



PLANNING COMMISSION AGENDA REPORT

Meeting Date: April 13, 2023

From: Ken Johnson, Senior Planner

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

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

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

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

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

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

ANALYSIS AND FINDINGS:

Background

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

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

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

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

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

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

Description of Current Request

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

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

Findings

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

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

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

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

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

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

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

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

c) The interim use will not obstruct redevelopment;

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

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

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

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

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

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

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

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

ATTACHMENTS

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

Ken Johnson

Ken Johnson, Senior Planner

John Swiecki

John Swiecki, Community Development Director

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

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

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

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

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

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

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

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

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

AYES:

NOES:

ABSENT:

Roel Funke
Chairperson

ATTEST:

JOHN A SWIECKI, Community Development Director

**Draft
EXHIBIT A**

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

Findings:

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

Conditions of Approval:

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

Operational Conditions

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

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

Hold Harmless Requirements

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

Mandatory Conditions for Interim Use Permits, per BMC Section 17.41.070

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

Interim Use Permit Cessation, Revocation Procedures and Term Limit

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

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

**ATTACHMENT B
AERIAL PHOTO/VICINITY MAP**

Google Maps 600 Tunnel Ave



600 TUNNEL AVE

OWNED BY BAYLANDS
LEASED BY GOLDEN STATE

600 600 TUNNEL AVE

P1 GOLDEN STATE PARKING

FL FORK LIFT X-ING SIGN

X FORK LIFT X-ING

● RAILWAY DROP-OFF

- - - FENCED AREA



**ATTACHMENT D
APPLICANT'S STATEMENT**



**GOLDENSTATE
LUMBER**

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

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

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

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

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

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