



CITY of BRISBANE

City Council Meeting Agenda

Thursday, September 15, 2022 at 7:30 PM • Virtual Meeting

This meeting is compliant with the Ralph M. Brown act as amended by California Assembly Bill No. 361 effective September 16, 2021 providing for a public health emergency exception to the standard teleconference rules required by the Brown Act. The purpose of this is to provide a safe environment for the public, staff and Councilmembers, while allowing for public participation. The public may address the Council using exclusively remote public comment options. The Council may take action on any item listed in the agenda.

PUBLIC MEETING VIDEOS

Members of the public may view the City Council Meeting by logging into the Zoom Webinar listed below. City Council Meetings can also be viewed live and/or on-demand via the City's YouTube Channel, www.youtube.com/brisbaneca, or on Comcast Channel 27. Archived videos can be replayed on the City's website, <http://brisbaneca.org/meetings>.

TO ADDRESS THE COUNCIL

The City Council Meeting will be an exclusively virtual meeting. The agenda materials may be viewed online at www.brisbaneca.org at least 24 hours prior to a Special Meeting, 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 1 and 2 or during an Item.

Email: ipadilla@brisbaneca.org

Text: 628-219-2922

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

Webinar ID: 991 9362 8666

Passcode: 123456

Call In Number: 1 (669) 900 9128

SPECIAL ASSISTANCE

If you need special assistance to participate in this meeting, please contact the City Clerk at (415) 508-2113. 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

Any writings that are received after the agenda has been posted but before 2 p.m. of the day of the meeting will be available for public inspection at the front lobby in City Hall and on the internet (www.brisbaneca.org/meetings). Any writings that are received after the agenda has been posted but after 2 p.m. of the day of the meeting will be available on the internet at the start of the meeting (www.brisbaneca.org/meetings), at which time the materials will be distributed to the Council.

7:30 P.M. CALL TO ORDER – PLEDGE OF ALLEGIANCE

ROLL CALL

ADOPTION OF AGENDA

AWARDS AND PRESENTATIONS

- A. Present Commendations to the members of the Brisbane Pirates for winning the 2022 South San Francisco Pony Baseball Championships
- B. National Preparedness Month

ORAL COMMUNICATIONS NO. 1

CONSENT CALENDAR

- C. Approve Minutes of City Council Meeting of July 7, 2022
- D. Approve Minutes of City Council Closed Session Meeting of July 7, 2022
- E. Accept Investment Report as of June 2022
- F. Accept Investment Report as of July 2022
- G. Adopt a Resolution Establishing the Business License Tax on Recycling Establishments for Fiscal Year 2022/23
- H. Adoption of a Resolution Declaring the Continued Need to Conduct City Council, Commission and Committee Meetings Remotely Due to Health and Safety Concerns for the Public

CONTINUED PUBLIC HEARING

- I. Applicant Appeal of the Planning Commission's April 4, 2022 Decision Denying the Modification of Interim Use Permit 2021-UP-3 to Allow the Use of a Vacant Site On the Baylands To Be Used For a Google Bus Staging Yard

(This item was continued from the July 7, 2022 and May 19, 2022 City Council Meetings. City Council will consider applicant appeal of the Planning Commission's April 4, 2022 decision denying the modification of Interim Use Permit 2021-UP-3 to allow the use of a vacant site on the Baylands to be used for a Google Bus staging yard (Planning Commission Resolution 2021-UP-3-M) and revoking Interim Use Permit 2021-UP-3 (Planning Commission Resolution 2021-UP-

3-R); Eric Aronsohn, applicant; Oyster Point Properties Inc, applicant/owner.)

STAFF REPORTS

J. City Manager's Report on upcoming activities

MAYOR/COUNCIL MATTERS

K. Creation of the Ordinance No. 528 Review Ad Hoc Subcommittee and Selection of Members

(Ordinance No. 528 allowed for research and development (R&D) uses at Sierra Point)

L. Countywide Assignments and Subcommittee Reports

M. Written Communications

ORAL COMMUNICATIONS NO. 2

ADJOURNMENT

C.

File Attachments for Item:

C. Approve Minutes of City Council Meeting of July 7, 2022



BRISBANE CITY COUNCIL**ACTION MINUTES**

CITY COUNCIL MEETING**THURSDAY, JULY 7, 2022***VIRTUAL MEETING***CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Mayor Mackin called the meeting to order at 7:39 P.M. and led the Pledge of Allegiance.

ROLL CALL

Councilmembers present: Councilmembers Cunningham, Davis, Lentz, O'Connell and Mayor Mackin

Councilmembers absent: None

Staff Present: City Manager Holstine, City Clerk Padilla, City Attorney McMorrow, Assistant City Manager Schillinger, Finance Director Yuen, City Engineer Breault, Deputy Public Works Director Kinser, Sustainability Manager Etherton, Maintenance Manager Black, Community Development Director Swiecki, Senior Planner Johnson, Parks and Recreation Director Leek, Communications Manager Cheung, Police Chief Macias, , Police Commander Garcia and Legal Counsel Roush

REPORT OUT OF CLOSED SESSION

City Attorney McMorrow reported that updates were provided to Council, direction was given to staff and no action was taken at Closed Session regarding Closed Session Items D and E.

ADOPTION OF AGENDA

Councilmember Davis made a motion, seconded by Councilmember O'Connell to adopt the agenda as it stands. The motion was carried unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, O'Connell and Mayor Mackin

Noes: None

Absent: None

Abstain: None

ORAL COMMUNICATIONS NO. 1

No members of the public wished to speak.

AWARDS AND PRESENTATIONS

A. Proclamation Recognizing July as Parks and Recreation Month

Mayor Mackin read a proclamation recognizing July as Park and Recreation month.
Director of Parks and Recreation Leek thanked the City Council for their continued support.

CONSENT CALENDAR

B. Accept Investment Report as of April 2022

C. Adopt Resolutions to Appoint Committee Members of the Inclusion, Diversity, Equity, and Accountability Committee, and the Complete Streets Safety Committee

D. Adoption of a Resolution Declaring the Continued Need to Conduct City Council, Commission and Committee Meetings Remotely Due to Health and Safety Concerns for the Public

E. Adopt Resolution Establishing the Business License Tax for Liquid Storage Facilities for 2022 as to Kinder Morgan/SFPP

F. Adoption of a Revised Conflict of Interest Code to Include the Assistant City Manager, the Communications Manager, and the Assistant Fire Marshal and Deleting Park and Recreation Commission

Councilmember O'Connell made a motion, seconded by Councilmember Davis to adopt the Consent Calendar Items B-F. The motion was carried unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, O'Connell and Mayor Mackin

Noes: None

Absent: None

Abstain: None

G. Adoption of Ordinance to Impose a Business License Tax on Hotels and Resolution Amending the Ballot Question for the Measure/Ordinance to be Submitted to the Voters Imposing a Business License Tax on Hotels

H. Adopt an Ordinance Adding a New Chapter 3.22 to the Brisbane Municipal Code Imposing a Transactions and Use Tax to be Administered by the California Department of Tax and Fee Administration and Resolution Amending the Ballot Question for the Ordinance to be Submitted to the Voters levying a half cent Transaction and Use Tax

Mayor Mackin requested to have the definitions and text of the accompanying Resolution and Ordinance match the ballot measure question. After no public comment, Councilmember O'Connell made a motion, seconded by Councilmember Davis to adopt the Consent Calendar Items G and H as amended. The motion was carried unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, O'Connell and Mayor Mackin

Noes: None

Absent: None

Abstain: None

AWARDS AND PRESENTATIONS CONTINUED

I. Administer Oath of Office to Newly Appointed Committee Members

- 1. Gregory J. Strecker, Complete Streets Safety Committee for a term through January 2026**
- 2. Christian Allan Bustos, Inclusion, Diversity, Equity and Accountability Committee for an initial term through January 2023**
- 3. Miyoko Nida, Inclusion, Diversity, Equity and Accountability Committee for an initial term through January 2023**

City Clerk Padilla administered the Oath of Office to newly appointed Committee Members Strecker, Bustos, and Nida.

PUBLIC HEARING

J. Consideration of Entering into Energy Service Contract Pursuant to the Provisions of the California Government Code Section 4217.10, Et Seq. for the City of Brisbane Community Pool Electrification Project

City Engineer Breault reported that the purpose of this item is to complete the process necessary for entering into a sole source energy service contract with Willdan Energy Solutions. It is being recommended to adopt a Resolution "Approving an Energy Service Contract with Willdan Energy Solutions." and transfer \$183,394 from the General Fund to pay the city's share of project funds.

After Council questions and statements from the Mayor and the Clerk to open the public hearing, Michele Salmon commented that she strongly supports this item.

Councilmember O'Connell made a motion, seconded by Councilmember Davis to close the public hearing. The motion was carried unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, O'Connell and Mayor Mackin

Noes: None

Absent: None

Abstain: None

Councilmember Lentz made a motion, seconded by Councilmember Davis to adopt a Resolution “Approving an Energy Service Contract with Willdan Energy Solutions.” and transfer \$183,394 from the General Fund to pay the city’s share of project funds. The motion was carried unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, O’Connell and Mayor Mackin

Noes: None

Absent: None

Abstain: None

K. Sierra Point Landscaping and Lighting District

1. Hear Statement of Engineer of Record, Read Mayor’s Statement, Hear City Clerk Statement, Open Public Hearing to hear any testimony, Close Public Hearing

2. Consider adoption of Resolution overruling protests and ordering the improvements and confirming the diagram and assessments for Fiscal Year 22/23

After hearing the statements from Deputy Public Works Director Kinser, Mayor Mackin and Clerk Padilla, and some council questions, Mayor Mackin opened the public hearing.

No members of the public wished to make public comment.

Councilmember Cunningham made a motion, seconded by Councilmember O’Connell to close the public hearing. The motion was carried unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, O’Connell and Mayor Mackin

Noes: None

Absent: None

Abstain: None

Councilmember Cunningham made a motion, seconded by Councilmember O’Connell to adopt a Resolution overruling protests and ordering the improvements and confirming the diagram and assessments for Fiscal Year 22/23. The motion was carried unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, O’Connell and Mayor Mackin

Noes: None

Absent: None

Abstain: None

L. City of Brisbane Local Stormwater Program Fees

1. Open the Public Hearing and take public comment. Close the Public Hearing, and if appropriate, overrule any objections to the imposition of fees related to the National Pollutant Discharge Elimination System (NPDES)

2. Consider adoption Resolution, “A Resolution of the City Council of the City of Brisbane Imposing Charges for Funding the Local Brisbane Stormwater Program, Authorizing Placement of Said Charges on the 2022-2023 County Tax Roll, and Authorizing the County Tax Collector to Collect Such Charges.”

City Engineer Breault introduced Maintenance Manager Black who reported on the City of Brisbane’s Local Storm Water Program Fees. After no Council questions, Mayor Mackin opened the public hearing.

Michele Salmon- asked what were the indirect cost noted in the staff report?

After clarifying questions, Michele Salmon stated that mega mansions should be responsible for higher share.

Councilmember Davis made a motion, seconded by Councilmember O’Connell to close the public hearing. The motion was carried unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, O’Connell and Mayor Mackin

Noes: None

Absent: None

Abstain: None

Councilmember O’Connell made a motion, seconded by Councilmember Cunningham to adopt a Resolution imposing charges for funding the Local Brisbane Stormwater Program, authorizing placement of said charges on the 2022-2023 County Tax Roll, and authorizing the County Tax Collector to collect such charges. The motion was carried unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, O’Connell and Mayor Mackin

Noes: None

Absent: None

Abstain: None

CONTINUED PUBLIC HEARING

M. Applicant Appeal of the Planning Commission’s April 4, 2022 Decision Denying the Modification of Interim Use Permit 2021-UP-3 to Allow the Use of a Vacant Site On the Baylands To Be Used For a Google Bus Staging Yard

(This public hearing item was continued from the City Council Meeting of May 19, 2022. City Council will consider applicant appeal of the Planning Commission’s April 4, 2022 decision denying the modification of Interim Use Permit 2021-Up-3 to allow the use of a vacant site on the Baylands to be used for a Google Bus staging yard (Planning Commission Resolution 2021-UP-3-M) and revoking Interim Use Permit 2021-UP-3 (Planning Commission Resolution 2021-UP-3-R); Eric Aronsohn, applicant; Oyster Point Properties Inc, applicant/owner.)

Councilmember Cunningham recused herself from the item and left the room.

Senior Planner Ken Johnson, reported that in response to the concerns raised at the previous City Council meeting, BDI has proposed the following measures and Tunnel Ave improvements (see further detail in Attachment 1):

1. Removal or relocation of the concrete barricades that are currently located along Tunnel Ave.
2. Improvement of the existing roadway shoulder on the east side of Tunnel Ave to include an 8 ft wide approximately 4,500 ft long compacted, decomposed granite ("DG") path, to improve the existing bicycle/pedestrian access.
3. Provide crossings at the Tunnel Ave and Lagoon Way intersection.
4. Installation of plastic delineators along the east side of Tunnel Avenue. These would provide separation between the roadway and the new DG bike path.
5. Add 4 new "no dumping" signs along Tunnel Ave.
6. BDI will routinely patrol the area and commit to removing any trash dumped within 24-hours when identified by BDI, City or members of the public.
7. For dust mitigation, the yard surface would be treated with a calcium-based binder, which would binder the surface gravel while allowing the surface to remain pervious to rainwater.
8. BDI has proposed to implement fines on Google for drivers violating the prohibition on using Tunnel Ave south of the site.

After Council questions, Mayor Mackin opened the public hearing and heard from the Applicant Aronsohn. After more Council questions, Michele Salmon commented that she would be concerned about plastic bollards and about the Golden State Lumber's permit use expiring.

Councilmember O'Connell made a motion, seconded by Councilmember Davis to close the public hearing. The motion was carried unanimously by all present.

Ayes: Councilmembers Davis, Lentz, O'Connell and Mayor Mackin

Noes: None

Absent: None

Abstain: None

Recusal: Councilmember Cunningham

After more Council discussion, Councilmember O'Connell made a motion, seconded by Councilmember Lentz to approve an interim use permit extension until the continued public hearing on September 15th. Council directed applicant to provide a formalized permit process, e.g., operational hours, route deviation and consequences, fines (should fines received go to the City or to BDI), timeline of road maintenance, reporting mechanisms and permit revocation and grounds.

The motion was carried unanimously by all present.

Ayes: Councilmembers Davis, Lentz, O'Connell and Mayor Mackin

Noes: None

Absent: None

Abstain: None

Recusal: Councilmember Cunningham

NEW BUSINESS

N. Authorize the City Manager to Enter into an Agreement with Flock Safety Group for the installation of Automated License Plate Readers within the City of Brisbane

(If approved, the agreement with Flock Safety Group will be in the amount of \$39,700 for FY 2022-2023. The funding this year and moving forward will be funded from the Police Department's budget.)

Police Chief Macias reported that they are recommending to authorize the City Manager to enter into agreement with Flock Safety Group for the installation and maintenance of twelve Stationary Automated License Plate Reader units (ALPR) and one mobile mountable ALPR, as additional investigative tools to assist the Police in investigations. The implementation of an ALPR program will aid the Brisbane Police Department in its investigative efforts in the following ways:

- Locate stolen, wanted and subject of investigation vehicles
- Provide leads to assist with investigation into crimes committed within the city
- Detect vehicles associated with missing persons and at-risk persons, including those on active Amber Alerts
- Detect vehicles associated with subjects with outstanding arrest warrants or otherwise lawfully sought by law enforcement

Police Commander Garcia shared a presentation on how the ALPR program will be coordinated. After some Council questions, Councilmember O'Connell made a motion, seconded by Councilmember Lentz to extend the meeting till 11:00 P.M. The motion was carried unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, O'Connell and Mayor Mackin

Noes: None

Absent: None

Abstain: None

After some council questions of staff and Hector Soliman Valdez from Flock Safety Group, Clerk Padilla noted for the record that public comment was received by the council prior to the meeting from Luke Kowalski (7/5/22) License Plate Reader In support and Carol Zoltowski (7/7/22) license plate reader (ALP): Brisbane.

After some Council discussion, Councilmember Cunningham made a motion, seconded by Councilmember Lentz to authorize the City Manager to enter into agreement with Flock Safety Group for the installation and maintenance of twelve Stationary Automated License Plate Reader units (ALPR) and one mobile mountable ALPR, as additional investigative tools to assist the Police in investigations. The motion was carried unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, O'Connell and Mayor Mackin

Noes: None

Absent: None

Abstain: None

STAFF REPORTS

O. City Manager's Report on Upcoming Activities

Due to the late hour no report was given.

MAYOR/COUNCIL MATTERS

P. Countywide Assignments and Subcommittee Reports

Due to the late hour, no report was given.

Q. Written Communications

The Council received the following written communication from June 17-July 7, 2022:

- David Schooley (6/27/22)--Quarry
- San Mateo County Child Care Partnership Council and Build Up San Mateo County (7/5/22): Policy recommendations for Housing Element Updates
- Luke Kowalski (7/5/22) License Plate Reader In support
- Carol Zoltowski (7/7/22) license plate reader (ALP): Brisbane

ORAL COMMUNICATIONS NO. 2

No member of the public wished to speak.

ADJOURNMENT

Mayor Mackin adjourned the meeting at 10:57 P.M.

Ingrid Padilla, City Clerk

D.

File Attachments for Item:

D. Approve Minutes of City Council Closed Session Meeting of July 7, 2022



BRISBANE CITY COUNCIL

ACTION MINUTES

BRISBANE CITY COUNCIL CLOSED SESSION MEETING

THURSDAY, JULY 7, 2022

VIRTUAL MEETING

1. 6:30 P.M. CLOSED SESSION

A. Approval of the Closed Session Agenda

B. Public Comment. Members of the public may address the Councilmembers on any item on the closed session agenda

C. Adjournment into Closed Session

D. CONFERENCE WITH LEGAL COUNSEL--EXISTING LITIGATION

Government Code, Section 54956.9 (d) (1).

Number of Cases: One

- **BRE SH Brisbane Owner, LLC v. City of Brisbane, San Mateo County Superior Court, Case No. 22-CIV-01112**

E. CONFERENCE WITH LABOR NEGOTIATOR

Government Code Section 54957.6

Designated representative: Clay Holstine, City Manager

Employee organization: All Bargaining Units

Mayor Mackin called the meeting to order at 6:32 P.M.

No members of the public wished to make public comment.

Mayor Mackin adjourned the meeting into closed session.

REPORT OUT CLOSED SESSION

City Attorney McMorro reported that updates were provided to Council, direction was given to staff and no action was taken at Closed Session regarding Closed Session Items D and E.

ADJOURNMENT

The meeting was adjourned at 7:25 P.M.

E.

File Attachments for Item:

E. Accept Investment Report as of June 2022

**CITY OF BRISBANE
CASH BALANCES & INVESTMENTS
SOURCE OF FUNDING
June 30, 2022**

NAME OF DEPOSITORY	INVESTMENT TYPE	DATE OF INVESTMENT	FACE VALUE OF INVESTMENT	CARRY VALUE OF INVESTMENT	MARKET VALUE OF INVESTMENT	COUPON INTEREST RATE %	MATURITY DATE	RATING/ COLLATERAL
WELLS FARGO	Checking A/C		\$ 5,906,411	\$ 5,906,411	\$ 5,906,411	0.000		
STATE FUND (LAIF)	Deposit on call	continuous	\$ 18,895,436	\$ 18,895,436	\$ 18,895,436	0.690	on call	no rating
Other Investments								
	Comenity Capital Bank	4/28/2019	\$ 248,000	\$ 248,000	\$ 246,688	2.650	04/28/2023	
	Morgan Stanley	5/2/2019	\$ 245,000	\$ 245,000	\$ 243,459	2.650	05/02/2023	
	FFCB	3/8/2022	\$ 1,000,000	\$ 1,000,000	\$ 979,360	1.670	03/08/2024	
	FHLB	4/22/2022	\$ 1,000,000	\$ 1,000,000	\$ 990,350	2.400	04/22/2024	
	Goldman Sachs	5/1/2019	\$ 246,000	\$ 246,000	\$ 243,538	2.750	05/01/2024	
	FHLB	12/31/2021	\$ 1,000,000	\$ 1,000,000	\$ 961,130	1.000	09/30/2024	
	FHLB	3/24/2022	\$ 1,000,000	\$ 1,000,000	\$ 977,000	2.000	03/24/2025	
	FHLB	4/22/2022	\$ 1,000,000	\$ 1,000,000	\$ 989,070	2.750	04/22/2025	
	FHLB	12/31/2021	\$ 1,000,000	\$ 1,000,000	\$ 950,010	1.300	09/30/2025	
	FHLB	3/25/2022	\$ 1,000,000	\$ 1,000,000	\$ 967,000	2.600	03/25/2027	
	FHLB	5/26/2022	\$ 1,000,000	\$ 1,000,000	\$ 996,710	3.150	05/26/2027	
	FHLB	5/26/2022	\$ 1,000,000	\$ 1,000,000	\$ 994,330	3.750	05/26/2027	
BNY Mellon	Treasury Obligations	continuous	\$ 261,359	\$ 261,359	\$ 261,359	1.360	on call	110% collateral
Sub-total			\$ 10,000,359	\$ 10,000,359	\$ 9,800,004			
U.S. Bank	2014 BGPGB Bond (330)	Improvements	Fed Treas Obl	\$ -	10031			
		Reserve Fund	Fed Treas Obl	\$ 1	10032			
		Revenue Fund	Fed Treas Obl	\$ -	10034			
		Expense Fund	Fed Treas Obl	\$ -	10035			
		Principal	Fed Treas Obl	\$ 1	10036			
		Interest Fund	Fed Treas Obl	\$ 0	10037			
U.S. Bank	2015 Utility Capital (545)	Improvements	Fed Treas Obl	\$ 0	10031			
		Reserve	Fed Treas Obl	\$ 1	10032			
		Expense Fund	Fed Treas Obl	\$ 0	10035			
PARS	OPEB Trust	Trust Cash	Investments	\$ 3,498,278	13050			
PARS	Retirement Trust	Trust Cash	Investments	\$ 1,224,830	13050			
Sub-total	Cash with Fiscal Agents			\$ 4,723,111				
Total other investments			\$ 10,000,359	\$ 14,723,470	\$ 9,800,004			
TOTAL INVESTMENTS & CASH BALANCES			\$ 34,802,205	\$ 39,525,316	\$ 34,601,851			

Outstanding Loans to Department Heads

	Date of loan	Amount	Amount Remaining	Interest Rate
Stuart Schillinger	4/1/2002	318,750	\$ 318,750	Based on Sales Price
Clay Holstine (1)	7/8/2008	300,000	\$ -	Paid off 12/28/2016
Clay Holstine (2)	9/10/2008	200,000	\$ 200,000	Secured by other funds
Randy Breault	10/22/2001	320,000	\$ 1,076	1.20%

FFCB - Federal Farm Credit Bank
FHLB - Federal Home Loan Bank
FHLM - Federal Home Loan Mortgage Corporation
FNMA - Federal National Mortgage Association

Two year Treasury	2.92%	
Weighted Interest	1.03%	
Weighted maturity	0.95	Years

TREASURER'S CERTIFICATE

These are all the securities in which the city funds, including all trust funds and oversight agencies funds, are invested and that (excluding approved deferred compensation plans) all these investments are in securities as permitted by adopted city policy.

It is also certified that enough liquid resources (including maturities and anticipated revenues) are available to meet the next six months' cash flow.

Carolina Yuen

CITY TREASURER

F.

File Attachments for Item:

F. Accept Investment Report as of July 2022

**CITY OF BRISBANE
CASH BALANCES & INVESTMENTS
SOURCE OF FUNDING
July 31, 2022**

NAME OF DEPOSITORY	INVESTMENT TYPE	DATE OF INVESTMENT	FACE VALUE OF INVESTMENT	CARRY VALUE OF INVESTMENT	MARKET VALUE OF INVESTMENT	COUPON INTEREST RATE %	MATURITY DATE	RATING/ COLLATERAL
WELLS FARGO	Checking A/C		\$ 5,536,969	\$ 5,536,969	\$ 5,536,969	0.000		
STATE FUND (LAIF)	Deposit on call	continuous	\$ 16,930,813	\$ 16,930,813	\$ 16,930,813	1.090	on call	no rating
Other Investments								
	Comenity Capital Bank	4/28/2019	\$ 248,000	\$ 248,000	\$ 246,499	2.650	04/28/2023	
	Morgan Stanley	5/2/2019	\$ 245,000	\$ 245,000	\$ 243,360	2.650	05/02/2023	
	FFCB	3/8/2022	\$ 1,000,000	\$ 1,000,000	\$ 979,980	1.670	03/08/2024	
	FHLB	4/22/2022	\$ 1,000,000	\$ 1,000,000	\$ 990,300	2.400	04/22/2024	
	Goldman Sachs	5/1/2019	\$ 246,000	\$ 246,000	\$ 243,706	2.750	05/01/2024	
	FHLB	7/26/2022	\$ 1,000,000	\$ 1,000,000	\$ 1,003,210	3.350	07/26/2024	
	FHLB	12/31/2021	\$ 1,000,000	\$ 1,000,000	\$ 963,640	1.000	09/30/2024	
	FHLB	3/24/2022	\$ 1,000,000	\$ 1,000,000	\$ 968,840	2.000	03/24/2025	
	FHLB	4/22/2022	\$ 1,000,000	\$ 1,000,000	\$ 990,390	2.750	04/22/2025	
	FHLB	7/28/2022	\$ 1,000,000	\$ 1,000,000	\$ 1,002,430	4.050	07/28/2025	
	FHLB	12/31/2021	\$ 1,000,000	\$ 1,000,000	\$ 955,700	1.300	09/30/2025	
	FHLB	3/25/2022	\$ 1,000,000	\$ 1,000,000	\$ 976,540	2.600	03/25/2027	
	FHLB	5/26/2022	\$ 1,000,000	\$ 1,000,000	\$ 998,210	3.150	05/26/2027	
	FHLB	5/26/2022	\$ 1,000,000	\$ 1,000,000	\$ 997,340	3.750	05/26/2027	
BNY Mellon	Treasury Obligations	continuous	\$ 261,547	\$ 261,547	\$ 261,547	2.160	on call	110% collateral
Sub-total			\$ 12,000,547	\$ 12,000,547	\$ 11,821,692			
U.S. Bank	2014 BGPGA Bond (330)	Improvements	Fed Treas Obl	\$ -	10031			
		Reserve Fund	Fed Treas Obl	\$ 1	10032			
		Revenue Fund	Fed Treas Obl	\$ -	10034			
		Expense Fund	Fed Treas Obl	\$ -	10035			
		Principal	Fed Treas Obl	\$ 1	10036			
		Interest Fund	Fed Treas Obl	\$ 0	10037			
U.S. Bank	2015 Utility Capital (545)	Improvements	Fed Treas Obl	\$ 0	10031			
		Reserve	Fed Treas Obl	\$ 1	10032			
		Expense Fund	Fed Treas Obl	\$ 0	10035			
PARS	OPEB Trust	Trust Cash	Investments	\$ 3,661,289	13050			
PARS	Retirement Trust	Trust Cash	Investments	\$ 1,281,904	13050			
Sub-total	Cash with Fiscal Agents			\$ 4,943,195				
Total other investments			\$ 12,000,547	\$ 16,943,743	\$ 11,821,692			
TOTAL INVESTMENTS & CASH BALANCES			\$ 34,468,329	\$ 39,411,524	\$ 34,289,474			

Outstanding Loans to Department Heads

	Date of loan	Amount	Amount Remaining	Interest Rate
Stuart Schillinger	4/1/2002	318,750	\$ 318,750	Based on Sales Price
Clay Holstine (1)	7/8/2008	300,000	\$ -	Paid off Dec 2016
Clay Holstine (2)	9/10/2008	200,000	\$ 200,000	Secured by other funds
Randy Breault	10/22/2001	320,000	\$ -	Paid off July 2022

FFCB - Federal Farm Credit Bank
FHLB - Federal Home Loan Bank
FHLM - Federal Home Loan Mortgage Corporation
FNMA -Federal National Mortgage Association

Two year Treasury	2.89%	
Weighted Interest	1.42%	
Weighted maturity	1.10	Years

TREASURER'S CERTIFICATE

These are all the securities in which the city funds, including all trust funds and oversight agencies funds, are invested and that (excluding approved deferred compensation plans) all these investments are in securities as permitted by adopted city policy.

It is also certified that enough liquid resources (including maturities and anticipated revenues) are available to meet the next six months' cash flow.

Carolina Yuen

CITY TREASURER

File Attachments for Item:

G. Adopt a Resolution Establishing the Business License Tax on Recycling Establishments for Fiscal Year 2022/23



CITY COUNCIL AGENDA REPORT

Meeting Date: September 15, 2022

From: Carolina Yuen

Subject: Resolution Establishing the Business License Tax on Recycling Establishments for Fiscal Year 2022/23

Community Goal/Result

Fiscally Prudent – Brisbane’s fiscal vitality will reflect sound decisions which also speak to the values of the community

Purpose

To provide for the long-term fiscal stability of the City of Brisbane

Recommendation

Adopt Resolution to establish the Business License Tax on Recycling Establishments for Fiscal Year 2022/23.

Background

In 2011, the voters of the City passed an ordinance which imposed a business license tax on companies which carry out recycling operations with the City limits. For recycling establishments that recycled 100,000 tons or more, a tax was allowed by that ordinance with a maximum amount set at \$3,000,000 per year. In 2017, voters increased the maximum amount of the tax allowed by the ordinance to \$4,000,000, phased in over a period of time, with inflationary increases after the business license tax reached \$4,000,000. The amounts of tax were as follows:

Fiscal Year	Amount of Tax
2016/17	\$2,100,000
2017/18	\$2,778,000
2018/19	\$2,979,000
2019/20	\$3,206,000
2020/21	\$3,700,000
2021/22	\$4,000,000

This phased in approach was discussed with San Francisco Recology and agreed to in principle.

Discussion

The City Council is to set the rate by resolution each year. Since the rate for FY2021/22 was \$4 million, starting in FY2022/23 and thereafter, the City Council will need to set the rate annually

as directed by the voter-approved ordinance to increase the \$4 million dollar rate by an inflation factor each year.

Per the ordinance, the business license tax payable shall be the greater of (1) the tax charged the previous year plus three percent (3%) of such tax , or (2) four million dollars plus an amount determined by a fraction, represented by the numerator of which shall be the Consumer Price Index published by the US Department of Labor Statistics, for Urban Wage Earners and Clerical Workers, All Items, for the San Francisco-Oakland-Hayward Statistical Area (CPI) published nearest to the adjustment date, and the denominator of which shall be the CPI published nearest to the date the business license tax was set at four million dollars per year.

Option 1 would be \$4,120,000.

Option 2 would be:

$$\begin{array}{rclclcl} \text{numerator} & = & \text{CPI from 6/22 (nearest to adj date of 7/1/22)} & = & \frac{330.539}{309.497} & = \\ \text{denominator} & = & \text{CPI from 6/21 (nearest to adj date when set at \$4M)} & & & 1.068 \end{array}$$

$$\$4,000,000 + (\$4,000,000 \times .068) = \$4,272,000$$

The greater is \$4,272,000.

Fiscal Impact

The City would collect the amount of \$4,272,000 as allowed per the ordinance and set by resolution for FY2022/23.

Measure of Success

The City is able to continue to provide all of the services, which the City has budgeted for.

Attachments

1. Resolution No. 2022-____

Carolina Yuen

Carolina Yuen, Finance Director

Clayton L. Holstine

Clay Holstine, City Manager

RESOLUTION NO. 2022-__

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BRISBANE ESTABLISHING THE BUSINESS LICENSE TAX
FOR RECYCLING ESTABLISHMENTS FOR FISCAL YEAR
2022/23**

WHEREAS, Section 5.20.100 of the Brisbane Municipal Code imposes a business license fee on “recycling establishments,” which are defined as establishments engaged in the business of collecting, sorting, cleansing, treating, processing, or reconstituting waste or other discarded materials for the purpose of reuse in altered form; and

WHEREAS, the business license tax for recycling establishments in the City that recycle 100,000 tons or more of material during any single calendar year, as set forth in Section 5.20.100, beginning January 1, 2018 and each subsequent year may be increased to any amount within the authorized ceiling of four million dollars per year plus an inflation factor, in such a manner as established by resolution of the City Council; and

WHEREAS, the City Council has been presented with the calculation of the inflation factor, and has examined and approved same to be set as the business license tax for recycling establishments;

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

1. The annual business tax for recycling establishments recycling more than 100,000 tons of material in the City during any single calendar year is established at Four Million Two Hundred Seventy-Two Thousand Dollars (\$4,272,000) for fiscal year 2022/23. Such amount shall be payable as follows:

- (a) A payment of \$2,136,000 shall be made on or by December 31, 2022.
- (b) A payment of \$2,136,000 shall be made on or by June 30, 2023.

2. This Resolution shall become effective immediately upon its adoption.

COLEEN MACKIN,
Mayor

I hereby certify that the foregoing Resolution No. 2022-___ was duly and regularly adopted at a regular meeting of the Brisbane City Council on September 15, 2022 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

INGRID PADILLA,
City Clerk

File Attachments for Item:

H. Adoption of a Resolution Declaring the Continued Need to Conduct City Council, Commission and Committee Meetings Remotely Due to Health and Safety Concerns for the Public



CITY COUNCIL AGENDA REPORT

Meeting Date: September 15, 2022

From: Clay Holstine, City Manager

Subject: Adoption of a Resolution Declaring the Continued Need to Conduct City Council, Commission and Committee Meetings Remotely Due to Health and Safety Concerns for the Public

COMMUNITY GOAL RESULTS

Safe Community

Ensuring Public Meetings Remain Open to the Public

RECOMMENDATION

Staff recommends that the City Council adopt a resolution declaring the need to continue conducting the meetings of the City Council, Commissions, and Committees remotely due to health and safety concerns.

BACKGROUND

In 2020 and 2021, the Governor signed various Executive Orders that allowed meetings of public agencies to be conducted remotely due to the COVID-19 pandemic and the need to protect the public and governmental officials. In addition, County Health Officers issued Health Orders requiring masks indoors in public places, regardless of vaccination status and that social distancing be observed. As a result, the City has been conducting its public meetings via zoom, thereby ensuring the right of the public to participate in public meetings but keeping the public, City Council, Committees, and Commissions, and City staff safe. There have been no cancelled meetings due to technical or related difficulties arising out of conducting meetings remotely.

Notwithstanding the availability of a vaccine and boosters, and the reduction of COVID related cases in the Bay Area and the State, COVID-19 variants (Delta and Omicron) have continued to spread and infect individuals. To address the need to continue to allow public agencies to conduct meetings remotely, in September 2021, AB 361 was enacted. AB 361 amends the Brown Act to permit local legislative bodies to continue to meet remotely until January 1, 2024 provided:

- The local legislative body is meeting during a declared state of emergency
- State or local health officials have imposed or recommended measures to promote social distancing
- The local legislative body has determined that there is a need to hold public meetings remotely due to imminent risks to the health or safety of attendees

Monthly since September 2021, the City Council has determined that the requirements of AB 361 have been met, namely, the declared state of emergency proclaimed by the state (as well as one by the City) remains in place; state and local health officials continue to recommend that residents observe social distancing and take other protective measures, including that masks to be worn on public transportation and in certain government buildings, and recommending masks be worn in confined spaces open to the public; and that there is a need to hold public meetings remotely due to imminent risks to the health and safety of attendees. The Council therefore has adopted Resolutions directing that the City continue to conduct public meetings normally scheduled for City Hall via Zoom to protect the health and safety of the public.

The Brown Act as amended by AB 361 requires that every 30 days the City Council review its decision not to hold in-person public meetings at City Hall and to specifically determine whether holding remote and/or hybrid public meetings continues to meet the requirements of the Brown Act as amended.

City Council last made the necessary findings on September 1, 2022 to extend meeting remotely through September, but after its regular meeting on September 15, it will not have a regularly scheduled meeting again until October 6. Hence, there is a need to place this item on the Council's September 15 meeting agenda so that Council may consider whether to have it and the Commissions and Committees continue to meet remotely past the end of September.

DISCUSSION

The state of emergency issued by the Governor remains in place. San Mateo County's Health Officials have provided guidance to prevent the spread of COVID and keep people safe and have incorporated the Center for Disease Control's recommendations in that regard, e.g., social distancing is recommended for indoor public meetings where unvaccinated individuals may be present, especially for those who are at a higher risk of getting very sick from COVID. In addition, persons with health conditions may want to attend City Council meetings but would put themselves at risk of becoming ill if they had to attend in person. Therefore, the requirements to allow public meetings to be conducted remotely continue: there is a declared state of emergency; health officials have imposed measures to prevent the spread of the virus and to promote social distancing; and there continues to be a need to hold public meetings remotely due to imminent risks to the health and safety if Council meetings were not conducted remotely.

