

# *City of Brisbane*

## *Planning Commission Agenda Report*

**TO:** Planning Commission For the Meeting of 8/8/13

**FROM:** Ken Johnson, Senior Planner, via John Swiecki, Community Development Director

**SUBJECT:** 40 Industrial Way; Use Permit UP-4-13; for Outside Storage of Vehicles and Equipment; Conal Gallagher, applicant; Goulding 2001 Family Rev Trust, owner; APN 005-311-110

**Request:** The applicant requests approval to store construction vehicles and equipment in the yard at 40 Industrial Way. The site is approximately 1/3 of an acre and includes a brick building, parking lot and limited landscaping.

The applicant proposes to install a 6 ft. chain link fence with slats for screening and security. Hours of access would be 7 am to 5 pm Monday through Friday. No permanent employees will occupy the site. Subcontractors to the applicant (the prospective owner of the site) would access the site throughout the working days and would typically include up to 3 people at a time. Vehicles and equipment to be stored outside would include 2 pick-up trucks, a dump truck, bobcat on a trailer, and smaller equipment. Small equipment would be stored inside four 8 ft. by 8 ft. by 20 ft storage containers proposed to be placed in front of the existing brick building.

**Recommendation:** Conditionally approve Use Permit UP-4-13 per the agenda report, via adoption of Resolution UP-4-13 with Exhibit A containing the findings and conditions of approval.

**Environmental Determination:** Commercial buildings not exceeding 10,000 sq ft and accessory structures are categorically exempt from the provisions of the California Environmental Quality Act per Section 15303 of the State CEQA Guidelines. The exceptions to the categorical exemptions referenced in Section 15300.2 do not apply.

**Applicable Code Sections:** Per Brisbane Municipal Code Section 17.20.020.C, a Use Permit is required for "outside storage of trucks and equipment, when properly screened" in the M-1 District. The findings required for Use Permit approval are contained in BMC Sections 17.40.060.A & B.

**Analysis and Findings:** There are two required findings for a conditional use permit, per BMC Section 17.40.060, which this application, including the conditions of approval, meets. These findings are addressed as follows:

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“In considering an application, the planning commission shall consider and give due regard to the nature and condition of all adjacent uses and structures, and to general and specific plans for the area in question.”

Adjacent Uses & Structures: The use applied for is consistent with the existing uses along Industrial Way. Outdoor storage uses have been previously approved at several sites along Industrial Way, including for the statutory company located immediately to the north of this site. The Bayshore Sanitary District owns and operates pump station/office directly behind the site and the driveway to that site would be required to remain open. Photos of the site and vicinity are included for reference.

General Plan Consistency: The property is designated for Trade Commercial land uses in the 1994 General Plan. Under this designation, “light industrial...and uses of a similar character” are among the permitted uses. Also, Policy 12 of the General Plan states, “Establish a mix of land uses that best serves the needs of the community.”

Specific Plan Consistency: While this site is not within the boundary of a Specific Plan, it is bordered by the Baylands draft Specific Plan area. Since this is not within the Specific Plan area, this is addressed in the second finding, below.

“The planning commission shall determine whether or not the establishment, maintenance or operation of the use applied for will, under the circumstances of the particular case, be detrimental to the health, safety, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, or whether it will be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the city. If the planning commission finds that the aforementioned conditions will not result from the particular use applied for, it may grant the use permit.”

Not Detrimental or Injurious to Neighborhood or City: With regard to the current use the applicant has proposed that the use would be for a concrete contractor’s storage yard and has proposed 4 storage bins to be located in front of the existing brick building. To screen the storage yard from public view, it would be enclosed with a 6 ft. tall chain-link fence with slats. In addition the applicant has proposed an approximately 2 ft wide row of plantings in front of the fence, along the sidewalk. The existing landscaping is in poor condition and includes small trees along the front of the site and all but one of these is dead. The applicant proposes to remove the dead trees as part of the landscaping for this site.

Brisbane Municipal Code Section 17.20.030 calls for setbacks of 25 ft in front and 10 ft from the sides and rear lot lines. Since the four proposed storage containers would serve as structures and two of the four are located within the 25 ft front setback area, a condition of approval is proposed to require that the bins be located outside the setback areas, subject to Planning Dept. approval and Fire Dept. approval for access.

