City of Brisbane Planning Commission Agenda Report

TO: Planning Commission For the Meeting of March 26, 2015

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

Director

SUBJECT: 601 Tunnel Avenue; Interim Use Permit UP-1-15; Interim Use Permit to replace

two existing office trailers and portions of a hardware shed building totaling 3,450 sq. ft. with one new modular, administrative office building, totaling 5,000 sq. ft. at the Sierra Point Lumber facility; Golden State Lumber, applicant; Brisbane

Properties owner; APN 005-250-020.

Request: This interim use permit request is to allow for replacement of two existing office trailers and portions of a hardware shed building totaling 3,450 sq. ft. with one new modular administrative office building, totaling 5,000 sq. ft. at the Sierra Point Lumber facility. The new modular would be located in the same general area of the structures to be removed, in front of Sierra Point Lumber's main retail hardware shed, towards the rear of the site.

Recommendation: Conditionally approve Use Permit UP-1-15 via adoption of Resolution UP-1-15 with Exhibit A containing the findings and conditions of approval.

Environmental Determination: Construction of commercial buildings not exceeding 10,000 sq. ft. in floor area, in urbanized areas are categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per Section 15303(c) of the State CEQA Guidelines. The exceptions to the categorical exemptions 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.

Analysis and Findings: Sierra Point Lumber was granted use permit UP-1-80, in 1980, for the use of 601 Tunnel Avenue as a lumber yard, which was prior to the current regulations requiring an interim use permit for uses on the Baylands. Since the proposed modular building was not contemplated in the original use permit and the proposal would result in an expansion in the building floor area occupied by those structures to be removed, an interim use permit is required for this proposed building. Note that the applicant has indicated that the proposal is not to intensify the use of the site, but rather to more efficiently accommodate the existing use and

provide for administrative offices within a single building, instead of spread out over different buildings.

Although UP-1-80 did not have a sunset date, the current regulations allow that interim use permits may run for a maximum of up to 5 years at a time. Therefore, after 5 years, the subject modular structure would either be removed or a new interim use permit would need to be obtained for it to continue.

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

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 proposed use is for an administrative office to conduct Sierra Point Lumber's business at this location. It is a continuation of an existing use. Its past history has shown that it has not been detrimental to the public health, safety or welfare, or injurious to nearby properties or improvements. Furthermore, as indicated by the applicant, the replacement of the existing structures with a new modular building would not represent an increase in intensity in the use of this lumber yard, or traffic to and from it.

Note that adjacent and nearby uses in this area include vacant lands and heavy commercial uses, with Tunnel Avenue and the CalTrain rail-lines running north-south, immediately to the west of the subject property. The proposal is in keeping with these surrounding uses.

Since Sierra Point Lumber is located on a landfill, the County Environmental Health Division has indicated that they will have requirements for venting and monitoring the interior and sub floor space. Proper ventilation and monitoring will be required to be demonstrated to the County and City through the building permit process and prior to issuance of the building permit, consistent with Title 27 provisions regarding post closure landfill use. See Condition of Approval 1. Consistency with all applicable state building and fire codes Conditions will be required. The City's Building and Fire Departments have indicated that these will include, but are not limited to, providing fire sprinklers and meeting accessibility requirements.

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 proposal is on a developed site and would not create any significant environmental impacts under CEQA and is categorically exempt from CEQA provisions.

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";

The proposal complies with this finding. There are no new permanent site improvements proposed that would impede redevelopment. The proposal is for a modular building to replace existing buildings, and it could readily be removed with future development of the Baylands. Note that, although the site is not owned by Universal Paragon Company (UPC), which is the majority owner of the Baylands and proponent of the draft Specific Plan, now in the EIR process, it is surrounded by UPC lands. UPC's draft Specific Plan includes future relocation of the entire Sierra Point Lumber facility on the opposite side of Tunnel Avenue, closer to the rail lines. This is based on previous negotiations between the two property owners. Regardless of the form of the final development plans for the Baylands, the modular nature of the proposed building allows for future flexibility upon development.

