


# *City of Brisbane*

## *Planning Commission Agenda Report*

**TO:** Planning Commission For the Meeting of 1/8/14

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

**SUBJECT:** **950 Tunnel Ave; Interim Use Permit UP-6-14** for use of an approximately 1.6 acre vacant portion of the Kinder Morgan site as a temporary construction storage/staging yard; Joseph Spurlin on behalf of Golden State Utility Co.; SFPP, owner; APN 005-162-370

**Request:** Golden State Utility Company has requested an interim use permit for a construction storage/staging yard on an approximately 1.6 acre vacant portion of the Kinder Morgan site, located between the Kinder Morgan Tank Farm and the City of Brisbane's Corporate Yard, immediately northwest of the Lagoon Way and Tunnel Avenue intersection. Approval of the use of the yard is requested through November 1<sup>st</sup>, 2015. The primary use is in support of Golden State Utility's construction activities on Caltrain's electronic signaling upgrade project. The Caltrain railroad tracks run immediately to the west of this site and this staging location would reduce downtime in the mobilization and demobilization by approximately 2 hours to and from the project versus Golden State Utility's other yard options.

The construction staging activities related to the Caltrain project are scheduled from the present time through March 1<sup>st</sup> and would include daytime and nighttime crews. Then from March 1<sup>st</sup> through November 1<sup>st</sup> Golden State Utility has indicated that the yard would be used in support of other construction projects in the area, with a reduced level of activity at the site. During the more intensive use period, until March, the site is projected to include two – four man day crews and four – four man night crews, plus storage of equipment and materials. A portion of the site would also be used for a temporary drilling mud containment area for transferring drilling mud from the field operations to a certified dump in Woodland, California.

The hours of operation at the yard have been provided in detail in the applicant's description. In brief the hours would be as follows:

Day Crews (Monday through Friday each week through November 1<sup>st</sup>):

- 7 am - 9 am: Work crews arrive at the site, hold a preconstruction meeting, inspect equipment, gather materials and mobilize to the field
- 3:30 pm – 4:30 pm (to 4 pm after March 1<sup>st</sup>): Work crews arrive back at site and prepare for the next day

Night Crews (Sunday through Thursday each week; through March 1<sup>st</sup> only):

- 6:30 pm - 8 pm: Work crews arrive at the site, hold a preconstruction meeting, inspect equipment, gather materials and mobilize to the field
- 3:30 am - 4 am: Work crews arrive back at site and prepare for the next day

The site is fenced and the entry gate would be locked when there are no work crews on the site.

There would be no permanent structures associated with this use. Upon completion of the term of this use permit the site would be returned to its pre-existing state, with the exception of gravel base rock which has been placed to smooth out the driveway and yard area.

Further details on this request are provided in the Background section and the applicant's project description.

**Recommendation:** Conditionally approve Interim Use Permit UP-1-12 per the agenda report, via adoption of Resolution UP-1-12 with Exhibit A containing the findings and conditions of approval.

**Background:** Golden State Utility has already occupied the site and has indicated that they were unaware of the City's requirement for an interim use permit prior to doing so. The company was issued a Notice of Violation by the City on December 1<sup>st</sup>, 2014 and have since actively sought to comply with the City's requirements for an Interim Use Permit through the filing of this application.

**Environmental Determination:** Minor alterations to land, including temporary use of land having negligible or no permanent effects on the environment, are categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per Section 15304(e) of the State CEQA Guidelines.

**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. The mandatory conditions of approval are included in the draft conditions of approval, as conditions P and Q.

**Analysis and Findings:** The required findings under BMC Sections 17.41.060.A-F and project analysis are as detailed below. Note that the applicant has proposed that the yard would be used in support of the Caltrain signaling upgrade project until March of 2015 and that would be the most intensive period of use of the yard. After that project is complete, the use of the yard would be of the same basic nature, in support of other construction projects in the area, but would be less intensive than the Caltrain project.

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 proposed use is consistent with the surrounding uses in this neighborhood.