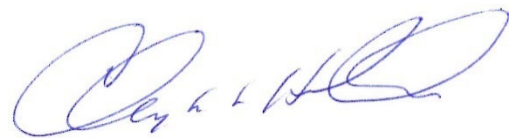
ACTION

Staff recommends that the City Council adopt the attached Resolution making the findings required under AB 361, to require the public meetings of the City Council, Commissions and Committees normally scheduled for City Hall through October 14, 2022 be held remotely or in a hybrid fashion to protect the health and safety of the public.

FISCAL IMPACT

There is no fiscal impact.

Attachment: 1. Resolution 2022-XX



Clay Holstine, City Manager

RESOLUTION NO. 2022-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE DECLARING THE NEED FOR THE CITY COUNCIL, COMMISSIONS AND COMMITTEES TO CONTINUE TO MEET REMOTELY IN ORDER TO ENSURE THE HEALTH AND SAFETY OF THE PUBLIC

WHEREAS, on March 4, 2020, Governor Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for a broader spread of COVID-19; and

WHEREAS, on March 19, 2020, the City Council ratified and confirmed the Director of Emergency Service's proclamation of a local emergency which allowed staff to expeditiously respond to the emergency circumstances caused by the pandemic; and

WHEREAS, on March 17, 2020, in response to the COVID-19 pandemic, Governor Newsom issued Executive Order N-29-20 suspending certain provisions of the Ralph M. Brown Act in order to allow local legislative bodies to conduct meetings telephonically or by other means; and

WHEREAS, as a result of Executive Order N-29-20, staff set up Zoom meetings for all City Council, Committee and Commission meetings; and

WHEREAS, on June 11, 2021, Governor Newsom issued Executive Order N-08-21, which placed an end date of September 30, 2021, for agencies to meet remotely; and

WHEREAS, since issuing Executive Order N-08-21, the Delta and Omicron variant has emerged, causing a spike in COVID-19 cases throughout the state; and

WHEREAS, in 2021, in response to the Delta and Omicron variant, the San Mateo County Health Department ordered all individuals to wear masks when inside public spaces and maintain social distancing; and

WHEREAS, on September 16, 2021, Governor Newsom signed Assembly Bill 361 into law, amending the Brown Act to permit local legislative bodies, including the City Council, to meet remotely provided it is meeting during a declared state of emergency, state or local officials have imposed or recommended measures to promote social distancing, and the Council believes there is a need to meet remotely to protect against imminent risks to the health and safety of potential public attendees; and

WHEREAS, cases involving COVID 19, including the Delta and Omicron variant continue to exist, the City Council is concerned about and desire to protect the health and safety of individuals who might otherwise attend Council, Committee and Commission meetings;

WHEREAS, the City Council of the City of Brisbane has adopted Resolutions in 2021

and 2022 declaring the need for the City Council, Committees, and Commissions to continue to meet remotely in order to ensure the health and safety of the public; and

WHEREAS, the City Council does hereby find that the above described conditions of serious threat to the public health, safety, and welfare continue at this time; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BRISBANE
RESOLVES AS FOLLOWS:**

1. In compliance with AB 361, the City Council has reviewed and makes the following findings:
 - a. The State, San Mateo County and the City have each proclaimed a state of emergency due to the Coronavirus pandemic;
 - b. San Mateo County has issued a public health order requiring that individuals in many public spaces wear masks and socially distance and recommending that individuals in enclosed public spaces wear masks, but the City cannot maintain social distancing for the public, staff, councilmembers, commissioners, and committee members in its meeting spaces; and
 - c. The City Council has considered these circumstances and concludes that the City Council, City Commissions and City Committees must meet remotely due to imminent risks to the health and safety of attendees if the Council, Commissions or Committees were to meet in City facilities.
2. Based on the foregoing, the City Council declares that to protect the safety and health of the public, City Council, Commissions and Committees, meetings will continue to be conducted remotely for the next 30 days in compliance with AB 361.
3. The City Council will revisit the need to conduct public meetings remotely within 30 days after September 15, 2022.

Coleen Mackin, Mayor

PASSED, APPROVED AND ADOPTED by the Brisbane City Council at a regular meeting on September 15, 2022.

I hereby certify that the foregoing resolution was adopted by the City Council at a special meeting held on September 15, 2022 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Ingrid Padilla, City Clerk

Approved as to form:



Thomas McMorrow, City Attorney



California

LEGISLATIVE INFORMATION

ENROLLED SEPTEMBER 15, 2021

PASSED IN SENATE SEPTEMBER 10, 2021

PASSED IN ASSEMBLY SEPTEMBER 10, 2021

AMENDED IN SENATE SEPTEMBER 03, 2021

AMENDED IN SENATE AUGUST 30, 2021

AMENDED IN SENATE JULY 06, 2021

AMENDED IN ASSEMBLY MAY 10, 2021

AMENDED IN ASSEMBLY APRIL 06, 2021

CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

ASSEMBLY BILL

NO. 361

Introduced by Assembly Member Robert Rivas

February 01, 2021

An act to add and repeal Section 89305.6 of the Education Code, and to amend, repeal, and add Section 54953 of, and to add and repeal Section 11133 of, the Government Code, relating to open meetings, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 361, Robert Rivas. Open meetings: state and local agencies: teleconferences.

(1) Existing law, the Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to directly address the legislative body on any item of interest to the public. The act generally requires all regular and special meetings of the legislative body be held within the boundaries of the territory over which the local agency exercises jurisdiction, subject to certain exceptions. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined. The act authorizes the district attorney or any interested person, subject to certain provisions, to commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that specified actions taken by a legislative body are null and void.

Existing law, the California Emergency Services Act, authorizes the Governor, or the Director of Emergency Services when the governor is inaccessible, to proclaim a state of emergency under specified circumstances.

Executive Order No. N-29-20 suspends the Ralph M. Brown Act's requirements for teleconferencing during the COVID-19 pandemic provided that notice and accessibility requirements are met, the public members are allowed to observe and address the legislative body at the meeting, and that a legislative body of a local agency has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 1, 2024, would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act when a legislative body of a local agency holds a meeting during a declared state of emergency, as that term is defined, when state or local health officials have imposed or recommended measures to promote social distancing, during a proclaimed state of emergency held for the purpose of determining, by majority vote, whether meeting in person would present imminent risks to the health or safety of attendees, and during a proclaimed state of emergency when the legislative body has determined that meeting in person would present imminent risks to the health or safety of attendees, as provided.

This bill would require legislative bodies that hold teleconferenced meetings under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option, and to conduct the meeting in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body. The bill would require the legislative body to take no further action on agenda items when there is a disruption which prevents the public agency from broadcasting the meeting, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments, until public access is restored. The bill would specify that actions taken during the disruption are subject to challenge proceedings, as specified.

This bill would prohibit the legislative body from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time. The bill would prohibit the legislative body from closing the public comment period and the opportunity to register to provide public comment, until the public comment period has elapsed or until a reasonable amount of time has elapsed, as specified. When there is a continuing state of emergency, or when state or local officials have imposed or recommended measures to promote social distancing, the bill would require a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting pursuant to these provisions, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures.

Existing law prohibits a legislative body from requiring, as a condition to attend a meeting, a person to register the person's name, or to provide other information, or to fulfill any condition precedent to the person's attendance.

This bill would exclude from that prohibition, a registration requirement imposed by a third-party internet website or other online platform not under the control of the legislative body.

(2) Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.

The Governor's Executive Order No. N-29-20 suspends the requirements of the Bagley-Keene Open Meeting Act for teleconferencing during the COVID-19 pandemic, provided that notice and accessibility requirements are met, the public members are allowed to observe and address the state body at the meeting, and that a state body has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a state body to hold public meetings through teleconferencing and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public

seeking to observe and to address the state body. With respect to a state body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the state body at each teleconference location. Under the bill, a state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the state body allow members of the public to attend the meeting and offer public comment. The bill would require that each state body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge state bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(3) Existing law establishes the various campuses of the California State University under the administration of the Trustees of the California State University, and authorizes the establishment of student body organizations in connection with the operations of California State University campuses.

The Gloria Romero Open Meetings Act of 2000 generally requires a legislative body, as defined, of a student body organization to conduct its business in a meeting that is open and public. The act authorizes the legislative body to use teleconferencing, as defined, for the benefit of the public and the legislative body in connection with any meeting or proceeding authorized by law.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a legislative body, as defined for purposes of the act, to hold public meetings through teleconferencing and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body. With respect to a legislative body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the legislative body at each teleconference location. Under the bill, a legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. The bill would require that each legislative body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge legislative bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(4) This bill would declare the Legislature's intent, consistent with the Governor's Executive Order No. N-29-20, to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options.

(5) This bill would incorporate additional changes to Section 54953 of the Government Code proposed by AB 339 to be operative only if this bill and AB 339 are enacted and this bill is enacted last.

(6) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

(7) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(8) This bill would declare that it is to take effect immediately as an urgency statute.

DIGEST KEY

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: no

BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1.

Section 89305.6 is added to the Education Code, to read:

89305.6.

(a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a legislative body may hold public meetings through teleconferencing and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body.

(b) (1) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the legislative body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the legislative body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the legislative body be physically present at the location specified in the notice of the meeting.

(c) A legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. A legislative body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a legislative body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the legislative body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each legislative body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a legislative body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the legislative body's internet website.

(f) All legislative bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to legislative body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 2.

Section 11133 is added to the Government Code, to read:

11133.

(a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a state body may hold public meetings through teleconferencing and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body.

(b) (1) For a state body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the state body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a state body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the state body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the state body be physically present at the location specified in the notice of the meeting.

(c) A state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the state body allow members of the public to attend the meeting and offer public comment. A state body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a state body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the state body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal

Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each state body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a state body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the state body's internet website.

(f) All state bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to state body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 3.

Section 54953 of the Government Code is amended to read:

54953.

(a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the

meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, "state of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 3.1.

Section 54953 of the Government Code is amended to read:

54953.

(a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency in person, except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section

6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the

opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, "state of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 4.

Section 54953 is added to the Government Code, to read:

54953.

(a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall

participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 4.1.

Section 54953 is added to the Government Code, to read:

54953.

(a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, in person except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section

6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 5.

Sections 3.1 and 4.1 of this bill incorporate amendments to Section 54953 of the Government Code proposed by both this bill and Assembly Bill 339. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, but this bill becomes operative first, (2) each bill amends Section 54953 of the Government Code, and (3) this bill is enacted after Assembly Bill 339, in which case Section 54953 of the Government Code, as amended by Sections 3 and 4 of this bill, shall remain operative only until the operative date of Assembly Bill 339, at which time Sections 3.1 and 4.1 of this bill shall become operative.

SEC. 6.

It is the intent of the Legislature in enacting this act to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future applicable emergencies, by allowing broader access through teleconferencing options consistent with the Governor's Executive Order No. N-29-20 dated March 17, 2020, permitting expanded use of teleconferencing during the COVID-19 pandemic.

SEC. 7.

The Legislature finds and declares that Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, further, within the meaning of paragraph (7) of

subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to ensure minimum standards for public participation and notice requirements allowing for greater public participation in teleconference meetings during applicable emergencies.

SEC. 8.

(a) The Legislature finds and declares that during the COVID-19 public health emergency, certain requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) were suspended by Executive Order N-29-20. Audio and video teleconference were widely used to conduct public meetings in lieu of physical location meetings, and public meetings conducted by teleconference during the COVID-19 public health emergency have been productive, have increased public participation by all members of the public regardless of their location in the state and ability to travel to physical meeting locations, have protected the health and safety of civil servants and the public, and have reduced travel costs incurred by members of state bodies and reduced work hours spent traveling to and from meetings.

(b) The Legislature finds and declares that Section 1 of this act, which adds and repeals Section 89305.6 of the Education Code, Section 2 of this act, which adds and repeals Section 11133 of the Government Code, and Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, all increase and potentially limit the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

(1) By removing the requirement that public meetings be conducted at a primary physical location with a quorum of members present, this act protects the health and safety of civil servants and the public and does not preference the experience of members of the public who might be able to attend a meeting in a physical location over members of the public who cannot travel or attend that meeting in a physical location.

(2) By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, including from the member's private home or hotel room, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

SEC. 9.

This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that state and local agencies can continue holding public meetings while providing essential services like water, power, and fire protection to their constituents during public health, wildfire, or other states of emergencies, it is necessary that this act take effect immediately.

File Attachments for Item:

I. Applicant Appeal of the Planning Commission's April 4, 2022 Decision Denying the Modification of Interim Use Permit 2021-UP-3 to Allow the Use of a Vacant Site On the Baylands To Be Used For a Google Bus Staging Yard

(This item was continued from the July 7, 2022 and May 19, 2022 City Council Meetings. City Council will consider applicant appeal of the Planning Commission's April 4, 2022 decision denying the modification of Interim Use Permit 2021-Up-3 to allow the use of a vacant site on the Baylands to be used for a Google Bus staging yard (Planning Commission Resolution 2021-UP-3-M) and revoking Interim Use Permit 2021-UP-3 (Planning Commission Resolution 2021-UP-3-R); Eric Aronsohn, applicant; Oyster Point Properties Inc, applicant/owner.)



CITY COUNCIL AGENDA REPORT

Meeting Date: September 15, 2022

From: John Swiecki, Community Development Director

Subject: 600 Tunnel Avenue; Appeal of the Planning Commission's Decision to revoke Interim Use Permit 2021-UP-3 and to deny the requested modification for continued staging of up to 90 Google Commuter buses on an approximately 3-acre vacant site on the Baylands.

SUPPLEMENTAL REPORT

Community Goal/Result

Safe Community - Residents and visitors will experience a sense of safety.

Purpose

To consider an appeal by BDI, on behalf of Google Inc., of the Planning Commission's decision to revoke Interim Use Permit 2021-UP-3 and to deny the requested modification for continued staging of up to 90 Google Commuter buses on an approximately 3-acre vacant site on the Baylands. This matter has been continued from City Council meetings of May 19 and July 7, 2022.

Recommendation

That the City Council make a decision on the appeal. A revised draft resolution is provided for Council's consideration to grant the applicant's appeal with modified conditions of approval (Attachment 2). If Council chooses to deny the applicant's appeal, a separate resolution supporting that action is included with the July 7th agenda report (Attachment 4).

Background

On May 19 and July 7, 2022, City Council held public hearings on the appeal of the Planning Commission's decision to revoke the above referenced permit and deny the applicant's requested modification.

At the July 7th meeting, BDI offered to incorporate several measures into the project. These include removal of the concrete barricades that are located along the east side of Tunnel Ave and installation of an approximately 4,500 ft long decomposed granite ("DG") path to improve the existing bicycle/pedestrian access, with crossings at the Tunnel Ave and Lagoon Way intersection and at the north end near the bus yard. Plastic delineators were proposed to be installed along the east side of Tunnel Avenue to provide separation between the roadway and

the new DG bike path. “No Dumping” signs would be added along Tunnel Ave and BDI would remove any trash dumped from along the roadside within a defined time period. They further proposed to treat the bus yard surface with a permeable binder to prevent dust. BDI also indicated that they would fine Google for bus routing violations and offered that the fines could be provided to the City.

After discussion, Council continued the matter to September 15th for staff to work with BDI and Google to finalize recommended conditions of approval to address concerns raised at the Planning Commission and City Council hearings. Key items include a limitation on the number of buses, tracking and reporting of bus directional and time of day movements, mechanisms for tracking and monitoring bus movements, fines, permit revocation thresholds for bus movements, and site and cycle track (bike path) maintenance clarifications. Further background details may be referenced from the May 19th and July 7th minutes and agenda reports (Attachments 4, 5, 6 and 7).

Since the July 7th Council hearing, staff has met with the BDI and Google regarding the proposed conditions of approval and Google has provided monthly reports on bus movements through August (see Attachment 1). Aside from additional monthly reports, no other written correspondence has been received from BDI for Council. Conclusions from staff’s meetings with BDI and Google are reflected in the discussion provided below.

Discussion

Limitations on Use

Based on Council’s discussion, staff has added a new Condition of Approval No. 1, which limits the bus yard parking to no more than 90 Google buses and 270 bus trips per day. Although in the original project approval, there was not a specific condition of approval setting enforceable limits, it characterized the proposed use as 90 buses with 180 bus trips per day (or 1 round trip per bus each day). In recent hearings, Google has indicated that some buses are making 2 trips per day, while the majority of buses stay at Google’s offices during the day. The monthly trip reports bear this out. The most recent monthly average, for August 2022, was 204 trips per day for the 23 weekdays in that month. The highest reported trip count to-date was 238 trips on April 29th, 2022.

Establishing a limit within the conditions of approval at 270 would allow their current operations to continue, but would place a cap on the total trips. That cap would allow for no more than an average 3 bus trips per day for the 90 buses; that is, 1 round trip for half of the fleet and 2 round trips for the other half in a given day.

Tracking & Reporting

A primary focus of Council’s discussion during the July 7th meeting was on the tracking and reporting of bus movements and transparency thereof. It was suggested that a transponder be installed to electronically track and automatically upload bus movement data to a website, so anyone could observe the data in real-time. While during the meeting, Google’s representative

affirmed that could be done, Google has subsequently expressed concerns over the security risks that may be posed by having real-time data available to the public on specific bus movements and locations.

In light of Google's concerns about security, instead of a transponder, Google has indicated that they would establish a website to provide bus movement data available to the public updated on a weekly basis. It has been suggested that the data would be in a similar format to the monthly reports that are now being provided. As envisioned, a hyperlink on the City's website would be provided which would take the viewer to a website hosted by Google including the bus movement data (See Condition No. 6).

Since November 2021, Google has been geo-tracking the individual bus movements and, as noted above, self-reporting the data to the City. Summary reports are now available for the ten month period from November 2021 through August 2022, along with a summary table prepared by staff (Attachment 1). In summary, for the last five months, the bus trips to and from the site totaled an average of 4,233 trips per month, with an average of 2.6 trips per month on the southern portion of Tunnel Ave and a monthly average of another 58.4 trips occurring outside the operational hours of 4 am to 10 pm. Approximately 50 of those 58 trips were weekday between 10 pm and midnight, with an average of 8.6 trips occurring on weekends. An average of an additional 160 trips per month occurred between 9 and 10 pm. Note that while 10 pm requested by Google in the interim use permit modification application last Spring, 9 pm was the ending time characterized in the original project description from November 2021, which was the basis of the original the Planning Commission approval. See further discussion on time-of-day operations below.

Violations for Use of Southern Portion of Tunnel Ave

During the July meeting, BDI indicated that it was planning to fine Google for violations to the prescribed bus routing, for using the portion of Tunnel Ave south of the site. The amount being contemplated by BDI was \$1,000 per occurrence and BDI indicated that the fines could be provided to the City.

Accordingly, Staff drafted Condition No. 7 which provides that fines would be paid to the City along with the bus movement reports on a monthly basis. This would be a compilation of the weekly reports, to be provided in the month immediately following the reporting month. A sliding scale of fines is suggested, starting at \$500 and escalating to \$1,000, then \$2,000 and ultimately \$5,000 for more than 20 violations within each reporting month.

Also, if the threshold of more than 20 violations occurred in a given calendar month, staff would provide a report to City Council. Council may then decide to bring the matter forward for revocation hearing and decision.

Exceptions are provided for weather or environmental events or factors such accidents or road closures which can be demonstrated to be outside the driver's control.

Time-of-Day Operations

The City Council's stated direction to have clear and enforceable conditions also has implications on hours of operation. To date, hours of operation were not specified in the conditions of approval, but were provided as part of the project description. These were intended as "typical" operations and, due to operational changes, trip delays and bus maintenance, some trips have been occurring outside these times. Google's project description provided with the initial approval in 2019 stated that the hours of operation would be from 3 am to 7 am and 3 pm to 9 pm on weekdays. In the permit renewal in November 2021, they reduced the hours slightly to be 4 am to 7 am and 5 pm to 9 pm on weekdays. They also began to track bus movements following the November 2021 approval and tracking reports were provided to the City and reported to the Planning Commission in early 2022. These reports indicated that trips were occurring throughout the day, not limited to the time windows as previously indicated.

In the request for permit modification to the Planning Commission in May 2022, Google requested the hours of operation be changed to 4am to 10 pm, reflecting that their needs changed following the Covid-19 pandemic, due to staggered employee schedules. Since the City Council's first hearings on the appeal, Google has requested that the hours be extended to midnight on weekdays, and to extend the hours to weekends to allow for daytime Saturday and Sunday trips for maintenance of the buses off-site. Google has indicated that the late-night trips have been occurring due to delays along the bus routes over the course of the day.

As indicated above, over the past five months, starting in April, there was a monthly average of 58.4 vehicle trips outside the most recently stated typical hours of operation of 4 am to 10 pm on weekdays. No trips were reported between the hours of midnight and 4 am. These extended hours, included as a condition of approval, would reflect actual operations and create a clear, definitive and enforceable standard.

Alternatives to address time of day and weekend trips include:

1. Specify the hours of operation as previously proposed from 4 am to 10 pm, with some flexibility, similar to that previously proposed on July 7th.
2. Per Google's latest request, establish the hours operation as 4 am to midnight and include weekend hours. Fines could be established for trips that occur outside those prescribed times.
3. Establish the weekday 4 am to 10 pm hours as a hard limit and include fines for trips that occur outside those hours. The City Council could further determine if it wishes to allow or prohibit weekend use.

Operational hours as determined by the City Council would be incorporated into the project conditions of approval so they are fully enforceable.

Note that for the purposes of the draft resolution, alternative 3 (without weekend hours) has been incorporated into the draft conditions of approval, but there is a process to notify the Planning Director in advance for weekend maintenance trips (see Condition No. 3 and 7). In this case a \$50 fine would be imposed per occurrence, for unauthorized trips, and up to 200 trips outside the 4 am to 10 pm operational window may occur in a calendar month before a report is sent to City Council. This is a more moderate deterrent than the limitation on southern trips, in that trips outside the prescribed hours to do note pose the same safety and hazard risks as southern trips.

Lighting hours and controls over lighting impacts

The draft condition regarding hours for site lighting has been modified from 4 am - 9 pm to 4 am - 10 pm, to match the proposed bus movement hours of operation. The condition has also been modified to maintain the lights at or below their current heights of 15 feet, shielded and at a lumens level to prevent offsite glare.

Site Treatment and Roadway Edge Improvements

The draft conditions regarding site treatment and maintenance for dust control and for the bike path/roadway edge improvements have been edited for clarity. The bike path and roadway edge improvements will be required to be designed and maintained by BDI, subject to the City Engineer's approval. The suggested condition regarding the plastic delineators along Tunnel, has been modified to include only the east side. Delineators would only be required on the west side in the event that it is required by the City Engineer in the future, due to her/his determination that trash/debris dumping requires such barriers.

Permit Term

BDI has requested that the interim use permit term be 5 years. This would provide for operational certainty and a period of cost recovery for the proposed roadway infrastructure improvements.

Fiscal Impact

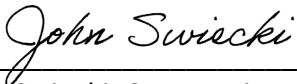
None.

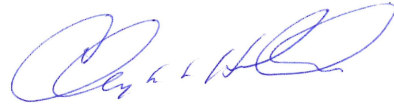
Measure of Success

Processing of an appeal application consistent with Brisbane's Municipal Code.

Attachments

1. Summary Table of Bus Movements & Google's Monthly Reports, Nov 2021 – Aug 2022
2. Draft City Council Resolution Granting the Appeals and Conditionally Approving 2021-UP-3-M (Modified)
3. City Council Draft Minutes, July 7, 2022
4. City Council Agenda Report, July 7, 2022
5. City Council Minutes, May 19, 2022
6. City Council Agenda Report, May 19, 2022



John Swiecki, Community Development Director

Clay Holstine, City Manager

ATTACHMENT 1

Bus Trip Count Summary
November 2021 – August 2022

Period	Total Bus Trips	Noncompliant Trips*					
		Trips South of Yard	9-10 pm Trips	10 –11 pm Trips	11 pm to Midnight Trips	Weekend Trips	Totals
August 2022	4712	2	172	51	22	8	255
July 2022	3791	0	173	26	20	13	232
June 2022	4109	4	163	19	15	3	204
May 2022	4171	2	149	33	17	7	208
April 2022	4381	5	143	32	14	12	206
March 2022	3130	7	17	5	1	12	25
February 2022	2066	2	0	0	0	0	2
January 2022	2055	1	0	0	0	0	1
December 2021	1970	5	0	0	0	0	5
November 2021	2181	6	2	0	0	0	8
5 Month Average April-August	21,164/5 = 4,233	13/5= 2.6	800/5= 160	161/5= 32.2	88/5= 17.6	43/5= 8.6	1,105/5= 221

Notes: Data provided herein is based on Google's self-reporting tables, which follow in this attachment.

Weekday daytime noncompliant trips are not shown. See the individual monthly reports in this Attachment 1 for those trips.

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July 2022																										
Trip Data																										
	7/1/22	7/5/22	7/6/22	7/7/22	7/8/22	7/9/22	7/10/22	7/11/22	7/12/22	7/13/22	7/14/22	7/15/22	7/18/22	7/19/22	7/20/22	7/21/22	7/22/22	7/23/22	7/24/22	7/25/22	7/26/22	7/27/22	7/28/22	7/29/22	7/30/22	Total
4:00			1						1	1	1	1		1			1				1	1	1			10
5:00	20		15	20	20			19	19	18	17	17	19	20	21	21	19			18	17	20	17	17		354
6:00	36		36	28	37		0	32	32	33	32	33	35	33	37	31	37	1		37	36	33	35	34		648
7:00	28		25	19	25			26	19	16	22	21	22	21	22	24	27			23	20	22	21	29		432
8:00	14	2	7	9	13	1		9	8	9	9	14	8	12	9	9	18			11	10	10	9	11		202
9:00	19		6	9	11			16	11	13	13	14	15	13	13	14	13	1		17	12	12	11	11		244
10:00	6	3	8	3	4	1		9	4	4	2	8	4	5	5	7	8			6	4	7	7	5	1	111
11:00	1	3	4	2	1			1	2	1	1	1	3			5	1			3	5		2			36
12:00	1	1	3	4				1	3	1	7	1	2		5	1	2	2		2	2	2	3	1		44
13:00		1	1	2										1	1	2	1				2	1		1	1	14
14:00	4	1	5	4	2			6	4	2	2	3	4	3	1	3	2			4	2	2	7	5		66
15:00	7		7	5	5			8	4	4	6	2	7	10	6	7	8			7	8	9	8	9		127
16:00	9		6	5	12			8	4	7	6	7	8	6	6	8	12			8	6	4	4	7	1	134
17:00	17	2	12	12	16			14	6	7	9	15	13	8	6	8	11			14	11	8	5	12		206
18:00	17		24	22	22		0	20	22	22	21	15	15	22	18	22	20			20	18	23	19	19		381
19:00	15	1	13	17	14		1	14	21	22	20	16	20	22	24	19	15	1		15	16	19	20	19	1	345
20:00	11		12	12	10			10	10	11	12	12	13	12	16	14	12	1		10	11	12	10	7		218
21:00	8		11	10	7			9	11	10	10	6	7	11	10	10	6			8	10	11	7	10	1	173
22:00				1					1	2	2	2	3	2	2	1				1	2	2	5			26
23:00	1		1	1	1			1	1	1	1	0		1	1	1	1			1	2	1	2	1	1	20
Total	214	14	197	185	200	2	1	203	183	184	193	188	198	208	199	208	214	4	0	205	195	199	193	198	6	
Routing Violations																										
Date/Time	Bus ID	Location					Description																			

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February 2022

Trip Data

	2/1/22	2/2/22	2/3/22	2/4/22	2/7/22	2/8/22	2/9/22	2/10/22	2/11/22	2/14/22	2/15/22	2/16/22	2/17/22	2/18/22	2/21/22	2/22/22	2/23/22	2/24/22	2/25/22	2/28/22	Total
5:00	1	1	1	1	2	2	2	2	2	2	2	1	2	2		2	1	1	2	1	30
6:00	13	9	10	11	10	11	11	9	10	13	11	12	10	9		9	12	11	10	11	202
7:00	13	15	18	20	17	16	19	20	16	16	16	16	18	19		16	16	19	16	16	322
8:00	6	6	3	4	4	3	3	4	4	4	5	6	3	6		7	4	4	4	4	84
9:00	11	15	13	12	12	10	13	8	12	17	9	7	12	12		8	11	9	12	13	216
10:00	3	7	6	4	4	5	6	9	8	3	7	9	6	5		8	6	12	7	5	120
11:00	3	4	3	4	1	2	4	3	2	4	5	4	3	3		5	2	6	1	5	64
12:00	1			1		4	2	3	3	2	1	1	2	1	1		1		3	1	27
13:00	3	3	3	1	2	4	3	3	1	2	5	4	4	5	1	6	4	5	1	4	64
14:00	12	12	12	10	9	9	11	10	13	10	10	9	10	11	1	14	11	9	10	7	200
15:00	6	7	7	6	10	7	8	7	6	8	5	5	6	5		5	7	5	6	6	122
16:00	3	8	3	6	6	6	6	7	7	6	8	5	4	5	1	5	4	5	5	6	106
17:00	13	10	13	15	15	13	11	13	16	11	10	15	9	16		14	15	13	11	15	248
18:00	11	10	11	8	10	11	12	10	8	14	11	9	15	5		10	10	8	11	9	193
19:00	3	3	3	1	1	2	3	3	2	1	2	4	3	3	1	2	2	4	3	2	48
20:00	1	1	1	1	1	1	1	1	1	1	2	1	1	1		1	1	1	1	1	20
Total	103	111	107	105	104	106	115	112	111	114	109	108	108	108	5	112	107	112	103	106	

Routing Violations

Date/Time	Bus ID	Location	Description																		
2022-02-21 17:39:04	397	Tunnel Ave and Lagoon Rd - South	Non-Brisbane based driver covering run																		
2022-02-28 11:33:18	217	Tunnel Ave and Lagoon Rd - South	Non-Brisbane based driver covering run																		

[illegible]

December 2021																					
Trip Data																					
	12/1/2021	12/2/2021	12/3/2021	12/6/22	12/7/22	12/8/22	12/9/22	12/10/22	12/13/22	12/14/22	12/15/22	12/16/22	12/17/22	12/20/22	12/21/22	12/22/22	12/23/22	12/28/22	12/29/22	12/30/22	Total
5:00	4	2	2	3	3	4	4	3	4	2	4	2							1		38
6:00	21	20	20	17	21	18	17	14	14	21	17	20		8	10	8	9	9	7	10	281
7:00	13	17	17	17	16	15	17	19	16	18	17	18		14	13	16	16	17	17	16	309
8:00	7	7	7	5	6	7	4	3	7	7	9	9	3	6	4	5	8	4	8	6	122
9:00	11	9	8	6	7	7	6	8	7	8	5	6		10	12	8	8	7	9	6	148
10:00	4	5	3	6	6	4	5	2	1	4	9	4	1	3	8	7	5	2	3	5	87
11:00	2		1	0		1		1	5			4	1	1	2	3		1		7	29
12:00	1	1		2				0	1	2		1			2		2		1	1	14
13:00	1		1		1	2	1			1	2	1			1	2	3	3	5	2	26
14:00	3	4	2	3	5	2	1	2	3	3	5	2	1	13	9	9	9	8	6	7	97
15:00	7	6	8	6	7	9	7	5	6	7	5	3		3	4	6	5	4	5	5	108
16:00	8	5	6	8	6	5	5	7	6	8	5	10		7	7	11	12	9	9	9	143
17:00	15	8	12	12	8	9	10	10	9	11	11	6	1	12	11	10	13	12	11	10	201
18:00	10	15	16	16	16	19	19	15	18	18	16	19		9	7	5	5	5	4	5	237
19:00	12	11	6	7	8	8	10	6	8	5	10	7			2	1		1	2	1	105
20:00	1	2	2	0	2	1	2	2	1	1	2	2		1	1	1	1	1	1	1	25
Total	120	112	111	108	112	111	108	97	106	116	117	114	7	87	93	92	96	83	89	91	
Routing Violations																					
Date/Time	Bus ID	Location					Description														
2021-12-06 10:31:25	268	Tunnel Ave and Lagoon Rd - South					Non-Brisbane based driver covering run														
2021-12-10 20:11:00	322	Tunnel Ave and Lagoon Rd - South					Non-Brisbane based driver covering run														
2021-12-13 10:56:08	309	Tunnel Ave and Lagoon Rd - South					Non-Brisbane based driver covering run														
2021-12-15 9:58:43	367	Tunnel Ave and Lagoon Rd - South					Non-Brisbane based driver covering run														
2021-12-28 14:42:40	319	Tunnel Ave and Lagoon Rd - South					Non-Brisbane based driver covering run														

November 2021																					
Trip Data																					
	11/1/21	11/2/21	11/3/21	11/4/21	11/5/21	11/8/21	11/9/21	11/10/21	11/11/21	11/12/21	11/15/21	11/16/21	11/17/21	11/18/21	11/19/21	11/22/21	11/23/21	11/24/21	11/29/21	11/30/21	Total
4:00									1												1
5:00	3	3	4	4	4	3	4	4	4	4	3	5	3	4	4	1	1	2	1	2	63
6:00	21	19	21	18	19	21	19	19	20	21	18	21	19	20	21	8	10	10	17	20	362
7:00	11	14	15	13	19	11	13	13	15	16	13	14	14	16	13	19	15	17	19	15	295
8:00	7	6	6	9	4	6	6	7	7	8	9	10	6	5	4	4	1	5	5	8	123
9:00	6	8	3	4	8	11	8	6	8	6	9	7	6	8	11	8	4	5	11	11	148
10:00	2	5	9	7	8	3	6	5	6	8	4	6	4	8	9	5	4	4	4	2	109
11:00	3	2	1	1		1	2				1	2	2	2	2	1	2	2	1	1	26
12:00			2	1		1				1	1	1	1		1	1		3			13
13:00				1	3			1	1							2	3	1	2	2	16
14:00	3	4	2	4	4	2	3	4	4	5	2	4	3	3	3	4	5	4	4	3	70
15:00	7	9	8	8	6	7	12	8	9	8	8	10	9	8	8	6	7	7	7	5	157
16:00	6	6	4	6	7	7	5	4	6	5	14	5	4	9	10	6	3	5	8	7	127
17:00	14	12	13	11	10	11	11	11	11	13	9	13	13	8	9	8	9	11	10	12	219
18:00	10	16	10	15	13	10	14	14	11	15	11	14	9	13	13	12	11	11	18	11	251
19:00	9	9	12	9	8	11	11	10	10	8	9	13	14	13	9	2	1		6	12	176
20:00	1	1	1	2	1	1	1	1	3	2	1	1	2	1	1				1	1	22
21:00					1					1								1			3
22:00																					0
Total	103	114	111	113	115	106	115	107	116	121	112	126	109	118	118	87	76	88	114	112	
Routing Violations																					
Date/Time	Bus ID	Location					Description														
2021-11-01 16:41:24	391	Tunnel Ave and Lagoon Rd - South					Non-Brisbane based driver covering run														
2021-11-01 18:26:59	397	Tunnel Ave and Lagoon Rd - South					New driver training														
2021-11-02 16:51:50	390	Tunnel Ave and Lagoon Rd - South					Non-Brisbane based driver covering run														
2021-11-03 16:36:56	330	Tunnel Ave and Lagoon Rd - South					Non-Brisbane based driver covering run														
2021-11-15 11:54:24	LUX651	Tunnel Ave and Lagoon Rd - South					New driver training														
2021-11-24 10:28:04	393	Tunnel Ave and Lagoon Rd - South					Non-Brisbane based driver covering run														

ATTACHMENT 2

Draft - RESOLUTION 2022-XX
A RESOLUTION OF THE CITY COUNCIL OF BRISBANE
GRANTING THE APPEALS AND
CONDITIONALLY APPROVING INTERIM USE PERMIT 2021-UP-3-M (MODIFIED)
TO ALLOW FOR THE CONTINUATION OF THE
GOOGLE BUS STAGING YARD AT 600 TUNNEL AVE

WHEREAS, on November 16, 2021, following a duly noticed public hearing, the Planning Commission conditionally approved Interim Use Permit 2021-UP-3, which allowed for continuation of Google’s staging of commuter buses at 600 Tunnel Ave for a period of one year; and

WHEREAS, following a report to the Commission on March 10, 2022 detailing Google’s bus movements, the Commission requested that the application be placed on an agenda for a public hearing for potential revocation; and

WHEREAS, Eric Aronsohn of BDI, on behalf of Google, applied to the City of Brisbane for Modification to Interim Use Permit 2021-UP-3 to allow continued outdoor staging of Google buses with a revised schedule for bus trips, with operations generally 4 am to 10 pm, versus the previous schedule of 3 to 7 am and 3 to 9 pm; and

WHEREAS, on April 14th, 2022, the Planning Commission conducted a hearing to consider both revocation and the applicant’s requested modification of Interim Use Permit 2021-UP-3, at which time any person interested in the matter was given an opportunity to be heard; and

WHEREAS, following the public hearing, the Planning Commission denied the requested modification and revoked the interim use permit on the finding that Google had violated condition of approval #4 which states, “Routing of Google buses shall be to and from the north along Tunnel Ave and Beatty Ave to connect to U.S. 101. Buses shall not use Tunnel Avenue south of the site”; and

WHEREAS, Eric Aronsohn appealed the Planning Commission’s decisions to deny the requested modification and to revoke the permit to the City Council; and

WHEREAS, City Council held duly noticed public hearings on May 19th, 2022 and July 7th, 2022 on the appeals, at which time any person interested in the matter was given an opportunity to be heard; and

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

NOW THEREFORE, BE IT RESOLVED by the City Council that:

Section 1.