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";

The proposed use **complies** with this finding since the site is already served by utilities.

- 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 proposal **complies** with this finding. The use is a continuation of the existing administrative aspect of the lumber yard use. Sierra Point Lumber provides services and materials to the local building community. Also, as one of Brisbane's major retailers, Sierra Point Lumber plays a key role in the local economy.

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 proposal complies with this finding. Sierra Point Lumber is a "Union yard" and is limited in terms of the potential employees presented to them by the Union. However, a

condition of approval is included for Sierra Point Lumber to establish a program to encourage employment of Brisbane residents, to the extent reasonable.

Attachments: Draft Resolution UP-1-15

Vicinity Map (Aerial Photo) by Staff

Site Photos by Staff

Applicant's Supporting Statements & Plans

Draft RESOLUTION UP-1-15

A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE CONDITIONALLY APPROVING INTERIM USE PERMIT UP-1-15 FOR AN INTERIM USE PERMIT TO

ALLOW A NEW MODULAR, ADMINISTRATIVE OFFICE BUILDING AT THE SIERRA POINT LUMBER FACILITY

WHEREAS, Golden State Lumber applied to the City of Brisbane for an Interim Use Permit approval to replace two existing office trailers and portions of a hardware shed building totaling 3,450 sq. ft. with one new modular, administrative office building, totaling approximately 5,000 sq. ft. at the Sierra Point Lumber facility, such application being identified as UP-1-15; and

WHEREAS, the project is a continuation and modification of existing uses, but not an expansion of the intensity of those uses; and

WHEREAS, on March 26, 2015, 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 15303(c) 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 March 26, 2015 did resolve as follows:

Interim Use Permit UP-1-15 is approved per the conditions of approval attached herein as Exhibit A.

ADOPTED this twenty-sixth day of March, 2015, by the following vote:

AYES:	
NOES:	
ABSENT:	
	TuongVan Do
	Chairperson
ATTEST:	-

EXHIBIT A

Action Taken: Conditionally approved Interim Use Permit UP-1-15 per the staff memorandum with attachments, via adoption of Resolution UP-1-15.

Findings:

- 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;
- 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;
- 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;
- 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;
- E. The use will provide the following benefit:
 - A benefit to the public, such as the creation of jobs or revenues or the provision of needed goods or 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.

Conditions of Approval:

- 1. Sierra Point Lumber shall obtain a building permit prior to demolition of existing structures and installation/construction of the proposed new modular office building. The Building Permit application shall comply with all applicable state building and fire code provisions as well as County Environmental Health Division provisions, to address Title 27 requirements for venting and monitoring the sub floor space.
- 2. As part of the building permit process, the project shall comply with all applicable state Water Board C.3 stormwater requirements, which are administered by the City Planning and Public Works Departments.

- 3. The new modular building location will be in the same general location as the existing buildings, which are to be removed, as depicted in the applicant's plans.
- 4. The height and general appearance of the new modular building shall be that as shown in the applicant's plans, except that no signs are included in this approval and exterior materials samples shall be submitted to the Planning Director for approval prior to building permit issuance. Note that reflective siding materials will not be permitted (metal surfaces are to be painted or brushed metal so as not to result in off-site glare impacts) and minor modifications to the building's skirt panels may be necessary to comply with Title 27 requirements for subfloor ventilation.
- 5. Signs shall be subject to a sign review application, via separate form and fee.
- 6. Through the building permit process, minor modifications to the existing parking may be required to accommodate the required accessible spaces, subject to Planning Director approval.
- 7. Sierra Point Lumber shall establish and implement an employment recruitment program to target Brisbane residents for potential employment, to the extent reasonable, for construction and on-going operations at the lumber yard. The program shall be subject to the review and approval of the Community Development Director. This shall be prior to issuance of the building permit for the new modular building.
- 8. The property owner's agreement with the operator of the interim use 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.
- 9. 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.
- 10. 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.
- 11. Minor modifications to this interim use permit are subject to Planning Director approval.
- 12. 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, or for any reason whatsoever that the City Council or Redevelopment Agency deems in its sole discretion that makes continuation of this use not satisfactory, or in the event of the repeal of the Interim Use Ordinance.
- 13. This Interim Use Permit shall expire 5 years from its effective date (at the end of the appeal period), or at such time that Baylands redevelopment results in relocation of the facility, whichever occurs first.