The site is comprised of a portion of the vacant lands between the industrial uses of Kinder Morgan's Tank Farm and the City's Corporate Yard. The surrounding uses include the Caltrain rail lines to the west, which this project is to support in its upgrade efforts, and the Baylands Soil Processing Site to the east, across Tunnel Ave. The site is immediately northwest of the intersection of Lagoon Way and Tunnel Avenue. It is separated from the residential and commercial population centers. The nearest residential uses are approximately 1/3 of a mile to the south. The neighborhood commercial and trade commercial areas of Central Brisbane and Crocker Park are approximately 1/5 of a mile away across Bayshore Boulevard, the south and southwest.

Conditions of approval are proposed to address potential light and noise impacts. A condition is included that nighttime lighting be focused downward and not be directed into the night sky, such that it might result in a distraction to Brisbane residents. Also, lighting is not to be directed onto Tunnel Avenue or Lagoon Way, such that it would cause a distraction to motorists. Noise is not anticipated to be an issue, given the relatively low intensity of this use and the distance to the nearest population centers. In spite of that, a condition of approval is included to help address potential noise impacts. Note that throughout most of the daytime and nighttime hours the site would be used simply for storage and not active work activities, as detailed in the applicant's schedule.

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

The proposal **complies** with this finding. The site has been previously graded and compacted. The applicant has indicated that they have added gravel to even out the area for this use. In addition to storage/staging of equipment, the site would be used to temporarily store rock and sand materials, obtained from local vendors for use on the Caltrain project and a drilling mud transfer containment area from Golden State Utility's boring operations. The applicant has indicated that the mud would be stored in a containment area on site and then it would be transferred to trucks for disposal at a landfill in Woodland. The containment area is comprised of an area of approximately 30 ft by 50 ft, with a 2 to 3 ft high berm, lined with a pond liner. If prior site investigations and/or field screening shows evidence of contamination from any specific boring locations along the Caltrain project, that material is analyzed for potential contaminants and if positive it would not be stored on the site, but would be handled separately and shipped directly to the appropriate disposal facility.

No disturbance of underlying soil is proposed and the use involves no permanent structures or utilities. It is a temporary use with negligible or no permanent effects on the environment.

c) The interim use will not obstruct redevelopment:

The proposal **complies** with this finding. The application does not include any permanent structures or utilities, nor would it otherwise alter the land and so redevelopment would

not be obstructed. Also, given its short duration, the use will be completed before any of the contemplated redevelopment might be undertaken.

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

This proposal **complies** with this finding. Given the temporary nature of the proposed use there is no need for permanent utilities or infrastructure.

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

The proposal **complies** with this finding. The use provides a benefit to the public in supporting the modernization of the Caltrain system, which is intended to provide for safer public transportation.

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

The proposal **complies** with this finding. The applicant is an employer of local workers throughout the Bay Area. For this specific project, Golden State Utility has entered into a project memorandum with the Operators Engineer Local 3 (OE-3) and they are also currently in negotiations with the Labors Union to supply manpower for the duration of this project. Although opportunities on the Caltrain project may be limited by union agreements, and the timeframe of this project, if individuals from Brisbane are interested in working for Golden State Utility they may contact their Human Resources department at 209-579-3400, or email [hr@gsuc.net](mailto:hr@gsuc.net), which is also provided on their website [www.gsuc.net](http://www.gsuc.net). A condition of approval is also included that the applicant is to provide the Community Development Director with a program to provide outreach to the local community to the extent reasonable.

In closing, this application has been routed to the Regional Water Quality Control Board and the County Environmental Health Dept. and no concerns have been raised by either agency. It was also routed to the applicable City departments. The Fire Department has requested that condition of approval F should be included and Public Works has requested that condition G be included, to address storage of flammables, emergency access and grading. Note that City Engineer is requiring a "soil storage permit" (ie: grading permit) for the stockpile of sand and gravel of 60 cubic yards, since the volume is over the threshold of 5 cubic yards, per BMC Sections 15.01.030 and 15.01.080, which will address onsite management of the materials and stormwater pollution prevention measures. However, this activity would not constitute grading as it applies to the Planning Commission's review under BMC Section 15.01.081 and BMC Section 17.32.220 which is intended to address permanent changes in the site topography (cut or fill), with thresholds of 50 cubic yards exported from a single parcel, or 250 cubic yards of cut and fill on site, but rather, this a temporary storage/staging function subject to the interim use permit application and the findings detailed here-in.