- A. The above recitals are true and correct and incorporated herein by reference as if set forth in full.
- B. The City Council hereby overturns the Planning Commission's decision to revoke the permit and approves Use Permit 2021-UP-2-M based on the findings and with the conditions of approval attached herein as Exhibit A.

Section 2.

This Resolution shall take effect immediately upon its adoption.

 COLEEN MACKIN, Mayor

I hereby certify that the foregoing Resolution No. 2022-XX was duly and regularly adopted at the regular meeting of the Brisbane City Council on July 7th, 2022 by the following vote:

AYES:

NOES:

ABSENT:

 INGRID PADILLA, City Clerk

Draft - EXHIBIT A

Action Taken: Conditionally approve Use Permit 2021-UP-3-M per the staff memorandum with attachments, via adoption of Resolution 2022-XX.

Findings:

1. 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.
2. The proposed interim use and conditions related to roadway improvements 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 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, inasmuch as there are no permanent structures proposed.
4. There are no required public utilities since the use is for bus staging only. The infrastructure of Tunnel Avenue provide for roadway access and lavatories and recycling are contained on the buses, so that the interim use will operate in a safe, sanitary, and lawful manner.
5. The use will benefit the property and/or the public in that it would be used to facilitate bus ridership for Google employees thereby reducing greenhouse gas emissions that will benefit the public throughout the region.
6. The use would encourage the employment of Brisbane residents to the extent it is reasonably possible to do, inasmuch as Google utilizes vendor partners for bus driver services and has indicated that they will encourage those vendors to post job openings in the City's Chamber of Commerce publication, the Luminary.

Conditions of Approval:

Operational Character

1. **Bus Limit:** Google buses are limited to a total of 90 to be parked on the site at any time. Total bus trips shall not exceed 270 per day. A bus trip is either in or out of the site.
2. **Dust Control:** Within 30 days of this permit being granted (by October 15, 2022), a calcium chloride binder (or other chemical soil stabilization agent approved by the City Engineer) shall be applied to treat the yard surface to the satisfaction of the City Engineer to prevent airborne dust. Thereafter the yard surface shall be maintained to the satisfaction of the City Engineer to prevent airborne dust, including reapplication of the soil stabilization agent as needed.
3. **Hours and Days of Operation:** Hours of bus arrivals and departures to and from the site shall be between 4 am and 10 pm, Monday through Friday. Bus trips outside these hours for maintenance or repair purposes must be requested in writing to the Planning Director and subject to approval in advance. The Director may approve the request as a minor modification or refer the matter for public hearing per BMC 17.41.090.
4. **Lighting:** Lighting shall be programmed to turn on no earlier than 4 am and to turn off no later than 10 pm, Monday through Friday. Lighting shall be maintained at existing heights, at or below 15 feet above grade, shielded and directed downward so the light sources are not directly visible from Brisbane's residential neighborhoods and/or from nearby street views. They shall be maintained at illumination levels that do not pose a nuisance to the Brisbane's residential neighborhoods.
5. **Bus Routing:** Google shall route their buses to and from the site north of the site along Tunnel Ave and Beatty Ave to connect to U.S. 101. Drivers of the buses shall not use Tunnel Avenue south of the site.
6. **Tracking and Reporting:** Google shall electronically track bus movements and provide the following, to demonstrate compliance with and report violations of hours of operation and routing (Conditions 3 and 5):

- a. By October 1st, 2022, Google shall create and thereafter maintain a website that provides bus movement data to and from the site, to demonstrate compliance with the referenced conditions.
- b. The website shall be updated by Google on at least a weekly basis.
- c. The website shall be available to the City and the public.
- d. Additionally, Google shall provide a monthly report (“the reporting period”) to the Planning Director summarizing bus movements to and from the site and identifying any violations of this Condition in the reporting period, with details as to the reason for each violation and action taken to avoid repeat or further violations.
- e. Google shall provide to the Planning Director the report by the last day of the month following the reporting period along with the payment of penalties, if any, for violations of this Condition (see Condition 7, below). For example, the monthly report for October is due by November 30th.
- f. Google shall prepare all reports in a readable form.

7. Penalties for violations:

- a. Penalties for arrivals and departures outside the approved hours of operation (Condition 3) shall be as follows:
 - i. A penalty of \$50 for each violation, payable to the City of Brisbane.
 - ii. In addition, the City may document any violation of this Condition and if such violation is not reflected in the monthly report, the violation shall incur a penalty of \$100 per unreported violation, to be paid with the next monthly report.
 - iii. If more than two hundred (200) violations occur within a calendar month, or if Google fails to pay timely, or consistently is late in paying the penalties, staff shall provide an informational report to City Council.
- b. Penalties for buses using Tunnel Avenue south of the site (Condition 5) shall be payable to the City of Brisbane as follows:
 - i. One (1) to five (5) violations within a calendar month shall incur a penalty of \$500 for each violation.
 - ii. Six (6) to ten (10) violations within a calendar month shall incur a penalty of \$1000 for each violation.
 - iii. Eleven (11) to twenty (20) violations within a calendar month shall incur a penalty of \$2000 for each violation.
 - iv. More than twenty (20) violations within a calendar month shall incur a penalty of \$5000 for each violation.
 - v. In addition, the City may document any violation of this Condition and if such violation is not reflected in the monthly report, the violation shall incur a penalty of \$5000 per unreported violation, to be paid with the next monthly report.
 - vi. If more than twenty (20) violations of routing occur within a calendar month, or if Google fails to pay timely, or consistently is late in paying the penalties, staff shall provide an informational report to City Council.
- c. Exceptions to violations: Bus trips outside the regular hours of operation or using the roadways south of the site that occur as a result of an Act-of-God or due to circumstances beyond Google’s or the bus operator’s control, such as road closures or detours, will not be considered a violation, if the following additional conditions are

- met. The event(s) must be included in the monthly report along with documentation detailing and verifying the event as outside Google's or the bus operator's control. Such events are subject to the Planning Director's concurrence. If the Planning Director does not concur, the Planning Director or his/her designee will provide notice to the owner and the fee for such violation(s) shall be included along with the next monthly report.
- d. Revocation or Modification. Following receipt of an information report referenced above, City Council may schedule a public hearing to consider modification or revocation of the interim use permit.

Tunnel Ave Safety Improvements and Maintenance

8. Tunnel Ave Safety Improvements: Within 180 days of the date of this approval (by March 14th, 2023) the following improvements shall be made along Tunnel Ave, with the design and installation subject to approval of the City Engineer, and subject to Department of Public Works Issued Encroachment and Grading permits:
 - a. Removal or relocation of the concrete barricades that, at the time of this writing, are located along the east shoulder of Tunnel Ave.
 - b. Improvement of the existing roadway shoulder on the east side of Tunnel Ave to include an 8 ft wide approximately 4,500 ft long compacted, decomposed granite ("DG") cycle track, to improve the existing bicycle access, consistent with the exhibits provided in the July 7th, 2022 City Council report and included in this condition by reference.
 - c. Provide crossings at the Tunnel Ave and Lagoon Way intersection.
 - d. Installation of plastic delineators along the east side of Tunnel Avenue, to provide separation between the roadway and the new DG cycle track and to help to deter vehicles from pulling off the roadway to dump trash.
 - e. Installation of plastic delineators may also be required by the City Engineer along the west side of Tunnel Ave, south of the site, at a future date if she/he determines trash dumping requires the placement of barriers to mitigate this activity.
 - f. Add 4 new "no dumping" signs along Tunnel Ave.
9. Tunnel Ave Trash Removal: BDI will routinely patrol the above referenced section of Tunnel Ave and remove any trash dumped within 24-hours when identified by BDI, City or members of the public.
10. Delineator Maintenance: Damaged or missing delineators shall be replaced by BDI within 2 weeks of damage.
11. Cycle Track Maintenance: The cycle track (bike path) shall be maintained in a state of good and functional repair.

Site Use Limitations and Maintenance

12. No storage is permitted on site other than the Google bus parking and parking of the drivers' vehicles used to retrieve buses.
13. The site shall be maintained free of trash and debris. Trash and recycling shall be contained on the buses for disposal at an authorized off-site location.
14. Per the City Engineer, all vehicles utilizing the yard shall be in compliance with vehicle weight requirements specified in California Vehicle Code Sections 35550-35558. Storage of any vehicles over these weight requirements shall be subject to approval by the City Engineer, who may impose additional conditions.
15. The site and surrounding area shall be maintained for the duration of the use in compliance with North County Fire Authority requirements. This includes, flammable vegetation must be kept a minimum of 30 feet away from the property line, around the exterior of the lot being used, to provide a fuel break from the Baylands vegetation, except that vegetation within the nearby wetlands areas shall not be removed without approval by the project biologist.
16. Maintenance of vehicles is not permitted on the site.
17. Per the Bayshore Sanitary District requirements:
 - No onsite wastewater facilities, other than those on the buses are permitted.
 - No SFPUC water connection is permitted without prior approval.
 - No wastes from the buses into the District's wastewater collection system shall be permitted.
18. If the City determines that the interim use would interfere or obstruct planned public improvements, within a 90-day written notice by the City the permittee shall abandon the interim use and remove improvements at its own expense.
19. The operator shall maintain a business license through the City's Finance Dept.

Mandatory Conditions, per BMC Section 17.41.070:

20. Since the use is being operated by a person other than the owner of the property, the owner and the operator are furnish the city with an agreement (or a copy of a lease containing such agreement) 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.
21. The permittee shall be jointly and severally liable for all costs and expenses, including attorneys' fees, 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.

Other Conditions and Project Close Out:

22. Vehicles, fencing and lighting shall be removed from the site by the close of the interim use permit period or upon other vacation of the use.
23. Minor modifications to this use permit may be approved by the Planning Director upon written request.
24. This Use Permit is subject to the revocation procedures established in Brisbane Municipal Code Chapter 17.41.100. As the granting authority of this modified interim use permit, City Council shall be the authority to make a determination regarding revocation.
25. This Interim Use Permit shall expire **five years** from the date of City Council's approval: **September 15th, 2027.**



BRISBANE CITY COUNCIL
ACTION MINUTES

ATTACHMENT 3
CITY COUNCIL MEETING
THURSDAY, JULY 7, 2022
VIRTUAL MEETING
CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Mackin called the meeting to order at 7:39 P.M. and led the Pledge of Allegiance.

ROLL CALL

Councilmembers present: Councilmembers Cunningham, Davis, Lentz, O'Connell and Mayor Mackin

Councilmembers absent: None

Staff Present: City Manager Holstine, City Clerk Padilla, City Attorney McMorrow, Assistant City Manager Schillinger, Finance Director Yuen, City Engineer Breault, Deputy Public Works Director Kinser, Sustainability Manager Etherton, Maintenance Manager Black, Community Development Director Swiecki, Senior Planner Johnson, Parks and Recreation Director Leek, Communications Manager Cheung, Police Chief Macias, , Police Commander Garcia and Legal Counsel Roush

REPORT OUT OF CLOSED SESSION

City Attorney McMorrow reported that updates were provided to Council, direction was given to staff and no action was taken at Closed Session regarding Closed Session Items D and E.

ADOPTION OF AGENDA

Councilmember Davis made a motion, seconded by Councilmember O'Connell to adopt the agenda as it stands. The motion was carried unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, O'Connell and Mayor Mackin

Noes: None

Absent: None

Abstain: None

ORAL COMMUNICATIONS NO. 1

No members of the public wished to speak.

AWARDS AND PRESENTATIONS

A. Proclamation Recognizing July as Parks and Recreation Month

Mayor Mackin read a proclamation recognizing July as Park and Recreation month.
Director of Parks and Recreation Leek thanked the City Council for their continued support.

CONSENT CALENDAR

B. Accept Investment Report as of April 2022

C. Adopt Resolutions to Appoint Committee Members of the Inclusion, Diversity, Equity, and Accountability Committee, and the Complete Streets Safety Committee

D. Adoption of a Resolution Declaring the Continued Need to Conduct City Council, Commission and Committee Meetings Remotely Due to Health and Safety Concerns for the Public

E. Adopt Resolution Establishing the Business License Tax for Liquid Storage Facilities for 2022 as to Kinder Morgan/SFPP

F. Adoption of a Revised Conflict of Interest Code to Include the Assistant City Manager, the Communications Manager, and the Assistant Fire Marshal and Deleting Park and Recreation Commission

Councilmember O'Connell made a motion, seconded by Councilmember Davis to adopt the Consent Calendar Items B-F. The motion was carried unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, O'Connell and Mayor Mackin

Noes: None

Absent: None

Abstain: None

G. Adoption of Ordinance to Impose a Business License Tax on Hotels and Resolution Amending the Ballot Question for the Measure/Ordinance to be Submitted to the Voters Imposing a Business License Tax on Hotels

H. Adopt an Ordinance Adding a New Chapter 3.22 to the Brisbane Municipal Code Imposing a Transactions and Use Tax to be Administered by the California Department of Tax and Fee Administration and Resolution Amending the Ballot Question for the Ordinance to be Submitted to the Voters levying a half cent Transaction and Use Tax

Mayor Mackin requested to have the definitions and text of the accompanying Resolution and Ordinance match the ballot measure question. After no public comment, Councilmember O'Connell made a motion, seconded by Councilmember Davis to adopt the Consent Calendar Items G and H as amended. The motion was carried unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, O'Connell and Mayor Mackin

Noes: None

Absent: None

Abstain: None

AWARDS AND PRESENTATIONS CONTINUED

I. Administer Oath of Office to Newly Appointed Committee Members

- 1. Gregory J. Strecker, Complete Streets Safety Committee for a term through January 2026**
- 2. Christian Allan Bustos, Inclusion, Diversity, Equity and Accountability Committee for an initial term through January 2023**
- 3. Miyoko Nida, Inclusion, Diversity, Equity and Accountability Committee for an initial term through January 2023**

City Clerk Padilla administered the Oath of Office to newly appointed Committee Members Strecker, Bustos, and Nida.

PUBLIC HEARING

J. Consideration of Entering into Energy Service Contract Pursuant to the Provisions of the California Government Code Section 4217.10, Et Seq. for the City of Brisbane Community Pool Electrification Project

City Engineer Breault reported that the purpose of this item is to complete the process necessary for entering into a sole source energy service contract with Willdan Energy Solutions. It is being recommended to adopt a Resolution "Approving an Energy Service Contract with Willdan Energy Solutions." and transfer \$183,394 from the General Fund to pay the city's share of project funds.

After Council questions and statements from the Mayor and the Clerk to open the public hearing, Michele Salmon commented that she strongly supports this item.

Councilmember O'Connell made a motion, seconded by Councilmember Davis to close the public hearing. The motion was carried unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, O'Connell and Mayor Mackin

Noes: None

Absent: None

Abstain: None

Councilmember Lentz made a motion, seconded by Councilmember Davis to adopt a Resolution “Approving an Energy Service Contract with Willdan Energy Solutions.” and transfer \$183,394 from the General Fund to pay the city’s share of project funds. The motion was carried unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, O’Connell and Mayor Mackin
Noes: None
Absent: None
Abstain: None

K. Sierra Point Landscaping and Lighting District

1. Hear Statement of Engineer of Record, Read Mayor’s Statement, Hear City Clerk Statement, Open Public Hearing to hear any testimony, Close Public Hearing

2. Consider adoption of Resolution overruling protests and ordering the improvements and confirming the diagram and assessments for Fiscal Year 22/23

After hearing the statements from Deputy Public Works Director Kinser, Mayor Mackin and Clerk Padilla, and some council questions, Mayor Mackin opened the public hearing.

No members of the public wished to make public comment.

Councilmember Cunningham made a motion, seconded by Councilmember O’Connell to close the public hearing. The motion was carried unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, O’Connell and Mayor Mackin
Noes: None
Absent: None
Abstain: None

Councilmember Cunningham made a motion, seconded by Councilmember O’Connell to adopt a Resolution overruling protests and ordering the improvements and confirming the diagram and assessments for Fiscal Year 22/23. The motion was carried unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, O’Connell and Mayor Mackin
Noes: None
Absent: None
Abstain: None

L. City of Brisbane Local Stormwater Program Fees

1. Open the Public Hearing and take public comment. Close the Public Hearing, and if appropriate, overrule any objections to the imposition of fees related to the National Pollutant Discharge Elimination System (NPDES)

2. Consider adoption Resolution, “A Resolution of the City Council of the City of Brisbane Imposing Charges for Funding the Local Brisbane Stormwater Program, Authorizing Placement of Said Charges on the 2022-2023 County Tax Roll, and Authorizing the County Tax Collector to Collect Such Charges.”

City Engineer Breault introduced Maintenance Manager Black who reported on the City of Brisbane’s Local Storm Water Program Fees. After no Council questions, Mayor Mackin opened the public hearing.

Michele Salmon- asked what were the indirect cost noted in the staff report?

After clarifying questions, Michele Salmon stated that mega mansions should be responsible for higher share.

Councilmember Davis made a motion, seconded by Councilmember O’Connell to close the public hearing. The motion was carried unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, O’Connell and Mayor Mackin

Noes: None

Absent: None

Abstain: None

Councilmember O’Connell made a motion, seconded by Councilmember Cunningham to adopt a Resolution imposing charges for funding the Local Brisbane Stormwater Program, authorizing placement of said charges on the 2022-2023 County Tax Roll, and authorizing the County Tax Collector to collect such charges. The motion was carried unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, O’Connell and Mayor Mackin

Noes: None

Absent: None

Abstain: None

CONTINUED PUBLIC HEARING

M. Applicant Appeal of the Planning Commission’s April 4, 2022 Decision Denying the Modification of Interim Use Permit 2021-UP-3 to Allow the Use of a Vacant Site On the Baylands To Be Used For a Google Bus Staging Yard

(This public hearing item was continued from the City Council Meeting of May 19, 2022. City Council will consider applicant appeal of the Planning Commission’s April 4, 2022 decision denying the modification of Interim Use Permit 2021-Up-3 to allow the use of a vacant site on the Baylands to be used for a Google Bus staging yard (Planning Commission Resolution 2021-UP-3-M) and revoking Interim Use Permit 2021-UP-3 (Planning Commission Resolution 2021-UP-3-R); Eric Aronsohn, applicant; Oyster Point Properties Inc, applicant/owner.)

Councilmember Cunningham recused herself from the item and left the room.

Senior Planner Ken Johnson, reported that in response to the concerns raised at the previous City Council meeting, BDI has proposed the following measures and Tunnel Ave improvements (see further detail in Attachment 1):

1. Removal or relocation of the concrete barricades that are currently located along Tunnel Ave.
2. Improvement of the existing roadway shoulder on the east side of Tunnel Ave to include an 8 ft wide approximately 4,500 ft long compacted, decomposed granite ("DG") path, to improve the existing bicycle/pedestrian access.
3. Provide crossings at the Tunnel Ave and Lagoon Way intersection.
4. Installation of plastic delineators along the east side of Tunnel Avenue. These would provide separation between the roadway and the new DG bike path.
5. Add 4 new "no dumping" signs along Tunnel Ave.
6. BDI will routinely patrol the area and commit to removing any trash dumped within 24-hours when identified by BDI, City or members of the public.
7. For dust mitigation, the yard surface would be treated with a calcium-based binder, which would binder the surface gravel while allowing the surface to remain pervious to rainwater.
8. BDI has proposed to implement fines on Google for drivers violating the prohibition on using Tunnel Ave south of the site.

After Council questions, Mayor Mackin opened the public hearing and heard from the Applicant Aronsohn. After more Council questions, Michele Salmon commented that she would be concerned about plastic bollards and about the Golden State Lumber's permit use expiring.

Councilmember O'Connell made a motion, seconded by Councilmember Davis to close the public hearing. The motion was carried unanimously by all present.

Ayes: Councilmembers Davis, Lentz, O'Connell and Mayor Mackin

Noes: None

Absent: None

Abstain: None

Recusal: Councilmember Cunningham

After more Council discussion, Councilmember O'Connell made a motion, seconded by Councilmember Lentz to approve an interim use permit extension until the continued public hearing on September 15th. Council directed applicant to provide a formalized permit process, e.g., operational hours, route deviation and consequences, fines (should fines received go to the City or to BDI), timeline of road maintenance, reporting mechanisms and permit revocation and grounds.

The motion was carried unanimously by all present.

Ayes: Councilmembers Davis, Lentz, O'Connell and Mayor Mackin

Noes: None

Absent: None

Abstain: None

Recusal: Councilmember Cunningham

NEW BUSINESS

N. Authorize the City Manager to Enter into an Agreement with Flock Safety Group for the installation of Automated License Plate Readers within the City of Brisbane

(If approved, the agreement with Flock Safety Group will be in the amount of \$39,700 for FY 2022-2023. The funding this year and moving forward will be funded from the Police Department's budget.)

Police Chief Macias reported that they are recommending to authorize the City Manager to enter into agreement with Flock Safety Group for the installation and maintenance of twelve Stationary Automated License Plate Reader units (ALPR) and one mobile mountable ALPR, as additional investigative tools to assist the Police in investigations. The implementation of an ALPR program will aid the Brisbane Police Department in its investigative efforts in the following ways:

- Locate stolen, wanted and subject of investigation vehicles
- Provide leads to assist with investigation into crimes committed within the city
- Detect vehicles associated with missing persons and at-risk persons, including those on active Amber Alerts
- Detect vehicles associated with subjects with outstanding arrest warrants or otherwise lawfully sought by law enforcement

Police Commander Garcia shared a presentation on how the ALPR program will be coordinated. After some Council questions, Councilmember O'Connell made a motion, seconded by Councilmember Lentz to extend the meeting till 11:00 P.M. The motion was carried unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, O'Connell and Mayor Mackin

Noes: None

Absent: None

Abstain: None

After some council questions of staff and Hector Soliman Valdez from Flock Safety Group, Clerk Padilla noted for the record that public comment was received by the council prior to the meeting from Luke Kowalski (7/5/22) License Plate Reader In support and Carol Zoltowski (7/7/22) license plate reader (ALP): Brisbane.

After some Council discussion, Councilmember Cunningham made a motion, seconded by Councilmember Lentz to authorize the City Manager to enter into agreement with Flock Safety Group for the installation and maintenance of twelve Stationary Automated License Plate Reader units (ALPR) and one mobile mountable ALPR, as additional investigative tools to assist the Police in investigations. The motion was carried unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, O'Connell and Mayor Mackin

Noes: None

Absent: None

Abstain: None

STAFF REPORTS

O. City Manager's Report on Upcoming Activities

Due to the late hour no report was given.

MAYOR/COUNCIL MATTERS

P. Countywide Assignments and Subcommittee Reports

Due to the late hour, no report was given.

Q. Written Communications

The Council received the following written communication from June 17-July 7, 2022:

- David Schooley (6/27/22)--Quarry
- San Mateo County Child Care Partnership Council and Build Up San Mateo County (7/5/22): Policy recommendations for Housing Element Updates
- Luke Kowalski (7/5/22) License Plate Reader In support
- Carol Zoltowski (7/7/22) license plate reader (ALP): Brisbane

ORAL COMMUNICATIONS NO. 2

No member of the public wished to speak.

ADJOURNMENT

Mayor Mackin adjourned the meeting at 10:57 P.M.

Ingrid Padilla, City Clerk



CITY COUNCIL AGENDA REPORT

Meeting Date: July 7, 2022

From: John Swiecki, Community Development Director

Subject: 600 Tunnel Avenue; Appeal of the Planning Commission's Decision to revoke Interim Use Permit 2021-UP-3 and to deny the requested modification for continued staging of up to 90 Google Commuter buses on an approximately 3-acre vacant site on the Baylands.

SUPPLEMENTAL REPORT

Community Goal/Result

Safe Community - Residents and visitors will experience a sense of safety.

Purpose

Continued public hearing on the appeal by BDI, on behalf of Google Inc., of the Planning Commission's decision to revoke Interim Use Permit 2021-UP-3 and to deny the requested modification for continued staging of up to 90 Google Commuter buses on an approximately 3-acre vacant site on the Baylands.

Recommendation

That the City Council make a decision on the appeal. Two draft resolutions are provided for Council's reference, one granting the applicant's appeal and modifying the permit conditions of approval (Attachment 2), or alternatively affirming the Planning Commission's decision to revoke the interim use permit (Attachment 3).

Background

On May 19, 2022, City Council held a public hearing on the appeal of the Planning Commission's decision to revoke the above referenced permit and deny the applicant's requested modification. Following the public hearing, Council continued the matter to allow BDI time to address safety concerns that were raised regarding Tunnel Ave's narrow roadway conditions and the risks that errant buses travelling south of the site may pose, especially to bicyclists. Further background details may be referenced from the May 19th minutes and agenda report (Attachments 4 and 5).

On June 28th, BDI provided a proposal set forth in Attachment 1 in an effort to address Council's concerns.

Discussion

In response to the concerns raised at the previous City Council meeting, BDI has proposed the following measures and Tunnel Ave improvements (see further detail in Attachment 1):

1. Removal or relocation of the concrete barricades that are currently located along Tunnel Ave.
2. Improvement of the existing roadway shoulder on the east side of Tunnel Ave to include an 8 ft wide approximately 4,500 ft long compacted, decomposed granite (“DG”) path, to improve the existing bicycle/pedestrian access.
3. Provide crossings at the Tunnel Ave and Lagoon Way intersection.
4. Installation of plastic delineators along the east side of Tunnel Avenue. These would provide separation between the roadway and the new DG bike path.
5. Add 4 new “no dumping” signs along Tunnel Ave.
6. BDI will routinely patrol the area and commit to removing any trash dumped within 24-hours when identified by BDI, City or members of the public.
7. For dust mitigation, the yard surface would be treated with a calcium-based binder, which would binder the surface gravel while allowing the surface to remain pervious to rainwater.
8. BDI has proposed to implement fines on Google for drivers violating the prohibition on using Tunnel Ave south of the site.

The applicant has provided a map and cross section depicting the proposed DG path and plastic delineators relative to the existing roadway. Given the capital investment to complete the proposed improvements, BDI is also requesting a 5-year term be granted from the date of City Council approval. This would be consistent with the maximum term allowed for interim use permits on the Baylands, per BMC Section 17.41.080.A. Otherwise, if the appeal were granted without an extension of the date, it would be set to expire in November of this year. Note that BDI has committed to completing the improvements within 180 days.

The City Engineer and Planning staff have reviewed the proposed measures and believe they would improve vehicular and bicycle safety along Tunnel Ave. They have been included as draft conditions of approval in the event the City Council chooses to grant the appeal. Staff further recommends an additional condition of approval requiring plastic bollards on the west side of Tunnel Ave, to discourage dumping. Staff further recommends a condition of approval requiring that the on-site dust mitigation binder to be applied to the site within 30 days of City Council approval.

As noted previously staff has prepared alternate draft resolutions for the City Council’s consideration to either approve the interim use permit revision (including extended term) with

revised conditions of approval (Attachment 2), or to uphold the Planning Commission's decision for permit revocation (Attachment 3).

Fiscal Impact

None.

Measure of Success

Processing of an appeal application consistent with Brisbane's Municipal Code.

Attachments

1. Applicant's Proposal, dated June 28, 2022
2. ~~Draft City Council Resolution Granting the Appeals and Conditionally Approving 2021-UP-3-M (Modified)~~ Superseded
3. Draft City Council Resolution Affirming the Planning Commission Revocation of Interim Use Permit 2021-UP-3 and Denying the Applicant's Requested Modification
4. ~~City Council Minutes, May 19, 2022~~
5. ~~City Council Agenda Report, May 19, 2022~~ Provided separately

John Swiecki

John Swiecki, Community Development Director

Clayton L. Holstine

Clay Holstine, City Manager

ATTACHMENT 1

BDI PROPOSAL

For Google Bus Yard

Interim Use Permit 2021-UP-3: Appeal and Request for Extension

Date: 6/28/22

Attn: Ken Johnson – Senior Planner, City of Brisbane

Summary

Baylands Development Inc (“BDI”) and its tenant Google are requesting a 5-year extension to the current use permit currently under appeal and otherwise set to expire in November, 2022. In response to City Council’s and Brisbane community members, we are proposing enhancements to Tunnel Avenue intended to improve safety for both cyclists and drivers, and enhance the area as a means of reducing illegal dumping. Along with these efforts, BDI and Google commit to complying with the conditions of the current use permit including but not limited to hours of operation, bus routing, and dust mitigation.

In consultation with traffic consultant Fehr & Peers and City staff, a list of improvements for implementation are described below. While we think these measures are appropriate and can be implemented in a short period of time, we remain open to further comments and suggestions from Council.

Tunnel Ave

1. Concrete barricades will be removed or reconfigured
2. Construct an 8’ wide and approximately 4,500’ long decomposed granite (“DG”) path on east side of Tunnel Ave (from Lagoon to Beatty)
3. Add crosswalks at north end of the path and also crossing Tunnel Ave and crossing Lagoon Rd at the intersection of those two roads (see Exhibit A. Exhibit 1, Plan view of crosswalks and path length)
4. Add 4 new “no dumping” signs along Tunnel Ave
5. Install vertical delineators along the east side of Tunnel, protecting the DG path from vehicles and illegal dumping (See Exhibit A. Figure 1, Cross sections of Tunnel Road with path)

Parking Surface

For dust mitigation purposes, a calcium-based additive can be applied via water truck. The additive is designed to bind the fine materials while drawing in moisture from the surrounding air to the existing surface cover thereby reducing or eliminating dust.

Route Violation Fine Program

While our goal remains to eliminate the violations all together, we recognize the mitigating incentive a fine provides. BDI is proposing a sizable fine per violation to the tenant based on the monthly, self-reporting routing data from Google. All fines will go towards maintaining and enhancing the traffic safety improvements proposed for Tunnel Ave.

Additional Measures to Prevent Dumping

Moving the concrete barricades from the road may lead to illegal dumping issues. By all accounts, the barricades were effective in mitigating this issue. In order to keep this issue at bay, BDI will routinely patrol the area and commit to removing any trash dumped in the area within 24-hours when identified by BDI, City, or members of the public.

Implementation

BDI is working expeditiously to find a set of solution that are sufficient, economically viable, and environmentally responsible. We believe within 90-180 days of approval the above recommended measures can be completed

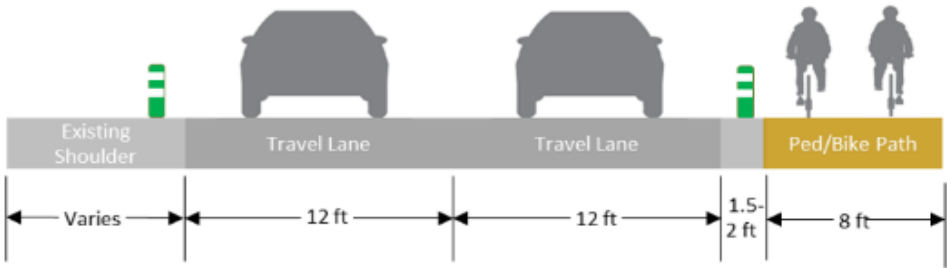
pending grading permit and other steps deemed necessary by stakeholders including the City of Brisbane, the DTSC, and the Water Board.

Conclusion

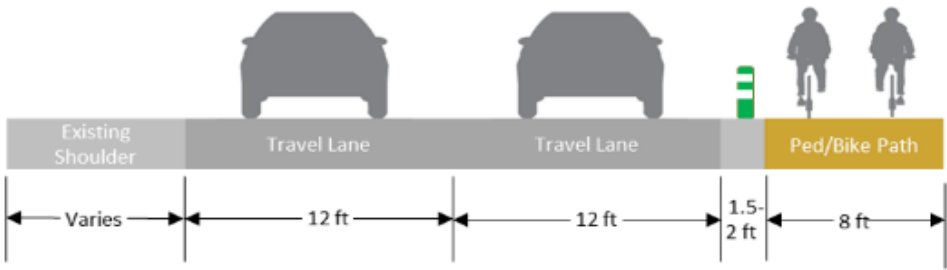
BDI and Google have spent significant time evaluating the conditions at the site and addressing the concerns of the community. Providing a 5-year use permit allows BDI and Google to make enhancements to the operation and improvements to Tunnel Ave and demonstrate our commitment to the Brisbane community.

EXHIBIT A

Figure 1: Tunnel Avenue Cross-section with Pedestrian/Bicycle Path



Tunnel Avenue Looking North



Tunnel Avenue Looking North

Tunnel Avenue Improvement Options
June 21, 2022

FEHR PEERS



Exhibit 1: Illustrative Bicycle / Pedestrian Path Alignment & Crosswalk Improvements

~~ATTACHMENT 3~~

Draft - RESOLUTION 2022-XX
A RESOLUTION OF THE CITY COUNCIL OF BRISBANE
UPHOLDING THE PLANNING COMMISSION'S DECISIONS TO
DENY THE REQUESTED MODIFICATION AND TO REVOKE
INTERIM USE PERMIT 2021-UP-3-M
FOR GOOGLE BUS STAGING YARD AT 600 TUNNEL AVE

WHEREAS, on November 16, 2021, following a duly noticed public hearing, the Planning Commission conditionally approved Interim Use Permit 2021-UP-3, which allowed for continuation of Google's staging of commuter buses at 600 Tunnel Ave for a period of one year; and

WHEREAS, following a report to the Commission on March 10, 2022 detailing Google's bus movements, the Commission requested that the application be placed on an agenda for a public hearing for potential revocation; and

WHEREAS, Eric Aronsohn of BDI, on behalf of Google, applied to the City of Brisbane for Modification to Interim Use Permit 2021-UP-3 to allow continued outdoor staging of Google buses with a revised schedule for bus trips, with operations generally 4 am to 10 pm, versus the previous schedule of 3 to 7 am and 3 to 9 pm; and

WHEREAS, on April 14th, 2022, the Planning Commission conducted a hearing to consider both revocation and the applicant's requested modification of Interim Use Permit 2021-UP-3, at which time any person interested in the matter was given an opportunity to be heard; and

WHEREAS, following the public hearing, the Planning Commission denied the requested modification and revoked the interim use permit on the finding that Google had violated condition of approval #4 which states, "Routing of Google buses shall be to and from the north along Tunnel Ave and Beatty Ave to connect to U.S. 101. Buses shall not use Tunnel Avenue south of the site"; and

WHEREAS, Eric Aronsohn appealed the Planning Commission's decisions to deny the requested modification and to revoke the permit to the City Council; and

WHEREAS, City Council held duly noticed public hearings on May 19th, 2022 and July 7th, 2022 on the appeals, at which time any person interested in the matter was given an opportunity to be heard; and

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

NOW THEREFORE, BE IT RESOLVED by the City Council that:

Section 1.

- C. The above recitals are true and correct and incorporated herein by reference as if set forth in full.
- D. The City Council hereby affirms the Planning Commission's decisions to revoke Interim Use Permit 2021-UP-2 and deny the requested modification, given violation of Condition #4, as indicated by the Planning Commission and traffic safety concerns that this raises.

Section 2.

This Resolution shall take effect within 30 days of its adoption. That effective date being August 6th, 2022.

COLEEN MACKIN, Mayor

I hereby certify that the foregoing Resolution No. 2022-XX was duly and regularly adopted at the regular meeting of the Brisbane City Council on July 7th, 2022 by the following vote:

AYES:

NOES:

ABSENT:

INGRID PADILLA, City Clerk

PUBLIC HEARING

L. Applicant Appeal of the Planning Commission's April 4, 2022 Decision Denying the Modification of Interim Use Permit 2021-UP-3 to Allow the Use of a Vacant Site On the Baylands To Be Used For a Google Bus Staging Yard

(City Council will consider applicant appeal of the Planning Commission's April 4, 2022 decision denying the modification of Interim Use Permit 2021-Up-3 to allow the use of a vacant site on the Baylands to be used for a Google Bus staging yard (Planning Commission Resolution 2021-UP-3-M) and revoking Interim Use Permit 2021-UP-3 (Planning Commission Resolution 2021-UP-3-R); Eric Aronsohn, applicant; Oyster Point Properties Inc, applicant/owner.)

