



## PLANNING COMMISSION AGENDA REPORT

**Meeting Date:** January 11, 2024

**From:** Ken Johnson, Senior Planner

**Subject:** 15 Industrial Way; 2023-UP-9; C-1 district; Baylands Interim Use Permit to allow for a contractor's vehicle and equipment storage yard on the approximately quarter acre, fenced, gravel surfaced site; and finding that this project is categorically exempt from environmental review under CEQA Guidelines Section 15301; Miguel Galarza of Yerba Buena Engineering & Construction, applicant; Oyster Point Properties (aka: Baylands Development Inc. (BDI)), owner.

**REQUEST:** The applicant requests approval of a 5-year Interim Use Permit to allow for a contractor's vehicle and equipment storage yard, for Yerba Buena Engineering & Construction, at the fenced, gravel surfaced, approximately quarter acre site at 15 Industrial way.

**RECOMMENDATION:** Approve Interim Use Permit application 2023-UP-9 via adoption of Resolution 2023-UP-9, containing the findings and conditions of approval (See Attachment A).

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

**APPLICABLE CODE SECTIONS:** Brisbane Municipal Code (BMC) Chapter 17.41, 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:

#### Description of the Site and Proposed Use

The site is approximately a quarter acre and is located at the southwestern corner of the Baylands subarea, within the C-1 Commercial Mixed-use zoning district and immediately adjacent to the M-1 Manufacturing district. Access to the site is through a gated entrance driveway at Industrial Way, which terminates at a signalized intersection approximately 200

feet to the west at Bayshore Boulevard. The site has previously been graded and surfaced with gravel and has historically been part of the railyard lands and, more recently, reportedly used for storage for the former statuary company at 10 Industrial Way.

The site is enclosed by a 6-foot high, slatted chain-link fence on the north, east and west sides. The south side it is bordered by the warehouse building of 21 – 27 Industrial Way, which includes automobile repair and contractor warehouse/office uses. North of the site, at 11 Industrial Way, is a multi-tenant contractors' yard. Across Industrial Way, to the west is an office/warehouse for a tour bus company. The area to the east, behind the site, is the vacant land of the former railyard maintenance facility.

The applicant has provided a project description, see Attachment E. The proposed use is also described as follows.

The applicant's business, Yerba Buena Engineering & Construction, is an engineering & construction contractor that performs public works projects. The proposed use of the site is to park earth moving construction equipment and vehicles, when it is not in use on construction sites. Typically, approximately 5 employees would be on the site in the mornings and late afternoons, between 7 and 8 am and 3:30 to 4:30 pm, to pick up or drop off equipment. However, the yard may be accessed at other times as needed.

Equipment and vehicle storage would include such items as loaders, excavators, backhoes, pickup trucks and dump trucks.

The gravel surface would be maintained by the contractor so as not to track dirt or mud onto Industrial Way or to generate airborne dust.

No raw construction materials or waste would be permitted to be stored on site. Likewise, equipment maintenance and repair would not be permitted on site. No utilities or building improvements exist or are planned for this site, given the limited nature of the use. No lighting is planned, since the need to access the yard for equipment would typically be during daylight hours.

## **Findings**

The proposal, including the conditions of approval, complies with all of the findings for approval. The listing and analysis of findings is provided in Attachment B.

In summary, the proposed use is consistent with the surrounding industrial uses. Given its relatively small size and few numbers of employees that would access the site each day, approximately five, vehicle trips would not be significant and the location provides for ready access to the signalized intersection at Bayshore Boulevard. Additionally, no improvements are planned or required for this use.

Finally, this application was provided to the North County Fire Authority, Dept of Public Works, Police Dept, County Health Dept, and the Regional Water Quality Control Board for review and comment. Recommended conditions of approval have been provided by some of these departments and are included in the draft resolution. Given the conditions of approval, none of the departments or agencies raised objections to the proposed use.