Since the existing brick building is over 50 years old, under the California Environmental Quality Act (CEQA) no substantial adverse changes would be allowed to it without first undertaking the required study to determine whether it is a historic resource. Then depending on the results from that study, further study may be required under CEQA. No changes are contemplated to the building with this application so this provision of CEQA does not apply.

With these proposed conditions, the proposed use does not raise concerns relative to the existing uses.

General Welfare of the City: If the proposed use were to interfere with or obstruct the planned public improvements or if the ongoing use were to become inconsistent with the neighboring uses, the approval of this use would be considered to be detrimental to the general welfare of the City. Most of the lands surrounding this site have been proposed for redevelopment by Universal Paragon Corp. (UPC) as part of the Draft Baylands Specific Plan and Draft Environmental Impact Report, which is currently in the public comment period. However, it is likely that given this site's location relative to the specific plan area, adjacent to the southern area of the proposed new development, it could be many years before redevelopment occurs in the immediate vicinity of this site.

Although the proposal is consistent with existing uses in this neighborhood and it may be many years before the surrounding area is redeveloped, without the inclusion of restrictions on the long term use, it would be detrimental to the general welfare of the City if this use obstructed future area development. In brief, the proposed outdoor storage use would not be consistent with the proposed future uses which include a range of uses, such as institutional and open space/park, as evaluated in the Baylands Draft EIR. To address this issue, a condition of approval has been recommended by the City Attorney requiring that, if the use were to obstruct planned development or become detrimental to the property or improvements in the neighborhood, or otherwise inconsistent with the public interest, abandonment of the use would be required. Abandonment would be required within 180 days after written notice is given by the City to the applicant. Note that this would not necessarily effect the future use of the existing building, so long as it is consistent with the Zoning Ordinance, but would require the abandonment of the outdoor storage use and any rights granted with this use permit.

Finally, in addition to the City Attorney, the application was submitted to the Public Works, Police, Fire and Building Departments for comments. The City Attorney's recommended condition of approval was noted in the previous paragraph and none of the other departments raised concerns with this proposed use.

Attachments:

- Draft Resolution with Findings and Conditions of Approval
- Site Vicinity Aerial Photo
- Applicant's Project Description and Site Plan
- Site and Vicinity Photographs

draft  
RESOLUTION UP-4-13

A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE  
CONDITIONALLY APPROVING USE PERMIT UP-4-13  
TO PERMIT OUTSIDE STORAGE OF VEHICLES AND EQUIPMENT  
AT 40 INDUSTRIAL WAY

WHEREAS, Conal Gallagher, the applicant, applied to the City of Brisbane for Use Permit approval for fenced outside storage of trucks and equipment at 40 Industrial Way, such application being identified as Use Permit UP-4-13; and

WHEREAS, on August 8, 2013, 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 agenda report relating to said application, the plans and photographs, 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; and

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

NOW THEREFORE, based upon the findings set forth hereinabove, the Planning Commission of the City of Brisbane, at its meeting of August 8, 2013, did resolve as follows:

Use Permit UP-4-13 is approved per the conditions of approval attached herein as Exhibit A.

ADOPTED this eight day of August, 2013, by the following vote:

AYES:  
NOES:  
ABSENT:

CAROLYN PARKER  
Chairperson

ATTEST:

JOHN SWIECKI, Community Development Director

G.1.4.

## EXHIBIT A

**Action Taken:** Conditionally approve Use Permit UP-4-13 per the agenda report with attachments, via adoption of Resolution UP-4-13.

### **Findings:**

1. Approval of the use permit is consistent with the general plan and any applicable specific plan adopted by the city council, as detailed in the agenda report.
2. The establishment, maintenance and operation of the use applied for, under the circumstances, will not be detrimental to the health, safety, morals, comfort and general welfare of persons residing or working in the neighborhood, nor will it be injurious or detrimental to property or improvements in the neighborhood or the general welfare of the City, as detailed in the agenda report.

