

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

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.

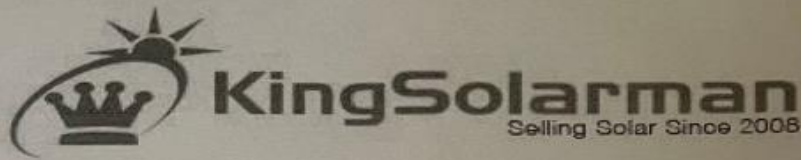
Thank you

Sam Khodja

Sam Khodja | Property Manager

Baylands Development, Inc.

Attachment# 01:



To the officials in the City of Brisbane,

We have been supplying Solar Lighting Towers and Solar Security Camera trailers for Google's bus parking lot in the City of Brisbane since they moved-in on February 01, 2020.

On March 12th, 2020, we adjusted all the portable security lighting by placing it downwards onto the site per google and landlord request.

Our LED lighting were adjusted can be adjustable and move higher or lower, per customer's request, 360' degree. This can mitigate the light pollution complains.

On July 1st, 2021, right before Google resumed their operation and after the pandemic shutdown, we received a request from google to adjust the Lightings, then we went ahead and adjusted it even more onto the site and maintained downwards, so it would not create any hazard or significant glare to off-site properties, furthermore we have programmed all the lights on a timer, so it will be on and off at the following schedule:

Monday-Friday: Turn-on only between the hours of (**4:00am-6:00am**) & (**8:00pm-11:00pm**) and Turn-off on Saturday & Sunday

On November 01st, 2021, we received a request from google to adjust the lightings further, we took immediate action and did the followings:

- Lowing Towers from 26 feet to 10 feet
- Reduced Brightness setting by 50%
- All the lightings were adjusted ever further to be facing downward
- Lightings to be turned off at 9:00pm instead of 11:00pm

If you have any question, please do not hesitate to contact us.

Thank you,

Michael Cung

CEO

King Solarman Inc
560 Coleman Ave. San Jose CA 95110
408 373 8800

Mike@King-Solarman.com

www.SolarLightingTower.com

www.SolarCamera.com

Attachment# 02:

Light Comparison Between Google Bus and Golden State Lumber Sites
1. Pictures taken by Sam Khodja from Tunnel Ave On November 02, 2021, at 7:20PM

