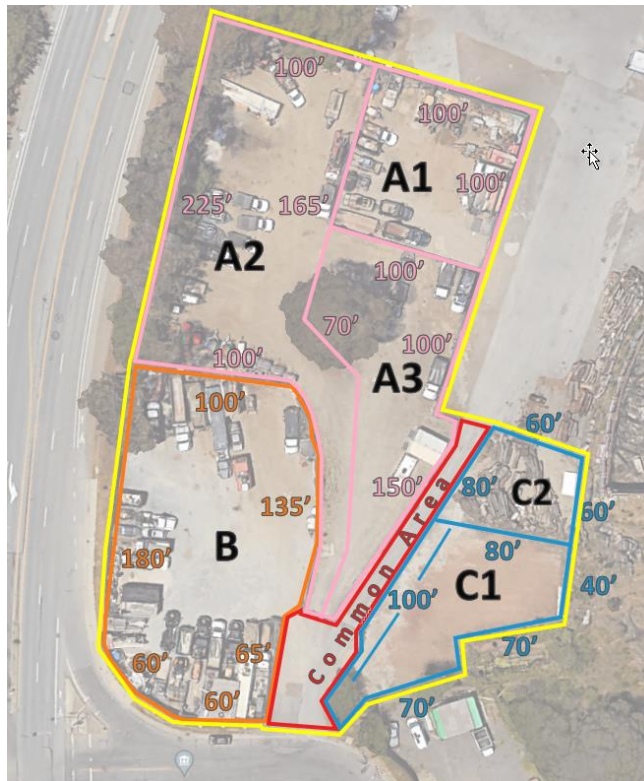
C1- NCL Lease Site:



C2- Vacant Site:



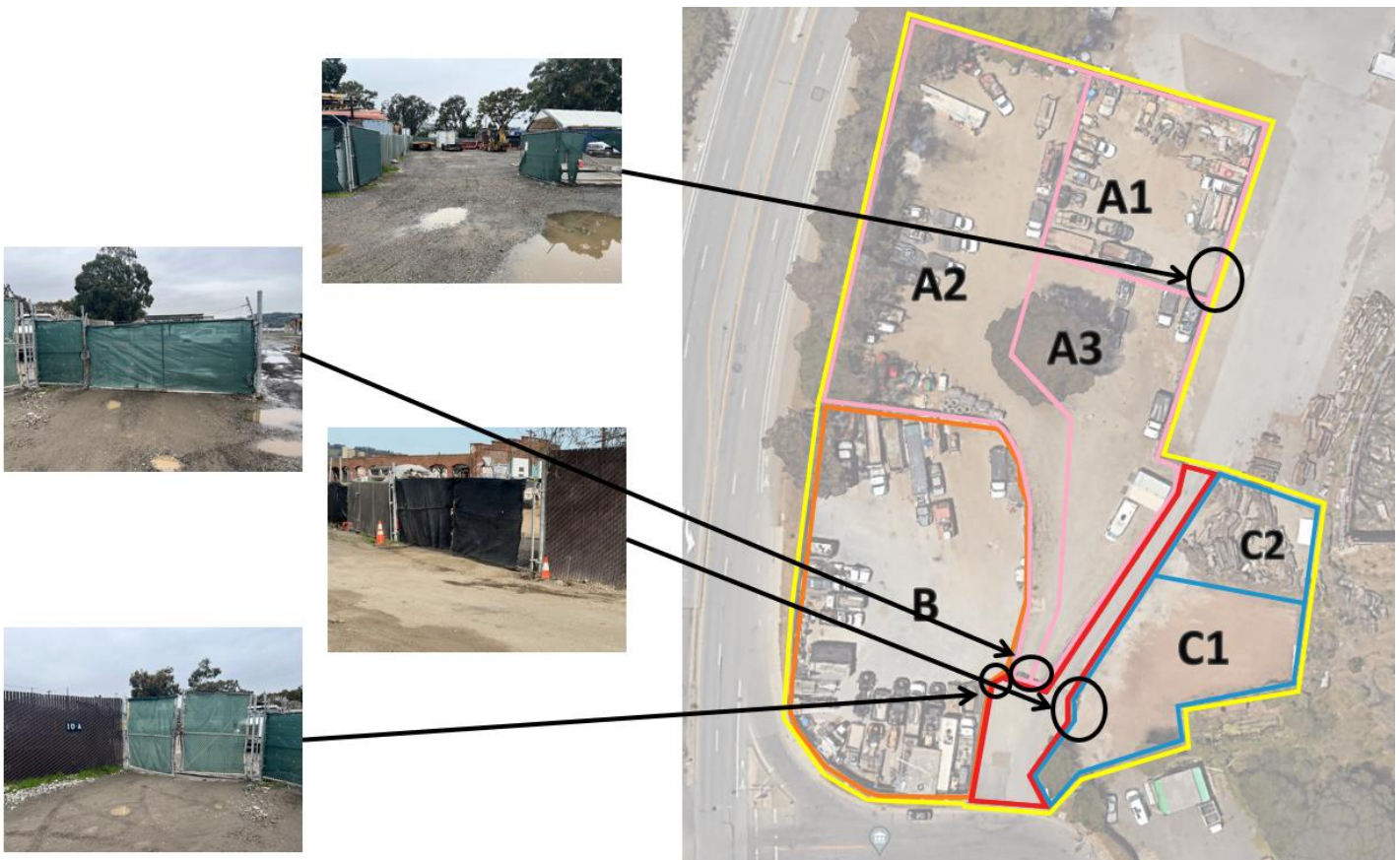
2. **Site Plan** – showing the dimensions and boundaries of each contractor, ingress/egress gate dimensions, average trip count, and access path to each site. Please note that the only paved area is the common area highlighted in red.