Attachments: Draft Resolution UP-6-14 with Findings and Conditions of Approval  
Location Map  
Site Plan  
Applicant's Project Description

RESOLUTION UP-6-14

A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE  
CONDITIONALLY APPROVING USE PERMIT UP-6-14  
TO ALLOW FOR A CONSTRUCTION STORAGE/STAGING YARD  
ON THE VACANT LOT  
AT 950 TUNNEL AVENUE

WHEREAS, Joseph Spurli for Golden State Utility Co., the applicant, applied to the City of Brisbane for an Interim Use Permit to establish an storage/staging yard at 950 Tunnel Ave, such application being identified as Use Permit UP-6-14; and

WHEREAS, on January 8<sup>th</sup>, 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 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 January 8, 2015, did resolve as follows:

Use Permit UP-6-14 is approved per the conditions of approval attached herein as Exhibit A.

ADOPTED this 8<sup>th</sup> day of January, 2015, by the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
Karen Cunningham  
Chairperson

ATTEST:

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

F. a. S.

## EXHIBIT A

**Action Taken:** Conditionally approve Use Permit UP-6-14 per the staff memorandum with attachments, via adoption of Resolution UP-6-14.

### 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 will not create any significant unmitigated adverse environmental impacts, pursuant to the California Environmental Quality Act;
3. Given the short term nature of the proposal and that no permanent structures are proposed, 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. 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 finding does not apply, since no public utilities or other infrastructure improvements are necessary for this use.
5. The use will provide either or both of the following benefits:
  - a. 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. This benefit does not apply. However,
  - b. The use will provide a benefit to the public, such as the creation of jobs or revenues or the provision of needed goods or services, in that it will support the modernization of the Caltrain system, which is intended to provide for safer public transportation.
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. Implementation of such program shall be made a condition of the interim use permit.

### Conditions of Approval:

- A. The applicant shall keep their business license active through the Finance Department.
- B. The use of the site is limited to the area shown on the site plan, provided in this agenda report, and as provided in the applicant's submittal.
- C. The use of the site shall generally not exceed that described in the applicant's submittal, including two to four, four-man crews. If exceptions are necessary (increasing the

number of crew) due to project schedules, the applicant shall provide advance notice to the Planning Department for approval.

- D. Lighting shall only be used on-site to the extent necessary to conduct operations at the site at night and shall not be directed onto the adjacent roadways so as to result in a glare or distraction to motorists, nor shall it be directed upward into the night sky to result in a nuisance to the Brisbane residential areas.
- E. The site operations shall be conducted in a way to minimize noise, especially at night, and shall not create a nuisance to Brisbane residential areas. Noise levels shall be subject to the Brisbane Municipal Code Noise Control Chapter 8.28.
- F. As required by the Fire Dept., the storage of combustible or flammable materials shall conform to the segregation and storage of materials provisions, as outlined in the 2013 California Fire Code (CFC), and the yard shall be maintained in an orderly manner to provide adequate fire apparatus access. The applicant shall contact the Fire Dept. within 1 week of the effective date of this permit to schedule a site visit by the Fire Dept.
- G. The applicant shall obtain a Grading Permit from the Department of Public Works for placement of the stockpiles.
- H. Transfer of the drill mud shall be conducted in a clean and orderly manner to prevent spills outside the containment area. If a spill occurs, it shall be promptly cleaned up and the area returned to its pre-existing state by the applicant/operator.
- I. No hazardous waste materials shall be allowed on site. Drill mud shall be screened in the field as necessary to detect and redirect potentially contaminated materials. If contaminants are detected, such that the material would fall into the hazardous waste classification, the material shall not enter the site.
- J. The applicant shall comply with stormwater best management practices (BMPs) in the management of materials on site and the site shall not be altered to create new impervious surface without first providing the required C.3 documentation and obtaining Planning Dept. approval.
- K. Prior to the expiration date of this use permit, the applicant shall return the site to its pre-existing state, with the exception of gravel base rock which has been placed to smooth out the driveway and yard area. The mud containment area shall be removed in its entirety and all materials and equipment shall be removed from the site.
- L. This Use Permit shall be valid through November 1<sup>st</sup>, 2015.
- M. Minor modifications may be approved by the Planning Director in conformance with all applicable requirements of the Municipal Code.
- N. In accordance with Policy No. 328.2 of the general plan, a program will be established by the operator and submitted to the Community Development Director for approval, to

encourage employment of Brisbane residents to the extent it is reasonably possible to do so.