### **Conditions of Approval:**

#### **Prior to Occupancy:**

- A. The applicant shall obtain a business license through the Finance Dept., which is subject to Planning and Fire Dept. review and approval.
- B. Prior to occupancy, an agreement in a form acceptable to the City Attorney shall be recorded that will require the applicant to abandon the use, at their own expense, if the City determines that the use will interfere with or obstruct any planned public improvements associated with development of the Baylands, which surrounds the site to the north, east and south, or if the uses approved under this use permit become detrimental to the property or improvements in the neighborhood, the general welfare of the City, or inconsistent with the public interest. Removal shall be completed within one hundred and eighty (180) days after written notice to remove is given by City to the applicant.
- C. The applicant shall provide a revised site plan for Planning Director approval, showing the proposed location of the storage bins such that they are outside the required 25 ft front setback (distance from the lot line) and outside the required 10 ft side and rear setbacks.
- D. The 6 ft. fence and gates around the storage yard shall be green or black vinyl coated as required by the fence ordinance, BMC Section 17.32.050.B.3. No barbed wire, razor wire, or similar is permitted. The color and material of the slats shall be subject to approval by the Planning Director prior to installation.
- E. The street address ("40 Industrial Way") shall be posted at the site to the satisfaction of the Fire Department. No other signage is approved as part of this permit. A Sign Permit shall be obtained prior to the installation of any signs not otherwise exempt by the Municipal Code.

F. Landscaping shall be subject to Planning Director approval of detailed landscape plans, including plant species, mulch and irrigation details, prior to installation. Per BMC Section 17.20.030.F, the landscape plans shall be consistent with the following objectives:

- “a. Use of plants that are not invasive;
- b. Use of water conserving plants; and
- c. Use of plants and other landscape features that are appropriate to the context.”

Note that, new and replacement, irrigated landscapes of one thousand (1,000) square feet, or more, shall be subject to the water conservation in landscaping ordinance. Refer to Chapter 15.70

F. The applicant shall obtain a tree removal permit through the City Manager’s office, if required for the removal of trees.

**Ongoing:**

G. The days and hours of operation are Monday through Friday, from 7 am to 5 pm. Additional days and hours may be approved upon written request to the Planning Director.

H. The approved use is for outside storage of vehicles and equipment as detailed in the applicant’s description and the agenda report and shall not include outdoor storage of construction materials or waste materials.

I. Outdoor maintenance or repair of vehicles or equipment is not permitted at the site.

J. Storage of small volumes of liquids such as gas cans and oils for the equipment stored at the site shall only be allowed inside the building or within the storage bins, and shall be subject to approval by the Fire Dept. and subject to San Mateo County Health Dept. regulations. The applicant shall be familiar with and abide by all applicable regulations regarding handling and storage. San Mateo County currently requires a Hazardous Materials Business Plan (Business Plan) for hazardous materials handled or stored at or above fifty-five gallons for liquids and two hundred cubic feet for compressed gases. The applicant shall provide the City with a copy of the Business Plan, if applicable.

K. Fire access shall be maintained to the satisfaction of the Fire Department at all times to provide access to all stored vehicles.

L. A minimum of 3 vehicle spaces shall be maintained for parking, not storage, with the required clear aisle behind the spaces, per BMC Section 17.34.130.

G.1.6.

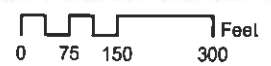
- M. Any repaving work shall be subject to prior approval by the City Engineer, via grading permit. At a minimum, such application would also be subject to Best Management Practices for storm water protection, consistent with state Water Board requirements.
- N. Minor modifications may be approved by the Planning Director in conformance with all requirements of the Municipal Code.
- O. This Use Permit is subject to the revocation procedures established in Brisbane Municipal Code Chapter 17.48 should the use not comply with its conditions of approval or in any way prove to be a nuisance, injurious or detrimental to property or improvements in the neighborhood or to the general welfare of the City.





Aerial of 40 Industrial Way Vicinity

G.1.8





Gallagher Construction Inc.  
1408 Wawona Street  
San Francisco, Ca 94116  
415-699-7255 tele  
415-927-1014 fax  
GallagherConstructionInc@gmail.com

RECEIVED

JUL 10 2013

Comm. Dev. Dept. Brisbane

*To whom it may concern,*

*The nature of our business is concrete construction*

*Our company is in the process of purchasing the property located at 40 Industrial Way, Brisbane, Ca*

*The property will mainly be used for storage.*

*We have 4 - containers, 2 - pick-up trucks, a dump truck, a bobcat on a trailer and some construction equipment.*

*The containers are 8' x 20' and will have tools and equipment used for concrete work such as concrete saws and stamping equipment.*

*We will not have any hazardous materials other than a few gas cans and oil for our vehicles.*