Business and Dimensions		
Region	Current Business	Total Area (Sq Ft)
A1	Daly Pipeline	10,000
A2	Flores Trucking	15,000
A3	M&M Hauling	10,000
B	Basset Engineering	23,500
C1	NCL Lease	7,000
C2	Vacant	5,000
Red	Common Area	5,500
Total		76,000 (~1.7 ac)

Ingress / Egress Dimension + Avg Trips		
Region	Width (ft)	Trips Per Day
A1	20 ft	8 Trips
A2 & A3	20 ft	18 Trips
B	15 ft	10 Trips
C1	24 ft	6 Trips
C2	Open Area	N/A

Below are photos of the ingress and egress gate and their respective locations.



SUPPORTING STATEMENTS**Findings Required for Approval of All Use Permits****Brisbane Municipal Code [§17.40.060](#)**

In order to approve any use permit application, the Planning Commission must affirmatively make the findings of approval in BMC Chapter 17.40, which are reproduced below. Supplemental findings may also be required depending on your specific project and the applicable zoning district and are listed in this attachment.

Please respond to each required finding as it relates specifically to your proposal and include a reference to the applicable plan sheet in the development plans. Attach additional pages if necessary, or provide written responses on a separate document.

1. How has the project been designed and operated in order to be compatible with the nature and condition of all adjacent uses and structures, and with general and specific plans for the area in question?

Application is request to extend the existing Interim Use Permit UPC-2-16 that is consistent with general and specific plans for the area.

Storage of construction equipment, materials and trucking are consistent

with the surrounding area and will not impact nearby businesses.

The site has historically been approved for outdoor storage in 2001, 2003, 2006, 2013 & 2016.

Plan Sheet
Page(s)

2. How will the propose use be designed and operated in order to not be detrimental to the health, safety, comfort and general welfare of the persons residing or working in the neighborhood?

The location of the property is within an existing industrial area and there is no adjacent residential neighborhoods.

The site has minimal to no operations, therefore, noise and activity is not an issue for neighboring businesses.

Plan Sheet
Page(s)

3. How will the proposed use be designed and operated in order to not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the city?

The property is located off Bayshore Boulevard and Industrial Way,

separating our tenant's activity of mobilizing and demobilizing from any

residential areas. During most of the day, the property is idle being used primarily for storage and staging.

Plan Sheet
Page(s)

SUPPORTING STATEMENTS
for Interim Use Permit

Description of the proposed use: Sunquest Properties is requesting a renewal of
our 5-year use permit for outdoor storage of construction equipment,
materials, tools, containers, trailers, vehicles and other
machineries related to the construction industry.

Days and hours of operation: Monday-Sunday. 5AM-7PM

Number of employees on site: There are no on-site employees.