Councilmember Cunningham recused herself due to a conflict of interest and left the Zoom Webinar.

Senior Planner Johnson recapped the Planning Commission on April 4, 2022 denying the modification of Interim Use Permit 2021-Up-3 to allow the use of a vacant site on the Baylands to be used for a Google Bus staging yard (Planning Commission Resolution 2021-UP-3-M) and revoking Interim Use Permit 2021-UP-3 (Planning Commission Resolution 2021-UP-3-R).

After council questions, Mayor Mackin opened the public hearing.

Eric Aronsohn, Director - Strategic Finance, Sustainability, Asset Management of Baylands Development Inc. and Ross Benson, Transportation Manager from Google appealed to the Council to reverse the Planning Commission's decision.

City Clerk Padilla noted for the record that correspondence regarding this item was received from Dana Dillworth and a recent email was sent by Transdev Bus Operation.

Kim Follien was in support of the use permit asking the Council to decide based on facts.

Michele Salmon spoke in favor of the Planning Commission's decision to revoke the Interim Use Permit and showed video clips.

Prem Lall was concerned about light pollution and asked that the lights in the bus yard be pointed down to the concrete.

Mary Rogers stated that Google was given many chances to fix the issues and they have not fixed them.

Barbara Ebel supported the Commission's decision because the appellant was not good at keeping promises and proposed a bond program for fines.

CM Lentz made a motion, seconded by CM Davis, to close the public hearing. The motion was carried unanimously by all present.

Ayes: Councilmembers Davis, Lentz, O'Connell and Mayor Mackin

Noes: None

Absent: None

Abstain: None

Recused: Councilmember Cunningham

After more clarifying questions directed to staff, Fehr and Peers the appellant's traffic consultants, and Mr. Aronsohn and Mr. Benson, Councilmember Lentz asked to continue the public hearing until Mr. Aronsohn can discuss with BDI about Tunnel Road safety and upgrades.

Councilmembers agreed with Councilmember Lentz. CM O'Connell made a motion, seconded by CM Davis, to continue the public hearing until the July 14 and provide more information on implementing roadway improvements on Tunnel Avenue (including northern and southern routes as well as the possibility of incorporating a bicycle lane). The motion was carried unanimously by all present.

Ayes: Councilmembers Davis, Lentz, O'Connell and Mayor Mackin

Noes: None

Absent: None

Abstain: None

Recused: Councilmember Cunningham

CM O'Connell made a motion, seconded by CM Lentz to continue the Interim Use Permit for another 60 days. The motion was carried unanimously by all present. CM Davis also requested for the appellant to provide more current bus yard usage data during those 60 days.

Ayes: Councilmembers Davis, Lentz, O'Connell and Mayor Mackin

Noes: None

Absent: None

Abstain: None

Recused: Councilmember Cunningham

~~M. Consider Approval of Use Permit 2022-UP-2; 1000 Sierra Point Parkway; SP-CRO Sierra Point Commercial District; Use Permit application to allow the use of minipigs in medical research and development (R&D) by Bristol-Myers Squibb in the existing, approximately 9,000 square foot vivarium; Ricardo Garcia, applicant; HCP LS Brisbane LLC, owner~~

~~Senior Planner Johnson reported that the purpose of this public hearing item is for the Council to consider the proposed use permit application for Bristol-Myers Squibb (BMS) to conduct research on minipigs for cardiovascular research. It is being recommended that the City Council approve the requested use permit application 2022-UP-2.~~

~~After council questions, Mayor Mackin opened the public hearing. Dr. Ricardo Garcia Senior Director, Cardiovascular Drug Discovery from Bristol Myers Squibb and Dr. Beth Geist, Senior Staff Veterinarian from Bristol Myers Squibb asked for Council to approve the Use Permit Application as they will conduct research~~



CITY COUNCIL AGENDA REPORT

Meeting Date: May 19, 2022

From: John Swiecki, Community Development Director

Subject: 600 Tunnel Avenue; Appeal of the Planning Commission's Decision to revoke Interim Use Permit 2021-UP-3 and to deny the requested modification for continued staging of up to 90 Google Commuter buses on an approximately 3-acre vacant site on the Baylands.

Community Goal/Result

Safe Community - Residents and visitors will experience a sense of safety.

Purpose

To hear the appeal by Google Inc. of the Planning Commission's decision to revoke Interim Use Permit 2021-UP-3 and to deny the requested modification for continued staging of up to 90 Google Commuter buses on an approximately 3-acre vacant site on the Baylands.

Recommendation

That the City Council make a decision on the appeals and provide direction to staff regarding the preparation of final resolutions.

Background

In 2019, the Planning Commission approved Interim Use Permit UP-4-19, which allowed for the establishment of a parking/staging yard for up to 90 Google commuter buses on the subject site, an approximately 3-acre vacant site on the Baylands, between Tunnel Avenue and the CalTrain rail lines. While the request was for 5 years, the Planning Commission approved a term of 2 years. In their project description, Google had characterized the use as routing trips to the north to access the U.S. 101 freeway via Beatty Avenue with hours of operation generally between 3 am and 7 am and 3 pm and 9 pm, Monday through Friday. At the time of approval, the Commission added a condition of approval prohibiting bus routing to or from the south of the yard, but the conditions did not address hours of operation. The Commission also advised that a future application should include actual traffic routing and trip count data. The approved bus routing map is provided as Attachment 5.

The yard was established and began operations in late 2019. Operations were then ceased from March 2020 to the Summer of 2021 due to the Covid-19 pandemic. During its operational period in early 2020, complaints were raised regarding lighting, dust and buses being seen south of the yard.

In late 2021, the property owner applied, on behalf of Google, to extend the use via Interim Use Permit 2021-UP-3, which the Planning Commission approved on November 16th, 2021, for a one-year term. By the time of approval of the continuation of the use Google and BDI had demonstrated to the satisfaction of the Commission that the lighting and dust issues had been resolved. However, the Commission expressed concern about whether bus routing was complying with the permit and added a condition requiring Google to track the bus movements and these results be reported back to the Commission after 90 days. That report was provided to the Commission on February 24, 2022 and Google reported that the time-of-day trips did not match their previously provided schedule and some southern trips had occurred. Google reported that less than one-tenth of one percent (less than 1 per 1,000) of the trips had been in violation of the condition prohibiting southern trips.

At the February 24th meeting, the Commission directed that the permit should be scheduled for a revocation hearing, but the Commission also indicated that it would consider a modification to the permit, if requested by the applicant. The applicant subsequently filed for a modification to the interim use permit to reflect actual and anticipated time-of-day vehicle trips, which spread the trips out through the day, but did not change the total number of trips. Google also noted that they had been working on their communications, especially with new or substitute drivers, to prevent southbound trips, but acknowledged that their success rate had not been 100 percent. They did not request a modification to the northern routing, but requested allowance of a small margin of noncompliance to account for human error and unforeseen traffic situations which might preclude use of the northerly route for a limited time.

The Planning Commission held a public hearing on April 14th 2022, to consider the requested modification or revocation of the interim use permit. The Commission voted 3 to 1 to deny the requested modification and to revoke the permit.

An appeal of the Planning Commission's decision, on April 14th, 2022, to revoke the interim use permit and deny the requested modification was filed by the property owner/applicant Oyster Point Properties Inc. (aka: BDI), on behalf of its tenant Google. The appeals are provided in Attachments 1 and 2.

Agenda reports and minutes from all Planning Commission hearings referenced above are provided in the attachments to this report.

Following the appeal of the Planning Commission's decision, the applicant retained Fehr & Peers, a transportation planning and engineering consultant, to assess the traffic on Tunnel Ave. That work was done between May 3rd and May 5th. Fehr & Peers provided a description and analysis of road and traffic conditions along Tunnel Ave, with conclusions provided on page 6 of their report (see Attachment 6).

Discussion

The Commission denied the applicant's permit modification request based on the finding that the bus movements along Tunnel Avenue pose a safety risk to the public and revoked Interim Use Permit 2022-UP-3 based on the finding that Google had violated condition of approval #4 which states, "Routing of Google buses shall be to and from the north along Tunnel Ave and Beatty Ave to connect to U.S. 101. Buses shall not use Tunnel Avenue south of the site." These are reflected in Planning Commission Resolution 2021-UP-3-M and Resolution 2021-UP-3-R.

Referring to the southern trips, the applicant stated that the appeals were based on the Planning Commission's "unreasonable expectations that human error can be 100% avoided" and that it was "not willful violation". They also requested more flexibility on the bus schedule to match the needs of Google employees, post Covid-19.

The Brisbane Municipal Code (BMC) Section 17.52.040 regarding Council action on appeals states that, *"The city council shall conduct a de novo hearing on the appeal. At the close of the public hearing, the city council may affirm, reverse or modify the decision of the planning commission, either at the same meeting or at such later meeting as the council may determine, for any basis permitted by law....."* While the public record from the Planning Commission hearings is provided for reference, as a de novo hearing, Council may consider new information in its deliberations. This includes the attached traffic assessment by Fehr and Peers as well as additional information that may be entered into the record through correspondence to the Council or during the public hearing.

The options before the City Council are, per BMC Section 17.52.040:

- 1) Affirm the Planning Commission's decisions to revoke Interim Use Permit 2021-UP-3 and to deny the application to modify that permit. If this is the chosen option, Council should also specify the length of time that will be allowed before Google's cessation of operations.
- 2) Grant the applicant's appeal, reversing the decision of the Planning Commission to revoke the permit and approving the applicant's request to modify Interim Use Permit 2021-UP-3.
- 3) Modify the decision of the Planning Commission. (i.e. conditions of approval may be modified.)
- 4) Continue this matter to a future date if the City Council requires additional time and/or information in order to make a decision on this matter.

Once the City Council provides direction as outlined in Options 1-3 above, staff will prepare the appropriate resolution(s) which will be scheduled for City Council adoption on the consent calendar at the next available meeting.

Fiscal Impact

None.

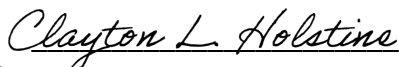
Measure of Success

Processing of an appeal application consistent with Brisbane's Municipal Code.

Attachments

1. Appeal of the Planning Commission's Decision on Resolution 2021-UP-3-M
2. Appeal of the Planning Commission's Decision on Resolution 2021-UP-3-R
3. Planning Commission Resolution 2021-UP-3-M – denial of modification
4. Planning Commission Resolution 2021-UP-3-R – revocation of 2021-UP-3
5. Bus Routing Aerial
6. Fehr & Peers Traffic Assessment Report, dated May 9, 2022
7. Modification Denial/Revocation
 - a) 4/14/2022 Agenda Report
 - b) 4/14/2022 Minutes (Draft)
8. Interim Use Permit 2021-UP-3 (1-year extension of UP-4-19)
 - a) 10/28/2021 Agenda Report
 - b) 10/28/2021 Minutes
 - c) 11/16/2021 Agenda Report
 - d) 11/16/2021 Minutes
 - e) Resolution 2021-UP-3
9. Interim Use Permit UP-4-19 Documentation:
 - a) 10/24/2019 Agenda Report
 - b) 10/24/2019 Minutes
 - c) Resolution UP-4-19/EX-3-19


 John Swiecki, Community Development Director


 Clay Holstine, City Manager

A P P E A L

I/We hereby appeal the action by the

- ☒ Planning Commission
☐ Zoning Administrator
☐ Planning Director

on April 14, 2022

[Action or Meeting Date]

regarding Application No. Resolution 2021-UP-3-M

for Modification of Interim Use Permit 2021 UP-3

[Project Description]

at 600 Tunnel Avenue

[Property Address]

The reasons for the appeal are:

Modification request met the requests of the Commission at previous meetings while complying with the Conditions of Approval. Modifications included more flexible bus schedule and more flexibility in the zero-tolerance policy for southbound buses which the Planning Staff recommended supporting for modification. An appeal to City Council is requested on the grounds that the modification was denied based on an unreasonable expectations that human error can be 100% avoided.

[Attach additional pages if necessary]

Name(s): Eric Aronsohn

Phone Number: 954-612-0307

Email Address: EAronsohn@bdisf.com

Mailing Address: 2201 Bayshore Blvd. San Francisco, CA 94134

Signature(s): *Eric Aronsohn*

Date: 4/21/22

A P P E A L

I/We hereby appeal the action by the

- ☒ Planning Commission
☐ Zoning Administrator
☐ Planning Director

on April 14, 2022

[Action or Meeting Date]

regarding Application No. RESOLUTION 2021-UP-3-R

for REVOKING INTERIM USE PERMIT 2021-UP-3

[Project Description]

at 600 Tunnel Avenue

[Property Address]

The reasons for the appeal are:

Applicant does not believe that a small number of buses out thousands of trips (< 1%) traveling south on Tunnel is a reasonable reason for revocation. It was explained to the Commissioners that the handful of buses that traveled south were attributable to new drivers and substitute drivers not willful violation. An appeal to City Council is requested on the grounds that the revocation is unreasonable given the circumstances and extent of the routing issue

[Attach additional pages if necessary]

Name(s): Eric Aronsohn

Phone Number: 954-612-0307

Email Address: EAronsohn@bdisf.com

Mailing Address: 2201 Bayshore Blvd. San Francisco, CA 94134

Signature(s): *Eric Aronsohn*

Date: 4/21/22

RESOLUTION 2021-UP-3-M
A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE
DENYING THE MODIFICATION OF INTERIM USE PERMIT 2021-UP-3
TO ALLOW THE USE OF A VACANT SITE ON THE BAYLANDS TO BE USED FOR
A GOOGLE BUS STAGING YARD

WHEREAS, Interim Use Permit 2021-UP-3 (PERMIT), to allow continued outdoor staging of up to 90 Google buses on an approximately 3-acre vacant site on the Baylands, at 600 Tunnel Avenue, between Tunnel Avenue and the CalTrain rail lines, was approved by the Planning Commission on November 16, 2021; and

WHEREAS, a report was provided to the Planning Commission on March 10, 2022 in which Google's bus movement data was detailed for the period of November 2021 through January 2022; and

WHEREAS, following receipt of the report of bus movements, the Planning Commission directed that the PERMIT should be placed on a future agenda for a revocation hearing and/or to consider modification of the PERMIT; and

WHEREAS, Eric Aronsohn, on behalf of Google, applied to the City of Brisbane for Modification to Interim Use Permit 2021-UP-3 to allow continued outdoor staging of Google buses with a revised schedule for bus trips, with operations generally 4 am to 10 pm, versus the previous schedule of 3 to 7 am and 3 to 9 pm; and

WHEREAS, on April 14th, 2022, the Planning Commission conducted a hearing of the application, 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 application, the written and oral evidence presented to the Planning Commission in support of and in opposition to the application; and

NOW THEREFORE, based upon the finding set forth below, the Planning Commission of the City of Brisbane, at its meeting of April 14, 2022 did resolve as follows:

Modification of Interim Use Permit 2021-UP-3 is DENIED based on the finding that the bus movements along Tunnel Avenue pose a safety risk to the public. The effective date for this decision is April 22nd, 2022, unless an appeal is filed to City Council by close-of-business on April 21st, 2022, per BMC Section 17.40.060.C.

ADOPTED this fourteenth day of April, 2022, by the following vote:

AYES: Lau, Patel and Sayasane
NOES: Gooding
ABSENT: Funke


DOUGLAS GOODING
Chairperson

ATTEST:


JOHN A. SWIECKI
Community Development Director

RESOLUTION 2021-UP-3-R
A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE
REVOKING INTERIM USE PERMIT 2021-UP-3

WHEREAS, Interim Use Permit 2021-UP-3 (PERMIT), to allow continued outdoor staging of up to 90 Google buses on an approximately 3-acre vacant site on the Baylands, at 600 Tunnel Avenue, between Tunnel Avenue and the CalTrain rail lines, was approved by the Planning Commission on November 16, 2021; and

WHEREAS, a report was provided to the Planning Commission on March 10, 2022 in which Google's bus movement data was detailed for the period of November 2021 through January 2022; and

WHEREAS, following receipt of the report of bus movements, the Planning Commission directed that the PERMIT should be placed on a future agenda for a revocation hearing and/or to consider modification of the PERMIT; and

WHEREAS, on April 14th, 2022, the Planning Commission conducted a duly noticed public hearing in accordance with Brisbane Municipal Code (BMC) Section 17.41.100 and 17.41.050(B), 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 revocation, the written and oral evidence presented to the Planning Commission in support of and in opposition; and

WHEREAS, the Planning Commission of the City of Brisbane hereby finds that Google has violated condition of approval #4 which states, "Routing of Google buses shall be to and from the north along Tunnel Ave and Beatty Ave to connect to U.S. 101. Buses shall not use Tunnel Avenue south of the site."

NOW THEREFORE, based upon this finding, the Planning Commission of the City of Brisbane, at its meeting of April 14, 2022 did resolve as follows:

Interim Use Permit 2021-UP-3 is revoked. The effective date for this decision is April 30st, 2022, unless an appeal is filed to City Council by close-of-business on April 29th, 2022 in accordance with the procedures provided in BMC Section 17.52.020.

ADOPTED this fourteenth day of April, 2022, by the following vote:

AYES: Lau, Patel and Sayasane
NOES: Gooding
ABSENT: Funke


DOUGLAS GOODING
Chairperson

ATTEST:


JOHN A. SWIECKI
Community Development Director

Google Bus Parking: Proposed Route Mapping

Red represents inbound buses
Blue represents outbound buses

*Cars belonging to drivers will be instructed to use this routing as well



Memorandum

Date: May 9, 2022
To: Randy Breault, City of Brisbane
From: Ryan Caldera, PE and Robert Eckols, PE
Subject: **Traffic Assessment of Tunnel Avenue in Brisbane, California**

SJ21-2062.02

This memorandum summarizes the traffic volumes, speeds, and vehicle classifications on Tunnel Avenue south of Beatty Avenue in Brisbane, California. This memorandum also describes the existing geometric conditions on Tunnel Avenue and the typical operations of the temporary corporate bus yard located at 600 Tunnel Avenue.

Existing Conditions

Tunnel Avenue

Tunnel Avenue is a north-south, two-lane minor arterial in northern Brisbane. The Circulation Element of the City of Brisbane's *General Plan*, amended in 2020, defines minor arterials as major streets that primarily serve through traffic and, on a limited basis, access to abutting properties. Specifically, the Circulation Element identifies Tunnel Avenue as an alternative to Bayshore Boulevard that will be improved upon development of the Baylands.

On the approximately 1,700-foot portion of Tunnel Avenue south of Beatty Avenue, the curb-to-curb width is approximately 42 feet. Along this portion, Tunnel Avenue is a Class III bicycle route with painted sharrows and has both formal and informal off-street parking areas on both sides of the roadway. There are some time-restricted parking signs (tow-away between 2:00 AM and 4:00 AM) on the east side of this section of Tunnel Avenue.

Further south extending to the intersection at Lagoon Road, Tunnel Avenue is approximately 26 feet wide with unpaved shoulders on both sides. On the east side of Tunnel Road, concrete blocks are regularly spaced in the unpaved shoulder approximately four feet off the paved roadway. These concrete blocks reduce the shoulder to approximately four feet wide, and signs prohibiting

stopping on this portion of Tunnel Avenue are places at regular intervals. Tunnel Avenue has no bicycle facilities or on street parking on this portion.

No pedestrian facilities are provided on Tunnel Avenue between Beatty Avenue and Lagoon Road.

Temporary Corporate Bus Yard

The undeveloped site at 600 Tunnel Avenue on the west side of the street is currently leased to corporate shuttle operators to store commuter shuttles when not in use. Corporate shuttles stored at the yard travel to/from US Highway 101 via the Harney Way-Beatty Avenue interchange. Shuttle drivers are instructed to not use any other interchanges to access US Highway 101.

The corporate shuttle operator provided shuttle data for the period between Tuesday, May 3 and Thursday, May 5, 2022. For the dates observed, between 197 and 211 daily shuttle trips (inbound and outbound) occurred at the temporary corporate bus yard.

Data Collection and Summary

Traffic Volumes

Roadway segment counts were collected on Tunnel Avenue north of the temporary corporate bus yard between Wednesday, May 4 and Friday, May 6, 2022. **Attachment A** includes charts documenting the northbound, southbound, and total volumes each day of data collection, and **Attachment B** includes the raw count data.

Table 1 below presents the peak northbound, southbound, and total hourly volumes for each count day.

Table 1: Peak Hourly Traffic on Tunnel Avenue

Date	Northbound (Time)	Southbound (Time)	Total 2-way (Time)
Wednesday, May 4	193 (8:00-9:00A)	107 (8:00-9:00A)	300 (8:00-9:00A)
Thursday, May 5	191 (7:00-8:00A)	102 (9:00-10:00A)	284 (7:00-8:00A)
Friday, May 6	192 (7:00-8:00A)	100 (7:00-9:00A)	292 (7:00-8:00A)
Highest Peak Hour	193 (8:00-9:00A, Wednesday)	107 (8:00-9:00A, Wednesday)	300 (8:00-9:00A, Wednesday)

Source: Fehr & Peers, 2022.

The highest hourly two-way volume on Tunnel Avenue (300 vehicles) occurred on Wednesday, May 4 between 8:00 AM and 9:00 AM. Based on estimates from the Transportation Research Board's (TRB) *Highway Capacity Manual* (HCM), two-lane minor arterials, like Tunnel Avenue, have an hourly capacity of approximately 1,760 vehicles before traffic operations degrade from Level of Service (LOS) D to LOS E, which is the City's adopted standard. Based on the traffic volume counts, the vehicle demand on Tunnel Avenue is well below its hourly vehicle capacity at all times of the day.

Corporate Shuttle Volumes

Shuttle buses have a greater effect on roadway operations and asphalt maintenance than personal automobiles. The corporate shuttle operator provided shuttle data for the period between Tuesday, May 3 and Thursday, May 5, 2022. **Attachment C** includes line charts documenting the hourly shuttle volumes for each day.

Table 2 below presents the percent of corporate shuttles for the peak hours of Tunnel Avenue on Wednesday, May 4 and Thursday, May 5. (Corporate shuttle data for Friday, May 6 was unavailable for analysis at the time this memorandum was prepared.)

Table 2: Corporate Shuttle Percent Share of Traffic – Peak Hour

Date (Time)	Total Traffic	Corporate Shuttles	% Share of Corporate Shuttles
Wednesday, May 4 (8:00-9:00A)	300	7	2%
Thursday, May 5 (7:00-8:00A)	284	21	7%

Source: Fehr & Peers, 2022.

During both days where concurrent data was available, corporate shuttle traffic composed up to seven percent of total traffic on Tunnel Avenue during the peak hour. As stated above, the vehicle demand on Tunnel Avenue is well below its hourly vehicle capacity (1,760 vehicles) at all times including during the peak hour. Corporate shuttle traffic comprised up to two percent of total roadway capacity during the peak hour and did not have a significant effect on documented roadway operations.

Table 3 below presents the percent of corporate shuttle trips of the total daily trips on Tunnel Avenue for Wednesday, May 4 and Thursday, May 5.

Table 3: Corporate Shuttle Percent Share of Traffic - Daily

Date	Total Traffic	Corporate Shuttles	% Share of Corporate Shuttles
Wednesday, May 4	2,091	211	10%
Thursday, May 5	2,100	197	9%

Source: Fehr & Peers, 2022.

During both days where concurrent data was available, corporate shuttle traffic comprised up to ten percent of total daily traffic on Tunnel Avenue. Based on estimates from the HCM, two-lane arterials, like Tunnel Avenue, have a daily capacity of approximately 17,600 vehicles before traffic operations degrade from LOS D to LOS E. As a percentage of daily vehicle capacity, corporate shuttle traffic comprised up to two percent of total daily roadway capacity.

Speed Surveys

Speed survey data was collected at the same time as the roadway segment counts. **Attachment D** includes the raw speed survey data.

Table 4 below presents the average speed and 85th-percentile speed for each day of observation. Data is presented for northbound vehicles, southbound vehicles, and total two-way vehicles on Tunnel Avenue.

Table 4: Summary of Speed Survey Data on Tunnel Avenue

Date	Average Speed (mph)			85 th -Percentile Speed (mph)		
	Northbound	Southbound	Total 2-way	Northbound	Southbound	Total 2-way
Wednesday, May 4	30.2	29.7	30.0	38.5	37.1	38.0
Thursday, May 5	29.9	28.7	29.5	37.7	35.8	37.1
Friday, May 6	30.6	29.0	30.1	38.2	36.1	37.5
Overall	30.2	29.1	29.8	38.1	36.2	37.5

Source: Fehr & Peers, 2022.

During the three days of speed surveys, vehicles on Tunnel Avenue traveled 29.8 miles per hour on average. Additionally, the 85th-percentile speed is 37.5 miles per hour, meaning 85% of vehicles travel at 37.5 miles per hour or slower. This statistical value is typically used when setting posted speed limits. Where the 85th-percentile speed is higher than the posted speed limit, either traffic calming measures are considered to reduce vehicle speeds, or the posted speed limit is increased.

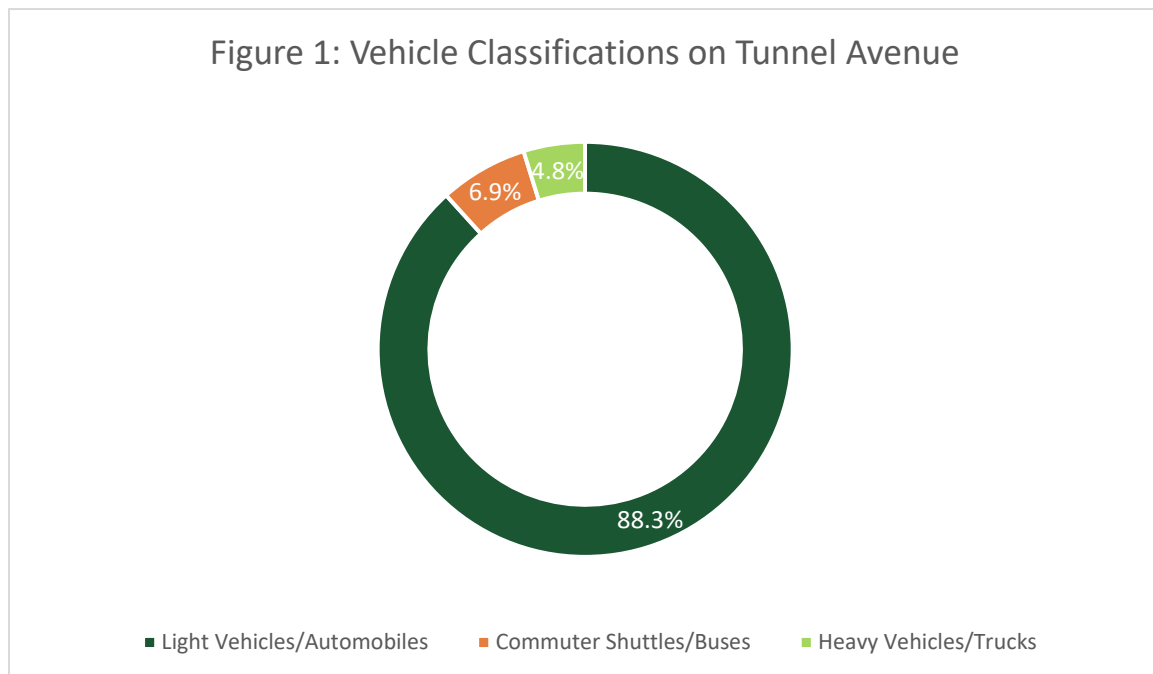
Tunnel Avenue does not have a posted speed limit between Beatty Avenue and Lagoon Road. The posted speed limit on Tunnel Avenue south of Lagoon Road is 35 miles per hour, although that section does not have any painted sharrows for mixed traffic with bicyclists.

Vehicle Classification

Vehicle classification data was collected at the same time as the roadway segment counts. The vehicle classification data is presented with the raw vehicle count data in **Attachment B**.

The Federal Highway Administration (FHWA) identifies thirteen vehicle classifications, ranging from motorcycles (Class 1) to seven-plus axle multi-trailer trucks (Class 13). **Attachment E** describes the thirteen vehicle classifications in detail. For this memorandum, Classes 1, 2, and 3 are considered "light vehicles/automobiles," Class 4 is considered "commuter shuttles/buses," and the remaining eight classes are considered "heavy vehicles/trucks."

Figure 1 below presents the percentages of each vehicle type during the three days of data collection.



As shown in the figure above, approximately 88.3% of vehicles observed on Tunnel Avenue were classified as light vehicles and automobiles, 6.9% were classified as commuter shuttles and buses, and 4.8% were classified as heavy vehicles and trucks.

It is noted that the vehicle classifications observed through roadway counts are slightly different from the data provided by the commuter shuttle operators summarized in **Table 2** and



Attachment C. The data provided by the commuter shuttle operators shows a higher proportion of commuter shuttles and buses than the roadway segment counts. This discrepancy typically occurs when vehicles cross the data collection tubes at angles which affects the recorded distance between vehicle axles. As a whole, the total share of non-light vehicles/automobiles is consistent with the data provided by the commuter shuttle operator.

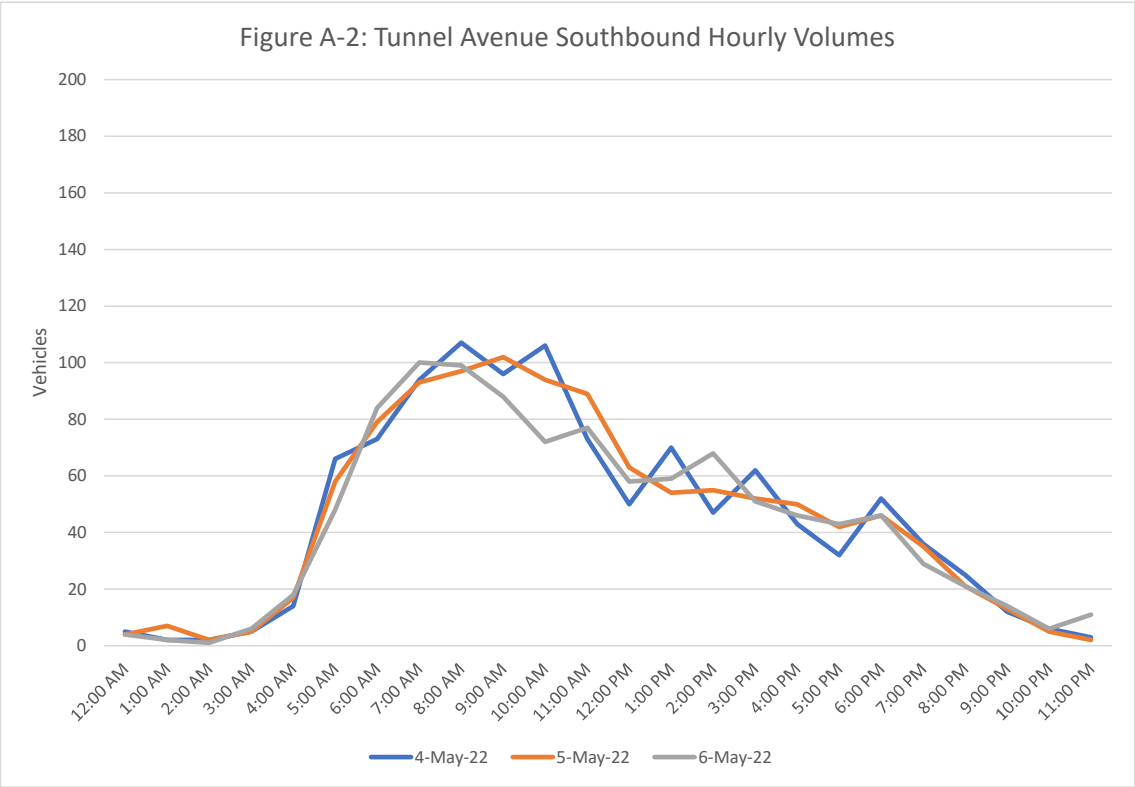
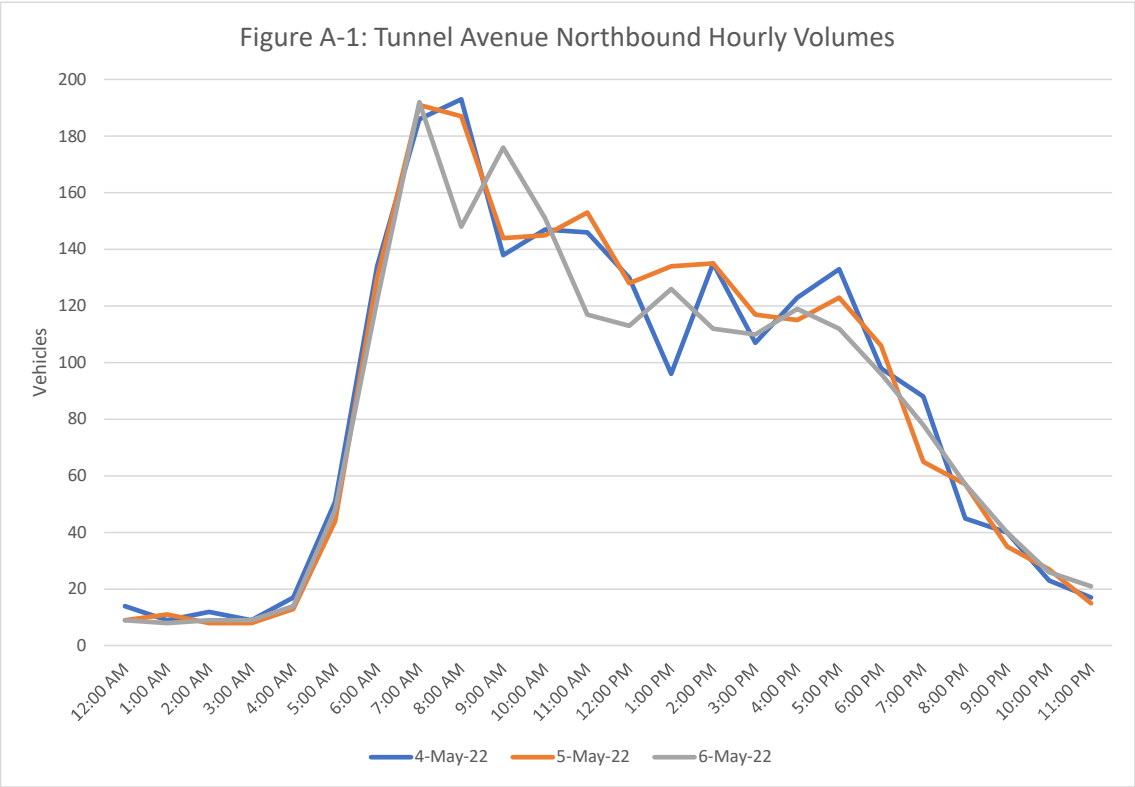
The observed vehicle classification profile is consistent with Tunnel Avenue's proximity to light-industrial and industrial uses and its utility as an alternative to Bayshore Boulevard and US Highway 101.

