

Draft - RESOLUTION 2021-UP-3-M

**A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE
CONDITIONALLY APPROVING MODIFICATION OF 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, Interim Use Permit 2021-UP-3 (PERMIT), to allow continued outdoor staging of up to 90 Google buses on an approximately 3-acre vacant site on the Baylands, at 600 Tunnel Avenue, between Tunnel Avenue and the CalTrain rail lines, was approved by the Planning Commission on November 16, 2021; and

WHEREAS, a report was provided to the Planning Commission on March 10, 2022 in which Google's bus movement data was detailed for the period of November 2021 through January 2022; and

WHEREAS, following receipt of the report of bus movements, the Planning Commission directed that the PERMIT should be placed on a future agenda for a revocation hearing and/or to consider modification of the PERMIT; and

WHEREAS, Eric Aronsohn, on behalf of Google, applied to the City of Brisbane for Modification to Interim Use Permit 2021-UP-3 to allow continued outdoor staging of Google buses with a revised schedule for bus trips, with operations generally 4 am to 10 pm, versus the previous schedule of 3 to 7 am and 3 to 9 pm; and

WHEREAS, on April 14th, 2022, 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 15301 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 April 14, 2022 did resolve as follows:

Modification of Interim Use Permit 2021-UP-3 is approved per the conditions of approval attached herein as Exhibit A. The effective date for this decision is April 22nd, 2022, unless an appeal is filed to City Council by close-of-business on April 21st, 2022, per BMC Section 17.40.060.C.

ADOPTED this fourteenth day of April, 2022, by the following vote:

AYES:
NOES:
ABSENT:

Chairperson

ATTEST:

JOHN A. SWIECKI
Community Development Director

EXHIBIT A

ACTION TAKEN: Conditionally approved Modification to Interim Use Permit 2021-UP-3 per the staff memorandum with attachments, via adoption of Resolution 2021-UP-3-M.

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:

- 1. Lighting shall be programmed to turn on no earlier than 4 am and to turn off no later than 9 pm.
- 2. The yard's ground surface shall be maintained to prevent airborne dust generation.
- 3. Routing of Google buses shall be to and from the north along Tunnel Ave and Beatty Ave to connect to U.S. 101. Buses shall not use Tunnel Avenue south of the site. Google shall

provide reliable, daily bus movement data to the Planning Director. Data shall be provided in a form and frequency to the satisfaction of the Planning Director.

4. No storage is permitted on site other than the Google bus parking and parking of the drivers' vehicles used to retrieve buses.
5. 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.
6. 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.
7. 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.
8. Maintenance of vehicles is not permitted on the site.
9. 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.
10. 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.
11. The operator shall maintain a business license through the City's Finance Dept.

Mandatory Conditions, per BMC Section 17.41.070:

12. 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.
13. 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:

14. 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.
15. This Use Permit is subject to the revocation procedures established in Brisbane Municipal Code Chapter 17.48.
16. Minor modifications to this use permit may be approved by the Planning Director upon written request.
17. This Interim Use Permit shall expire **one year** from the effective date of the interim use permit. **That expiration date is November 23rd, 2022.**