*We would like to erect a 6' tall chain link fence around the property with a 2' set back and install 2 - gates for access.*

*Our company has no employees however we have subcontractors that will access the property typically daily. Hours of access will be 7am - 5pm Monday - Friday. The number of people will typically be 3 at any given time during our access hours.*

*There will be no changes to the property other than the fence and gates*

*The path of travel will be entering at the back gate closest to the garbage company with an exit close to the Industrial Street side.*

*Will will not impact the neighboring properties or businesses.*

*Our use of the property will not be affected by the future development of the Baylands surrounding the property.*

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40 Industrial Way

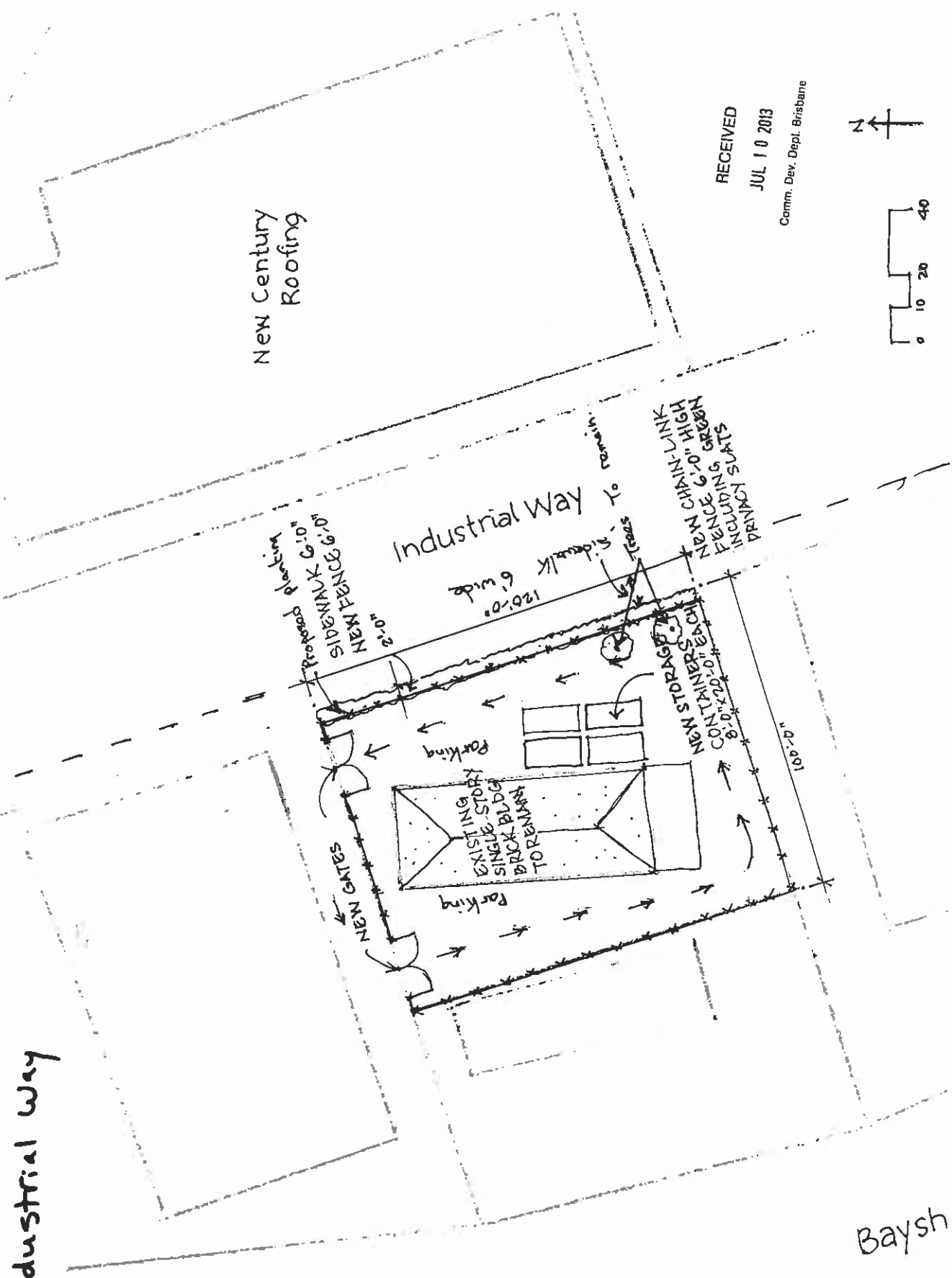
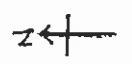
New Century Roofing