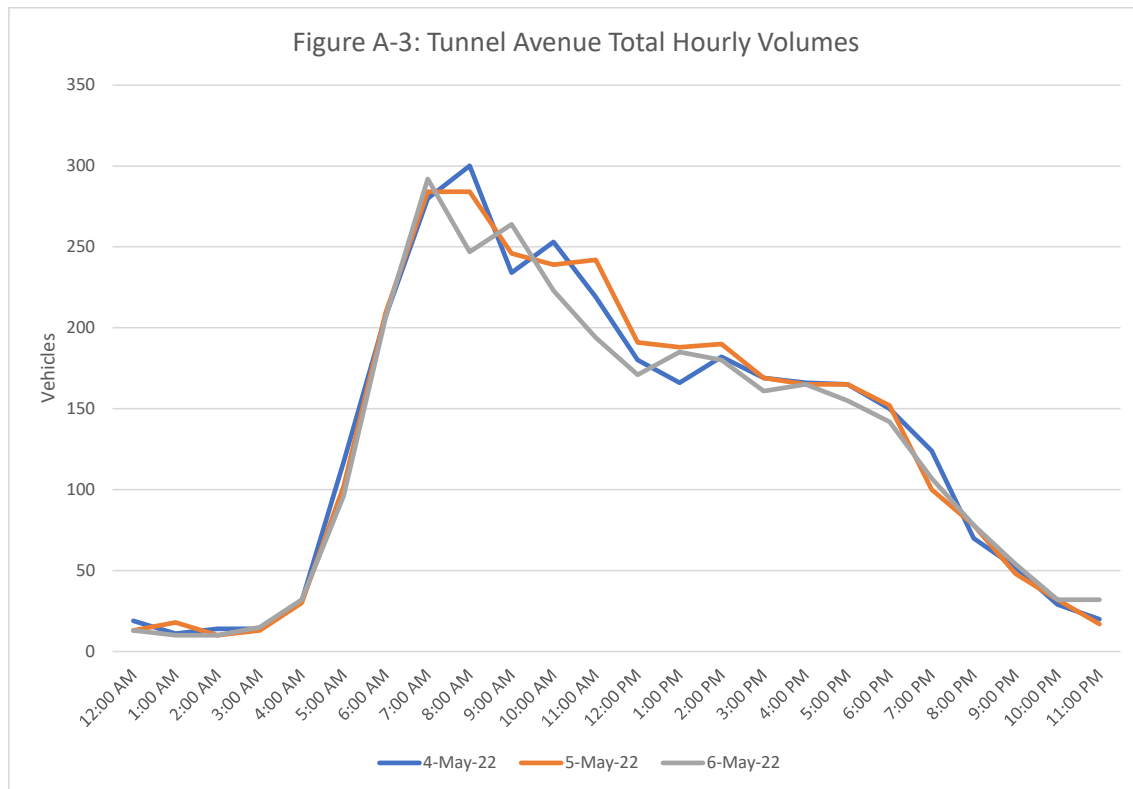
Conclusions

The following conclusions are made based on the data collected:

- The hourly volume on Tunnel Avenue is well below its hourly vehicle capacity throughout the day.
- During both days with traffic count and shuttle data are available, corporate shuttle daily trips comprise ten percent or less of the total daily trips on Tunnel Avenue.
- The 85th-percentile speed on Tunnel Avenue was observed to be 37.5 miles per hour. There is no posted speed limit on the observed section of Tunnel Avenue.
- Approximately 11% of vehicles on Tunnel Road are commuter shuttles/buses or heavy vehicles/trucks. The remaining 89% of vehicles are light vehicles/automobiles.

Attachment A: Tunnel Avenue Hourly Volume Figures





Attachment C: Corporate Shuttle Hourly Volume Figure

I.

Traffic Data Service Class Report

ATTACHMENT 6 continued

Datasets:

Site: [1] 600 TUNNEL AVE
Algorithm: Factory default axle (v5.02)
Data type: Axle sensors - Paired (Class/Speed/Count)

Profile:

Included classes: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13
Speed range: 0 - 100 mph.
Direction: North (bound), P = North, Lane = 0-16
Scheme: Vehicle classification (Scheme F)
Units: Non metric (ft, mi, ft/s, mph, lb, ton)

Column Legend:

0 [Time] 24-hour time (0000 - 2359)
1 [Total] Number in time step
2 [Cls] Class totals

*** Wednesday, May 4, 2022**

Time	Total	Cls 1	Cls 2	Cls 3	Cls 4	Cls 5	Cls 6	Cls 7	Cls 8	Cls 9	Cls 10	Cls 11	Cls 12	Cls 13
0000	14	0	12	2	0	0	0	0	0	0	0	0	0	0
0100	9	1	7	1	0	0	0	0	0	0	0	0	0	0
0200	12	1	9	2	0	0	0	0	0	0	0	0	0	0
0300	9	0	6	2	0	0	1	0	0	0	0	0	0	0
0400	17	2	9	6	0	0	0	0	0	0	0	0	0	0
0500	51	2	21	7	20	0	0	0	1	0	0	0	0	0
0600	134	5	55	32	31	2	6	0	0	3	0	0	0	0
0700	186	4	79	71	23	2	5	0	1	1	0	0	0	0
0800	193	5	100	73	7	1	3	0	0	4	0	0	0	0
0900	138	2	64	55	4	2	6	0	2	1	0	2	0	0
1000	147	7	66	63	1	4	5	0	0	1	0	0	0	0
1100	146	6	72	59	0	3	4	0	0	1	1	0	0	0
1200	130	2	57	61	2	1	6	0	0	1	0	0	0	0
1300	96	2	53	32	1	3	2	1	1	1	0	0	0	0
1400	135	2	71	52	5	4	1	0	0	0	0	0	0	0
1500	107	2	69	29	5	0	2	0	0	0	0	0	0	0
1600	123	7	76	27	8	3	2	0	0	0	0	0	0	0
1700	133	9	106	13	2	2	0	0	1	0	0	0	0	0
1800	98	11	77	8	2	0	0	0	0	0	0	0	0	0
1900	88	1	80	5	0	0	0	0	1	1	0	0	0	0
2000	45	1	41	2	0	0	0	0	0	1	0	0	0	0
2100	40	1	36	3	0	0	0	0	0	0	0	0	0	0
2200	23	0	19	1	1	0	1	0	0	1	0	0	0	0
2300	17	0	15	0	0	1	1	0	0	0	0	0	0	0
07-19	1632	59	890	543	60	25	36	1	5	10	1	2	0	0
06-22	1939	67	1102	585	91	27	42	1	6	15	1	2	0	0
06-00	1979	67	1136	586	92	28	44	1	6	16	1	2	0	0
00-00	2091	73	1200	606	112	28	45	1	7	16	1	2	0	0

Peak step 8:00 (193) AM Peak step 8:00 (193) PM Peak step 14:00 (135)

I.

Thursday, May 5, 2022

Time	Total	Cls 1	Cls 2	Cls 3	Cls 4	Cls 5	Cls 6	Cls 7	Cls 8	Cls 9	Cls 10	Cls 11	Cls 12	Cls 13
0000	9	0	7	1	0	0	1	0	0	0	0	0	0	0
0100	11	0	8	1	0	0	1	0	0	1	0	0	0	0
0200	8	1	3	3	0	0	0	0	0	1	0	0	0	0
0300	8	0	7	1	0	0	0	0	0	0	0	0	0	0
0400	13	2	8	3	0	0	0	0	0	0	0	0	0	0
0500	44	2	16	7	19	0	0	0	0	0	0	0	0	0
0600	130	4	51	34	34	0	5	0	0	2	0	0	0	0
0700	191	8	84	68	20	4	7	0	0	0	0	0	0	0
0800	187	5	100	69	5	4	3	0	0	1	0	0	0	0
0900	144	0	71	62	7	0	3	0	0	0	1	0	0	0
1000	145	2	73	60	1	4	2	0	1	2	0	0	0	0
1100	153	6	75	57	2	1	9	0	0	1	0	2	0	0
1200	128	6	69	45	5	2	1	0	0	0	0	0	0	0
1300	134	4	71	48	1	5	4	0	0	1	0	0	0	0
1400	135	2	77	49	4	0	3	0	0	0	0	0	0	0
1500	117	4	74	30	9	0	0	0	0	0	0	0	0	0
1600	115	3	75	29	4	2	0	0	1	1	0	0	0	0
1700	123	8	93	17	2	1	1	0	1	0	0	0	0	0
1800	106	3	86	14	0	1	0	0	1	1	0	0	0	0
1900	65	2	59	4	0	0	0	0	0	0	0	0	0	0
2000	57	4	47	4	0	0	0	0	1	1	0	0	0	0
2100	35	1	28	4	0	1	1	0	0	0	0	0	0	0
2200	27	0	21	1	1	2	2	0	0	0	0	0	0	0
2300	15	0	11	2	0	0	1	0	1	0	0	0	0	0
07-19	1678	51	948	548	60	24	33	0	4	7	1	2	0	0
06-22	1965	62	1133	594	94	25	39	0	5	10	1	2	0	0
06-00	2007	62	1165	597	95	27	42	0	6	10	1	2	0	0
00-00	2100	67	1214	613	114	27	44	0	6	12	1	2	0	0

ATTACHMENT 6

continued

Peak step 7:00 (191) AM Peak step 7:00 (191) PM Peak step 14:00 (135)

* Friday, May 6, 2022

Time	Total	Cls 1	Cls 2	Cls 3	Cls 4	Cls 5	Cls 6	Cls 7	Cls 8	Cls 9	Cls 10	Cls 11	Cls 12	Cls 13
0000	9	0	8	1	0	0	0	0	0	0	0	0	0	0
0100	8	0	5	1	0	1	1	0	0	0	0	0	0	0
0200	9	0	6	3	0	0	0	0	0	0	0	0	0	0
0300	9	0	7	1	0	0	1	0	0	0	0	0	0	0
0400	14	2	8	4	0	0	0	0	0	0	0	0	0	0
0500	48	1	24	1	19	0	1	0	0	2	0	0	0	0
0600	122	4	42	35	34	1	3	0	2	1	0	0	0	0
0700	192	5	86	70	19	2	7	0	1	2	0	0	0	0
0800	148	4	71	53	10	3	5	0	0	1	0	1	0	0
0900	176	2	83	77	9	2	0	1	1	1	0	0	0	0
1000	151	3	86	52	3	2	3	0	1	1	0	0	0	0
1100	117	7	54	45	3	0	7	0	0	0	0	1	0	0
1200	113	0	55	50	1	4	3	0	0	0	0	0	0	0
1300	126	2	74	40	2	3	5	0	0	0	0	0	0	0
1400	112	1	71	32	5	0	1	0	2	0	0	0	0	0
1500	110	2	78	25	4	1	0	0	0	0	0	0	0	0
1600	119	4	86	23	5	1	0	0	0	0	0	0	0	0
1700	112	5	97	6	3	1	0	0	0	0	0	0	0	0
1800	96	6	83	4	1	1	1	0	0	0	0	0	0	0
1900	78	3	67	7	0	0	0	0	0	1	0	0	0	0
2000	57	1	47	7	0	1	1	0	0	0	0	0	0	0
2100	40	0	35	2	0	1	2	0	0	0	0	0	0	0
2200	26	2	21	2	0	0	1	0	0	0	0	0	0	0
2300	21	0	20	1	0	0	0	0	0	0	0	0	0	0
07-19	1572	41	924	477	65	20	32	1	5	5	0	2	0	0
06-22	1869	49	1115	528	99	23	38	1	7	7	0	2	0	0
06-00	1916	51	1156	531	99	23	39	1	7	7	0	2	0	0
00-00	2013	54	1214	542	118	24	42	1	7	9	0	2	0	0

Peak step 7:00 (192) AM Peak step 7:00 (192) PM Peak step 13:00 (126)

I.

Traffic Data Service Class Report

ATTACHMENT 6 continued

Datasets:

Site: [1] 600 TUNNEL AVE
Algorithm: Factory default axle (v5.02)
Data type: Axle sensors - Paired (Class/Speed/Count)

Profile:

Included classes: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13
Speed range: 0 - 100 mph.
Direction: South (bound), P = North, Lane = 0-16
Scheme: Vehicle classification (Scheme F)
Units: Non metric (ft, mi, ft/s, mph, lb, ton)

Column Legend:

0 [Time] 24-hour time (0000 - 2359)
1 [Total] Number in time step
2 [Cls] Class totals

*** Wednesday, May 4, 2022**

Time	Total	Cls 1	Cls 2	Cls 3	Cls 4	Cls 5	Cls 6	Cls 7	Cls 8	Cls 9	Cls 10	Cls 11	Cls 12	Cls 13
0000	5	0	4	1	0	0	0	0	0	0	0	0	0	0
0100	2	0	1	0	0	0	0	1	0	0	0	0	0	0
0200	2	1	1	0	0	0	0	0	0	0	0	0	0	0
0300	5	0	4	0	0	0	0	0	0	1	0	0	0	0
0400	14	0	11	3	0	0	0	0	0	0	0	0	0	0
0500	66	2	43	15	0	0	0	1	1	4	0	0	0	0
0600	73	2	31	38	0	0	1	0	0	1	0	0	0	0
0700	94	4	35	48	4	0	1	0	0	2	0	0	0	0
0800	107	10	39	51	3	0	0	1	0	3	0	0	0	0
0900	96	3	36	46	2	4	2	0	0	2	1	0	0	0
1000	106	3	37	52	6	4	1	0	1	2	0	0	0	0
1100	73	3	27	34	2	1	3	0	0	3	0	0	0	0
1200	50	2	18	23	1	3	1	0	1	1	0	0	0	0
1300	70	0	36	30	2	1	1	0	0	0	0	0	0	0
1400	47	2	18	22	1	2	1	0	0	1	0	0	0	0
1500	62	3	31	22	2	1	3	0	0	0	0	0	0	0
1600	43	1	27	13	0	1	0	0	0	1	0	0	0	0
1700	32	0	21	5	5	1	0	0	0	0	0	0	0	0
1800	52	4	19	3	24	0	1	0	1	0	0	0	0	0
1900	36	2	12	1	21	0	0	0	0	0	0	0	0	0
2000	25	0	9	0	14	0	0	0	1	1	0	0	0	0
2100	12	0	4	1	7	0	0	0	0	0	0	0	0	0
2200	6	0	4	0	2	0	0	0	0	0	0	0	0	0
2300	3	0	2	0	1	0	0	0	0	0	0	0	0	0
07-19	832	35	344	349	52	18	14	1	3	15	1	0	0	0
06-22	978	39	400	389	94	18	15	1	4	17	1	0	0	0
06-00	987	39	406	389	97	18	15	1	4	17	1	0	0	0
00-00	1081	42	470	408	97	18	15	3	5	22	1	0	0	0

Peak step 8:00 (107) AM Peak step 8:00 (107) PM Peak step 13:00 (70)

I.

Thursday, May 5, 2022

ATTACHMENT 6

Time	Total	Cls 1	Cls 2	Cls 3	Cls 4	Cls 5	Cls 6	Cls 7	Cls 8	Cls 9	Cls 10	Cls 11	Cls 12	Cls 13
0000	4	0	3	0	0	0	1	0	0	0	0	0	0	0
0100	7	0	4	2	0	0	1	0	0	0	0	0	0	0
0200	2	1	1	0	0	0	0	0	0	0	0	0	0	0
0300	5	1	3	0	0	0	1	0	0	0	0	0	0	0
0400	17	1	9	5	0	1	0	1	0	0	0	0	0	0
0500	58	3	38	13	0	0	2	0	0	2	0	0	0	0
0600	79	4	38	32	1	0	0	1	0	3	0	0	0	0
0700	93	5	32	52	2	2	0	0	0	0	0	0	0	0
0800	97	4	35	52	4	0	0	1	0	1	0	0	0	0
0900	102	4	39	45	4	6	4	0	0	0	0	0	0	0
1000	94	4	32	47	6	1	3	1	0	0	0	0	0	0
1100	89	4	30	47	3	2	0	1	0	1	1	0	0	0
1200	63	1	20	33	4	2	1	0	0	2	0	0	0	0
1300	54	1	24	26	1	2	0	0	0	0	0	0	0	0
1400	55	1	26	24	0	2	1	0	0	1	0	0	0	0
1500	52	1	24	23	1	1	2	0	0	0	0	0	0	0
1600	50	2	31	14	2	0	1	0	0	0	0	0	0	0
1700	42	2	26	10	4	0	0	0	0	0	0	0	0	0
1800	46	2	17	3	22	0	0	1	1	0	0	0	0	0
1900	35	0	9	0	25	0	0	0	0	1	0	0	0	0
2000	21	1	7	1	12	0	0	0	0	0	0	0	0	0
2100	13	0	4	2	7	0	0	0	0	0	0	0	0	0
2200	5	0	1	1	3	0	0	0	0	0	0	0	0	0
2300	2	0	0	1	1	0	0	0	0	0	0	0	0	0
07-19	837	31	336	376	53	18	12	4	1	5	1	0	0	0
06-22	985	36	394	411	98	18	12	5	1	9	1	0	0	0
06-00	992	36	395	413	102	18	12	5	1	9	1	0	0	0
00-00	1085	42	453	433	102	19	17	6	1	11	1	0	0	0

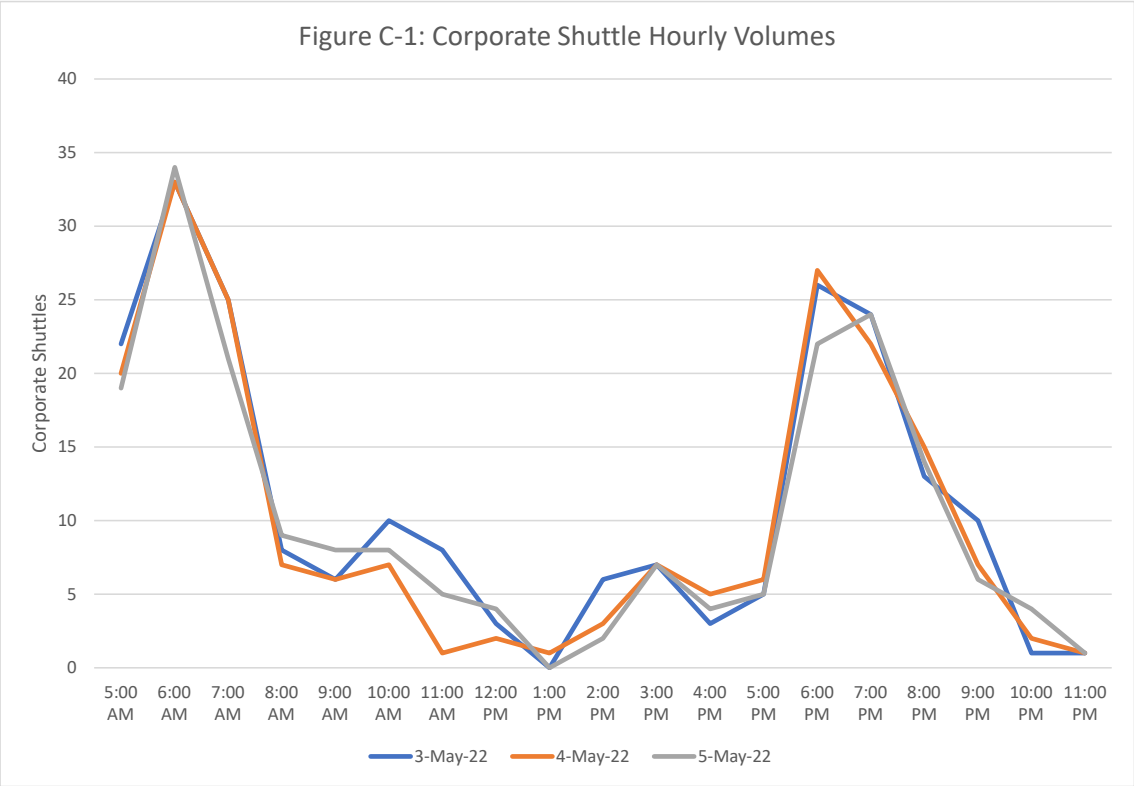
Peak step 9:00 (102) AM Peak step 9:00 (102) PM Peak step 12:00 (63)

* Friday, May 6, 2022

Time	Total	Cls 1	Cls 2	Cls 3	Cls 4	Cls 5	Cls 6	Cls 7	Cls 8	Cls 9	Cls 10	Cls 11	Cls 12	Cls 13
0000	4	2	2	0	0	0	0	0	0	0	0	0	0	0
0100	2	0	2	0	0	0	0	0	0	0	0	0	0	0
0200	1	0	1	0	0	0	0	0	0	0	0	0	0	0
0300	6	1	3	1	0	0	1	0	0	0	0	0	0	0
0400	18	0	13	2	0	0	1	0	0	2	0	0	0	0
0500	48	1	38	8	0	0	0	0	0	1	0	0	0	0
0600	84	6	38	30	5	0	2	1	0	1	0	0	0	1
0700	100	4	36	48	3	0	3	0	1	5	0	0	0	0
0800	99	2	36	51	6	2	1	0	0	1	0	0	0	0
0900	88	4	24	49	8	1	0	0	1	1	0	0	0	0
1000	72	2	23	35	5	4	0	0	0	3	0	0	0	0
1100	77	4	32	32	3	3	1	1	0	1	0	0	0	0
1200	58	3	19	30	1	3	2	0	0	0	0	0	0	0
1300	59	0	28	28	1	0	1	0	1	0	0	0	0	0
1400	68	1	37	26	1	1	1	0	0	1	0	0	0	0
1500	51	0	28	17	2	2	2	0	0	0	0	0	0	0
1600	46	3	27	14	2	0	0	0	0	0	0	0	0	0
1700	43	2	29	2	10	0	0	0	0	0	0	0	0	0
1800	46	1	14	5	26	0	0	0	0	0	0	0	0	0
1900	29	0	13	2	14	0	0	0	0	0	0	0	0	0
2000	21	1	5	1	14	0	0	0	0	0	0	0	0	0
2100	14	0	7	2	5	0	0	0	0	0	0	0	0	0
2200	6	0	3	1	0	0	0	0	0	2	0	0	0	0
2300	11	0	9	1	1	0	0	0	0	0	0	0	0	0
07-19	807	26	333	337	68	16	11	1	3	12	0	0	0	0
06-22	955	33	396	372	106	16	13	2	3	13	0	0	0	1
06-00	972	33	408	374	107	16	13	2	3	15	0	0	0	1
00-00	1051	37	467	385	107	16	15	2	3	18	0	0	0	1

Peak step 7:00 (100) AM Peak step 7:00 (100) PM Peak step 14:00 (68)

Attachment D: Tunnel Avenue Hourly Speed Data



Attachment E: Federal Highway Administration Vehicle Classification Descriptions

I.

Traffic Data Service Speed Report

ATTACHMENT 6 continued

Datasets:

Site: [1] 600 TUNNEL AVE
Algorithm: Factory default axle (v5.02)
Data type: Axle sensors - Paired (Class/Speed/Count)

Profile:

Included classes: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13
Speed range: 0 - 100 mph.
Direction: North (bound), P = North, Lane = 0-16
Scheme: Vehicle classification (Scheme F)
Units: Non metric (ft, mi, ft/s, mph, lb, ton)

Column Legend:

0 [Time] 24-hour time (0000 - 2359)
1 [Total] Number in time step
2 [Vbin] Speed bin totals
3 [vPace] Speed at start of pace
4 [Pace%] Percent in pace
5 [Mean] Average speed
6 [Vpp] Percentile speed

*** Wednesday, May 4, 2022**

Time	Total	Vbin 0	Vbin 5	Vbin 10	Vbin 15	Vbin 20	Vbin 25	Vbin 30	Vbin 35	Vbin 40	Vbin 45	Vbin 50	Vbin 55	Vbin 60	Vbin 65	Vbin 70	Vbin 75	Vbin 100	vPace 10	Pace% 10	Mean	Vpp 85
0000	14	0	1	0	1	0	2	4	4	1	0	1	0	0	0	0	0	0	28.5	64.29	32.4	42.6
0100	9	0	0	0	0	1	2	3	3	0	0	0	0	0	0	0	0	0	24.6	66.67	32.3	-
0200	12	0	0	0	0	0	1	2	3	1	4	1	0	0	0	0	0	0	39.6	50.00	41.0	49.6
0300	9	0	0	0	0	1	2	3	2	1	0	0	0	0	0	0	0	0	32.3	66.67	33.4	-
0400	17	0	2	0	0	1	2	4	1	5	2	0	0	0	0	0	0	0	31.7	52.94	33.5	42.6
0500	51	0	2	0	5	8	11	7	8	7	3	0	0	0	0	0	0	0	20.1	41.18	30.3	42.1
0600	134	0	1	8	8	19	43	24	23	5	1	2	0	0	0	0	0	0	25.7	53.73	28.8	36.4
0700	186	0	2	8	10	32	49	46	31	6	1	0	1	0	0	0	0	0	24.0	52.69	28.8	36.1
0800	193	0	4	5	14	45	35	39	41	10	0	0	0	0	0	0	0	0	29.2	45.08	28.8	37.6
0900	138	0	5	6	12	38	22	28	20	5	2	0	0	0	0	0	0	0	20.1	44.20	27.2	35.6
1000	147	1	1	10	8	30	36	41	13	7	0	0	0	0	0	0	0	0	22.0	55.10	27.7	34.8
1100	146	0	1	6	11	38	35	35	10	9	1	0	0	0	0	0	0	0	19.6	52.05	27.7	34.7
1200	130	0	1	8	10	17	38	26	20	9	1	0	0	0	0	0	0	0	25.1	50.00	28.8	37.6
1300	96	0	3	3	9	13	26	28	11	2	1	0	0	0	0	0	0	0	23.8	58.33	27.9	35.0
1400	135	0	2	4	18	18	24	41	20	6	2	0	0	0	0	0	0	0	25.8	52.59	28.9	36.2
1500	107	0	1	1	5	14	19	25	33	8	0	1	0	0	0	0	0	0	28.4	57.01	31.6	38.5
1600	123	0	4	3	2	9	31	37	30	7	0	0	0	0	0	0	0	0	27.9	62.60	31.0	37.8
1700	133	0	0	6	1	7	22	26	39	31	1	0	0	0	0	0	0	0	32.1	60.15	34.0	41.0
1800	98	0	1	3	4	4	12	15	35	18	6	0	0	0	0	0	0	0	32.0	58.16	34.8	41.8
1900	88	0	0	0	1	1	12	28	22	19	4	1	0	0	0	0	0	0	28.5	56.82	35.9	42.9
2000	45	0	0	0	2	0	10	17	12	2	2	0	0	0	0	0	0	0	27.5	68.89	33.2	38.5
2100	40	0	0	2	1	3	3	10	13	5	2	0	1	0	0	0	0	0	28.1	60.00	34.0	41.1
2200	23	0	0	0	0	3	1	6	8	3	2	0	0	0	0	0	0	0	32.7	69.57	35.2	42.1
2300	17	0	0	0	0	3	2	7	3	1	1	0	0	0	0	0	0	0	29.9	58.82	32.5	40.7
07-19	1632	1	25	63	104	265	349	387	303	118	15	1	1	0	0	0	0	0	25.7	46.94	29.6	37.9
06-22	1939	1	26	73	116	288	417	466	373	149	24	4	2	0	0	0	0	0	25.7	47.55	30.0	38.1
06-00	1979	1	26	73	116	294	420	479	384	153	27	4	2	0	0	0	0	0	25.7	47.45	30.0	38.3
00-00	2091	1	31	73	122	305	440	502	405	168	36	6	2	0	0	0	0	0	25.7	46.96	30.2	38.5

Peak step 8:00 (193) AM Peak step 8:00 (193) PM Peak step 14:00 (135)

ATTACHMENT 6

continued

I.

Thursday, May 5, 2022

Time	Total	Vbin 0 5	Vbin 5 10	Vbin 10 15	Vbin 15 20	Vbin 20 25	Vbin 25 30	Vbin 30 35	Vbin 35 40	Vbin 40 45	Vbin 45 50	Vbin 50 55	Vbin 55 60	Vbin 60 65	Vbin 65 70	Vbin 70 75	Vbin 75 100	VFace 10	VFace 10	Mean	Vpp 85
0000	9	0	0	0	0	1	2	1	3	2	0	0	0	0	0	0	0	31.8	66.67	34.0	-
0100	11	0	0	0	0	2	1	5	1	2	0	0	0	0	0	0	0	31.4	72.73	32.9	41.0
0200	8	0	0	0	0	1	1	2	1	0	2	0	1	0	0	0	0	28.1	50.00	38.7	-
0300	8	0	0	0	0	0	1	3	2	2	0	0	0	0	0	0	0	30.8	75.00	36.1	-
0400	13	0	3	0	0	0	2	1	3	2	2	0	0	0	0	0	0	31.1	46.15	30.7	44.8
0500	44	0	1	1	3	7	10	6	3	9	2	1	1	0	0	0	0	22.1	45.45	32.0	44.4
0600	130	0	4	5	12	18	43	24	13	10	1	0	0	0	0	0	0	25.1	53.08	27.8	35.8
0700	191	0	6	11	17	36	49	36	25	7	4	0	0	0	0	0	0	21.9	51.31	27.4	36.2
0800	187	0	4	9	19	37	33	49	29	6	1	0	0	0	0	0	0	27.5	49.20	27.9	36.1
0900	144	0	4	4	4	34	37	31	26	3	1	0	0	0	0	0	0	24.4	51.39	28.4	36.4
1000	145	0	0	1	14	30	41	41	14	1	2	0	1	0	0	0	0	25.4	59.31	28.3	34.7
1100	153	0	4	5	8	26	32	55	14	9	0	0	0	0	0	0	0	23.4	57.52	28.8	35.3
1200	128	0	0	10	11	21	26	40	17	2	1	0	0	0	0	0	0	26.3	56.25	27.8	35.1
1300	134	0	1	2	17	25	35	34	13	4	2	1	0	0	0	0	0	21.2	55.97	28.1	35.0
1400	135	0	0	3	6	24	37	31	24	6	3	1	0	0	0	0	0	22.0	52.59	30.3	37.7
1500	117	0	1	2	9	11	32	29	28	3	2	0	0	0	0	0	0	29.2	57.26	30.2	38.0
1600	115	0	1	2	6	11	26	26	30	9	4	0	0	0	0	0	0	28.1	56.52	31.7	38.5
1700	123	0	0	3	9	5	21	28	38	17	1	1	0	0	0	0	0	29.9	55.28	32.8	40.2
1800	106	0	0	1	1	2	10	30	39	17	6	0	0	0	0	0	0	32.5	69.81	35.7	41.6
1900	65	0	0	0	4	2	6	21	21	7	4	0	0	0	0	0	0	28.5	66.15	34.0	41.0
2000	57	0	0	2	1	3	14	14	18	5	0	0	0	0	0	0	0	26.8	59.65	32.1	38.6
2100	35	0	0	1	1	4	3	8	12	4	1	0	1	0	0	0	0	32.7	62.86	33.7	40.9
2200	27	0	0	0	2	5	3	4	10	1	2	0	0	0	0	0	0	30.5	55.56	32.3	38.5
2300	15	0	0	1	0	0	4	6	2	1	0	1	0	0	0	0	0	25.1	66.67	32.8	39.4
07-19	1678	0	21	53	121	262	379	430	297	84	27	3	1	0	0	0	0	25.8	48.99	29.5	37.1
06-22	1965	0	25	61	139	289	445	497	361	110	33	3	2	0	0	0	0	26.6	49.16	29.7	37.3
06-00	2007	0	25	62	141	294	452	507	373	112	35	4	2	0	0	0	0	26.8	49.28	29.7	37.4
00-00	2100	0	29	63	144	305	469	525	386	129	41	5	4	0	0	0	0	26.8	48.62	29.9	37.7

Peak step 7:00 (191) AM Peak step 7:00 (191) PM Peak step 14:00 (135)

* Friday, May 6, 2022

Time	Total	Vbin 0 5	Vbin 5 10	Vbin 10 15	Vbin 15 20	Vbin 20 25	Vbin 25 30	Vbin 30 35	Vbin 35 40	Vbin 40 45	Vbin 45 50	Vbin 50 55	Vbin 55 60	Vbin 60 65	Vbin 65 70	Vbin 70 75	Vbin 75 100	VFace 10	VFace 10	Mean	Vpp 85
0000	9	0	0	0	0	0	7	0	2	0	0	0	0	0	0	0	0	24.9	77.78	35.1	-
0100	8	0	0	1	0	3	1	1	0	2	0	0	0	0	0	0	0	21.5	62.50	28.7	-
0200	9	0	0	0	0	0	2	0	4	0	2	1	0	0	0	0	0	28.8	66.67	39.3	-
0300	9	0	0	0	0	1	1	3	4	0	0	0	0	0	0	0	0	29.8	77.78	33.2	-
0400	14	0	2	0	0	1	2	2	3	2	1	0	1	0	0	0	0	26.1	42.86	33.2	46.6
0500	48	0	1	1	2	11	12	8	5	5	2	1	0	0	0	0	0	20.7	52.08	29.9	40.8
0600	122	0	1	5	7	18	41	28	15	6	1	0	0	0	0	0	0	23.8	60.66	28.8	36.9
0700	192	0	3	3	15	40	49	46	31	3	2	0	0	0	0	0	0	24.0	53.13	28.4	35.6
0800	148	0	1	8	5	18	41	42	28	1	4	0	0	0	0	0	0	26.7	59.46	29.7	36.6
0900	176	0	0	0	11	41	50	46	21	5	1	1	0	0	0	0	0	23.9	56.82	29.0	35.1
1000	151	0	1	8	11	30	35	37	22	7	0	0	0	0	0	0	0	24.6	50.99	28.3	36.4
1100	117	0	4	2	8	18	25	37	16	6	0	1	0	0	0	0	0	24.8	52.99	29.1	36.9
1200	113	0	1	2	12	16	32	25	18	5	2	0	0	0	0	0	0	23.2	53.98	29.1	36.6
1300	126	0	0	4	11	21	29	37	18	5	0	1	0	0	0	0	0	27.4	53.97	29.1	36.6
1400	112	0	2	2	9	12	33	30	19	5	0	0	0	0	0	0	0	26.1	58.93	29.3	36.1
1500	110	0	0	0	6	8	28	32	31	3	1	1	0	0	0	0	0	28.3	60.91	31.9	38.4
1600	119	0	0	1	2	13	26	32	30	10	5	0	0	0	0	0	0	25.8	54.62	32.5	39.3
1700	112	0	0	0	3	6	21	28	34	17	2	1	0	0	0	0	0	29.5	58.93	34.1	41.2
1800	96	0	0	2	4	3	8	18	31	25	5	0	0	0	0	0	0	33.8	67.71	35.7	42.4
1900	78	0	0	1	1	2	8	29	21	13	3	0	0	0	0	0	0	31.3	66.67	34.9	41.2
2000	57	0	0	0	2	4	10	15	20	4	1	1	0	0	0	0	0	27.8	63.16	33.3	39.4
2100	40	0	0	0	0	4	5	4	19	6	2	0	0	0	0	0	0	32.4	65.00	35.3	40.9
2200	26	0	2	2	0	1	6	3	9	2	1	0	0	0	0	0	0	27.8	57.69	30.7	39.6
2300	21	0	0	0	0	0	1	7	10	2	1	0	0	0	0	0	0	29.9	80.95	36.2	40.3
07-19	1572	0	12	32	97	226	377	410	299	92	22	5	0	0	0	0	0	27.2	51.34	30.2	37.7
06-22	1869	0	13	38	107	254	441	486	374	121	29	6	0	0	0	0	0	27.2	51.15	30.5	38.1
06-00	1916	0	15	40	107	255	448	496	393	125	31	6	0	0	0	0	0	27.2	51.30	30.6	38.1
00-00	2013	0	18	42	109	271	466	517	409	136	36	8	1	0	0	0	0	27.2	50.92	30.6	38.2

Peak step 7:00 (192) AM Peak step 7:00 (192) PM Peak step 13:00 (126)

* Grand Total

Time	Total	Vbin 0 5	Vbin 5 10	Vbin 10 15	Vbin 15 20	Vbin 20 25	Vbin 25 30	Vbin 30 35	Vbin 35 40	Vbin 40 45	Vbin 45 50	Vbin 50 55	Vbin 55 60	Vbin 60 65	Vbin 65 70	Vbin 70 75	Vbin 75 100	VFace 10	VFace 10	Mean	Vpp 85
--	6204	1	78	178	375	881	1375	1544	1200	433	113	19	7	0	0	0	0	26.8	48.48	30.2	38.1

I.