#### **ATTACHMENTS**

- A. Draft Resolution 2023-UP-9
- B. Analysis of Findings
- C. Site Location Map
- D. Applicant's Project Description and Site Photos



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Ken Johnson, Senior Planner



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John Swiecki, Community Development Director

Draft

**RESOLUTION 2023-UP-9**

**A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE  
CONDITIONALLY APPROVING INTERIM USE PERMIT FOR  
A CONTRACTOR'S STORAGE YARD, PERMIT 2023-UP-9  
AT 15 INDUSTRIAL WAY**

WHEREAS, Miguel Galarza, the applicant, applied to the City of Brisbane for Interim Use Permit 2023-UP-9 for a 5-year term for a contractor's storage yard

WHEREAS, on January 11, 2024, the Planning Commission conducted a public hearing on the applications, 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 application.

NOW THEREFORE, based upon the findings set forth hereinabove, the Planning Commission of the City of Brisbane, at its meeting of January 11, 2024, did resolve as follows:

Interim Use Permit 2023-UP-9 is approved for a period of 5 years, per the findings and conditions of approval contained in Exhibit A to this resolution.

ADOPTED this eleventh day of January, 2024, by the following vote:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
ROEL FUNKE  
Chairperson

ATTEST:

\_\_\_\_\_  
JOHN A SWIECKI, Community Development Director



**Draft  
EXHIBIT A**

**Action Taken:** Conditionally approve 2023-UP-9 per the staff memorandum with attachments, via adoption of Resolution 2023-UP-9.

**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 is CEQA categorically exempt, as detailed in the agenda report and resolution, and the use will not create any significant unmitigated 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.
4. The public utilities and other infrastructure improvements required in order for the interim use to be conducted in a safe, sanitary, and lawful manner are either available at the site or shall be installed by the applicant, prior to occupancy, in a manner approved by the city engineer. This includes roadway infrastructure to access the site and no utilities are required for the use.
5. The use will provide the benefit of provision of required equipment and vehicle storage for a contracting company that provides construction services for public works projects.
6. In accordance with Policy No. 328.2 of the general plan, a program will be established by the operator of the interim use to encourage employment of Brisbane residents, to the extent it is reasonably possible to do so, in the construction and operation of the interim use.

**CONDITIONS OF APPROVAL:**

**Operational Conditions**

- A. The operator's business license shall be obtained through the Finance Dept and maintained in good standing on an ongoing basis.

- B. The Interim Use Permit is approved for a contractor's yard, for vehicles and equipment only, as described in the agenda report and the applicant's project description.
- C. Typical hours of operation are to be Monday through Friday from between 7 and 8 am and 3:30 to 4:30 pm, to pick up or drop off equipment. Aside from occasional hours of operation that may occur outside these typical hours, a substantial change to the typical hours shall be submitted to the Planning Director for approval.
- D. The following fire prevention measures shall be undertaken to the satisfaction of the North County Fire Authority (NCFA):
- Remove and maintain 10' clearance from combustible vegetation to gas powered equipment.
  - Remove from premises and maintain clear of dead/dry vegetation.
  - Provide and maintain an approved fire extinguisher with a minimum rating of 20BC within 50 feet of the gas powered equipment within the storage area.
- E. On-site maintenance and fueling of vehicles and/or equipment is prohibited.
- F. All parking shall be provided on site.
- G. The site shall not be open to the public. Access shall be restricted to the operator's employees, contractors and representatives.
- H. The gravel yard 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.
- I. Creation of airborne dust and/or tracking of dirt onto the roadway is prohibited.
- J. The project shall comply with all applicable stormwater NPDES requirements.
- K. The perimeter fencing shall be maintained with the existing slatted, chain-link fence. Any replacement fencing shall be subject to approval by the Planning Director. Barbed wire and razor wire are not permitted.
- L. Site lighting is not included in this permit. If required for special projects, use of temporary lighting shall be subject to approval by the Planning Director, following submittal of a lighting plan and shall be subject to a finding that the lighting is downward facing, shielded, to a lumens level such that it would not pose a hazard or nuisance to nearby properties or vehicles and it would comply with the Dark Skies ordinance, as may be in effect at the time.
- M. The site shall be maintained free of weeds, trash and debris.