Company vehicles and equipment on site: Constructed related vehicles and machineries,
equipment, tools, containers, trailers, and inert materials such as steel plates, pipping used
mostly for public works infrastructure improvement projects.

List the types and quantities of hazardous, toxic, flammable or explosive materials or wastes are involved with the use:

None.

List any governmental permits required for the handling or storage of the hazardous materials involved with the use:

None.



Interim Use Permit Application Checklist
Attachment A
Page 5

List any materials and equipment which will be stored outside and explain how these will be screened from public view:

Materials and equipment stored outside are related to the construction industry, and include; infrastructure utilities piping, steel plates, plywood, excavators, bobcats, shipping containers, and trailers are screened from public view by existing slated fencing.

Will the use generate air emissions, odors, smoke or dust? If so, how will these be controlled?

The site is for storage of vehicles and equipment only. There would be no generation of air emissions, odors, smoke or dust.

Any limited emissions from vehicles are currently controlled by restricting idling time to a maximum of 5 minutes.

Will the use generate noise or vibration? If so, how will these be controlled?

No significant noise or vibration is anticipated with site use.

Will the use generate glare, heat or other impacts? If so, how will these be controlled?

No glare, heat, or other environmental impacts are anticipated with site use.

Will the use generate waste materials? If so, how will these be disposed?

No, the current site use will not generate waste materials.

How will waste materials from the use be prevented from polluting storm water runoff?

The site use will not generate waste materials.

What utilities and other infrastructure are required for your use? Are these existing on the site? If not, how will they be provided?

No utilities or infrastructure are required for site use.

The Brisbane Municipal Code requires that your use benefit the property. List the benefits below:

- (a) eliminating blight or unsightly or hazardous conditions,
- (b) by installing improvements that will facilitate redevelopment of the property,
- (c) other:

(a) Current site usage eliminates potential illegal dumping and other hazardous conditions by the existence of an active, occupied site.

The Brisbane Municipal Code requires that your use benefit the public. List the public benefits below:

- (a) creating jobs,
- (b) generating revenues,
- (c) providing needed goods or services,
- (d) other:

(b) Contractors support local Brisbane businesses (specifically, Golden State Lumber and local restaurants).

(c) Brisbane storage yard provides a central Bay Area location for goods movement, thereby decreasing greenhouse gas emissions.

and vehicles miles traveled. The use also supports local contracting trades who provide construction services to the community.



Interim Use Permit Application Checklist
Attachment A
Page 7

Will you establish a program to encourage employment of Brisbane residents in the construction and operation of the use? Explain:

We will continue to encourage our tenants to post open positions at City Hall and local publications, and other City offices to advertise employment opportunities to Brisbane residents.

Will your use include any of the following?

YES NO

- ☐ ☒ the manufacture, processing, handling, treatment, transportation, recycling, or storage of hazardous, toxic, flammable or explosive materials or wastes in quantities for which a permit is required from any governmental agency.
- ☐ ☒ the dumping, processing, sorting, recycling, recovery or storage of garbage, debris, scrap materials, or similar items (excluding the recycling of concrete or brick and the storage and processing of soils, rock, and other similar materials).
- ☐ ☒ uses that create unsightly visual impacts or the appearance of blight as seen from any other location with the city, such as automotive dismantling and wrecking yards, junk yards, outside storage of used equipment, trailers, or vehicles not being offered for sale, and outside storage of glass, metal, paper, cardboard, or other material collected for recycling or disposal (except as otherwise permitted).

Will your use include any of the following?

YES NO

- ☐ ☒ heavy manufacturing operations, including concrete or asphalt batch plants, foundries and other activities involving the fabrication of metal products from raw materials, processing of chemicals, and the rendering or refining of oils or animal materials

What is the length of time for which you are applying for an Interim Use Permit?

5-Years

(For initial terms of up to 5 years, Planning Commission approval is required. For initial terms of more than 5 years, City Council approval is required, following a recommendation from the Planning Commission.)