Traffic Data Service Speed Report

ATTACHMENT 6 continued

Datasets:

Site: [1] 600 TUNNEL AVE
Algorithm: Factory default axle (v5.02)
Data type: Axle sensors - Paired (Class/Speed/Count)

Profile:

Included classes: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13
Speed range: 0 - 100 mph.
Direction: South (bound), P = North, Lane = 0-16
Scheme: Vehicle classification (Scheme F)
Units: Non metric (ft, mi, ft/s, mph, lb, ton)

Column Legend:

0 [Time] 24-hour time (0000 - 2359)
1 [Total] Number in time step
2 [Vbin] Speed bin totals
3 [vPace] Speed at start of pace
4 [Pace%] Percent in pace
5 [Mean] Average speed
6 [Vpp] Percentile speed

*** Wednesday, May 4, 2022**

Time	Total	Vbin 0	Vbin 5	Vbin 10	Vbin 15	Vbin 20	Vbin 25	Vbin 30	Vbin 35	Vbin 40	Vbin 45	Vbin 50	Vbin 55	Vbin 60	Vbin 65	Vbin 70	Vbin 75	Vbin 100	vPace 10	Pace% 10	Mean	Vpp 85
0000	5	0	0	0	0	0	0	0	1	1	3	0	0	0	0	0	0	0	34.8	80.00	39.9	-
0100	2	0	0	0	0	0	1	0	1	0	0	0	0	0	0	0	0	0	26.6	100.0	32.4	-
0200	2	0	0	0	1	0	0	1	0	0	0	0	0	0	0	0	0	0	5.2	50.00	23.1	-
0300	5	0	0	0	1	3	0	1	0	0	0	0	0	0	0	0	0	0	14.0	80.00	23.1	-
0400	14	0	0	0	0	2	6	2	3	1	0	0	0	0	0	0	0	0	30.4	64.29	36.6	44.3
0500	66	0	1	2	1	10	15	15	17	5	0	0	0	0	0	0	0	0	26.2	50.00	31.1	39.1
0600	73	0	0	1	3	8	25	14	13	4	4	0	1	0	0	0	0	0	26.3	63.01	31.4	37.1
0700	94	0	0	0	7	14	28	25	16	4	0	0	0	0	0	0	0	0	25.3	58.51	29.5	37.7
0800	107	0	0	4	11	18	28	28	12	4	2	0	0	0	0	0	0	0	25.2	55.14	28.5	35.2
0900	96	0	2	4	7	13	26	28	13	3	0	0	0	0	0	0	0	0	26.2	58.33	28.3	35.7
1000	106	0	1	6	4	17	36	33	7	2	0	0	0	0	0	0	0	0	24.3	67.92	27.9	33.4
1100	73	0	0	4	5	12	30	15	5	2	0	0	0	0	0	0	0	0	23.5	67.12	27.5	33.4
1200	50	0	0	2	4	10	11	12	9	2	0	0	0	0	0	0	0	0	22.3	50.00	28.8	36.0
1300	70	0	0	2	2	9	26	16	9	4	2	0	0	0	0	0	0	0	24.1	62.86	30.0	37.1
1400	47	0	0	2	3	8	19	9	6	0	0	0	0	0	0	0	0	0	23.1	61.70	27.6	34.4
1500	62	0	2	0	7	3	16	14	9	11	0	0	0	0	0	0	0	0	25.3	50.00	30.9	41.2
1600	43	0	0	1	1	3	8	9	18	2	1	0	0	0	0	0	0	0	29.4	67.44	32.8	38.1
1700	32	0	0	0	1	1	6	7	7	6	3	1	0	0	0	0	0	0	29.2	50.00	35.7	43.4
1800	52	0	0	1	2	3	12	12	11	10	1	0	0	0	0	0	0	0	27.0	59.62	32.7	40.9
1900	36	0	0	1	2	7	13	9	3	1	0	0	0	0	0	0	0	0	23.9	69.44	28.2	34.1
2000	25	0	0	1	0	5	8	7	2	2	0	0	0	0	0	0	0	0	21.3	64.00	29.4	37.5
2100	12	0	0	0	2	2	4	4	0	0	0	0	0	0	0	0	0	0	23.4	66.67	26.8	33.3
2200	6	0	0	0	1	2	1	1	0	0	1	0	0	0	0	0	0	0	21.9	66.67	28.1	-
2300	3	0	0	0	0	1	1	0	0	1	0	0	0	0	0	0	0	0	19.3	66.67	31.4	-
07-19	832	0	5	26	54	111	246	208	122	50	9	1	0	0	0	0	0	0	25.3	55.17	29.5	36.9
06-22	978	0	5	29	61	133	296	242	140	57	13	1	1	0	0	0	0	0	25.4	55.52	29.5	36.9
06-00	987	0	5	29	62	136	298	243	140	58	14	1	1	0	0	0	0	0	25.4	55.32	29.5	36.9
00-00	1081	0	6	31	65	149	316	267	161	69	15	1	1	0	0	0	0	0	26.3	54.39	29.7	37.1

Peak step 8:00 (107) AM Peak step 8:00 (107) PM Peak step 13:00 (70)

I.

Thursday, May 5, 2022

ATTACHMENT 6

Time	Total	Vbin 0 5	Vbin 5 10	Vbin 10 15	Vbin 15 20	Vbin 20 25	Vbin 25 30	Vbin 30 35	Vbin 35 40	Vbin 40 45	Vbin 45 50	Vbin 50 55	Vbin 55 60	Vbin 60 65	Vbin 65 70	Vbin 70 75	Vbin 75 100	continued Vbin 100 10	Pace% 10	Mean	Vpp 85
0000	4	0	0	0	0	0	1	2	0	1	0	0	0	0	0	0	0	23.4	75.00	33.6	-
0100	7	0	0	0	0	0	1	0	4	2	0	0	0	0	0	0	0	27.2	85.71	32.1	-
0200	2	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	18.9	100.0	26.6	-
0300	5	0	0	0	1	3	1	0	0	0	0	0	0	0	0	0	0	14.4	80.00	22.2	-
0400	17	0	3	0	1	0	1	3	6	3	0	0	0	0	0	0	0	33.9	64.71	31.2	41.3
0500	58	0	0	1	4	10	18	9	11	3	1	1	0	0	0	0	0	25.8	51.72	29.6	36.7
0600	79	0	1	7	4	13	17	21	8	6	2	0	0	0	0	0	0	25.1	50.63	28.5	37.0
0700	93	0	0	1	8	19	28	22	12	2	0	1	0	0	0	0	0	22.6	61.29	28.8	35.8
0800	97	0	0	4	8	20	27	25	10	3	0	0	0	0	0	0	0	22.8	60.82	27.9	34.5
0900	102	0	4	4	4	20	31	27	10	2	0	0	0	0	0	0	0	22.1	64.71	27.4	34.0
1000	94	0	0	3	8	17	31	25	9	1	0	0	0	0	0	0	0	24.2	62.77	27.8	33.9
1100	89	0	1	5	8	12	26	28	9	0	0	0	0	0	0	0	0	24.6	64.04	27.6	34.3
1200	63	0	0	0	6	18	22	7	8	1	0	1	0	0	0	0	0	19.8	65.08	27.4	37.0
1300	54	0	0	1	1	6	19	18	7	2	0	0	0	0	0	0	0	23.3	68.52	29.7	35.6
1400	55	0	0	0	3	7	19	17	9	0	0	0	0	0	0	0	0	22.4	67.27	29.4	35.5
1500	52	0	1	1	1	7	15	15	8	3	1	0	0	0	0	0	0	25.3	59.62	30.1	36.8
1600	50	0	1	4	2	5	16	10	11	1	0	0	0	0	0	0	0	24.6	52.00	28.7	36.7
1700	42	0	0	0	2	5	7	13	12	3	0	0	0	0	0	0	0	27.2	66.67	31.7	37.1
1800	46	0	0	0	1	3	15	13	13	1	0	0	0	0	0	0	0	26.9	71.74	31.2	36.7
1900	35	0	0	0	2	2	11	13	6	1	0	0	0	0	0	0	0	25.5	71.43	31.1	38.0
2000	21	0	0	1	1	4	8	4	2	1	0	0	0	0	0	0	0	21.4	76.19	27.7	35.1
2100	13	0	0	0	2	5	4	0	0	0	0	0	0	0	0	0	0	21.9	76.92	26.5	31.8
2200	5	0	0	0	1	2	0	2	0	0	0	0	0	0	0	0	0	13.4	60.00	26.1	-
2300	2	0	0	0	1	0	0	1	0	0	0	0	0	0	0	0	0	6.3	50.00	25.0	-
07-19	837	0	7	23	52	139	256	220	118	19	1	2	0	0	0	0	0	22.9	58.90	28.6	35.5
06-22	985	0	8	31	61	160	297	262	134	27	3	2	0	0	0	0	0	22.9	57.97	28.7	35.5
06-00	992	0	8	31	63	162	297	265	134	27	3	2	0	0	0	0	0	22.9	57.66	28.6	35.5
00-00	1085	0	11	32	69	177	319	283	153	34	4	3	0	0	0	0	0	22.9	56.22	28.7	35.8

Peak step 9:00 (102) AM Peak step 9:00 (102) PM Peak step 12:00 (63)

* Friday, May 6, 2022

Time	Total	Vbin 0 5	Vbin 5 10	Vbin 10 15	Vbin 15 20	Vbin 20 25	Vbin 25 30	Vbin 30 35	Vbin 35 40	Vbin 40 45	Vbin 45 50	Vbin 50 55	Vbin 55 60	Vbin 60 65	Vbin 65 70	Vbin 70 75	Vbin 75 100	vPace 10	Pace% 10	Mean	Vpp 85
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0200	1	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	31.6	100.0	41.6	-
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0500	48	0	0	0	0	4	11	14	13	3	1	2	0	0	0	0	0	28.2	60.42	33.4	38.9
0600	84	0	0	5	9	18	22	20	7	1	1	0	1	0	0	0	0	23.5	58.33	27.2	33.6
0700	100	0	0	4	16	23	28	16	8	4	1	0	0	0	0	0	0	20.7	53.00	26.7	34.3
0800	99	1	0	2	8	19	38	20	9	2	0	0	0	0	0	0	0	21.8	64.65	27.3	33.3
0900	88	0	0	1	4	24	31	21	7	0	0	0	0	0	0	0	0	22.8	70.45	27.4	32.8
1000	72	0	0	8	4	12	22	15	10	1	0	0	0	0	0	0	0	24.4	59.72	27.3	35.0
1100	77	1	1	6	3	10	28	18	9	0	0	0	1	0	0	0	0	24.4	62.34	27.5	34.4
1200	58	0	0	1	6	5	25	12	5	2	1	1	0	0	0	0	0	23.5	67.24	28.9	35.6
1300	59	0	1	0	0	9	20	20	8	1	0	0	0	0	0	0	0	24.1	67.80	29.6	35.5
1400	68	0	0	0	2	12	22	22	4	4	0	2	0	0	0	0	0	23.3	75.00	30.1	35.0
1500	51	0	0	0	4	8	12	12	13	2	0	0	0	0	0	0	0	22.9	54.90	30.2	37.3
1600	46	0	1	2	1	5	6	10	16	4	1	0	0	0	0	0	0	30.8	58.70	31.9	39.1
1700	43	0	0	1	2	4	8	17	5	3	3	0	0	0	0	0	0	24.8	60.47	32.0	40.1
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1900	29	0	0	0	1	6	9	6	5	1	1	0	0	0	0	0	0	22.3	62.07	30.0	38.0
2000	21	0	0	0	1	6	3	7	4	0	0	0	0	0	0	0	0	24.4	66.67	29.4	35.7
2100	14	0	0	1	0	3	3	5	2	0	0	0	0	0	0	0	0	22.5	78.57	28.0	34.7
2200	6	0	1	0	0	0	0	0	5	0	0	0	0	0	0	0	0	29.5	83.33	32.6	-
2300	11	0	0	0	0	0	2	4	2	2	1	0	0	0	0	0	0	30.8	72.73	34.8	41.9
07-19	807	2	3	25	50	135	255	203	99	24	7	3	1	0	0	0	0	23.3	59.48	28.7	35.5
06-22	955	2	3	31	61	168	292	241	117	26	9	3	2	0	0	0	0	23.3	59.48	28.6	35.4
06-00	972	2	4	31	61	168	294	245	124	28	10	3	2	0	0	0	0	23.3	59.05	28.7	35.6
00-00	1051	2	6	31	63	179	307	264	141	38	13	5	2	0	0	0	0	23.3	57.66	29.0	36.1


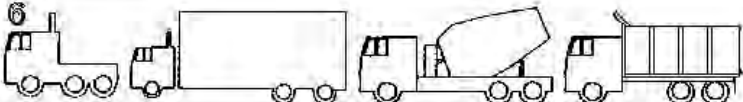
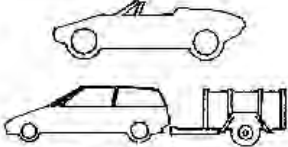
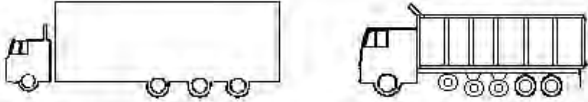
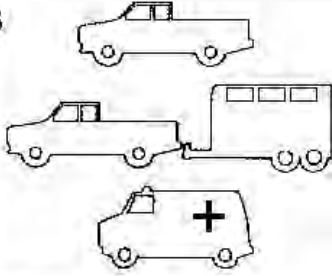
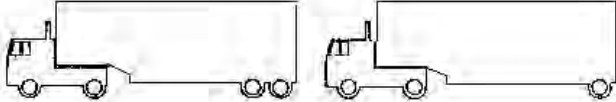
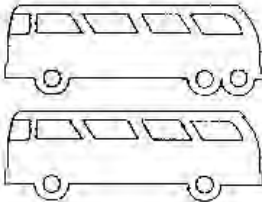
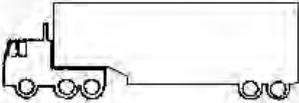
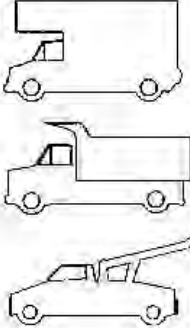
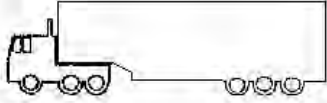
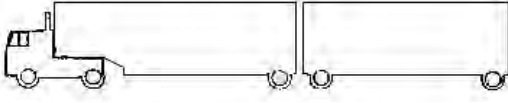
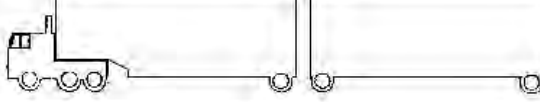
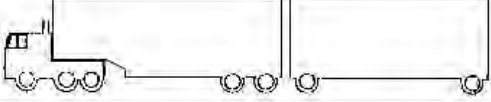
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* Grand Total

Time	Total	Vbin 0 5	Vbin 5 10	Vbin 10 15	Vbin 15 20	Vbin 20 25	Vbin 25 30	Vbin 30 35	Vbin 35 40	Vbin 40 45	Vbin 45 50	Vbin 50 55	Vbin 55 60	Vbin 60 65	Vbin 65 70	Vbin 70 75	Vbin 75 100	vPace 10	Pace% 10	Mean	Vpp 85
--	3217	2	23	94	197	505	942	814	455	141	32	9	3	0	0	0	0	24.5	55.27	29.1	36.2

Attachment C: Tunnel Avenue Hourly Volume Data

Attachment E - FHWA Vehicle Classification Scheme

1  MOTORCYCLES	6  THREE AXLE, SINGLE UNIT
2  PASSENGER CARS	7  FOUR OR MORE AXLE, SINGLE UNIT
3  FOUR TIRE, SINGLE UNIT	8  FOUR OR LESS AXLE, SINGLE TRAILER
4  BUSES	9  FIVE-AXLE, SINGLE TRAILER
5  TWO AXLE, SIX TIRE SINGLE UNIT	10  SIX OR MORE AXLE, SINGLE TRAILER
	11  FIVE OR LESS AXLE, MULTI-TRAILER
	12  SIX AXLE, MULTI-TRAILER
	13  SEVEN OR MORE AXLE, MULTI-TRAILER

- Class 1- **Motorcycles:** All two- or three-wheeled motorized vehicles. Typical vehicles in this category have saddle type seats and are steered by handle bars rather than wheels. This category includes motorcycles, motor scooters, mopeds, motor-powered bicycles, and three-wheeled motorcycles.
- Class 2- **Passenger Cars:** All sedans, coupes, and station wagons manufactured primarily for the purpose of carrying passengers and including those passenger cars pulling recreational or other light trailers.
- Class 3- **Other Two-Axle, Four-Tire, Single Unit Vehicles:** All two-axle, four-tire, vehicles other than passenger cars. Included in this classification are pickups, panels, vans, and other vehicles such as campers, motor homes, ambulances, hearses, carryalls, and minibuses. Other two-axle, four-tire single unit vehicles pulling recreational or other light trailers are included in this classification.
- Class 4- **Buses:** All vehicles manufactured as traditional passenger-carrying buses with two axles and six tires or three or more axles. This category includes only traditional buses (including school buses) functioning as passenger-carrying vehicles. Modified buses should be considered to be trucks and be appropriately classified.
- Note:** In reporting information on trucks the following criteria should be used:
- a. Truck tractor units traveling without a trailer will be considered single unit trucks.
 - b. A truck tractor unit pulling other such units in a "saddle mount" configuration will be considered as one single unit truck and will be defined only by axles on the pulling unit.
 - c. Vehicles shall be defined by the number of axles in contact with the roadway. Therefore, "floating" axles are counted only when in the down position.
 - d. The term "trailer" includes both semi- and full trailers.
- Class 5- **Two-Axle, Six-Tire, Single Unit Trucks:** All vehicles on a single frame including trucks, camping and recreational vehicles, motor homes, etc., having two axles and dual rear wheels.
- Class 6- **Three-axle Single unit Trucks:** All vehicles on a single frame including trucks, camping and recreational vehicles, motor homes, etc., having three axles.
- Class 7- **Four or More Axle Single Unit Trucks:** All trucks on a single frame with four or more axles.
- Class 8- **Four or Less Axle Single Trailer Trucks:** All vehicles with four or less axles consisting of two units, one of which is a tractor or straight truck power unit.
- Class 9- **Five-Axle Single Trailer Trucks:** All five-axle vehicles consisting of two units, one of which is a tractor or straight truck power unit.
- Class 10- **Six or More Axle Single Trailer Trucks:** All vehicles with six or more axles consisting of two units, one of which is a tractor or straight truck power unit.
- Class 11- **Five or Less Axle Multi-Trailer Trucks:** All vehicles with five or less axles consisting of three or more units, one of which is a tractor or straight truck power unit.
- Class 12- **Six-Axle Multi-Trailer Trucks:** All six-axle vehicles consisting of three or more units, one of which is a tractor or straight truck power unit.
- Class 13- **Seven or More Axle Multi-Trailer Trucks:** All vehicles with seven or more axles consisting of three or more units, one of which is a tractor or straight truck power unit.

City of Brisbane

Planning Commission Agenda Report

TO: Planning Commission For the Meeting of 04/14/2022

SUBJECT: **Modification of Interim Use Permit 2021-UP-3; 600 Tunnel Avenue;** C-1 Commercial District (Baylands); allowing for continued staging of up to 90 Google Commuter buses on an approximately 3-acre vacant site on the Baylands; Eric Aronsohn, applicant; Oyster Point Properties Inc, applicant/owner. Alternatively, consider revocation of Interim Use.

REQUEST: Modification of Interim Use Permit 2021-UP-3 is requested by the property owner Oyster Point Properties, Inc. on behalf of Google to allow for the continued utilization of the subject site as a staging site for up to 90 Google buses for transporting Google employee commuters. The requested modification is to the scheduling of bus trips.

During its March 10, 2022 meeting, the Planning Commission indicated that it would consider modifying the interim use permit, if the applicant submitted an application for modification. Alternatively, the Commission would consider revoking the interim use permit. Both options are before the Planning Commission at tonight's hearing.

RECOMMENDATION: Conditionally approve modification of Interim Use Permit 2021-UP-3, via adoption of Resolution 2021-UP-3-M with Exhibit A containing the findings and conditions of approval.

ENVIRONMENTAL DETERMINATION: This project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per Section 15301 of the CEQA Guidelines. The exceptions to this categorical exemption, referenced in Section 15300.2, do not apply.

APPLICABLE CODE SECTIONS: Brisbane Municipal Code 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 Section 17.41.060. Interim use permit revocation procedures are provided in BMC Section 17.41.100.

BACKGROUND:

Interim Use Permit 2021-UP-3 was approved on November 16th, 2021 and was a renewal of Interim Use Permit UP-4-19, at the end of its 2-year term. The approved interim use permit allows for parking of 90 Google commuter buses, to serve Google employees. During the public hearing in November 2021, concerns were raised about certain of Google's operations and whether those operations complied with the permit. Two operational concerns were raised. One was whether bus movements were in compliance with the schedule provided by Google and the second was whether some of the buses were using the roadway south of the site, instead of all

buses coming and going along the northbound route. A condition of approval was included, both in the original approval in 2019 and in the 2021 renewal, which prohibits bus trips south of the site and so all trips are required to be to and from the north.

At the time of approval of the renewal on November 16, 2021, the Commission added a condition of approval that Google was to monitor bus movements and provide a report to staff, for presentation to the Commission after another 90-days of operation. The report was presented to the Planning Commission on March 10, 2022. An additional report of bus movements has since been provided by Google for the month of February. These four months of reports, from November 2021 through February 2022, are provided in Attachment D.

The reporting for the four months showed that out of a total of 8,270 trips, 14 of them were on the southern route. The most recent, February 2022 report showed that out of a total of 2,066 trips, only two trips were on the southern route. These were attributed to training issues with new bus drivers.

Additionally, the original use permit application included information outlining the expected hours of operation. However, operational hour limitations were not established as project conditions of approval. Nevertheless, the bus trip data provided by the applicant showed that a number of buses were running during midday hours, outside the operational hours stated in the application materials. Google attributed this to changes in its employees' needs following the onset of the COVID-19 pandemic in early 2020 and that its requested schedule to include midday hours was not accurately updated for the 2021 renewal application to capture those actual needs. During the March 10th meeting, in response to the Commission's questions, Google's representative indicated that practically it would not be able to comply with the schedule provided at the time of the original application but requested flexibility in the operational times.

During the meeting of March 10th, the Planning Commission directed staff to schedule a hearing on revocation of the permit. At the same time, the Commission indicated that it would consider a request by the applicant to modify the permit, to fit its actual operations.

On March 25th, the applicant submitted an application for modification of the Interim Use Permit.

REQUESTED MODIFICATION

Time of Day for Scheduling Bus Trips

The applicant has provided an updated project description, including a revised estimated schedule of bus trips, which is included as Attachment B. The revised schedule does not increase the number of vehicle trips per day, but it spreads the trips over a longer period by utilizing mid-day hours. In essence, the concentration of trips to the early morning and evening hours would be reduced. Also, the bus count is noted as currently being 58, for approximately 116 trips (one out and one in each day). That is projected to eventually increase to the previously approved maximum count of 90 buses, for a total of 180 bus trips per day, as in-office usage by Google employees increases over time. The applicant has noted that these trip numbers, by time of day, are intended as average estimates and requests flexibility as Google's needs may vary somewhat over time,

within the general operational parameters being between 4 am to 10 pm, with most trips occurring after 5 am and before 9 pm.

Directional Routing

The applicant has not requested a change in the standard of routing buses to and from the north. They noted in the attached project description, *“Travel south on Tunnel Ave is prohibited. Signage is posted to this effect, however, as travel data shows there are rare instances of buses traveling south which is attributed to inadvertent and unintended human error, primarily due to new or substitute driver activity. We are requesting a small degree of flexibility to account for these errors which will be reported out as part of our regular data submissions to the City.”*

ANALYSIS AND FINDINGS: There are two sets of findings for the Commission to consider. The first set is the standard interim use permit findings under BMC Sections 17.41.060.A-F, as were made on November 16, 2021; these findings would support the modification requested. Alternatively, the Commission may deny the modified application and instead make the required finding to revoke Interim Use Permit 2021-UP-3. Staff is recommending the Commission approve the requested modification and adopt Resolution 2021-UP-3-M that reflects staff’s recommendation (Attachment A)

Staff consulted with the City Engineer and the Police Department to determine whether either had concerns with continuation of the use with the proposed modification to the schedule and both responded that they did not. The City Engineer noted that the use of buses is needed to keep single occupant vehicles off the roads. He also indicated that the occasional errant buses traveling south of the site are not concerning. However, he indicated that knowing how to distinguish between these occasional trips and problematic use of the southern portion of Tunnel Ave may be difficult. Based on anecdotal accounts during the Planning Commission’s previous meetings and Google’s own accounts, it appears that the events have been the rare exception, at less than one-tenth of one percent for the four-month period and even less for the last two months. This appears to reflect Google’s commitment to better communicate with new drivers to prevent the southern trips.

Although not recommended by staff, should the Planning Commission choose to adopt a zero-tolerance position on southern bus trips, that would be the basis for revocation, versus time-of-day trips, since prohibiting trips south was a condition of approval. This is reflected in the alternative draft Resolution 2021-UP-3-R (Attachment B).

Regarding time-of-day operations, with the original application, staff had requested the time-of-day scheduling/trip counts to characterize the use and that was provided by Google for presentation to the Commission with both the 2019 and 2021 applications. However, the time of day for bus trips was not intended to reflect an outright prohibition on any trips outside Google’s submitted schedule, but rather to characterize typical operations. Google’s requested changes in operations aside for a moment, it would be difficult if not impossible for Google to comply with a fixed schedule of when buses would be operating, given the uncertainty of traffic conditions on the roads. Thus, there was not a condition of approval outright prohibiting certain time-of-day operations. Conversely, one would expect an applicant to generally comply with its provided schedule, or request modifications in advance. In essence, operations that are significantly outside the proposed schedule should be the exception and not the norm.

Google, during the March 10th meeting, indicated that it was unable to comply with the schedule that it provided last Fall and has now provided a revised schedule for the Commission's consideration. As they noted, in the description, Google intends that the trips be considered an average and have requested some flexibility there as well. It should be noted that the proposed revised schedule allows for the vehicle trips to be spread through the daytime hours. This should be less impactful on local traffic by spreading the bus trips over a longer period each day.

Adding to the City Engineer's comment about keeping single occupant vehicles off the road, Google has indicated that each bus has a rider capacity of 68 people. Assuming these riders would otherwise be in single occupant vehicles, at the maximum capacity of 90 buses, this could theoretically remove over 6,000 single occupant vehicles from the roadways on a given day. While one would not anticipate this maximum capacity on a daily basis, the public benefits for this use are substantial.

The project, including the conditions of approval, would meet the findings required to grant the requested modification.

Interim Use Permit Findings

- a) The interim use will not be detrimental to the public health, safety or welfare, or injurious to nearby properties or improvements;
- b) the interim use will not create any significant environmental impacts;
- c) the interim use will not obstruct redevelopment;
- d) all required public utilities and other infrastructure are or will be available;
- e) the use will benefit the property and/or the public;
- f) encourage the employment of Brisbane residents to the extent it is reasonably possible to do so.

The revocation provisions for interim use permits are established in BMC Section 17.41.100, which states that, "*An interim use permit may be revoked upon a determination by the authority granting the original permit (either the planning commission or the city council) that the holder of such permit has failed to comply with any of the conditions thereof or has violated any applicable provision of this title.* " In this case, that authority is the Planning Commission.

If the Commission decides that the findings for a modified Interim Use Permit that are outlined above cannot be made, the Commission may instead choose to revoke Interim Use Permit 2021-UP-3. This would be based on the determination (or finding) that Google failed to comply with Condition 4, which states, "*Routing of Google buses shall be to and from the north along Tunnel Ave and Beatty Ave to connect to U.S. 101. Buses shall not use Tunnel Avenue south of the site.*"

While the Planning Commission has previously indicated concerns over non-compliance with the time-of-day routing, given that this was not a stated condition of approval, a finding for revocation

should be focused specifically on the prohibition on using Tunnel Ave south of the site, should the requested modification be denied.

If the Commission approves the proposed modification, the findings and conditions of approval are provided with the attached resolution and remain largely unchanged from the previous approval. Note that the condition regarding reporting bus movements to the Commission after the first 90 days has been removed. Google will still be required to provide monthly reports on bus movements to staff.

Finally, per the conditions of approval, as carried forward from interim use permit 2021-UP-3 in 2021, the permit is set to expire in 8 months, on November 23rd, 2022, unless that expiration date is also modified by the Commission. A decision of the Planning Commission to either approve the requested modification to the Interim Use Permit or deny the modification and revoke the permit may be appealed to City Council.

ATTACHMENTS:

- A. ~~Draft Resolution 2021-UP-3-M~~
 - B. ~~Draft Resolution 2021-UP-3-R~~
 - C. Google's revised project description
 - D. ~~Route Map~~
 - E. Googles bus routing reports (November 2021 – February 2022)
 - F. ~~November 16, 2021 Agenda Report~~
 - G. ~~Adopted Resolution 2021-UP-3~~
- Removed items have been superseded or provided elsewhere.

Ken Johnson

Ken Johnson, Senior Planner

John Swiecki

John Swiecki, Community Development Director

Project Description - Google Shuttle Bus Parking

March 25, 2022

Sunquest Properties in partnership with Google is requesting a modification to its Interim Use for 3-acres (130,680 sf of land) ("**Site**") currently operating as a bus parking location for Google.

The tenant, Google, is a leading global technology company with tens of thousands of employees based locally. Google is headquartered in Mountain View, CA with offices in San Francisco, San Bruno, and Sunnyvale. With employees and offices spread across the region, the Google Bus operation has become a major component of the **company's strategy for managing their workforce's transportation needs. The Google Bus operation also supports the** Companies efforts to reduce congestion and emissions caused by single-occupant cars, especially during peak commuting times.

The Google Bus, also known as "**GBus**", **program has expanded its operation** and in 2018, provided more than 4 million rides – picking up at 262 shuttle stops across nine Bay Area Counties. In aggregate, the shuttle program has helped Google employees avoid over 100 million vehicle miles per year.

The Brisbane location is ideal for the use given its central location and convenient and direct access to 101 and other regional highways. GBus will be able to come and go with the least amount of impact on local commuters due to the near-by on and off ramps which puts buses on the highway, in route to their shuttle stops in 2-5 minutes.

FACILITY OPERATION AND VEHICLE ROUTING

Since initial approval of the use permit in 2019, the Covid-19 Pandemic has dramatically changed the office work **day. As the entire business community adjusts to the "hybrid" work environment, we also require flexibility in the use** of the lot to accommodate this new and evolving environment.

Monday-Friday

- Up to 90 buses may be parked at any given time. The peak parking demand time is overnight from 10:00pm to 5:00am.
- Normal Operations:
 - On average, buses leave the site starting at 5:00am and return before 10:00pm
 - On average buses are parked from around 10:00 pm to 5:00am.
 - Up to 90 buses will be parked overnight until the shift begins at 5am the following day.
 - In rare instances, light maintenance may need to occur and this would include battery jump starts, emergency tire repair, etc.
 - Up to 90 personal vehicles to be parked when buses are in service. Personal vehicles would belong to bus drivers and other support staff

Saturday-Sunday and holidays:

- Up to 90 buses may be parked at any given time
- A minimal number of trips may happen on weekends, holidays, and overnight for unanticipated maintenance and operational needs.

Routing:

- Routing to/from the lot will continue to be via north on Tunnel Ave and Beatty Ave.
- Travel south on Tunnel Ave is prohibited. Signage is posted to this effect, however, as travel data shows there are rare instances of busses travelling south which is attributed to inadvertent and unintended human error, primarily due to new or substitute driver activity. We are requesting a small degree of flexibility to account for these errors which will be reported out as part of our regular data submissions to the City.

For additional clarity, below illustrates current activity and a projection for future activity starting from when Google has announced their return to office starting in early April with a notable decline in midday trips. As noted earlier, flexibility of the distribution of trips is subject to change based on hybrid and evolving work schedules. Changes will be communicated through required monthly trip data reporting.

	Current (~58 buses)		Max Capacity (90 buses)	
Time Periods	Percent of Trips	Avg Trips Per Day	Percent of Trips	Avg Trips Per Day
12:00am - 03:59am	0%	0	0%	0
04:00am - 05:59am	2%	2	10%	18
06:00am - 08:59am	28%	33	35%	63
09:00am - 11:59am	21%	24	5%	9
12:00pm - 02:59pm	12%	14	5%	9
03:00pm - 05:59pm	22%	25	10%	18
06:00pm - 08:59pm	14%	16	32%	58
09:00pm - 09:59pm	2%	2	3%	5
10:00pm - 11:59pm	0%	0	0%	0
		116		180

ON-SITE PERSONNEL

There shall be no permanent on-site personnel. Google will utilize a contracted security officer, who monitors and patrols the Companies assets in South San Francisco and San Bruno.

VEHICLE MAINTENANCE

There will be absolutely no vehicle maintenance, other than emergency needs, performed on this site. Bathrooms will be pumped out at an offsite facility.

FENCING, SECURITY, AND SITE LAYOUT

Perimeter fencing as shown in the site plan has been installed and requires little maintenance. A manually operated security gate is located at both the entrance and the exit which is locked by the last driver nightly. Lighting and security cameras are located on the site for additional security. Lighting is on timers which are adjusted regularly to limit their light pollution impacts, only being in use when drivers are on site. Gates servicing the site from Tunnel Avenue are setback to allow busses to fully pull off the road without causing traffic.

GRADING

Grading work is complete and is being maintained on a regular basis to ensure safe and minimally impactful operations.

DRAFT MINUTES

Staff noted the City Engineer reviewed the sign program for sight distance and language within the program stipulates final approval of the location of the entry monument sign lies with the City Engineer. Staff also noted the Commission has discretion to limit the color palette of signage but indicated the City cannot prohibit signage that utilizes trademarked logos, even if the color was precluded under a sign program.

Barbara Ebel, Brisbane resident, spoke about a future dark skies ordinance in progress by the Open Space and Ecology Committee.

With no one else wishing to address the Commission, a motion by Commissioner Lau, seconded by Commissioner Sayasane to close the public hearing was approved 4-0.

After deliberation, a motion by Chairperson Gooding, seconded by Commissioner Sayasane to approve the application via adoption of Resolution 2021-SR-9, amended to require programmable, automated dimmers on all illuminated signs, was approved 4-0. Chairperson Gooding read the appeals procedure.

- G. 1000 Sierra Point Parkway; Use Permit 2022-UP-2; SP-CRQ Sierra Point Commercial District; Use Permit application to allow the use of minipigs in medical research and development (R&D) by Bristol-Myers Squibb in the existing, approximately 9,000 square foot vivarium; Ricardo Garcia, applicant; HCP LS Brisbane LLC, owner.**

Note, item removed from the agenda; see the [memorandum to the Planning Commission](#) regarding this removal.

- H. PUBLIC HEARING: 600 Tunnel Avenue; Modification of Interim Use Permit 2021-UP-3; C-1 Commercial District (Baylands); allowing for continued staging of up to 90 Google Commuter buses on an approximately 3-acre vacant site on the Baylands, with a modified schedule; Eric Aronsohn, applicant; Oyster Point Properties Inc, applicant/owner. Alternatively, consider revocation of Interim Use Permit 2021-UP-3.**

Senior Planner Johnson gave the staff presentation and answered questions about applying conditions of approvals and the Commission's past request to issue citations for violations of the interim use permit.

Chairperson Gooding opened the public hearing.

Eric Aronsohn, applicant, and Ross Benson, Google's representative, addressed the Commission and answered questions about the volume and timing of bus trips from the site.

Michelle Salmon, Brisbane resident, spoke about traffic safety on Tunnel Ave.

Mary Rogers, Brisbane resident, expressed her opposition to allowing the use to continue and spoke about Google's history at the site.

Randall Venerable, Brisbane resident, spoke in favor of the benefits that buses provide and hoped the Commission will find a solution that would allow the use to remain and operate safely.

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

After deliberation, a motion by Commissioner Patel, seconded by Commissioner Sayasane, to deny the modification of Interim Use Permit 2021-UP-3 and revoke the permit via adoption of Resolution 2021-UP-3-R was approved 3-1 (Gooding). Senior Planner Johnson read the appeals procedure.

ITEMS INITIATED BY STAFF

Director Swiecki and Senior Planner Johnson noted progress on the Housing Element update continues and a public hearing on it is expected at the end of May.

ITEMS INITIATED BY THE COMMISSION

Commissioner Patel asked staff to agendize a Commission training session on code enforcement authority and the drafting of resolutions at a future meeting date.

ADJOURNMENT

Chairperson Gooding declared the meeting adjourned to the next regular meeting of April 28, 2022 at approximately 10:15 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.

City of Brisbane

Planning Commission Agenda Report

TO: Planning Commission For the Meeting of 10/28/2021

SUBJECT: **Interim Use Permit 2021-UP-3; 600 Tunnel Avenue;** C-1 Commercial District (Baylands); Interim Use Permit, renewal of UP-4-19, to allow continued staging of up to 90 Google Commuter buses on an approximately 3 acre vacant site on the Baylands. Sam Khodja, applicant; Oyster Point Properties Inc., applicant/owner.

REQUEST: An Interim Use Permit is requested by the property owner Oyster Point Properties, Inc. on behalf of Google to allow for the continued utilization of the subject site as a staging yard for up to 90 Google buses for transporting Google employee commuters. This is requested as a renewal of UP-4-19 and the requested term of the Interim Use Permit is for 5 years. No site improvements are proposed by the applicant with this proposed continued use.

RECOMMENDATION: Conditionally approve Interim Use Permit 2021-UP-3, with modifications, via adoption of Resolution 2021-UP-3 with Exhibit A containing the findings and conditions of approval.

ENVIRONMENTAL DETERMINATION: This project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per Section 15301 of the CEQA Guidelines. The exceptions to this categorical exemption, referenced in Section 15300.2, do not apply.