Industrial Way

Baysh

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40 Industrial way

G.I. 11

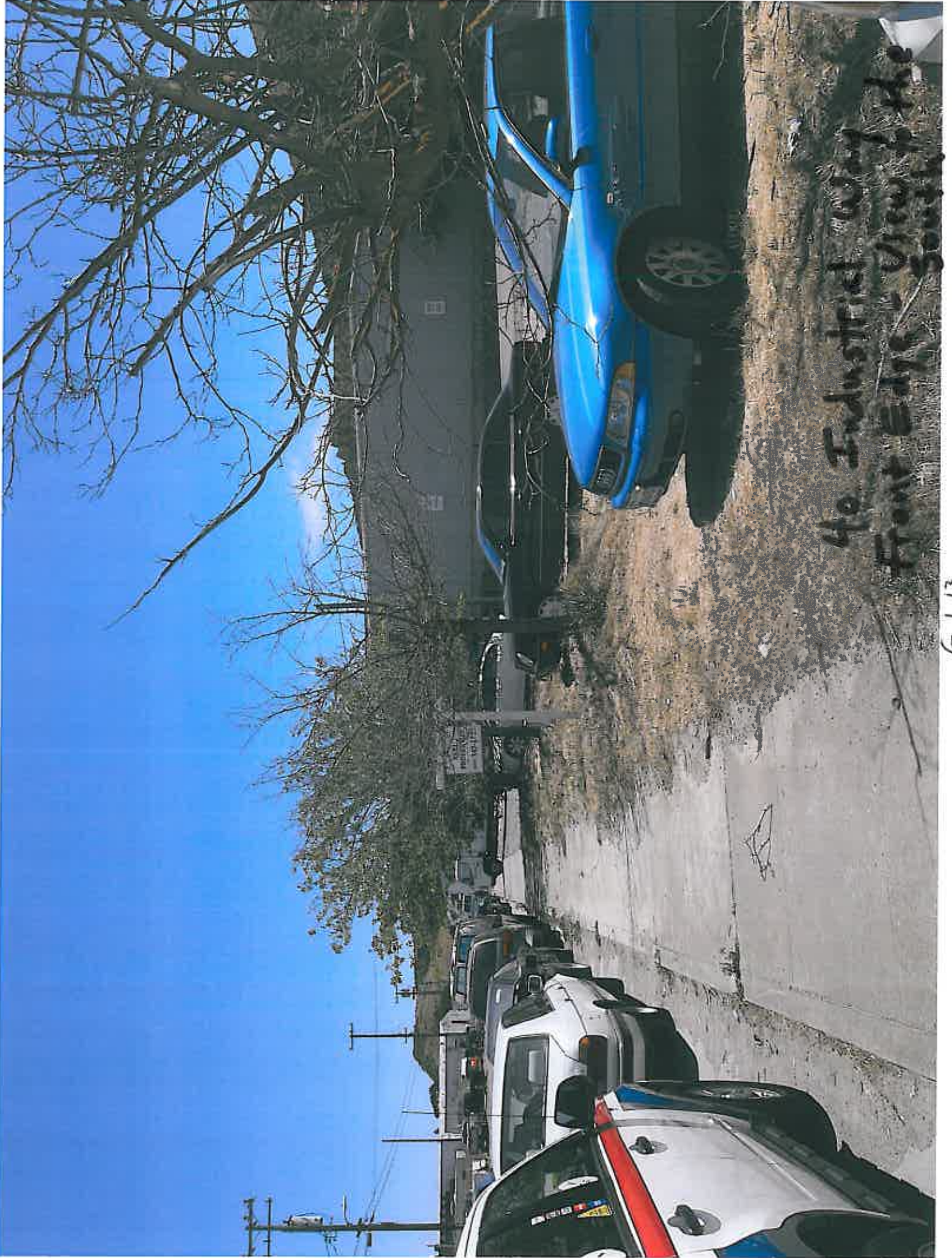




North View from  
40 Industrial Way

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40 Industrial Blvd  
Fontana, CA

G.1-13



↙ 40 Industrial Way

Sanitary  
Dist. ↘

Behind 40 Industrial

9.1.19