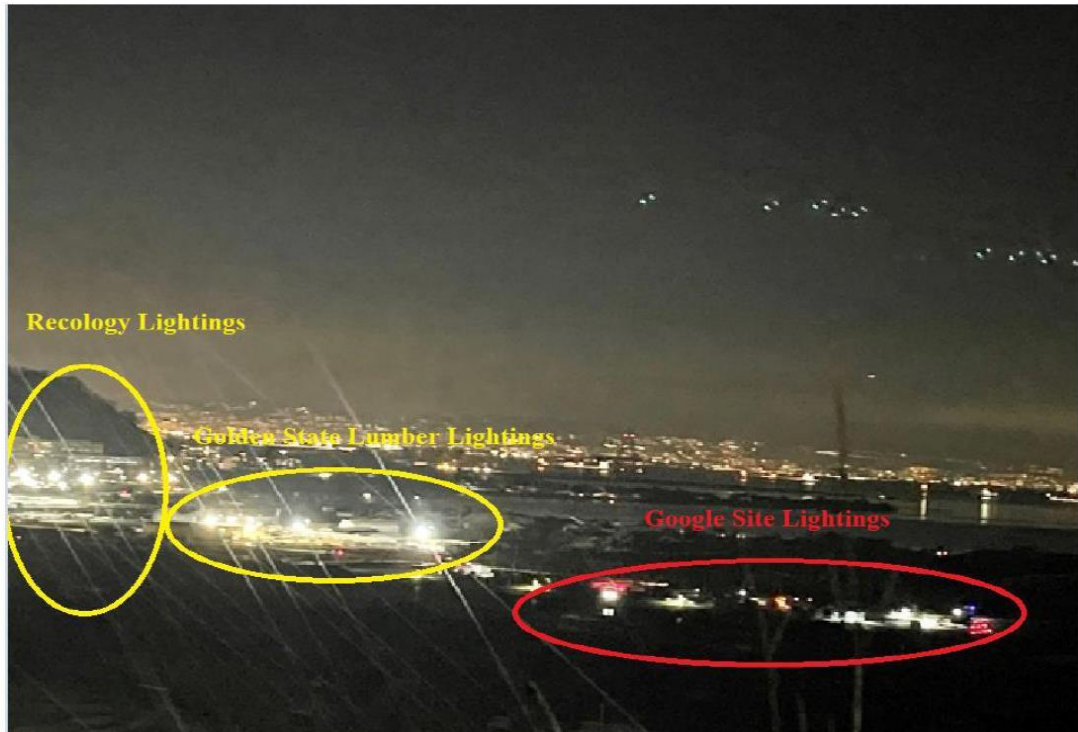
Google Bus Site



Golden State Lumber Site



Light Comparison: Google Bus versus Golden State Lumber & Recology Sites
2. Pictures taken by Sam Khodja from Brisbane Ridge on 11.2.2021 at 7:30PM



Attachment# 03:

**Team North Construction Services
150 Executive Park #3150
San Francisco CA 94134 (415) 467-0300
SBE #1751367 LBE (Equip)# 91916164**

Nov 1, 2021

Executive Park Properties,LLC
Brisbane Bayshore Properties,Inc
Sunquest Properties,Inc
150 Executive Park Blvd., Suite 4000 | San Francisco, CA 94134

Attn: Sam Khodja
Re: Grindings

Sam,

Team North has found that industry standards for parking lot improvements or maintenance often use asphalt grindings. Asphalt grindings bind and harden, making them ideal for dust control. We typically source our grindings from paving projects where streets have been taken up and ground down. Much like an asphalt street, asphalt grindings offer easy use and placement.

Other options that we have tried in the past include virgin rock, but that does not prevent dust issues and rock without the asphalt does not bind which often leaves a wet mess during rain and a dry dusty lot during warm weather. Asphalt grindings have been successfully used for parking lots and roads for many decades, for the same reasons asphalt has been the solution for streets and highways. Please call me if you have any questions.

Thanks



Donn North

ATTACHMENT A.4

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
	10	10	10	10	10	na	na	in
	25	25	25	25	25	na	na	out
	25	25	25	25	25	na	na	
	25	25	25	25	25	na	na	
	30	30	30	30	30	na	na	
0700-0800	na	na	na	na	na	na	na	
0800-0900	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	
	4	4	4	4	4	na	na	
	14	14	14	14	14	na	na	
	14	14	14	14	14	na	na	PM Totals
	17	17	17	17	17	na	na	in
	17	17	17	17	17	na	na	out
	28	28	28	28	28	na	na	
	30	30	30	30	30	na	na	
2100-2200	na	na	na	na	na	na	na	
2200-2300	na	na	na	na	na	na	na	
2300-2400	na	na	na	na	na	na	na	

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ATTACHMENT D

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:
NOES:
ABSENT:

Douglas Gooding
Chairperson

ATTEST:

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 added from 2019)**

1. To prevent dust generation from the use, the applicant shall pave the parking area to the satisfaction of the Planning Director and the City Engineer and onsite stormwater collection and treatment shall be provided for the new paved surface in compliance with the State Water Board Municipal Regional Permit NPDES C.3 requirements.
 - Engineered plans for a Building/Grading Permit for paving and stormwater collection and treatment shall be submitted to the City within 30 days of the effective date of this interim use permit, this shall be subject to City's consultant review of C.3 engineered plans and related documentation at the applicant's expense.

- The applicant shall obtain the building and grading permits and complete the work within 90 days of the effective date of this interim use permit.
- Pending paving completion, the applicant shall provide water trucks as appropriate for dust suppression during movements of buses on the site.
- The paving and stormwater treatment units shall be maintained in good repair and in compliance with the C.3 requirements.

The time period of 90 days may be extended only upon written request to, and approval by the Planning Director and on the condition that the utilization of the site for bus staging has been ceased pending completion of the work.

2. 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

3. Lighting shall be programmed to turn on no earlier than 4 am and to turn off no later than 9 pm.
4. Routing of Google buses shall be to and from the north along Tunnel Ave and Beatty Ave to connect to U.S. 101. A monthly report of the Google bus movements, based on GIS tracking data, shall be provided to the Planning Director, within 30 days of the end of each calendar month. The report shall highlight any violations of this condition, indicating the reason and any corrective action taken.
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 **two years** from the effective date of the interim use permit. **That expiration date is November 5th, 2023.**