- O. Advertising signs are not included with this interim use permit. Advertising signs are subject to separate application and City approval in accordance with BMC Chapter 17.36.
- P. The owner and operator of this use shall provide the City with a copy of the agreement between the owner and operator indicating 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.
- Q. 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.
- R. 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.
- D. As detailed in BMC Section 17.41.100, this interim use permit may be revoked upon a determination by the planning commission that the holder of such permit has failed to comply with any of the conditions thereof or has violated any applicable provision of the BMC.





**Site Location Map  
Proposed Storage Yard  
950 Tunnel Ave**

F.2.9





# SITE PLAN



F.2.10.

# Golden State Utility's Project Description

## Attachment 1

Golden State Utility Co. is requesting a Temporary Use Permit for 950 Tunnel Ave. as a temporary satellite storage yard for work being preformed for Caltrain (JPB) on railroad right away.

### Yard Usage

-Pre and Post work day meetings to be held in yard.

-Approximately 10-15 employees on site for each meeting

- A day and a night crew will be using the storage yard until March 1<sup>st</sup>, 2015. After March 1<sup>st</sup> until November 1<sup>st</sup> 2015 only a day crew is anticipated.

- Prior to March 1<sup>st</sup> 2015 hours of operation (approx. employees)

Day Crew -7AM -4:30PM M-F (10)

Night Crew- 6:30PM-4:30AM Sun-Thur (15)

-After March 1<sup>st</sup> 2015 hours of operation (approx. employees)

Day Crew -7AM -4:00PM M-F (5-10)

-Park approximately 9-12 Utility Trucks, 1 backhoe w/ trailer, 1 mini excavator w/ trailer, 1 Conex Storage Container, and 1 Portable Bathroom .

After March 1<sup>st</sup> 1-5 utility truck, 1 backhoe w/ trailer, 1 mini excavator w/ trailer.

-Store approximately 65 yards of utility sand and crushed rock

-Use a containment area to store bore mud before transport.

### Yard modifications to accommodate for usage

-Spread 65 yards of new gravel with existing gravel over area being used

-Pushed existing dirt piles into uniform berms to form a containment area.

-Spread large rock at the entrance and exit of the yard.

**SWPPP actions taken**

- Bore Material containment area is lined with pond plastic and surrounded with straw waddles.
- Covered all loose soil piles with plastic and surround them with straw waddles.
- Accidental spill kits on site

**Site improvements**

- Removed 3'-4' tall weeds
- New gravel will assist in weed abatement
- New gravel will in usage area and large rock at entrance and exit will reduce dirt and mud being tracked onto public roads
- Existing dirt piles will be removed from site upon Golden State Utility Co.'s demobilization from yard.
- Upon Golden State Utility Co.'s demobilization from yard site will be in improved condition.

# Golden State Utility's supplement to the project description

1)

- a. Golden State Utility Co.'s current project for Caltrain is to place conduit and fiber that runs from Redwood City's southern border near Menlo Park to Downtown San Francisco. The conduit and fiber is being placed along the railroad tracks within Caltrain right of way, there are also base station towers being erected along the route. Along the route of construction GSU has strategically acquired temporary equipment and materials yards to reduce downtime on the project. Without the yard on 950 Tunnel Ave. the project downtime in order to mobilize equipment, get material, and empty vacuum trucks is approximately 2.5 hours per crew a day. With the yard; downtime is reduced to approximately 30 minutes per crew a day. The further north construction goes the more these times increase.