APPLICABLE CODE SECTIONS: Brisbane Municipal Code Chapter 17.41, adopted June 10, 1996, establishes procedures and required findings for the approval of interim uses in the Baylands subarea. Required findings are set forth in BMC Section 17.41.060, and mandatory conditions of approval are listed in BMC Sections 17.41.060.F and 17.41.070.

BACKGROUND/PROJECT DESCRIPTION:

Site Description:

The site is approximately 3 acres in size and is located south of Golden State Lumber, between the CalTrain rail-lines and Tunnel Avenue, on the westernmost edge of the former municipal landfill. Interim use permit UP-4-19 and grading permit EX-3-19 were approved in October 2019, which allowed for site preparation and the staging of Google buses for a two year period, which will end on October 31, 2021.

The yard has been graded and surfaced with gravel and enclosed with a chain link fence. Entry and exit driveways with gates have been provided at the north and south ends of the site,

respectively. The entry and exit drives are paved. Eleven portable, solar powered light standards are located on the site. No independent trash service or restrooms are provided on the site. Trash is collected off-site and the buses contain lavatories. Vehicle maintenance is prohibited on the site.

Operations:

Google began its operations in late 2019. However, following the onset of the Covid-19 pandemic in early 2020, Google suspended its operations and removed the buses from the site. They restarted operations in the summer of 2021.

Proposed site operations include parking, or staging, of the buses up to 24 hours a day, seven days a week, although generally buses are out on rounds, transporting Google employees to and from work, during the weekday daytime hours. The buses are picked up and dropped off by contracted Google bus drivers Monday through Friday, between 3 and 7 am and 3 and 9 pm. Drivers arriving by personal vehicle park on the site. The total vehicle trips per day is estimated at 360, with the peak hours being between 4 and 6 am at a rate of 60 trips per hour and between 7 and 8 pm at a rate of 50 trips in that hour. Note that a trip is counted for each time either a personal vehicle or bus would enter or exit the yard. Buses generally do not return to the yard between the morning and evening commute hours. Per the Planning Commission's conditions of approval under UP-4-19, the buses are routed to the north to and from U.S. 101 and not south towards the Brisbane Lagoon or Central Brisbane. The Commission further suggested that Google should provide trip and routing data with any future applications.

As indicated above, the yard is fenced and gated to provide for security. Additionally, security personnel periodically patrol this site along with two other nearby Google sites 7 days a week. Portable, solar-powered lighting standards with security cameras are located on the site to provide light during early morning and evening vehicle transfers. Lighting is set for the weekday mornings beginning at 4:00 am and in the evenings ending at 11 pm.

The operational description provided above is consistent with current operations of the facility. No modifications are proposed to the site or operations with this current application. The applicant's project description and Google's bus routing and schedule are attached.

Operational Issues and Permittee Responses to Date:

In early 2020, after Google began its operations, City staff received complaints regarding dust generation from bus movements on site and lighting at night. Staff communicated the complaints to the permittee/property owner and requested that these issues be addressed.

Regarding the dust concern, the property owner followed up with staff in early 2020, reporting that they had added paving to the two driveways leading up to the gates from Tunnel Avenue and were using a water truck to suppress dust generation on the interior of the site with the intent of creating a harder packed surface. Soon afterward operations were suspended due to the Covid-19 pandemic and the buses were removed from the site. The site was reopened in the summer of 2021 and has been in operation for the past few months.

Since reopening, the similar complaints have been raised and the applicant has indicated that they have now added asphalt grindings to the ground surface in an effort to address the dust issue.

Regarding the lighting, in 2020, the applicant indicated that they had their lighting contractor adjust the lights to face more downward onto the site in an effort to reduce off-site impacts. In 2021, they have reported that they have further adjusted the lighting (see letter in Attachment C).

A complaint has also been raised alleging that the drivers were coming and going via southbound Tunnel Avenue, instead of the required northbound route. The applicant has responded that the drivers are using the required northbound route and has requested routing data from Google. At the time of this report, that information is not yet available.

Staff Suggested Project Modifications:

Generation of dust was prohibited in the original use permit conditions of approval and is likewise prohibited for interim uses on the Baylands, per BMC Section 17.41.030.F.1. It does not appear that the base rock or the recently placed asphalt grindings will provide an adequate surface to prevent further dust issues. It is therefore recommended that the parking area be required to be fully paved. Installation of an impervious surface will also require stormwater capture and treatment on site, to comply with the State Water Board's Municipal Regional Permit (MRP) NPDES requirements, as provided in MRP Section C.3. Conditions of approval are included along with suggested timelines for compliance.

Regarding the lighting, the applicant has indicated that the lights have been adjusted downward. However, staff has continued to receive complaints. In order to address the concern about lighting, a condition of approval is recommended that the applicant provide the Planning Director with details showing how the lights are shielded and directed downward to eliminate direct visibility from Brisbane's residential neighborhoods and/or from nearby street views. The applicant shall further provide photometric data demonstrating that that light spillage beyond the site is not occurring. In the event these standards cannot be satisfied, the lighting shall be removed from the site. Removal may necessitate added Google security patrols. Additionally, a condition has been recommended to limit the programmed lighting hours to no earlier than 4 am and no later than 9 pm on weekdays. Weekend lighting has not been requested, since the buses only run during the weekdays.

At this time, staff has not confirmed whether or not Google bus drivers are utilizing southbound Tunnel Ave, in violation of the condition of approval regarding routing. The Police Dept. has reported that they have not observed Google's buses south of the site and, as indicated above, the applicant has reported that Google drivers are using northbound routes and has reached out to Google to see if supporting data is available to verify compliance. It is recommended that the previously included condition of approval carry forward, with a modification that Google provide a monthly report to the Planning Director documenting bus movements. A clarification is suggested that the condition be modified to specify "Google buses" versus "vehicles", to make it clear this prohibition does not apply to the drivers private vehicles.

If the above outlined issues cannot be resolved to staff's satisfaction or there are other violations to the terms of the interim use permit, the permit would be referred back to the Planning Commission for revocation procedures established in Brisbane Municipal Code Chapter 17.48.

ANALYSIS AND FINDINGS: The required findings under BMC Sections 17.41.060.A-F and project analysis are provided below. The project, including the suggested conditions of approval, with site modifications, would meet the findings.

Interim Use Permit

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

The proposal continuation of the use would **comply** with this finding, given the proposed modifications to the site.

The site is within an industrial area of Brisbane and the proposal is not anticipated to have detrimental or injurious effects, given the modifications provided in the conditions of approval. These modifications include paving the site and modifications to prevent off site glare from lighting, per the conditions of approval.

Adjacent uses include vacant lands to the south and the CalTrain rail line, which runs north-south rail adjacent to the site immediately to the west. The Golden State Lumber storage yard is located approximately 200 feet to the north. To the east, across Tunnel Avenue, are the Brisbane Recycling Company and Brisbane Soil Processing operations. There are no anticipated detrimental impacts to these nearby uses, given the site modifications provided in the conditions of approval.

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

The proposal **complies** with this finding.

The use is a continuation of an existing use and the use would have negligible or no permanent effects on the environment, with minor modifications considering the conditions of approval. As such it is categorically exempt from the provisions of CEQA, per Sections 15301 of the CEQA Guidelines. The exceptions to this categorical exemption, referenced in Section 15300.2, do not apply.

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). Given the short duration of the proposed use and that fact that it will not include any permanent structures, there would be no obstruction

to redevelopment plans. A condition of approval is included to address vacation of the site should redevelopment be advanced during the permit period.

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

This proposal **complies** with this finding.

The infrastructure of the roadway is provided via Tunnel Avenue with nearby U.S. 101 freeway access via Beatty Avenue or farther north just over the San Francisco border. Per the condition of approval, the applicant will be required to provide paving on-site and on-site stormwater treatment prior to discharge. No other infrastructure or utilities are required for this continued use.

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

The proposal **complies** with this finding.

The use would benefit the public in that the bus yard would support the use of commuter buses and thereby reduce greenhouse gas emissions for the region.

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

The proposal **complies** with this finding.

The applicant has indicated that their employment recruitment program includes directed outreach to Brisbane residents, to the extent possible. Google utilizes vendor partners for bus driver services and has indicated that they will encourage those vendors to post job openings in the City's Chamber of Commerce publication, the Luminary.

Finally, note that this application was routed to the City Engineer/Public Works Director, Fire Dept., Police Dept., San Mateo County Environmental Health, Regional Water Quality Control Board and CalTrain JPB for review and comment. The City Engineer commented on the issues of dust and lighting, which are discussed above and addressed in the conditions of approval. No other issues were raised. The proposed conditions of approval are provided with the attached resolution.

ATTACHMENTS:

- | | |
|--|---|
| <ul style="list-style-type: none"> A. Site and Vicinity Map/Aerial Photograph B. Staff's Site Photographs 10/8/21 C. Applicant's Submittal <ul style="list-style-type: none"> i. Project Description 2021 & 2019 ii. Applicant's Trip Routing iii. Daily Schedule | <p>Removed items have been superseded, provided elsewhere, or not a subject of this appeal.</p> |
|--|---|

- iv. ~~Yard Surface Photograph~~
- v. ~~KingSolarman letter~~
- D. ~~Draft Resolution 2021-UP-3~~

Ken Johnson

Ken Johnson, Senior Planner*John Swiecki*

John Swiecki, Community Development Director

Days and hours of operation:

- Monday - Friday: 4am-11pm, no activity between 10am-7pm as all buses will be out in service.
- Buses park midday in Mountain View, CA

ON-SITE PERSONNEL

There shall be no permanent on-site personnel. Google will utilize a contracted security officer, who monitors and patrols the Companies assets in South San Francisco and San Bruno.

VEHICLE MAINTENANCE

There will be absolutely no vehicle maintenance performed on this site. Bathrooms will be pumped out at an offsite facility.

FENCING, SECURITY, AND SITE LAYOUT

Proposed perimeter fencing and vehicle barriers {e.g., concrete K-rail} will be added as shown in the attached site plan. A manually operated security gate will also be installed at the entrance. These additions will enhance the existing perimeter elements and mitigate the potential for unwanted access to this portion of the site. Two ingress/egress gates servicing the site from Tunnel Avenue with adequate clearance to accommodate the vehicle and bus operations will also be provided as shown on the site plan.

GRADING

The existing topography of the site will remain essentially as-is while grading will serve to level out soil piles and clear brush and debris. A crushed rock overlayer will sit above any exposed dirt to mitigate the potential of airborne dust resulting from the operations at the site.



1.

Published on *City of Brisbane* (<https://www.brisbaneca.org>)[Home](#) > [Electronic Planning Application](#) > [Webform results](#) > Submission #52**ATTACHMENT C.2**
Applicant's Project
Description 2021**ATTACHMENT 6**
continued**Submission information**Form: [Electronic Planning Application](#) [1]
Submitted by Visitor (not verified)
Wed, 09/08/2021 - 5:30pm
69.181.231.35**Application Type:**

Use Permit

Use Permit Type:

Interim Uses on the Baylands

Does the project location have a street address? Yes**Project Address:** 600 Tunnel Ave. Brisbane**Assessor's Parcel Number (APN):** 005340040**Do you have another APN?** Yes**Assessor's Parcel Number (APN):** 005350080**Assessor's Parcel Number (APN):****Assessor's Parcel Number (APN):****Zoning District:** C-1**Habitat Conservation Plan:** No**Flood Zone:** No**Slope:** Under 20%

Project Description: Applying for a 5-years interim use permit renewal UP-4-19 for google bus operation at 600 Tunnel Ave. On March 12, 2020 we had a plan to add more improvement to the site by installing a virgin base rock or asphalt grinding to control the dust issue as a long term solution, however, once the pandemic hit, google bus operation was shut down and buses moved out of the site, until last July, 01, 2021 when google decided to resume their operation, we had a water truck in there 3 days per week to dampen down the base and dirt materials, this could be a potential longer-term solution since we noticed a huge difference. Over time it will compact the surface. Finally, on September 2, 2021 we decided to install an asphalt grinding material over the entire site as a permanent and a long term solution to the dust issue. See Pictures attached showing the current site conditions on September 07, 2021. Additionally, "KingSolarman", the contractor for the "Solar Lighting Towers" did make an adjustment to the lighting per the city of Brisbane request by placing them downwards onto the site, this can mitigate the light pollution, furthermore they have programmed all the lighting towers on a timer so it will turn-on only Monday through Friday between the hours of: (8:00pm-11:00pm & 4:00am-6:00am) and turn-off on Saturday & Sunday. This hours can be adjusted any time upon request. See attached a letter From KingSolarman dated September 07, 2021.

*We also regularly sweeping Tunnel Ave at least once a week.

Google Bus Parking: Proposed Route Mapping

Red represents inbound buses
Blue represents outbound buses

*Cars belonging to drivers will be instructed to use this routing as well



ATTACHMENT C.4
Vehicle Trip Schedule
Private Vehicles and Buses

Google Buses - Interim Use Application

Buses <u>Inbound to</u> and <u>Outbound from</u> Brisbane (Average)							
Cars <u>Inbound to</u> and <u>Outbound from</u> Brisbane (Average)							
	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
2400-0100							
0100-0200							
0200-0300							
0300-0400	30	30	30	30	30		
0400-0500	30/ 30	30/ 30	30/ 30	30/ 30	30/ 30		
0500-0600	30/ 30	30/ 30	30/ 30	30/ 30	30/ 30		
0600-0700	30	30	30	30	30		
0700-0800							
0800-0900							
1000-1100							
1100-1200							
1200-1300							
1300-1400							
1400-1500							
1500-1600	10	10	10	10	10		
1600-1700	10/10	10/10	10/10	10/10	10/10		
1700-1800	20/10	20/10	20/10	20/10	20/10		
1800-1900	20/20	20/20	20/20	20/20	20/20		
1900-2000	30/20	30/20	30/20	30/20	30/20		
2000-2100	30	30	30	30	30		
2100-2200							
2200-2300							
2300-2400							

ATTACHMENT 6
continued

Chairperson Gooding opened the public hearing.

Eric Aronsohn, applicant, addresses the Commission and answered question about leveraging resources from Mission Blue Nursery, the types of trees expected to be grown at the nursery, and the timing of growing trees for the Baylands at the proposed location.

Barbara Ebel, Brisbane resident, spoke in favor of the project but raised concerns about the project's water usage.

Michele Salmon, Brisbane resident, spoke in favor of the project but raised concerns about nearby seasonal wetlands and invasive flora onsite.

Mary Rogers, Brisbane resident, raised concerns about lighting and potential benefits to Brisbane residents, if any.

Jason Nunan, spoke in favor of the project but raised concerns about non-native tree species being grown at the nursery.

With no others wishing to address the Commission, Commissioner Patel moved to close the public hearing. Commissioner Funke seconded the motion and it was approved 5-0.

After deliberation, Commissioner Funke moved to approve the application via adoption of 2021-UP-5 with an additional condition that prior to the applicant commencing operations, the limits of the seasonal wetlands shall be verified by a qualified biologist to ensure the interim use does not encroach upon the wetlands. Commissioner Gomez seconded the motion and it was approved 5-0.

- C. PUBLIC HEARING: 600 Tunnel Avenue; Interim Use Permit 2021-UP-3; C-1 Commercial Mixed Use (Baylands);** Proposed Interim Use Permit for the continued staging of up to 90 Google commuter buses on an approximately 3-acre site between Tunnel Avenue and the Caltrain rail line to serve Google employees on the peninsula for up to a 5-year term. Sam Khodja, applicant; Oyster Point Properties, Inc. (Baylands Development Inc.), owner.

Senior Planner Johnson informed the Commission that the applicant has requested to continue this item to the next scheduled meeting to discuss proposed conditions of approvals with staff.

Director Swiecki added that while the applicant's current interim use permit will expire before the next meeting, the use may continue until the Planning Commission acts on this item and they will be subject to the boundaries and conditions under the existing interim use permit.

Chairperson Gooding opened the public hearing.

Mary Rogers, Brisbane resident, spoke against the project.

Michele Salmon, Brisbane resident, spoke against the project.

Kim Follien, Brisbane resident, spoke in favor of the project provided the lot is paved and lighting is properly shielded.

Barbara Ebel, Brisbane resident, spoke in favor of the project provided the applicant follow through on mitigating dust and glare and provide the route and trip data per the new recommended conditions of approval.

Chairperson Gooding closed the public hearing and Commissioner Funke moved to continue the application to the next Planning Commission meeting of November 16, 2021. Commissioner Gomez seconded the motion and it was approved 5-0.

D. PUBLIC HEARING: Zoning Text Amendment 2021-RZ-2; Various zoning districts; Zoning text amendments to Title 17 of the Brisbane Municipal Code to City of Brisbane to establish objective design and development standards for housing development projects; establish residential density requirements for the NCRO-2 Zoning District; allow multiple family dwellings in the SCRO-1 District by right and multiple family dwellings as part of a mixed use in the NCRO-2 Zoning District by right; reduce guest parking requirements; and establish procedures and requirements for an administrative Housing Development Permit for qualifying housing development projects. City of Brisbane, applicant; Citywide.

Director Swiecki introduced Contract Senior Planner Beggs.

Contract Senior Planner Beggs and project consultants Aaron Akin and Nicholas Hamilton of Good City gave the staff presentation and answered questions about the criteria for certain development regulations, including step-backs, which zoning districts are impacted by the proposed amendments, the timing of approval required by the State, and if additional visualization and/or simulation materials of the proposed amendments could be provided.

The Commission asked staff and the consultants to further explain the proposed reduction in guest parking, including how the proposed standard was determined and whether the Housing and Community Development (HCD) would permit Brisbane to retain its current and more stringent standard.

Director Swiecki explained the State views parking as a constraint on housing availability and is regulating municipalities to reduce governmental constraints. Mr. Akin further indicated that HCD's review will include ensuring the feasibility of the proposed amendments are not financially burdensome, i.e., a limiting factor to the construction of housing, and leaving the guest parking standard unchanged may necessitate a subsequent change in the future.

Commissioners Funke and Gooding requested clarification on the approval process for new mixed-use and multifamily projects and the role of the Zoning Administrator. Director Swiecki informed the Commission that without any discretionary standards, the Zoning Administrator's role is to

City of Brisbane

Planning Commission Agenda Report

TO: Planning Commission For the Meeting of 11/16/2021

SUBJECT: **Interim Use Permit 2021-UP-3; 600 Tunnel Avenue;** C-1 Commercial District (Baylands); Interim Use Permit, renewal of UP-4-19, to allow continued staging of up to 90 Google Commuter buses on an approximately 3 acre vacant site on the Baylands. Sam Khodja, applicant; Oyster Point Properties Inc., applicant/owner.

SUPPLEMENTAL REPORT

BACKGROUND: This application was continued from the meeting of October 28th, 2021 at the request of the applicant, to address issues of dust control, lighting and bus routing. Since there were members of the public present who wished to speak on the application, the Commission opened the public hearing and then continued the item to tonight's meeting.

During the public comment, the applicant expressed concern about the draft conditions of approval suggested by staff, which would modify the project by requiring the site to be paved and shortening the interim use permit to 2 years versus the requested 5 year term. Conditions were also suggested regarding the lighting and reporting by Google to the City on the actual bus routing and the applicant indicated their willingness to comply with those conditions.

Also, during the public hearing, Brisbane residents Mary Rogers and Michelle Salmon spoke in opposition to the continued use. Brisbane residents Kim Follien and Barbara Ebel spoke in favor of the continued use, including the suggested conditions of approval.

As a follow up, the applicant provided a response letter, which is provided as Attachment A. The applicant has indicated that they have adjusted the lighting to reduce the brightness by 50 percent, lowered the towers from 26 to 10 feet and further adjusted how the lights are directed onto the site, in an effort to reduce off-site light impacts. They have also provided an example report from Google on bus tracking, to demonstrate their commitment to comply with the condition prohibiting south bound bus trips. They have also provided a modification to their bus schedule and estimated trip count, which is included as part of Attachment A. Google has indicated that their anticipated combined passenger and Google bus trips would be reduced from their previous estimate of 180 in both the morning and late afternoon to evening down to 130 trips for each, morning and evening. Also, the hours would be to start after 4 am instead of 3 am and after 5 pm instead of after 3 pm. The ending times of 7 am and 9 pm would remain as previously proposed.

On the matter of dust and the suggested condition of approval that the site be paved, the applicant contends that the recent addition of asphalt grindings to the ground surface is adequate

to address this issue. The applicant has also indicated that paving is a disruptive and expensive endeavor, especially given the suggested condition limiting the use to a 2 year term instead of the 5 year term requested. Considering that the placement of the asphalt grindings was recently done and the dust issues appear to have been occurring prior to its placement, the Commission may consider allowing for the continued use without requiring paving. In that case, it is recommended the use permit term be limited to one year. This would allow the project to demonstrate through the dry season that the current surfacing is adequate to suppress dust generation.

Note that the draft resolution has not been revised to reflect these possible revisions to the conditions. If that is the Commission's desire, condition #18 would be edited to state 1 year instead of 2 years. Draft condition #1, which would require paving, would be removed and replaced with a condition stating that, "The yard's ground surface shall be maintained to prevent airborne dust generation."

RECOMMENDATION: Conditionally approve Interim Use Permit 2021-UP-3, with modifications, via adoption of Resolution 2021-UP-3 with Exhibit A containing the findings and conditions of approval.

ATTACHMENTS:

- A. Applicant's letter, dated Nov. 9, 2021
- B. ~~Planning Commission Agenda Report of October 28, 2021~~
- C. [Correspondence from Mary Rogers, dated Aug. 26, 2021](#)
- D. ~~Draft Resolution 2021-UP-3~~

Removed items have been superseded or provided elsewhere.

Ken Johnson

Ken Johnson, Senior Planner

John Swiecki

John Swiecki, Community Development Director



November 08, 2021

Planning Commission

City Of Brisbane

Subject: Interim Use Permit 2021-UP-3: 600 Tunnel Ave. Interim Use Permit, renewal of UPC-4-19, to allow for the continued staging of up to 90 Google commuter buses on approximately 3 acres. Graded and fenced site to serve google employees on the Peninsula, for up to a **5-year term**.

Supporting Documents Addressing the Most Recent Concerns About Google Buses Operation:

Concern #1. Light pollution: On Monday, November 1, further adjustments to the lighting system was made to limit the light pollution. The system was installed and adjusted by KingSolarman. *(Please see **attachment #1** a letter from Kingsolarman. **Attachment# 2** Photo comparison of the Google bus lot lighting versus neighbors: Golden State Lumber & Recology).*

Concern #2. Dust mitigation: In early September we installed an upgraded pervious asphalt grinding material at the site, which is specifically formulated to control dust while still allowing water to infiltrate naturally through the soil. Guidance from the San Mateo County Water Pollution Prevention Program (flowstobay.org) clearly states that pervious surface material is the preferred material for uncovered parking lots, bike lanes, and driveways. We believe the dust complaints the City has received are more likely emanating from the Golden State Lumber site, and not from the Google bus lot. *(Please see **attachment #3** a letter from Team North Construction Services).*

Concern #3. Buses traveling south on Tunnel Ave: As far as the landlord is aware, the tenant has conformed to the traffic and routing requirements imposed in the use permit approved in 2019. It has come to our attention that the routing protocol may not have been followed as commented on by members of the Planning Commission and the public. In order to address this issue, the tenant has put in place geofencing on Lagoon Rd and the portion of Tunnel Ave south of the intersection with Lagoon Rd. All buses are equipped with GPS that will flag any bus that enters the fenced area and record the time spent in the area. This information can either be

compiled in a report and sent to the City on a regular basis, or the tenant can help the City build out an API to access the data. Please let us know what the preferred method is for monitoring the bus routing. **NOTE:** we sent 4 buses south to test and not part of a typical route. (Please see **attachment # 4 Watched Area Testing Report: 11/01/2021 - 11/05/2021**).

Concern #4. Buses new schedule: As it relates to traffic, the pandemic has caused the tenant to adjust their operations which have meant that the schedule of buses entering and leaving the parking lot has changed. Based on current and expected operations, we are attaching an updated trip count and schedule (Please see **attachment# 5 a new proposed schedule with trip counts**).

ATTACHMENTS:

1. ~~Letter from Kingsolarman.~~
 2. ~~Photo comparison of google lighting versus Golden State Lumber and Recology.~~
 3. ~~Letter from Team North Construction Services.~~
 4. Watched Area Testing Report (11/01/2021 - 11/05/2021)
 5. New proposed schedule with trip counts.
- Removed items are not a subject of this appeal.

Thank you

Sam Khodja

Sam Khodja | Property Manager

Baylands Development, Inc.

Attachment# 04:

Vehicle	Day/ Time	Area	Description	Enter/ Leave	Time in Area (sec)	Reason	Corrective Action
391	11/1/2021 4:41:24 PM	C:befa6cb3-96da-4ffb-bbe0-cacb19cc31f9	Tunnel Ave and Lagoon Rd - Brisbane	Enter			
391	11/1/2021 4:43:10 PM	C:befa6cb3-96da-4ffb-bbe0-cacb19cc31f9	Tunnel Ave and Lagoon Rd - Brisbane	Leave	107	system/network validation - vendor a	
397	11/1/2021 6:26:59 PM	C:befa6cb3-96da-4ffb-bbe0-cacb19cc31f9	Tunnel Ave and Lagoon Rd - Brisbane	Enter			
397	11/1/2021 6:29:15 PM	C:befa6cb3-96da-4ffb-bbe0-cacb19cc31f9	Tunnel Ave and Lagoon Rd - Brisbane	leave	137	system/network validation - vendor b	
390	11/2/2021 4:51:50 PM	C:befa6cb3-96da-4ffb-bbe0-cacb19cc31f9	Tunnel Ave and Lagoon Rd - Brisbane	enter			
390	11/2/2021 4:53:24 PM	C:befa6cb3-96da-4ffb-bbe0-cacb19cc31f9	Tunnel Ave and Lagoon Rd - Brisbane	Leave	95	system/network validation - vendor c	
330	11/3/2021 4:36:56 PM	C:befa6cb3-96da-4ffb-bbe0-cacb19cc31f9	Tunnel Ave and Lagoon Rd - Brisbane	enter			
330	11/3/2021 4:38:33 PM	C:befa6cb3-96da-4ffb-bbe0-cacb19cc31f9	Tunnel Ave and Lagoon Rd - Brisbane	leave	98	system/network validation - vendor d	

Attachment# 05:

Google Buses - Interim Use Application

Buses Inbound to and Outbound from Brisbane (Average)								
Cars Inbound to and Outbound from Brisbane (Average)								
	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	
2400-0100	na	na	na	na	na	na	na	
0100-0200	na	na	na	na	na	na	na	
0200-0300	na	na	na	na	na	na	na	
0300-0400	na	na	na	na	na	na	na	
0400-0500	15	15	15	15	15	na	na	AM Totals
0500-0600	10	10	10	10	10	na	na	in
0600-0700	25	25	25	25	25	na	na	out
0700-0800	25	25	25	25	25	na	na	
0800-0900	30	30	30	30	30	na	na	
0900-1000	na	na	na	na	na	na	na	
1000-1100	na	na	na	na	na	na	na	
1100-1200	na	na	na	na	na	na	na	
1200-1300	na	na	na	na	na	na	na	
1300-1400	na	na	na	na	na	na	na	
1400-1500	na	na	na	na	na	na	na	
1500-1600	na	na	na	na	na	na	na	
1600-1700	na	na	na	na	na	na	na	
1700-1800	6	6	6	6	6	na	na	
1800-1900	4	4	4	4	4	na	na	
1900-2000	14	14	14	14	14	na	na	PM Totals
2000-2100	14	14	14	14	14	na	na	in
2100-2200	17	17	17	17	17	na	na	out
2200-2300	17	17	17	17	17	na	na	
2300-2400	28	28	28	28	28	na	na	
	30	30	30	30	30	na	na	
	na	na	na	na	na	na	na	
	na	na	na	na	na	na	na	
	na	na	na	na	na	na	na	

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BRISBANE PLANNING COMMISSION
Action Minutes of November 16, 2021
Virtual Special Meeting

~~CALL TO ORDER~~

~~Chairperson Gooding called the meeting to order at approximately 7:30 p.m.~~

~~ROLL CALL~~

~~Present: Commissioners Funke, Gooding, Gomez, Patel, and Sayasane~~

~~Absent: None~~

~~Staff Present: Director Swiecki, Senior Planner Johnson, Contract Senior Planner Kelly Beggs,
and Associate Planner Robbins~~

~~ADOPTION OF AGENDA~~

~~Commissioner Funke moved to adopt the agenda. Commissioner Gomez seconded the motion and it was approved 5-0.~~

~~CONSENT CALENDAR~~

~~Commissioner Patel moved to adopt the consent calendar (agenda item A). Commissioner Gomez seconded the motion and it was approved 5-0.~~

~~ORAL COMMUNICATIONS~~

~~There were no oral communications.~~

~~WRITTEN COMMUNICATIONS~~

~~Chairperson Gooding acknowledge three letters were received pertaining to agenda item C.~~

~~OLD BUSINESS~~

- B. PUBLIC HEARING: 600 Tunnel Avenue; Interim Use Permit 2021-UP-3; C-1 Commercial Mixed Use (Baylands);** Proposed Interim Use Permit for the continued staging of up to 90 Google commuter buses on an approximately 3-acre site between Tunnel Avenue and the Caltrain rail line to serve Google employees on the peninsula for up to a 5-year term. Sam Khodja, applicant; Oyster Point Properties, Inc. (Baylands Development Inc.), owner.

Note: This item was continued from the October 28, 2021 Planning Commission meeting.

Senior Planner Johnson gave the presentation and answered questions from the Commission about the original complaints pertaining to fugitive dust and light glare, the timing of modifications made

by the applicants to the onsite lighting, and the scheduling and movements of the buses, including what the GPS data related to bus movements would indicate.

Chairperson Gooding opened the public hearing.

Eric Aronsohn, applicant, addresses the Commission and spoke about how bus routing and scheduling has changed post Covid-19, a geofence was set up to monitor bus movements and notify the City of violations, and dust control mitigation and lighting adjustments have been made recently, including dimming the lights and adding a layer of asphalt grindings. He also clarified both the subject matter and source of the attachments and photos included with the staff report.

Michele Salmon, Brisbane resident, spoke against the project. Staff played [two videos](#) at this time, recorded early 2020 by Ms. Salmon and submitted at the beginning of the meeting, showing fugitive dust coming from the project site and two buses entering the lot from the south, in violation of the conditions of approval from the original interim use permit.

Edward Mason, San Francisco resident, spoke about San Francisco's burden from Google buses and suggested the Commission and City of Brisbane consider electrical charging infrastructure for medium and long-term planning solutions.

Ross Dykes, Brisbane resident, spoke in favor of the benefits of the project.

Mary Rogers, Brisbane resident, spoke against the project, indicating the project sponsor is untrustworthy.

Randell Veribell, Brisbane resident, spoke in favor of the benefits of the project.

Roland Lebrum, South San Jose resident, echoed Mr. Mason's comment about planning and providing for electrical charging infrastructure.

With no others wishing to address the Commission, Commissioner Patel moved to close the public hearing. Commissioner Sayasane seconded the motion and it was approved 5-0.

After deliberation, Commissioner Funke moved to approve the application via adoption of 2021-UP-3, with the following modifications:

- The Interim Use Permit shall be for a term of one year;
- The applicant shall provide reliable bus movement data to the satisfaction of the Community Development Director within 30 days of the effective date of the permit;
- The bus yard will not have to be paved, but the yard's ground surface shall be maintained to prevent airborne dust generation; and
- The Planning Commission will review applicant's compliance with the new terms and conditions of approval within 90 days of the effective date of the permit.

Commissioner Patel seconded the motion and it was approved 5-0. Chairperson Gooding read the appeals procedure.

RESOLUTION 2021-UP-3

A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE
CONDITIONALLY APPROVING INTERIM USE PERMIT 2021-UP-3
TO ALLOW THE USE OF A VACANT SITE ON THE BAYLANDS TO BE USED FOR
A GOOGLE BUS STAGING YARD

WHEREAS, Sam Khodja applied to the City of Brisbane for an Interim Use Permit 2021-UP-3 to allow continued outdoor staging of Google buses on an approximately 3 acre vacant site on the Baylands, at 600 Tunnel Avenue, between Tunnel Avenue and the CalTrain rail lines; and

WHEREAS, on October 28 and November 16, 2021, the Planning Commission conducted a hearing of the application, 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 application, 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 15304 of the State CEQA Guidelines and the exceptions to this categorical exemption, referenced in Section 15300.2, do not apply; 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.

NOW THEREFORE, based upon the findings set forth hereinabove, the Planning Commission of the City of Brisbane, at its meeting of November 16, 2021 did resolve as follows:

Interim Use Permit 2021-UP-3 is approved per the conditions of approval attached herein as Exhibit A.

ADOPTED this sixteenth day of November, 2021, by the following vote:

AYES: Funke, Gomez, Gooding, Patel, and Sayasane
NOES: NA
ABSENT: NA


Douglas Gooding
Chairperson

ATTEST:

JOHN A. SWIECKI
Community Development Director

EXHIBIT A

ACTION TAKEN: Conditionally approved Interim Use Permit 2021-UP-3 per the staff memorandum with attachments, via adoption of Resolution 2021-UP-3.

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, as described in the staff memorandum;
- B. The proposed interim use is 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;
- C. 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, inasmuch as there are no permanent structures proposed.
- D. There are no required public utilities since the use is for bus staging only. The infrastructure of Tunnel Avenue provide for roadway access and lavatories and recycling are contained on the buses, so that the interim use will operate in a safe, sanitary, and lawful manner.
- E. The use will benefit the property and/or the public in that it would be used to facilitate bus ridership for Google employees thereby reducing greenhouse gas emissions that will benefit the public throughout the region.
- F. The use would encourage the employment of Brisbane residents to the extent it is reasonably possible to do, inasmuch as Google utilizes vendor partners for bus driver services and has indicated that they will encourage those vendors to post job openings in the City's Chamber of Commerce publication, the Luminary

CONDITIONS OF APPROVAL: (Redlined conditions are as added or modified by the Planning Commission on November 16, 2021.)

- 1. The applicant shall provide the Planning Director with details showing how the lights are shielded and directed downward to eliminate direct visibility from Brisbane's residential neighborhoods and/or from nearby street views. The applicant shall further provide photometric data demonstrating that that light spillage beyond the site is not occurring.

This shall be provided to the Planning Director within 21 days of the effective date of this use permit and lighting modifications shall be made within 45 days of the effective date of this permit. The time period may be extended beyond 45 days only upon written request to, and approval by the Planning Director and on the condition that the on site operations have ceased or lighting is no longer operational pending completion of the work.

Operational Conditions

2. Lighting shall be programmed to turn on no earlier than 4 am and to turn off no later than 9 pm.
3. The yard's ground surface shall be maintained to prevent airborne dust generation.
4. Routing of Google buses shall be to and from the north along Tunnel Ave and Beatty Ave to connect to U.S. 101. Buses shall not use Tunnel Avenue south of the site.
 - Google shall provide reliable, daily bus movement data to the Planning Director. Data shall be provided in a form and frequency to the satisfaction of the Planning Director beginning no later than one month from the effective date of this permit; and
 - A report of movement data shall be provided by staff to the Planning Commission after 90 days following the effective date of this permit.
5. No storage is permitted on site other than the Google bus parking and parking of the drivers' vehicles used to retrieve buses.
6. The site shall be maintained free of trash and debris. Trash and recycling shall be contained on the buses for disposal at an authorized off site location.
7. Per the City Engineer, all vehicles utilizing the yard shall be in compliance with vehicle weight requirements specified in California Vehicle Code Sections 35550-35558. Storage of any vehicles over these weight requirements shall be subject to approval by the City Engineer, who may impose additional conditions.
8. The site and surrounding area shall be maintained for the duration of the use in compliance with North County Fire Authority requirements. This includes, flammable vegetation must be kept a minimum of 30 feet away from the property line, around the exterior of the lot being used, to provide a fuel break from the Baylands vegetation, except that vegetation within the nearby wetlands areas shall not be removed without approval by the project biologist.
9. Maintenance of vehicles is not permitted on the site.

10. Per the Bayshore Sanitary District requirements:

- No onsite wastewater facilities, other than those on the buses are permitted.
- No SFPUC water connection is permitted without prior approval.
- No wastes from the buses into the District's wastewater collection system shall be permitted.

11. If the City determines that the interim use would interfere or obstruct planned public improvements, within a 90-day written notice by the City the permittee shall abandon the interim use and remove improvements at its own expense.

12. The operator shall maintain a business license through the City's Finance Dept.

Mandatory Conditions, per BMC Section 17.41.070:

13. Since the use is being operated by a person other than the owner of the property, the owner and the operator are furnish the city with an agreement (or a copy of a lease containing such agreement) 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.

14. The permittee shall be jointly and severally liable for all costs and expenses, including attorneys' fees, 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.