Sam Khodja

APPLICANT'S SIGNATURE

November 23, 2022

DATE

File Attachments for Item:

C. PUBLIC HEARING: 600 Tunnel Ave; Interim Use Permit 2022-UP-6; C-1 district; Interim Use Permit to continue Golden State Lumber's storage of lumber on a vacant, approximately 2-acre portion of the Baylands; and finding that this project is categorically exempt from environmental review under CEQA Guidelines Section 15301; Seth Nobmann, applicant; Oyster Point Properties Inc., (Baylands Development Inc.) owner.



PLANNING COMMISSION AGENDA REPORT

Meeting Date: April 13, 2023

From: Ken Johnson, Senior Planner

Subject: 600 Tunnel Ave; Interim Use Permit 2022-UP-6; C-1 district;

Interim Use Permit to continue Golden State Lumber's storage of lumber on a vacant, approximately 2-acre portion of the Baylands; and finding that this project is categorically exempt from environmental review under CEQA Guidelines Section 15301; Seth Nobmann, applicant; Oyster Point Properties, owner.

REQUEST: The applicant requests approval of the above-referenced interim use permit application for a 5-year term to allow continued storage of lumber by Golden State Lumber at 600 Tunnel Ave in support of their main lumber yard which is located across the street at 601 Tunnel Ave.

RECOMMENDATION: Approve Interim Use Permit application 2022-UP-6 via adoption of Resolution 2022-UP-6 containing the findings and conditions of approval.

ENVIRONMENTAL DETERMINATION: The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per Section 15301. It falls within a class of projects which the State has determined not to have a significant effect on the environment. The exceptions to this categorical exemption referenced in Section 15300.2 of the CEQA Guidelines do not apply.

APPLICABLE CODE SECTIONS: Brisbane Municipal Code (BMC) Chapter 17.41, provides procedures, required findings and conditions for the approval of interim uses in the Baylands subarea. Required findings for interim use permits are provided in BMC Section 17.41.060 and mandatory conditions of approval are provided in Section 17.41.070.

ANALYSIS AND FINDINGS:

Background

In 1980 Sierra Point Lumber (later known as Golden State Lumber) was granted use permit UP-1-80 for the use of 601 Tunnel Avenue as a lumber yard and the use has continued to this day. At that time use permits did not have automatic term limits and so that use permit remains in effect.

The site of this current application (600 Tunnel Avenue) is located across Tunnel Ave, immediately to the west of Golden State Lumber's main yard and was not included in the original use permit for storage of lumber. It was apparently originally anticipated that lumber would be delivered via a rail-line spur that comes from the CalTrain rail line corridor to the 600 Tunnel Ave site and then shuttled to the lumber yard, across the street to 601 Tunnel Ave. That use evolved over the years to the point where the 600 Tunnel Ave site was used for both temporary staging and for storage of lumber.

In 2010, the Planning Commission granted an interim use permit, to allow the lumber storage use to continue at 600 Tunnel Ave, via UP-14-10, and that interim use permit has since expired. UP-14-10 also included a contractor's yard immediately to the south of Golden State Lumber, but that site was never occupied and so it is not included at this time. This current application is to allow for the use of the Golden State Lumber yard at 600 Tunnel Ave to continue.

The lumber storage area is fenced and the entrances to GSL's main yard at 601 Tunnel Ave and the subject yard are aligned on either side of Tunnel Ave, so lumber is shuttled across Tunnel Ave by forklift. GSL has indicated that in coordination with the City Engineer, a truck crossing sign was recently placed on the northbound Tunnel Ave approach to the driveway crossover between the 600 Tunnel Ave site and 601 Tunnel Ave.

Also, outside the fenced area, along the eastern edge of the site, is a partially paved parking area that has been used by Golden State Lumber employees. This is in addition to parking provided at 601 Tunnel Ave.

During business hours, weekdays 4 am to 8 pm and Saturdays 6 am to 3 pm, the site is monitored by GSL employees and after-hours site security is provided by a third-party patrol company. No lighting is provided on the site.

Description of Current Request

The current request would continue the use of the yard essentially unchanged. Lumber storage within the fenced area and Golden State Lumber's personal vehicle parking would continue along the outside edge, on the east side of the fenced area.

For maintenance, in response to dust control questions raised by City planning staff, Golden State Lumber has indicated that they will be undertaking dust control measures during the dry season from May through October, utilizing a water truck 3 times per day. They have also proposed to spread asphalt chips on the site to further control dust, if needed.