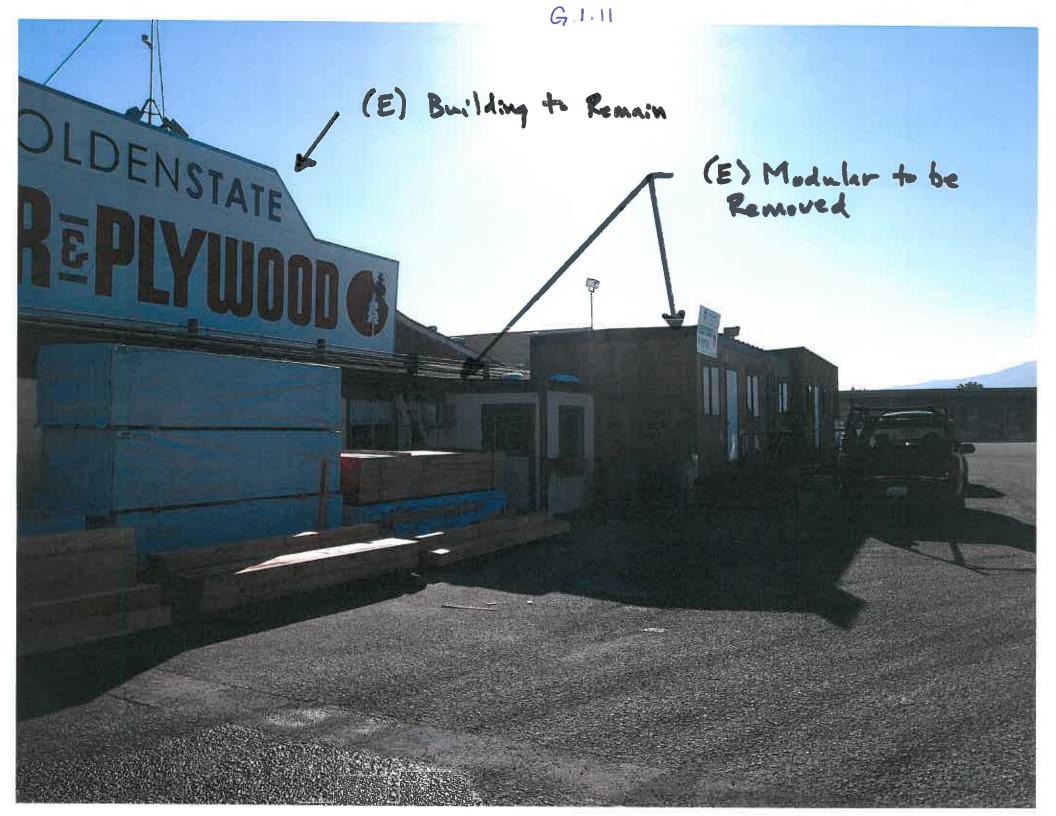
Site Vicinity Map





G.1.10.





SUPPORTING STATEMENTS for Interim Use Permit



Description	n of the	propo	sed	use: _	<i>F</i>	100	PORTA	iBLE	OFFI	CE	
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Interim Use Permit Supporting Statements Page 2

Will the use generate noise or vibration? If so, how will these be controlled?
Will the use generate glare, heat or other impacts? If so, how will these be controlled?
Will the use generate waste materials? If so, how will these be disposed?
How will waste materials from the use be prevented from polluting storm water runoff?
What utilities and other infrastructure is required for your use? Are these existing on the site? If not, how will they be provided? ELECTRICAL, YES THIS EXISTS ONSITE
The Brisbane Municipal Code requires that your use benefit the property. List the benefits below: (a) eliminating blight or unsightly or hazardous conditions, (b) by installing improvements that will facilitate redevelopment of the property, (c) other:

Interim Use Permit Supporting Statements Page 3

The Brisbane Municipal Code requires that your use benefit the public. List the public benefits below: (a) creating jobs, (b) generating revenues, (c) providing needs goods or services, (d) other:							
_							
	Will you establish a program to encourage employment of Brisbane residents in the construction and operation of the use? Explain:						
_							
V	/ill y	our us	e include any of the following?				
Y	ES	NO					
[]	[X]	the manufacture, processing, handling, treatment, transportation, recycling, or storage of hazardous, toxic, flammable or explosive materials or wastes in quanities for which a permit is required from any governmental agency				
[]	[×]	the dumping, processing, sorting, recycling, recovery or storage of garbage, debris, scrap materials, or similar items (excluding the recycling of concrete or brick and the storage and processing of soils, rock, and other similar materials)				
]]	KI	uses that create unsightly visual impacts or the appearance of blight as seen from any other location with the city, such as automotive dismantling and wrecking yards, junk yards, outside storage of used equipment, trailers, or vehicles not being offered for sale, and outside storage of glass, metal, paper, cardboard, or other material collected for recycling or disposal (except as otherwise permitted)				

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Will your use include any of the following?

YES NO

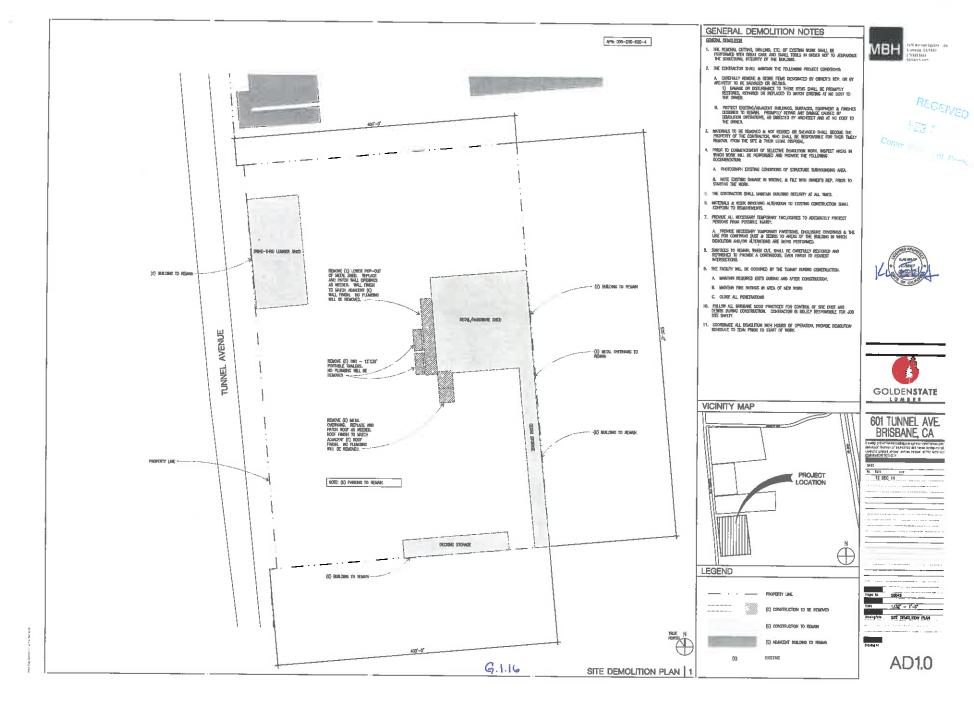
heavy manufacturing operations, including concrete or asphalt batch plants, foundries and other activities involving the fabrication of metal products from raw materials, processing of chemicals, and the rendering or refining of oils or animal materials