- N. Raw construction materials, such as wood, soil and concrete, etc., shall not be stored onsite, except that materials may be located on vehicles for use on jobsites.
- O. The applicant will engage with the City's Economic Development Department or Chamber of Commerce to develop a program to provide outreach to Brisbane residents for employment opportunities. A written program shall be provided by the applicant to the Community Development Director within 2 months of the effective date of this use permit.

### **Hold Harmless Requirements**

- P. 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**

- Q. The permit shall require both the owner and the operator to 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.
- R. Each 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.

### **Interim Use Permit Cessation, Revocation Procedures and Term Limit**

- S. 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.

- T. Minor modifications may be approved by the Community Development Director in conformance with all requirements of the Municipal Code.
- U. Material violation of any of the Conditions, including material deviations from the approved project description, may be cause for revocation of this permit and termination of all rights granted there under.
- V. This Interim Use Permit is subject to the revocation procedures established in Brisbane Municipal Code Chapter 17.41.100 - Revocation of Interim Use Permit.
- W. This Interim Use Permit is for a 5-year term from the effective date of the permit. The expiration date is January 18, 2029.

## ATTACHMENT B

### Analysis of Findings for Approval

The proposal, including the conditions of approval, complies with all of the findings for approval of an interim use permit, per BMC Section 17.41.060.

A. That 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;

The proposal complies with this finding. The site has historically been part of the larger industrial use of the Baylands for railyard maintenance and is in an area that remains industrial in character. This outdoor contractor's storage use is consistent with that character. To the north is another contractors yard, to the east are the vacant lands of the Bayland. To the south and across Industrial Way, to the west, are warehouse buildings.

The only use of the site would be storage and movement of vehicles and equipment and not for storage of raw materials. The intensity and operational characteristics of the proposed yard are consistent with the surrounding area and will not adversely impact nearby businesses or the public health, safety or welfare.

B. The proposed interim use will not create any significant unmitigated adverse environmental impacts, as determined by an environmental analysis pursuant to the California Environmental Quality Act;

The proposal complies with this finding. The site overlies the former railyard maintenance facility, an industrial use. The Roundhouse maintenance building is located immediately to the northeast of this site. The site has been previously fenced for use as a storage yard, reportedly by the statutory company that was located at 10 Industrial Way.

No improvements are required for the use and the use is categorically exempt from CEQA, as an existing facility.

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;

As noted above, the project would not include any permanent buildings and the proposed perimeter fence may be readily removed upon termination of the use.

In the event that redevelopment proceeds during the term of the interim use permit and the use would be an obstruction, a condition of approval is included that the applicant is to cease operations upon 90-day notice from the City or property owner.

Based on these considerations, the proposal complies with this finding.

*D. All public utilities and other infrastructure improvements required in order for the interim use to be conducted in a safe, sanitary, and lawful manner are either available at the site or shall be installed by the applicant, prior to occupancy, in a manner approved by the city engineer;*

This proposal complies with this finding. Given the limited duration of site visits, to pick up or drop off equipment and vehicles, and having no proposed office building or restroom facilities, there is no need for utilities. Roadway access is immediately adjacent to the site via a gated driveway to Industrial Way, which is approximately 200 feet from the signalized intersection at Bayshore Boulevard. Additionally, for safety, a fire hydrant is located within the site frontage, at the edge of Industrial Way.

*E. The use will provide either or both of the following benefits:*

- 1. A benefit to the property, including, but not limited to, the elimination of blight or unsightly or hazardous conditions, or the installation of improvements that will facilitate redevelopment of the property, or*
- 2. A benefit to the public, such as the creation of jobs or revenues or the provision of needed goods or services.*

The contractor's yard benefits the public in that it provides for needed public works infrastructure construction services.

*F. In accordance with Policy No. 328.2 of the general plan, a program will be established by the operator of the interim use to encourage employment of Brisbane residents, to the extent it is reasonably possible to do so, in the construction and operation of the interim use. Implementation of such program shall be made a condition of the interim use permit.*

The applicant indicated that they will engage with the City's Economic Development Department to develop a program to provide outreach to Brisbane residents for employment opportunities. This is also provided as a condition of approval, with a written program being provided to the Community Development Director within 2 months of the effective date of this use permit.