Other Conditions and Project Close Out:

15. Vehicles, fencing and lighting shall be removed from the site by the close of the interim use permit period or upon other vacation of the use.

16. This Use Permit is subject to the revocation procedures established in Brisbane Municipal Code Chapter 17.48.

17. Minor modifications to this use permit may be approved by the Planning Director upon written request.

18. This Interim Use Permit shall expire **one year** from the effective date of the interim use permit. **That expiration date is November 23rd, 2022.**

City of Brisbane

Planning Commission Agenda Report

TO: Planning Commission

For the meeting of 10/24/19

SUBJECT: **Interim Use Permit UP-4-19 & Grading Review EX-3-19; 600 Tunnel Avenue;** C-1 Commercial District (Baylands); Interim Use Permit to allow staging of up to 90 Google Commuter buses on an approximately 3 acre vacant site on the Baylands. The proposal further involves approximately 4,075 cubic yards of site preparation grading. Eric Aronsohn of Universal Paragon Corporation (Oyster Point Properties Inc.), applicant/owner; Assessor's Parcel Numbers 005-340-040 & 005-350-080.

REQUEST: An Interim Use Permit and Grading Review is requested by Universal Paragon Corp. on behalf of Google to allow for utilization of the subject vacant site as a staging yard for up to 90 Google commuter buses. Prior to parking buses on the site it would be prepared by grading of approximately 4,075 cubic yards with placement of base rock.

The requested term of the Interim Use Permit would be for 5 years. Parking, or staging, of the buses would be allowed 24 hours a day, seven days a week. A schedule of projected trips in and out of the yard is provided in the project description section below and in the applicant's project description.

No utilities or office facilities are proposed with this use.

RECOMMENDATION: Conditionally approve Interim Use Permit UP-4-19 and Grading Review EX-3-19, recommending City Engineer approval of the proposed grading, via adoption of Resolution UP-4-19/EX-3-19 with Exhibit A containing the findings and conditions of approval.

ENVIRONMENTAL DETERMINATION: This project, a minor temporary use of land having negligible or no permanent effects on the environment, is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per Sections 15304 of the CEQA Guidelines. The exceptions to this categorical exemption, referenced in Section 15300.2, do not apply.

APPLICABLE CODE SECTIONS: Brisbane Municipal Code Chapter 17.41, adopted June 10, 1996, establishes procedures and required findings for the approval of interim uses in the Baylands subarea. Required findings are set forth in BMC Section 17.41.060, and mandatory conditions of approval are listed in BMC Sections 17.41.060.F and 17.41.070.

BMC Section 17.32.220 requires Planning Commission review of a grading permit when more than 50 cubic yards of material is to be removed from the site and/or when more than 250 of material are involved.

SITE DESCRIPTION: The site is approximately 3 acres in size and is located south of the Golden State Lumber storage yard, between the CalTrain rail lines and Tunnel Avenue, on the westernmost edge of the former municipal landfill. Most of the parking area will be set back from Tunnel Avenue by approximately 78 to 100 feet and set back from CalTrain by approximately 40 to 115 feet.

The subject area is vegetated with Coyote brush scrub and grasses that have grown on the soil cap over the landfill following cessation of the landfiling in this area in the mid-1900's. The City's biological consultant for the Baylands has previously identified seasonal wetlands in the areas east and west of this site, but the proposal site would not encroach into those areas.

The attached photo by staff taken in September 2019 shows the general state of the site.

PROJECT DESCRIPTION: The proposed operations as described by the applicant are summarized as follows:

Site Preparation The site would run parallel to Tunnel Avenue with a one-way entrance from Tunnel Avenue at the north end and a one-way exit at the south end of the site.

Prior to occupying the site with the buses, the site would be prepared by grubbing the vegetation and laying base rock across the site. The total grading volume would be approximately 4,075 cubic yards. Approximately 400 cubic yards of the grubbed material would be exported from the site and approximately 3,675 cubic yards would be imported base rock to provide a parking surface.

A six foot high chain link fence would be placed around the perimeter of the site, with a manually operated, lockable gate at the driveway entrance and exit. Solar powered temporary light standards would be placed at eleven locations across the site for safety and security, as shown on the applicant's site plan.

Per a draft condition of approval, prior to preparing the site for the proposed use, the nearby wetlands would be marked by the project biologist, to the satisfaction of the Community Development Director, to prevent inadvertent disruption of those areas during the site preparation work.

Proposed Use As indicated above, the site would be used for staging up to 90 Google buses for transporting Google employee commuters. The buses would be picked up and dropped off by contracted Google bus drivers Monday through Friday, between 3 and 7 am and 3 and 9 pm. Drivers arriving by personal vehicle would park those vehicles on the site, in place of the Google buses. The total vehicle trips per day is estimated at 360, with the peak hours being between 4 and 6 am at a rate of 60 trips per hour and between 7 and 8 pm at a rate of 50 trips in that hour.

Note that a trip is counted for each time either a personal vehicle or bus would enter or exit the yard.

Vehicle maintenance would not be conducted on the site.

No permanent employees would be located on the site, since the site would only serve as a staging location to store, pick up and drop off buses. The buses are equipped with lavatories and trash receptacles and so no restroom or trash collection facilities are planned for the site. All waste products would be handled off-site, outside of Brisbane.

As indicated above the yard would be fenced and gated for security. Additionally, security personnel would periodically patrol this site along with two other nearby Google sites 7 days a week. Portable solar-powered lighting standards with security cameras would be located on the site for security and safety during early morning and evening vehicle transfers. Lighting would be on in the mornings at 4:30 am and in the evenings to 11 pm. The Police Department reviewed the applicant's proposal and had no objections.

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

Interim Use Permit

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 within an industrial area of Brisbane and the proposal is not anticipated to have any detrimental or injurious effects. The area is largely surrounded by vacant lands, and the CalTrain rail line. CalTrain's north-south rail lines run adjacent to the site immediately to the west. The Golden State Lumber storage yard is located approximately 200 feet to the north. To the east, across Tunnel Avenue, are the Brisbane Recycling Company and Brisbane Soil Processing operations. To the south are vacant lands of the Baylands. Note that CalTrain has indicated that their fiber line runs on the property and appears to be immediately to the west of the proposed yard. To ensure that there is no damage to the nearby fiber line, a condition of approval is included to coordinate locating it in the field prior to grading.

Given the site's location, the closest residential uses are approximately 1/3 mile away, to the southwest, at the Northeast Ridge, and slightly more distant to the west and north in Daly City and San Francisco, at approximately 1/2 mile. Given those distances, and the operational conditions of approval, including the number of vehicle trips per hour, the use is not anticipated to have any detrimental effects on the residential areas. Despite that, since the CalTrain Bayshore station is located approximately 1/4 mile to the north on Tunnel Avenue, due to the anticipated increase in bus traffic, CalTrain has requested that

prior to the start of operations, outreach be made by Google to the nearby residential neighborhood. This would be to inform the nearby residents that the Google buses, to be housed on the subject site, will be operating near that station.

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

The proposal **complies** with this finding.

The use is temporary in nature with no permanent structures or utilities and the use would have negligible or no permanent effects on the environment. As such it is categorically exempt from the provisions of CEQA. As indicated above, there are wetlands in the vicinity of the site, but these are outside the area of proposed use. A condition of approval is included for a qualified project biologist to delineate the wetlands in the field and that they be marked with temporary orange fencing to prevent inadvertent damage during grading.

The use of buses for Googles employees will serve to remove single occupancy vehicles from the roadways and thereby reduce greenhouse gas emissions for the region, reducing environmental impacts that would otherwise result from single occupant vehicles.

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). Given the short duration of the proposed use and that fact that it will not include any permanent structures, there would be no obstruction to redevelopment plans. A condition of approval is included to address vacation of the site should redevelopment be advanced during the permit period.

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

This proposal **complies** with this finding.

The infrastructure of the roadway is provided via Tunnel Avenue with nearby U.S. 101 freeway access via Beatty Avenue. No utilities are required for this use.

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

The proposal **complies** with this finding.

The use would benefit the public in that the bus yard would support the use of commuter buses and thereby reduce greenhouse gas emissions for the region.

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

The proposal **complies** with this finding.

The applicant indicates that their employment recruitment program will include directed outreach to Brisbane residents, to the extent possible. Google utilizes vendor partners for bus driver services and has indicated that they will encourage those vendors to post job openings in the City's Chamber of Commerce publication, the Luminary.

Grading

In 2003, the Planning Commission adopted guidelines and findings for reviewing grading applications based on General Plan policies.

- a. The proposed grading is minimized and designed to reflect or fit comfortably with the natural topography.
- b. The proposed grading is designed to avoid large exposed retaining walls.
- c. The proposed grading is designed to conserve existing street trees.
- d. The proposed grading complies with the terms of the San Bruno Mountain Area Habitat Conservation Plan Agreement and Section 10(a) Permit, if and as applicable.

The proposal either **complies or is not applicable to** these findings. The only applicable finding is the first and the grading will not appreciably change the relatively flat topography of the site, except to even out the surface of this relatively flat site and provide a layer of base rock. There would be no retaining walls, no effected trees and the site is not within the HCP. It should be noted that technical issues such as soil stability, erosion control and site drainage are under the purview of the City Engineer, as a separate grading permit.

Finally, note that this application was routed to the City Engineer/Public Works Director, Fire Dept., Police Dept., San Mateo County Environmental Health, Regional Water Quality Control Board, Bayshore Sanitary District, San Francisco Water and CalTrain JPB for review and comment. There were no objections to the proposed use. Proposed conditions of approval are provided with the attached resolution.

ATTACHMENTS:

- A. ~~Vicinity Map~~
B. ~~Site Photograph~~
C. Applicant's Project Description
D. Applicant's Vehicle Trip Estimates
E. ~~Applicant's Proposed Plans~~
F. ~~Draft Resolution UP-4-19/EX-3-19~~
- Removed items have been superseded, provided elsewhere, or not a subject of this appeal.



Ken Johnson, Senior Planner



John Swiecki, Community Development Director

JUN -3 2019

Comm. Dev. Dept. Brisbane

Project Description - Google Shuttle Bus Parking

May 31, 2019

Sunquest Properties in partnership with Google is requesting a new 5-year Interim Use for 3-acres (130,680 sf of land) ("Site") intended as a bus parking location so Google can consolidate three separate parking locations in San Francisco and South San Francisco.

The purposed tenant, Google (GOOG), is a leading global technology company with tens of thousands of employees based locally. Google is headquartered in Mountain View, CA with offices in San Francisco, San Bruno, and Sunnyvale. With employees and offices spread across the region, the Google Bus operation has become a major component of the company's strategy for managing their workforce's transportation needs. The Google Bus operation also supports the Companies efforts to reduce congestion and emissions caused by single-occupant cars, especially during peak commuting times.

The Google Bus, also known as "GBus", program has expanded its operation year after year with 2018 being a record year in terms of ridership. In 2018, GBuses provided more than 4 million rides – picking up at 262 shuttle stops across nine Bay Area Counties. In aggregate, the shuttle program saved more than 40 thousand metric tons of CO2 and has helped Google employees avoid over 100 million vehicle miles on the year.

The Location is ideal for the use given its central location and convenient and direct access to 101 and other regional highways. GBuses will be able to come and go with the least amount of impact on local commuters due to the near-by on and off ramps which puts buses on the highway, in route to their shuttle stops in 2-5 minutes.

USE AND LOCATION

Google is pursuing the ability to use this site on a temporary basis, while they continue to pursue a permanent location in the region. Google has toured the site and based on the professional opinions of those interviewed, the tenant is confident they can make the site work economically, physically, and ecologically with minimal improvements. The project site will be graded, and gravel will be placed on the site to the City's standards, to allow for up to 90 buses to be temporarily parked and returned/retrieved with minimal dust in the air and dirt on the road. Lighting and security equipment will be powered by self-contained PV and storage systems which will power the necessary equipment for running the site safely and securely. Access will be provided through two gates along Tunnel Ave which will help streamline the flow of buses into and out of the property. Reducing idling time and minimizing traffic impacts on the public right of ways are of paramount importance.

FACILITY OPERATION AND VEHICLE ROUTING

Monday-Friday

- Up to 90 buses may be parked at any given time. The peak parking demand time is overnight from 10:00pm to 5:00am.
- Normal Operations:
 - Buses leave the site starting at 4:00am and return around 7:00pm
 - Buses are parked from around 7:00pm to 4:00am.
 - Up to 90 buses will be parked overnight until the shift begins at 4am the following day.
 - ~~In rare instances, light maintenance may need to occur and this would include battery jump starts, emergency tire repair, topping off fluids, etc.~~
 - Up to 90 personal vehicles to be parked when buses are in service. Personal vehicles would belong to bus drivers and other support staff

Saturday-Sunday and holidays:

- Up to 90 buses may be parked at any given time

Days and hours of operation:

- Monday - Friday: 4am-11pm, no activity between 10am-7pm as all buses will be out in service.
- Buses park midday in Mountain View, CA

ON-SITE PERSONNEL

There shall be no permanent on-site personnel. Google will utilize a contracted security officer, who monitors and patrols the Companies assets in South San Francisco and San Bruno.

VEHICLE MAINTENANCE

There will be absolutely no vehicle maintenance performed on this site. Bathrooms will be pumped out at an offsite facility.

FENCING, SECURITY, AND SITE LAYOUT

Proposed perimeter fencing and vehicle barriers {e.g., concrete K-rail} will be added as shown in the attached site plan. A manually operated security gate will also be installed at the entrance. These additions will enhance the existing perimeter elements and mitigate the potential for unwanted access to this portion of the site. Two ingress/egress gates servicing the site from Tunnel Avenue with adequate clearance to accommodate the vehicle and bus operations will also be provided as shown on the site plan.

GRADING

The existing topography of the site will remain essentially as-is while grading will serve to level out soil piles and clear brush and debris. A crushed rock overlayer will sit above any exposed dirt to mitigate the potential of airborne dust resulting from the operations at the site.



Google Buses - Interim Use Application

Buses <u>Inbound to</u> and <u>Outbound from</u> Brisbane (Average)							
Cars <u>Inbound to</u> and <u>Outbound from</u> Brisbane (Average)							
	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
2400-0100							
0100-0200							
0200-0300							
0300-0400	30	30	30	30	30		
0400-0500	30/ 30	30/ 30	30/ 30	30/ 30	30/ 30		
0500-0600	30/ 30	30/ 30	30/ 30	30/ 30	30/ 30		
0600-0700	30	30	30	30	30		
0700-0800							
0800-0900							
1000-1100							
1100-1200							
1200-1300							
1300-1400							
1400-1500							
1500-1600	10	10	10	10	10		
1600-1700	10/10	10/10	10/10	10/10	10/10		
1700-1800	20/10	20/10	20/10	20/10	20/10		
1800-1900	20/20	20/20	20/20	20/20	20/20		
1900-2000	30/20	30/20	30/20	30/20	30/20		
2000-2100	30	30	30	30	30		
2100-2200							
2200-2300							
2300-2400							

1. **PUBLIC HEARING: Interim Use Permit UP-7-19 (Continuation of UP-4-18); Baylands, East of Bayshore Boulevard, between Icehouse Hill and the Caltrain rail lines; C-1 Commercial Mixed Use District;** Interim Use Permit to allow the previously approved interim use to continue through December 2020, to allow outdoor staging of construction materials and equipment and assembly of work trains and rail track segments on an approximately 3.5-acre vacant site with an existing rail spur, to support improvements along the Caltrain rail-line corridor; Zach Mayes, applicant; Universal Paragon Corp., owner.

Senior Planner Johnson gave the staff presentation and answered Commissioner questions regarding metering of the temporary water connection and the lack of noise complaints.

Chairperson Sayasane opened the public hearing.

Zach Mayes, applicant, addressed the Commission in support of the application.

Seeing no others wishing to speak, Commissioner Mackin moved and Commissioner Gomez seconded to close the public hearing. The motion was approved 5-0.

Commissioner Mackin moved to adopt resolution UP-7-19. The motion was seconded by Commissioner Patel and approved 5-0.

2. **PUBLIC HEARING: Interim Use Permit UP-4-19/Grading Review EX-3-19; 600 Tunnel Avenue, in the Baylands subarea, a vacant site south of the Golden State Lumber storage yard, between Tunnel Avenue and the Caltrain rail lines; C-1 Commercial Mixed Use District;** Interim Use Permit to allow staging of up to 90 Google commuter buses to serve Peninsula Google employees on an approximately 3-acre vacant site for up to 5 years, including preparatory site grubbing and approximately 4,500 cubic yards of grading with base rock; Eric Aronsohn, applicant; Oyster Point Properties Inc. (Universal Paragon Corp.), owner.

Senior Planner Johnson gave the staff presentation and answered Commissioner questions regarding proposed on and off-site circulation, potential impacts to the capped landfill and adjacent wetland habitat, truck travel patterns of other businesses in the area, lighting, dust control, and stormwater management.

Chairperson Sayasane opened the public hearing.

Eric Aronsohn, representing owner Universal Paragon Corp, and Ross Benson, representing proposed tenant Google, addressed the Commission in support of the application.

Mary Rogers, Brisbane resident, addressed the Commission in opposition to the application.

Tamara, employee of Golden Gate Lumber, addressed the Commission regarding the timing of lumber yard operations within the vicinity of the proposed parking lot.

Seeing no others wishing to speak, Commissioner Patel moved and Commissioner Gooding seconded to close the public hearing. The motion was approved 5-0.

After deliberation, Commissioner Gooding moved to adopt resolution UP-4-19/EX-3-19, modified to reduce the term of the interim use permit to two years and to require that routing of vehicles be to the north to connect to U.S. 101. It was also advised that any application to extend the use permit beyond 2 years should include traffic circulation and trip count data. The motion was seconded by Commissioner Gomez and approved 4-1 (Mackin).

I. STUDY SESSION

RESOLUTION UP-4-19/EX-3-19

A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE
CONDITIONALLY APPROVING INTERIM USE PERMIT UP-4-19 AND GRADING
REVIEW EX-3-19
TO ALLOW THE USE OF A VACANT SITE ON THE BAYLANDS TO BE USED FOR
A GOOGLE BUS STAGING YARD

WHEREAS, Eric Aronsohn applied to the City of Brisbane for an Interim Use Permit UP-4-19 and Grading Review EX-3-19 to allow outdoor staging of Google buses on an approximately 3 acre vacant site on the Baylands, at 600 Tunnel Avenue, between Tunnel Avenue and the CalTrain rail lines; and

WHEREAS, on October 24, 2019, the Planning Commission conducted a hearing of the application, 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 application, 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 15304 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.

NOW THEREFORE, based upon the findings set forth hereinabove, the Planning Commission of the City of Brisbane, at its meeting of October 24 2019 did resolve as follows:

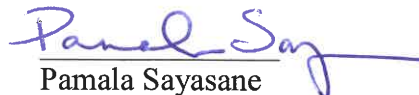
Interim Use Permit UP-4-19 is approved, with modifications as noted in the conditions of approval, and the recommendation of City Engineer approval of the proposed grading EX-3-19 is approved per the conditions of approval attached herein as Exhibit A.

ADOPTED this twenty-fourth day of October, 2019, by the following vote:

AYES: Gomez, Gooding, Patel, Sayasane

NOES: Mackin

ABSENT:


Pamala Sayasane
Chairperson

ATTEST:


JOHN A. SWIECKI, Community Development Director

EXHIBIT A**ATTACHMENT 6
continued**

ACTION TAKEN: Conditionally approved Interim Use Permit UP-4-19 and Grading Review EX-3-19 per the staff memorandum with attachments, via adoption of Resolution UP-4-19/EX-3-19.

(Note: Modifications imposed by the Planning Commission on October 24, 2019 are shown in redline/strikeout.)

FINDINGS:

1. 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, as described in the staff memorandum;
2. The proposed interim use is categorically exempt from environmental review pursuant to Section 15304(e) of the California Environmental Quality Act (CEQA) Guidelines and will not result in any significant adverse environmental impacts;
3. 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, inasmuch as there are no permanent site improvements proposed.
4. There are no required public utilities since the use is for bus staging only. The infrastructure of Tunnel Avenue will provide for roadway access and lavatories and recycling is contained on the buses, so that the interim use will operate in a safe, sanitary, and lawful manner.
5. The use will benefit the property and/or the public in that it would be used to facilitate bus ridership for Google employees thereby reducing greenhouse gas emissions that will benefit the public throughout the region.
6. The use would encourage the employment of Brisbane residents to the extent it is reasonably possible to do so.
7. The proposed grading is minimized and designed to reflect or fit comfortably with the natural topography.
8. The proposed grading would not include retaining walls.
9. The proposed grading would not impact trees.
10. The proposed grading is not within the San Bruno Mountain Area Habitat Conservation Plan area.

CONDITIONS OF APPROVAL:**Site Preparation**

- A. The applicant shall obtain a grading permit from the City Engineer prior to start of grading and shall complete grading to the satisfaction of the City Engineer.
- B. Grading shall comply with stormwater NPDES requirements, including Best Management Practices, to the satisfaction of the City Engineer.
- C. Prior to grading, the applicant shall coordinate with CalTrain to locate and mark the location of the CalTrain fiber line that runs near the proposed site.
- D. Prior to grading, the project biologist shall clearly mark out the extents of the wetlands area in the field and temporary orange safety fencing shall be placed at least 20 feet from the wetlands perimeter, to prevent damage to these areas during grading.
- E. Applicant shall notify the County and Water Board at least 72 hours prior to grading operations and shall comply with any conditions imposed by these agencies.
- F. Portable security lighting shall be placed and maintained downwards onto the site and not up or outwards, such that it would present a hazard or significant glare to off-site properties. Any modification to the lighting plan shall be subject to Planning Director approval.
- G. Security fencing shall be placed to the satisfaction of the Planning Director. Entry gates shall be set back from Tunnel Avenue, such that buses will not back up onto Tunnel Avenue while gates are being opened or closed.
- H. Per the Fire Department:
 - a. Minimum 4 inch tall address numbers shall be posted at each entrance gate.
 - b. All flammable vegetation must be cut and removed from the interior of the lot.
 - c. Flammable vegetation must be cut and removed a minimum of 30 feet away from the property line, around the exterior of the lot being used, to provide a fuel break from the Baylands vegetation, except that vegetation within the wetlands areas shall not be removed without approval by the project biologist.

Prior to Bus Yard Operation

- I. The prospective operator shall maintain a business license through the City's Finance Dept.
- J. Prior to start of operations, Google shall coordinate with CalTrain to provide residential outreach to inform them of the Google buses to be operating in the area.
- K. Per the County Environmental Health Services, the operator shall provide to the County a maintenance and monitoring program to maintain the base rock surface and to minimize surface ponding of the storm water. A copy shall also be provided to the City Planning Director.

Operational Conditions

- L. No storage is permitted, other than the Google bus parking and parking of the drivers' vehicles used to retrieve buses.
- M. The site shall be maintained free of trash and debris. Trash and recycling shall be contained on the buses for disposal at an authorized off site location.
- N. The project shall comply with stormwater NPDES requirements on an ongoing basis to the satisfaction of the City Engineer.
- O. Per the City Engineer, all vehicles utilizing the yard shall be in compliance with vehicle weight requirements specified in California Vehicle Code Sections 35550-35558. Storage of any vehicles over these weight requirements shall be subject to approval by the City Engineer, who may impose additional conditions.
- P. Routing of vehicles shall be to the north along Beatty Avenue to connect to U.S. 101 to and from the site.
- Q. The site and surrounding area shall be maintained for the duration of the use in compliance with North County Fire Authority requirements, per condition H.
- R. Maintenance of vehicles is not permitted on the site.
- S. The gravel site surface shall be maintained to prevent water from ponding on the site and to provide for dust control to the satisfaction of the City Engineer.
- T. This site shall not be paved with an impervious surface. Any such proposal would be subject to further review and approval by the Planning Director and City Engineer and review under the Water Board C.3 provisions.
- U. Per the Bayshore Sanitary District requirements:
 - No onsite wastewater facilities, other than those on the buses are permitted.
 - No SFPUC water connection is permitted without a permit amendment.
 - No wastes from the buses into the District's wastewater collection system shall be permitted.
- V. Minor modifications to this use permit may be approved by the Planning Director upon written request.
- W. If the City determines that the interim use would interfere or obstruct planned public improvements, within a 90-day written notice by the City the permittee shall abandon the interim use and remove improvements at its own expense.
- X. This Use Permit is subject to the revocation procedures established in Brisbane Municipal Code Chapter 17.48.

Mandatory Conditions, per BMC Section 17.41.070:

- Y. Since the use is being operated by a person other than the owner of the property, the owner and the operator are furnish the city with an agreement (or a copy of a lease containing such agreement) 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.
- Z. The permittee shall be jointly and severally liable for all costs and expenses, including attorneys' fees, 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.

Project Close Out:

- AA. Vehicles, fencing and lighting shall be removed from the site by the close of the interim use permit period or upon other vacation of the use.
- BB. This Interim Use Permit shall expire ~~five years~~ **two years** from the effective date of the interim use permit.
- CC. **Reapplication for use permit renewal should include actual traffic routing and trip count data.**

**Interim Use Permit 2021-UP-3**

Date: 9/13/22

Attn: Ken Johnson – Brisbane Sr. Planner

Ken,

Google has elected to withdraw their request for appeal and extension of the above-mentioned use permit. The request I was asked by Google to bring before City Council is to allow for a 90-day wind down period so that the bus operation can transition smoothly into its next best option. We will continue to maintain the lot for dust and lighting through that period as well as provide the trip reporting like we do currently on a regular basis.

Thank you for your support along with that provided by other members of City Staff. Please let me know if there is anything further I can do to help in this transition especially pertaining to the 90-day period we are requesting.

Thank you kindly,

Eric Aronsohn

Eric Aronsohn – Director
Baylands Development Inc.

File Attachments for Item:

K. Creation of the Ordinance No. 528 Review Ad Hoc Subcommittee and Selection of Members
(Ordinance No. 528 allowed for research and development (R&D) uses at Sierra Point)

2022

CITY OF BRISBANE - CITY COUNCIL ASSIGNMENTS

The following is a list of Commissions, Subcommittees, Boards, Councils and Associations for which the Council selects a representative(s).

<u>County/Other JPA Assignments</u>	<u>Representative/Alternate</u>	<u>Mtg Sched.</u>
1. Association of Bay Area Governments http://www.abag.ca.gov/	Mayor/Mayor Pro Tem	Annually/April
2. League of California Cities http://www.cacities.org	Mayor/Mayor Pro Tem	Conferences
3. Airport Land Use Committee http://ccag.ca.gov/committees/	Terry O'Connell, Rep. Madison Davis, Alt	4 th Thurs/mo 4-6 pm
4. San Mateo County Emergency Services Council http://hsd.smcsheriff.com/	Terry O'Connell	3 rd Thurs/mo/Quart 5:30 pm
5. City/County Association of Governments http://ccag.ca.gov/committees/board-of-directors/	Karen Cunningham, Rep Cliff Lentz, Alt.	2 nd Thurs/mo 6:30-9:30pm
6. Peninsula Traffic Congestion Relief Alliance http://commute.org/	Cliff Lentz Karen Cunningham, Alt	3 rd Thurs/bi-month 8 – 9:30 am
7. County Library JPA Liaison with Friends of Brisbane Library http://www.smcl.org/en/node/11	Karen Cunningham Cliff Lentz, Alt	2 nd Mon/bi-month 8:15 am
8. SMC Pre-Hospital EMS Group Board of Directors (JPA-ALS Paramedic)	Karen Cunningham Terry O'Connell, Alt	3 rd Wed Jan/May/Sept 6 pm
9. Airport Community Roundtable http://sforoundtable.org	Terry O'Connell Madison Davis, Alt	1 st Wed/mo 7 pm
10. North County Fire Authority Board of Directors/Fire Services (JPA Board)	Madison Davis Terry O'Connell	Once a year in June/July
11. Brisbane Baylands Community Advisory Group (BBCAG)	Madison Davis Terry O'Connell	As Needed 7-9 pm
12. Peninsula Clean Energy JPA (SM County) www.peninsulacleanenergy.com	Coleen Mackin Clay Holstine, Alt	4 th Thurs/mo 7-9 pm
13. Brisbane Emergency Services Council (Mayor & SMC Emergency Services Council Rep)	Coleen Mackin, Rep Terry O'Connell	
14. Bay Area Water Supply Conservation Agency (BAWSCA City Representative)	Sepi Richardson (Term expires 6/30/23)	3 rd Thurs/mo 7pm

15. Caltrain Modernization Local Policy Maker Group

www.caltrain.com/calmod*(Assigned at Council Mtg of 9/7/17)*Terry O'Connell
Cliff Lentz, Alt4th Thursday at
6pm16. HEART of SMC's Membership Agency
Committee (MAC)Cliff Lentz
Coleen Mackin (alt)

Annually (May)

City Council Subcommittees17. Infrastructure, Utilities, & Franchise
*(Water & Sewer, rates & plans, Franchise agreements,
Other Infrastructure plans, Storm drains, streets,
City Facilities - buildings, marina, etc.)*Coleen Mackin
Cliff Lentz

18. School/City Subcommittee 2x2

Madison Davis
Karen Cunningham19. Education Ad hoc Subcommittee Meeting
*(Created 1/17/19)*Madison Davis
Karen Cunningham20. Fiscal & Administrative Policies
*(Review of Fiscal policies, such as OPEB,
Fund Balances Policies, unfunded liabilities.)*Terry O'Connell
Karen Cunningham

21. Affordable Housing

Cliff Lentz
Madison Davis22. Public Information/Technology
*(Website, Newsletter, Broadcasting, security)*Coleen Mackin
Karen Cunningham

23. Economic Development

Karen Cunningham
Cliff Lentz + Mitch24. Baylands
*(All things Baylands, BSP - UPC application and is
various studies, i.e., financial, survey, sustainability,
HSR, Soil Processing, Recology)*Terry O'Connell
Karen Cunningham
+ 1 PC (Sayasane), + 1 CSSC (Cabrera)
+ 1 OSEC (?) + 1 Art (Davis/Salmon)
Possible Youth and/or At-Large position/s

25. Sierra Point Parkway Design Guidelines

Terry O'Connell
Cliff Lentz + Mitch26. Sierra Point Parkway Park & Open Space
*(For parks and open space projects at SPP)
(Created 1/7/21)*Terry O'Connell
Cliff Lentz
+ 1 P&R, + 1 OSEC Member,
+ 1 Complete Streets

27. History Subcommittee

Coleen Mackin
Madison Davis

28. Airport Noise Subcommittee

Terry O'Connell
Madison Davis

29. Crocker Park Noise Ad hoc

*(created 10/26/17)*Cliff Lentz
Coleen Mackin

30. Planning Issues

Coleen Mackin
Karen Cunningham

31. Cannabis Issues

*(created 1/17/19)*Madison Davis
Terry O'Connell32. Public Art Advisory Committee &
Public Art Selection CommitteeMadison Davis
Karen Cunningham
+ 2 P&R, + 1 Business owner
+ 1 Artist, + 1 Community member

33. Beautification Subcommittee

*(created 9/5/19)*Karen Cunningham
Coleen Mackin
+ 1 P&R, + 1 OSEC Member,
+ 1 Complete Streets

34. Transportation Demand Management Policy

*(created Sept 2021)*Cliff Lentz
Karen Cunningham

35. Community Garden

*(created Nov 2021)*Madison Davis
Karen Cunningham

36. City Manager Employment Issues Ad hoc

*(created Feb 2022)*Karen Cunningham
Cliff Lentz

37. LUNAFEST Co-Sponsorship with Lions Club

*(dissolved 4/21/22; now Lions Club event)*Madison Davis & Terry O'Connell
Lions: Sharon Boggs & Deb Horen
+ 3 P&R (Greenlee, Kern & Seawell)**Council Liaisons**

** Meet with two representatives from each Commission for Liaison meetings: involves discussion around the Commission's achievements, goals and their upcoming workplan.

Representative/Alternate

38. Liaison to Parks & Recreation Commission

Madison Davis
Karen Cunningham

39. Liaison to Open Space & Ecology Committee

Coleen Mackin
Terry O'Connell

40. Liaison to Planning Commission

Cliff Lentz
Coleen Mackin

41. Liaison to Complete Streets Safety Committee

Karen Cunningham
Coleen Mackin42. Liaison to Equity Plus Inclusion Committee (EPIC) and
Inclusion, Diversity Equity & Accountability (IDEA)*(created 1/7/21)*Madison Davis
Cliff Lentz

File Attachments for Item:

M. Written Communications

**Interim Use Permit 2021-UP-3**

Date: 9/13/22

Attn: Ken Johnson – Brisbane Sr. Planner

Ken,

Google has elected to withdraw their request for appeal and extension of the above-mentioned use permit. The request I was asked by Google to bring before City Council is to allow for a 90-day wind down period so that the bus operation can transition smoothly into its next best option. We will continue to maintain the lot for dust and lighting through that period as well as provide the trip reporting like we do currently on a regular basis.

Thank you for your support along with that provided by other members of City Staff. Please let me know if there is anything further I can do to help in this transition especially pertaining to the 90-day period we are requesting.

Thank you kindly,

Eric Aronsohn

Eric Aronsohn – Director
Baylands Development Inc.

TO: Brisbane City Council, Staff

FROM: Dana Dillworth

RE: "K" Mayor Council Matters review of/creation of Ordinance 528, R&D Uses at Sierra Point

September 15, 2022

While I appreciate the work our council does, I have concerns that decisions that come from ad hoc Mayor/Council committees may be imbalanced. It is not clearly stated whether this is for all types of uses or to upgrade the sentient animal-experimentation list as may be being requested by Bristol Myers Squibb DBA Myokardia, Brisbane, California.

Only two current council members were involved back when the ordinance in question was publicly noticed. There was a multitude of people who spoke to the issue of animal experimentation including Ken White, San Mateo County's Animal Welfare Director at the time. Many questioned the necessity, when such experimentations have already been conducted (burn research) and many outcomes can be accurately predicted by computer modeling. The issues remain the same and I incorporate the public and governmental comments and sentiment from that passage.

As such, you should include an animal welfare official and someone representing a non-profit for the protection of animals in your ad hoc committee. Consider folks that commented during the Planning Commission hearing.

Since the council entertains discussions of potential housing out at Sierra Point, one would think that seismic specialists, a Bay environmental specialist, and health/safety experts should be among the folks you confide with to bring this ordinance to the level of protection that our citizenry and other life-forms need.

Are you aware of the hazardous wastes they create and the risks we are already exposed to? Are you familiar with the emergency permit required to chemically stabilize and transport one liter of Diethyl Ether (SCH# 2022050632) a product/byproduct of this research? One mistake and we're all sausage.

Please DO review this ordinance, but also consider ALL the life-forms you are asked protect.

From: Susan Kirsch <susan@susankirsch.com>

Sent: Friday, September 2, 2022 11:59 AM

Subject: Catalysts Town Hall re: Housing Solutions on Zoom (Wed. 9/7, 5:00-6:30pm)

Dear City Clerk:

Please forward this email to your City Council and staff.

You're invited to join the 3rd [Catalysts' Town Hall](#) in a series called "Stop State Takeover: Preserve Local Control."

Date: Wednesday, Sept. 7, 5:00-6:30 pm. [REGISTER here](#) to receive the Zoom link for the series.

Topic: *Housing Solutions and California's Failed Housing Policies*

Presenter: **Bob Silvestri**, president of Community Venture Partners, has offered housing solutions for the past 15 years. His articles in [The Marin Post](#), which he founded and serves as editor-in-chief, show the depth and scope of his thinking. For example, Mr. Silvestri has published, "The state's RHNA housing quota days are numbered," "Small is better--Missed opportunities," and "The CA legislator is beating a dead horse."

Recordings of the first two Town Hall presentations are available [here](#).

Aug 10 - **Attorney Pam Lee**, Aleshire & Wynder, talks about litigation as a means of protecting communities against SB-9 and HCD/RHNA excesses.

Aug 24 - **Michael Barnes**, an eight-year Albany City Council member, talks about how California's sixth cycle RHNA was rigged, setting cities up to fail.

Litigation resources from the Town Hall series are [available here](#).

Final Session

- Wed. Sept 21 - **Mike Griffiths**, Torrance City Council member (Charter City) and founder of [CA Cities for Local Control](#), and **John Cruikshank**, Rancho Palos Verdes City Council member (General Law City) on *"Why our City Turned to Litigation."*

We hope your City Council and staff can join us.

BTW, if you're attending the League of CA Cities conference, talk to the organizers of the [Our Neighborhood Voices Ballot Initiative](#). The Initiative restores local authority over land use planning & zoning in support of local democracy.

Susan Kirsch
Catalysts, Director
www.catalystsca.org
 415-686-4375