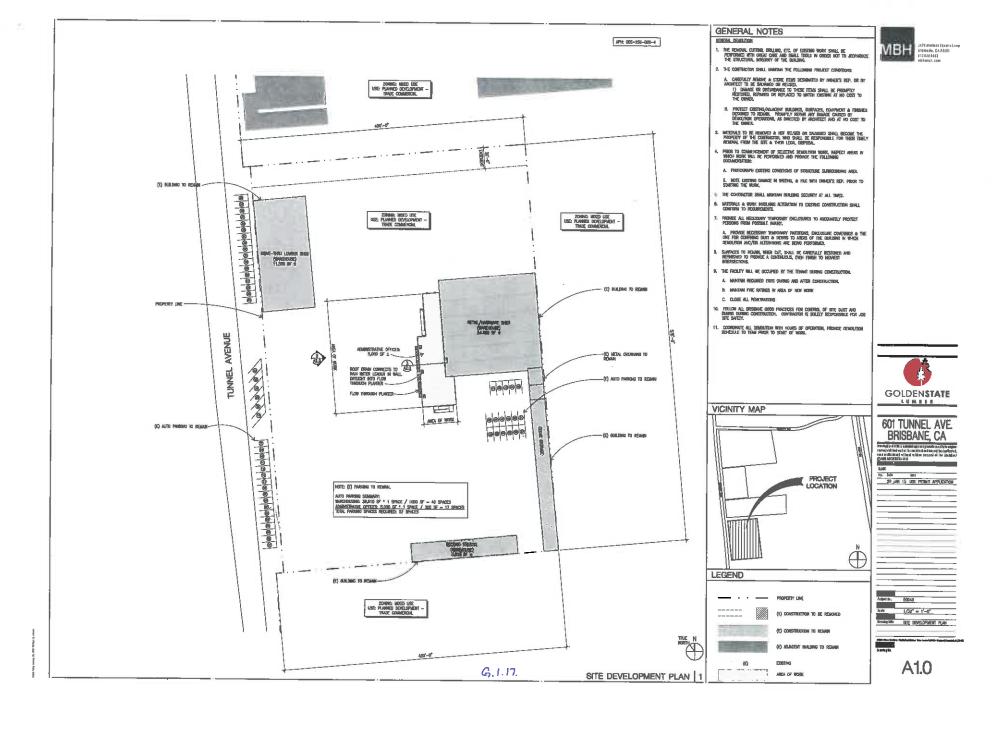
What is the length of time for which you are applying for a Interim Use Permit?

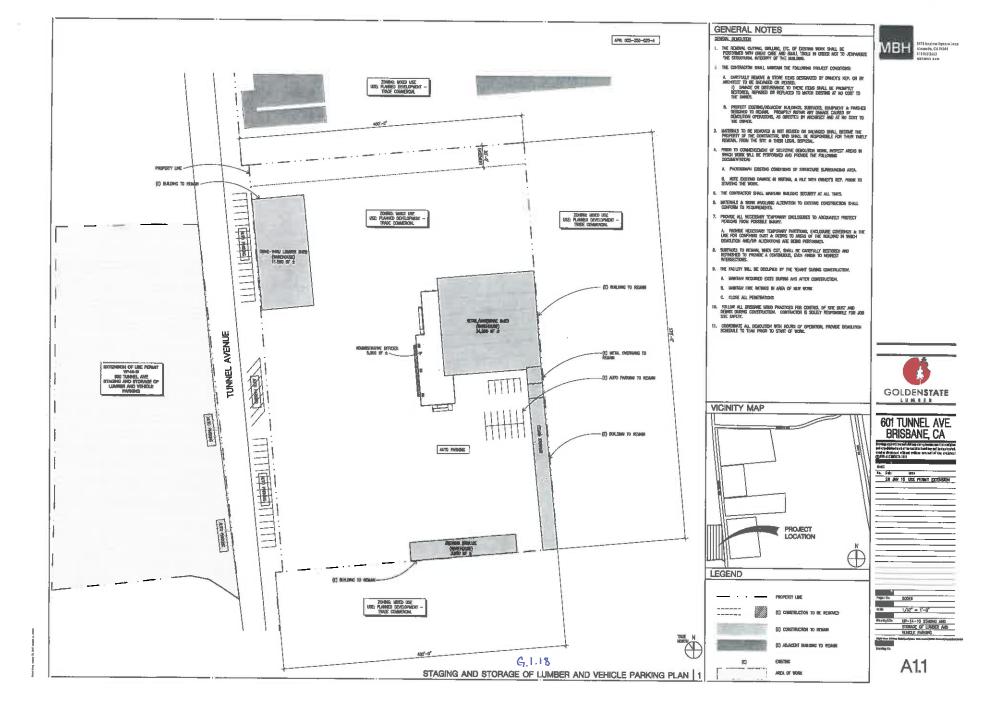
(For initial terms of up to 5 years, Planning Commission approval is required. For initial terms of more than 5 years, City Council approval is required, following a recommendation from the Planning Commission.)