Figure C

Site Location Map  
15 Industrial Way  
(proposed contractor's yard)





**January 4, 2024**

**Applicant:** Yerba Buena Engineering & Construction

**Location:** 15 Industrial Way, Brisbane

**Project Overview:** Yerba Buena Engineering & Construction, a award winning reputable engineering and construction contractor specializing in public works projects, proposes to utilize the existing fenced in yard at 15 Industrial Way for parking their construction equipment and vehicles. This site, primarily used for storage, will not undergo any structural changes or alterations.

**Site Usage:**

- **Primary Function:** Parking for earthmoving construction equipment (e.g., loaders, excavators, backhoes) and vehicles (e.g., pickup trucks, dump trucks).
- **Access Schedule:** Typical operations from Monday to Friday, with employee presence mainly during early mornings (7-8 AM) and late afternoons (3:30-4:30 PM) for equipment pick-up or drop-off. Occasional access may be required outside these hours.

**Site Maintenance and Operations:**

- **Surface Management:** The existing gravel surface will be maintained to prevent dust and dirt from affecting Industrial Way.
- **Prohibited Activities:** On-site storage of raw construction materials, waste, equipment maintenance, and repairs are not permitted.
- **Utilities and Infrastructure:** No utilities or building improvements planned, given the site's limited use. No lighting is included due to the daytime operation of the yard.

**Interim Use Permit Conditions:**

1. **Operational Hours:** Approval from the Planning Director required for significant changes to typical hours.
2. **Fire Prevention:** Compliance with North County Fire Authority (NCFA) standards, including maintaining clearances from combustible vegetation and providing fire extinguishers.
3. **Prohibition of On-site Maintenance:** No on-site maintenance or fueling of vehicles/equipment.
4. **Gravel Yard Surface:** Maintenance to prevent water ponding and ensure dust control, as per City Engineer's standards.
5. **Dust and Dirt Control:** Prohibition of airborne dust creation and tracking dirt onto the roadway.





6. **Perimeter Fencing:** Maintenance of existing fencing; no barbed or razor wire permitted, with any replacement subject to Planning Director approval.
7. **Site Lighting:** Temporary lighting for special projects subject to Planning Director approval, adhering to Dark Skies ordinance.
8. **Site Maintenance:** Keeping the site free of weeds, trash, and debris.
9. **Material Storage:** No storage of raw construction materials on-site, except as part of vehicle equipment for job sites.

This yard site aligns with Yerba Buena Engineering & Construction's commitment to responsible and efficient use of urban industrial spaces, prioritizing environmental stewardship and community standards. Thank you for your consideration

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Miguel Galarza".

Miguel Galarza  
President  
Yerba Buena Engineering



October 04, 2023

To: Ken Johnson Senior Planner  
Community Development Department  
From: Yerba Buena Engineering & Construction  
Re: Brisbane Local Hiring Ordinance

Mr. Johnson,

On behalf of Yerba Buena Engineering & Construction, I am writing to reaffirm our dedication to the City of Brisbane's Local Hiring Ordinance. The Covid-19 pandemic has presented our company, as well as the broader industry, with unprecedented challenges, leading us to make the heart-wrenching decision to lay off several of our longstanding, dedicated employees. As opportunities arise, our primary focus remains on bringing these former employees back on board.

Furthermore, in collaboration with local unions, Yerba Buena aims to identify Brisbane residents on the out-of-work list to be dispatched to our union employment rolls.