Findings

The required findings under BMC Sections 17.41.060.A-F and project analysis are as follows:

a) The interim use will not be detrimental to the public health, safety or welfare, or injurious to nearby properties or improvements;

The proposal complies with this finding. The site is in an industrial use, in an area that is industrial in character, and this outdoor lumber storage use is consistent with that character. Adjacent uses include the CalTrain rail line to the west, vacant lands to the north and south and Golden State Lumber's main yard to the east.

The use of lumber staging and parking for Sierra Point Lumber is a continuation of an existing use. Dust control and vehicle safety at the driveway crossing over Tunnel Ave are the two potential areas of concern.

Golden State Lumber has proposed to control dust by watering during the dry season, as well as adding asphalt chips to the yard surface to further inhibit dust generation. A condition of approval is included to address ongoing dust control, with the details of the dust control plan subject to City Engineer approval (see Condition F).

For vehicle safety at the Tunnel Ave driveway crossing, as indicated above, Golden State Lumber has recently coordinated with Public Works Dept for the installation of a truck crossing sign along northbound Tunnel Ave. Additionally, a condition of approval is included to add a second sign, for southbound traffic (see Condition G).

b) The interim use will not create any significant environmental impacts;

The proposal complies with this finding. The use is a continuation of staging and storage of lumber and parking on the site. The continued use of the site is categorically exempt under the California Environmental Quality Act (CEQA) as continuation of an existing use. Additionally, there have been no issues of concern raised by the responsible regulatory agencies or City departments.

c) The interim use will not obstruct redevelopment;

The proposal complies with this finding. In considering approval of the Interim Use Permit, the Planning Commission must find that the use "...will not obstruct, interfere with, or delay the intended redevelopment of the property..." (BMC Section 17.41.060.C). The project is a continuation of an existing use, with no new improvements proposed. Existing improvements include fencing around the site and the rail spur to the site, both of which may be readily removed. There are no site improvements proposed that would impede redevelopment.

d) All required public utilities and other infrastructure are or will be available;

The proposed uses comply with this finding. The site is accessed via Tunnel Ave and has an existing rail-spur and no utilities are required for this proposed use.

e) The use will benefit the property and/or the public;

The proposal complies with this finding. The uses proposed for the site do provide a public benefit in that Golden State Lumber provides services and materials to the local building community. Also, as one of Brisbane's major retailers, Golden State Lumber plays a key role in the local economy.

f) Encourage the employment of Brisbane residents to the extent it is reasonably possible to do so.

The proposal complies with this finding. Golden State Lumber has indicated that they are a "union yard" and have limited control over who is presented to them for potential employment by the union, although they have five Brisbane residents in their employment at the time of this application. They have also indicated that they post jobs locally and will work with the City to further develop their recruitment plan (see Condition H).

Finally, this application was provided to the North County Fire Authority, Dept of Public Works, Police Dept, County Health Dept, Regional Water Quality Control Board and CalTrain JPB for review and comment and no concerns were raised.

ATTACHMENTS

- A. Draft Resolution **2022-UP-6**
- B. Aerial Vicinity Map
- C. Applicant's Site Map
- D. Applicant's Statement



Ken Johnson, Senior Planner



John Swiecki, Community Development Director

Draft
RESOLUTION 2022-UP-6
 A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE
 CONDITIONALLY APPROVING INTERIM USE PERMIT APPLICATION 2022-UP-6
 LUMBER STORAGE AND PARKING
 AT 600 TUNNEL AVE

WHEREAS, Seth Nobmann, the applicant, applied to the City of Brisbane for approval of Interim Use Permit 2022-UP-6 at 600 Tunnel Ave, which would allow for continued storage of lumber and parking associated with Golden State Lumber, located at 601 Tunnel Ave; and

WHEREAS, on April 13, 2023, the Planning Commission conducted a public hearing on the application, publicly noticed in compliance with Brisbane Municipal Code Chapters 1.12 and 17.54, at which time any person interested in the matter was given an opportunity to be heard; and

WHEREAS, the Planning Commission reviewed and considered the staff memorandum relating to said applications, the applicant's plans and supporting materials, and the written and oral evidence presented to the Planning Commission in support of and in opposition to the application; and

WHEREAS, the Planning Commission finds that the proposed project is categorically exempt from the provisions of the California Environmental Quality Act; pursuant to Section 15301 of the State CEQA Guidelines; and

WHEREAS, the Planning Commission of the City of Brisbane hereby makes the findings attached herein as Exhibit A in connection with the Interim Use Permit application.