APPLICANT'S SIGNATURE

DATE



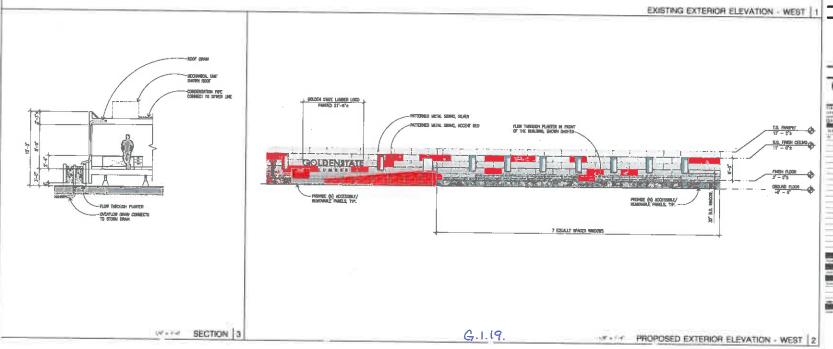






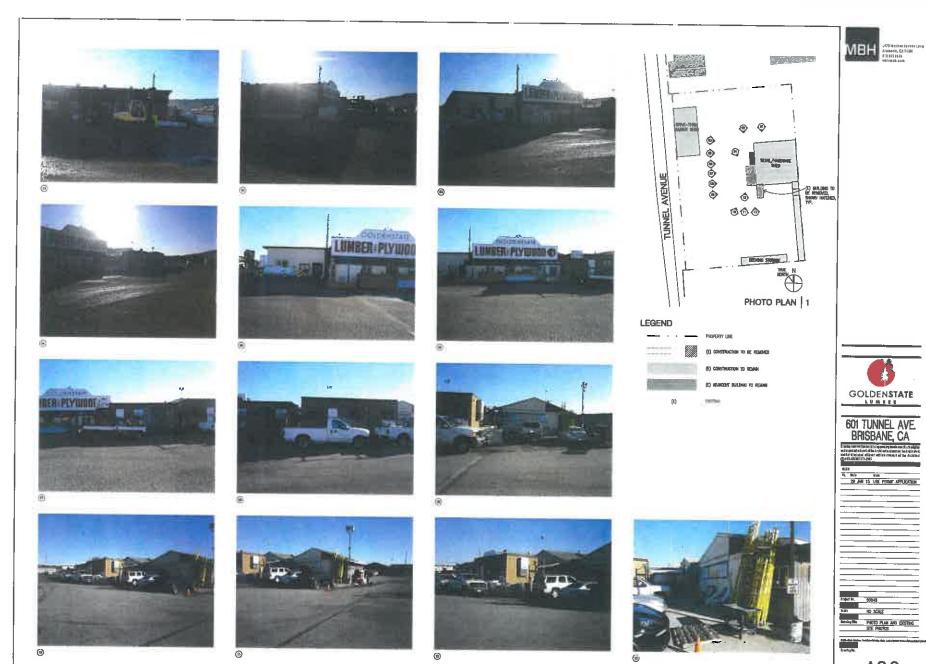








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G.1.20.

A3.0