Despite the ongoing economic challenges in the Bay Area post-pandemic, we hold a hopeful outlook for the future of our company. To ensure that Brisbane residents are always informed about available job opportunities at Daly Pipeline, we commit to:

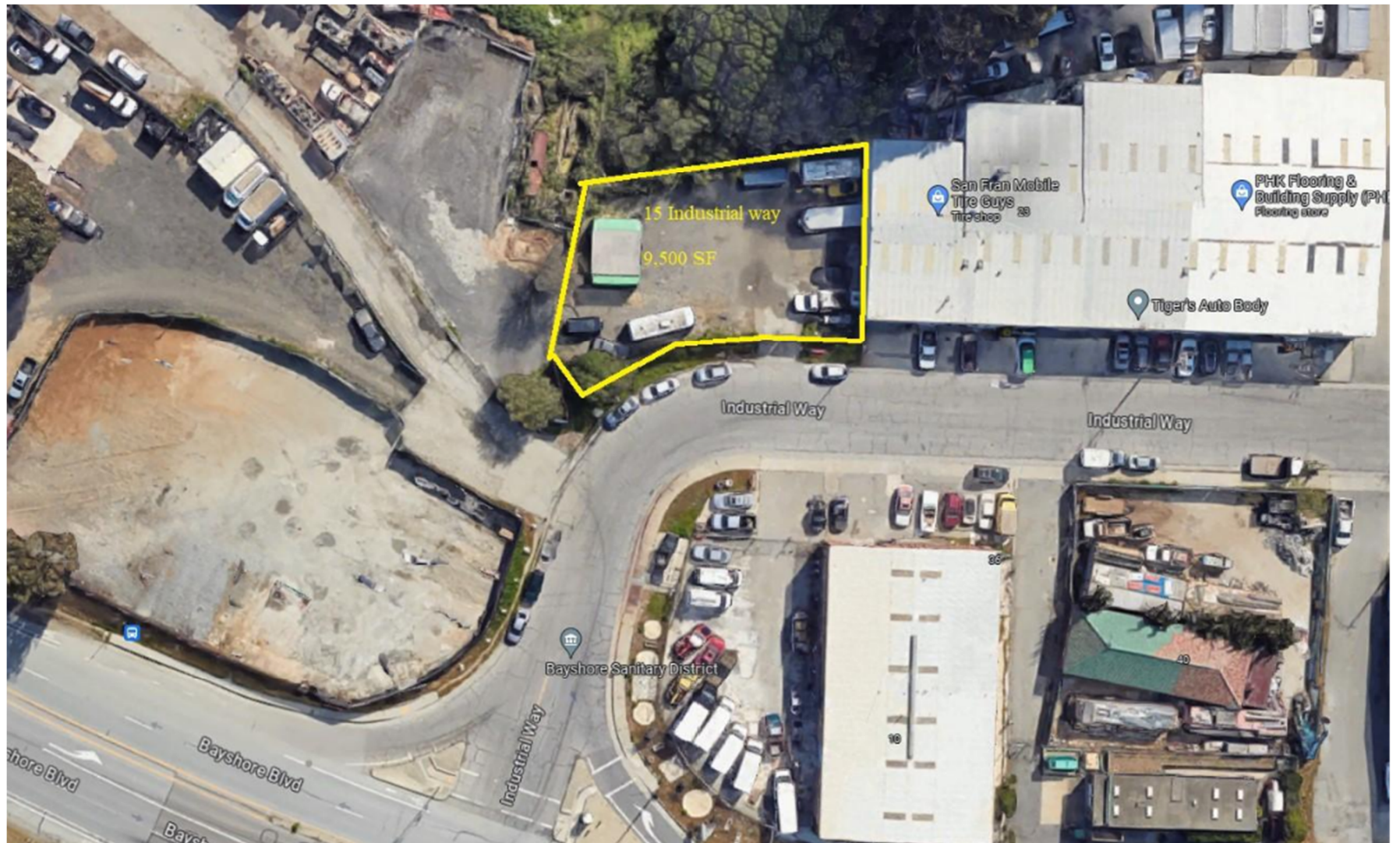
- Forwarding job openings to the Brisbane Public Library for display on their bulletin board.
- Providing job openings to the Brisbane Chamber of Commerce to be featured on their website.

We are eager to play our part in the community's recovery and growth.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "M. Johnson", is written below the text "Respectfully Submitted,".

# Site Map for 15 Industrial Way Brisbane CA 9500 SF





# Site Photo #1 15 Industrial Way



# Site Photo #2 15 Industrial Way





# Site Photo #3 15 Industrial Way