## Without the use of 950 Tunnel Ave yard

- Delay project <sup>completion</sup> ~~completion~~ date by approximately 1.5 months
- The overall goal of the project is to increase safety of the train system.
- Increase of equipment traffic on the roads.
- Hours of construction will increase.

- b. The materials piles are Sand and Drain Rock from local vendors. The excess material is stored in the temporary yard before they are transported and used on the job site. The "mud" is a mix of dirt, water and bentonite (Clay) that is created while directional drilling. GSU takes the "mud" from the drilling location and puts it in a containment area before it is transported to a certified dump location 150 miles away. This is cleaner and has less of an impact than leaving the "mud" on the job site to dry.

- 2) The Rock and Sand materials are imported from the vendors are tested per State regulation. The "mud" placed in the containment area is all natural soils and water we are taking from the directional drilling location and it is tested for <sup>contaminants</sup> ~~contaminants~~ every 6 months for our requirement by the dump location . The containment area is designed so there is no excavation and there will be no ground absorption.
- 3) Currently GSU has imported a stockpile of 60 yards of sand and drain rock for use on the project. Once all those materials are 100% depleted GSU may import in 5 yard increment if needed. GSU does not anticipate importing more materials than what the project requires. The vacuum trucks hold 800 gallons max capacity. They are emptied every day if they are full or not into the containment area. The containment area is pump out every day (weather permitting) or every other day into a larger tank and it is transported to a dump site in Woodland, CA.

- 4) At the end of the project all excess materials (including dirt used for the containment area) will be hauled back to one of Golden State Utility Co.'s main yards where it will be used on other projects.
- 5) November 1<sup>st</sup> is a firm date. In order to procure the space Golden State Utility Co. had to agree to a 1 year lease.
- 6) Currently the project is at 100% crew capacity (Two -4 man day crews and Four-4 man night crews). We anticipate that in February all major phases of the project will be complete. At that time the number crews will be significantly smaller. Only two or three crews to do punch list items and maintenance during the day. All night work should be completed by March 1<sup>st</sup>. Of those two or three remaining crews they may only work out of the 950 Tunnel yard a few days a week. The crews should not be making back and forth trips from the yard to the job site. Once they depart the yard they should have all equipment and materials they need for working their shift. Occasionally there may be the need to go back to the yard for materials. From Dec 1<sup>st</sup> 2014 until March 1<sup>st</sup> 2014 there will be a Project Manager in the yard that is overseeing the night construction.

Golden State Utility Co. anticipates the Caltrain project to be 100% complete by April 1<sup>st</sup> 2014. Once the project is complete GSU will use the yard if there is other work in the area. The use of 950 Tunnel will be very limited at that point, for the most part emptied of all equipment and materials.. Maybe one 4 man crew will store a small amount of conduit or soil material while doing a small job. It is difficult to forecast the use of the yard that far in advance because right now GSU is not working other projects in the area, however that may change as jobs come out to bid (variable).

- 7) There will be a Project Manager on site that will be overseeing all construction activities and resolve any possible issues. All noise should be very limited. The project has been ongoing for GSU since July, 2014 and there has been no major noise complaints. Below is an approximate work schedule for crews from Dec. 1<sup>st</sup> 2014 to March 1<sup>st</sup> 2014.

#### **Day Crew**

- Arrive at 8:00 am for preconstruction briefing.
- 8:30am Briefing concludes
- 8:31-9:00am Start and inspect equipment, gather materials and depart to the construction location.
- Between 9:00am and 3:00pm limited activity in the yard. Possibly one guy for security and to maintain the yard.

- ☐ 3:30pm Crews arrive back in the yard to park equipment and prepare for the next day.
- ☐ 4:00pm Work is complete. Shift is over and gates are locked.

### **Night Crew**

- Arrive at 6:30pm for preconstruction briefing.
- ☐ 7:30pm Briefing concludes.
- ☐ 7:31-8:00pm Start and inspect equipment, gather materials and depart to the construction location.
- ☐ Between 8:00pm and 3:00am limited activity in the yard. Project manager and possibly one guy for security and to maintain the yard.
- 3:30am Crews arrive back in the yard to park equipment and prepare for the next day.
- 4:00am Work is complete. Shift is over and gates are locked.