NOW THEREFORE, based upon the findings set forth hereinabove, the Planning Commission of the City of Brisbane, at its meeting of April 13, 2023, did resolve as follows:

Interim Use Permit application 2022-UP-6 is approved per the findings and conditions of approval attached herein as Exhibit A.

ADOPTED this thirteenth day of April, 2023, by the following vote:

AYES:

NOES:

ABSENT:

 Roel Funke
 Chairperson

ATTEST:

 JOHN A SWIECKI, Community Development Director

**Draft
EXHIBIT A**

Action Taken: Conditionally approve Interim Use Permit application 2022-UP-6 per the staff memorandum with attachments, via adoption of Resolution **2022-UP-6**.

Findings:

1. The proposed interim uses and the conditions under which they would be operated will not be detrimental to the public health, safety or welfare, or injurious to properties or improvements in the vicinity, as described in the staff memorandum;
2. The proposed interim uses are categorically exempt from environmental review pursuant to Section 15301 of the California Environmental Quality Act (CEQA) Guidelines and will not result in any significant adverse environmental impacts;
3. The proposed interim uses will not obstruct, interfere with, or delay the intended redevelopment of the property in accordance with the uses anticipated in the General Plan or any adopted specific plan applicable to the site, inasmuch as the proposed improvements are reversible and would not hinder future site redevelopment.
4. Utilities are not required to serve the interim use and the existing infrastructure of Tunnel Ave and the CalTrain rail spur already serve the site.
5. The use will benefit the public in that Golden State Lumber provides services and materials to the local building community.
6. The use encourages the employment of Brisbane residents to the extent it is reasonably possible to do so.

Conditions of Approval:

- A. The Interim Use Permit is for lumber storage within the existing fenced area of the 600 Tunnel Ave site and incidental parking, associated with Golden State Lumber's main lumberyard at 601 Tunnel Ave, with the area of 600 Tunnel Ave totaling an approximately 2-acre permit area.
- B. Approval of this application is to allow for the project as detailed in the Project Description contained in the Planning Commission agenda staff report, except where project parameters are modified expressly by this Resolution.

Operational Conditions

- C. The operator shall maintain a business license through the City's Finance Dept.
- D. The site shall be maintained in a debris- and weed-free condition to the satisfaction of the Fire Department.
- E. The project shall comply with stormwater NPDES requirements as required under the Regional Water Quality Control Board's Municipal Regional Permit (MRP). Including:
 - i. The site shall be subject to Commercial Industrial Stormwater Discharge Compliance Inspections no less frequently than yearly and shall remain in compliance with all conditions imposed on the City via the MRP. Repeat noncompliance or single-event gross noncompliance may result in the revocation of the interim use permit (see Condition 0 below). In addition to any administrative fines and penalties that the City may assess against the permittee, the permittee shall also indemnify, defend and hold harmless any fines or penalties that the Regional Water Quality Control Board or the State Water Resources Board imposes on the City arising from any of permittee's acts or failure to act on the site resulting in stormwater violations.
 - ii. The yard shall be subject to City, County or State inspections as needed to confirm compliance with applicable regulations, which are not limited to these conditions of approval.
- F. The site shall be maintained to prevent dust generation or tracking of mud or other materials onto Tunnel Avenue and to prevent contaminants from entering storm water. Within 45 days of the effective date of this permit, a dust control plan shall be submitted to the City Engineer for review and approval, demonstrating how the project would comply with all applicable dust control regulations and best practices. In the performance of such maintenance the applicant and tenants shall comply with any applicable grading or storm water provisions as deemed appropriate by the Public Works Department.
- G. The operator shall provide traffic safety measures along Tunnel Ave for the driveway crossing, as deemed appropriate by the City Engineer. This is to include, but may not be limited to, within 45 days of the effective date of this permit, the operator shall coordinate with the Public Works Dept for the placement of a southbound truck crossing warning sign.

- H. Within 45 days of the effective date of this permit, the operator shall provide a current employment recruitment plan to the Planning Director, for review and approval, demonstrating how they are encouraging employment of Brisbane residents.

Hold Harmless Requirements

- I. The permittee agrees to indemnify, defend and hold the City and its officers, officials, boards, commissions, employees and volunteers harmless from and against any claim, action or proceeding brought by any third party to attack, set aside, modify, or annul the approval, permit or other entitlement given to the applicant, or any of the proceedings, acts or determinations taken, done or made prior to the granting of such approval, permit or entitlement.

Mandatory Conditions for Interim Use Permits, per BMC Section 17.41.070

- J. The property owner's agreement with the operator shall be provided to the city by both the owner and operator of the interim use and shall state that: (i) the operator's right to possession of the premises for the purpose of conducting the interim use is dependent upon the interim use permit having been granted and maintained in full force and effect; and (ii) the operator's right to possession of the premises for the purpose of conducting the interim use will terminate upon any expiration or revocation of the interim use permit; and (iii) it shall be the responsibility of the owner to terminate the operator's possession of the premises upon any expiration or revocation of the interim use permit if the operator continues to utilize the premises for the conduct of such interim use.
- K. The permittee shall be jointly and severally liable for all costs and expenses, including attorney's fee, the City may incur to enforce the conditions of the interim use permit upon any breach thereof by the permittee, or to abate and remove the interim use upon any failure by the permittee to discontinue such use, or to evict the operator of such use, upon the expiration or revocation of the interim use permit.

Interim Use Permit Cessation, Revocation Procedures and Term Limit

- L. In the event that the continuation of the use approved with this interim use permit would obstruct, interfere with or delay the intended redevelopment of the property in accordance with the uses anticipated in the general plan or any adopted specific plan applicable to the site, the operator shall vacate the site and remove improvements as required by the City or property owner, within 90 days written notice by the City or property owner.
- M. Material violation of any of the conditions, including material deviation from the approved project description, may be cause for revocation of this interim use permit and termination of all rights granted there under.

- N. This Interim Use Permit is subject to the revocation procedures established in Brisbane Municipal Code Chapter 17.41.100 – Revocation of Interim Use Permit.
- O. Minor modifications may be approved by the Community Development Director in conformance with all requirements of the Municipal Code.
- P. This interim use permit shall expire 5 years from the effective date (at the end of the appeal period). That expiration date being April 20, 2028.

Google Maps 600 Tunnel Ave



600 TUNNEL AVE

OWNED BY BAYLANDS
LEASED BY GOLDEN STATE

- 600** 600 TUNNEL AVE
- P1** GOLDEN STATE PARKING
- FL** FORK LIFT X-ING SIGN
- X** FORK LIFT X-ING
- RAILWAY DROP-OFF
- - -** FENCED AREA





Golden State Lumber, Inc. is interested in continuing the lumber storage and staging at 600 Tunnel Avenue across the street from its 601 Tunnel Avenue lumber yard operation in the City of Brisbane.

Golden State Lumber, Inc. was incorporated in 1985 and is the successor by merger to Sierra Point Lumber & Plywood Co., Inc., which began operations at 601 Tunnel Avenue in Brisbane in 1980.

Golden State Lumber, Inc. provides services and materials to the local building community. Also, as one of Brisbane's major retailers, Golden State Lumber, Inc. plays a key role in the local economy.

The company originally identified 601 Tunnel Avenue as a convenient location for the storage and staging of additional building material products. The use of lumber staging and storage and parking for Golden State Lumber, Inc. is a continuation of an existing use that has been demonstrated not to be detrimental to the public health, safety, or welfare, or injurious to nearby properties or improvements.

Adjacent and nearby uses in this area include vacant lands and heavy commercial uses. Given the interim period of a term of 5 years, and the lack of any site improvements proposed that would impede redevelopment, the proposed continued use does not have a foreseeable impact on redevelopment.

Golden State Lumber, Inc.'s Brisbane operation is a "union yard," and is limited in terms of the potential employees presented to it by the Union, but is willing to work with the City to develop a program to encourage employment of Brisbane residents to the extent it is reasonably possible to do so. The company does post job openings locally, and invites Brisbane residents to apply to work for it.