

City of Brisbane

Planning Commission Agenda Report

TO: Planning Commission For the Meeting of May 26, 2016

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

SUBJECT: **3435 Bayshore Boulevard;** Use Permit UP-3-16, Interim Use Permit for continued operation of a native plants nursery (Mission Blue Nursery); Len Corpus Universal Paragon Corporation/Tuntex USA Inc., applicant/owner; APN 005-162-240 (portion).

Request: An Interim Use Permit is requested for the continued operation of an approximately 4,000 square foot native plants nursery at 3435 Bayshore Boulevard. The site is north of the Brisbane Fire Station, within the Baylands Subarea of the General Plan. The nursery facility consists of a 40'x 100' wood-framed greenhouse, approximately 16 feet in height, set back approximately 200 feet from Bayshore Boulevard. It is roofed with fiberglass panels and shade cloth and open on the sides. Three storage containers are also located on site for storage of tools and planting materials. The entire facility is screened from public views by heavy vegetation along Bayshore Boulevard.

As described in the attached project description prepared by the applicant, Mission Blue Nursery is a venture operated by the Friends of San Bruno Mountain, a 501(c)(3) non-profit corporation. The facility specializes in native plants, utilizing seed stock and cuttings from San Bruno Mountain as a plant source for use in habitat restoration projects. Primary clients are habitat restoration contractors, although the facility is licensed for retail sales. The nursery is operated by volunteers, and access to the facility is by appointment only, with the exception of occasional special event plant sales. On-site activity is limited, as the facility maintains automatic irrigation. Typically one volunteer is present on-site several hours per week. Occasionally a larger number of volunteers may be present for work days and/or special projects. The nursery is accessed from a paved driveway from Bayshore Boulevard and runs behind the Fire Station.

The request is to allow for the nursery to continue for 5 more years, consistent with the Baylands interim use permit provisions.

Recommendation: Conditionally approve Use Permit UP-3-16 per the staff memorandum with attachments, via adoption of Resolution UP-3-16 with Exhibit A containing the findings and conditions of approval.

Environmental Determination: Continued operation of an existing facility, with negligible or no expansion, is categorically exempt from the provisions of the California Environmental Quality Act per Section 15301 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.

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

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 facility is a native plants greenhouse located in a self-contained, isolated area with minimal public exposure and/or impact. The small size and low intensity of the proposed operation ensure that impacts on surrounding properties and improvements will continue to be negligible.

b) the interim use will not create any significant environmental impacts;

The proposal **complies** with this finding. As noted previously, the project represents the on-going operation of the native plants nursery, which was constructed and began operation following approval of a use permit in 2005. As indicated under the Environmental Determination section the ongoing use of the facility is categorically exempt from CEQA pursuant to Section 15301 of the State CEQA guidelines.

c) the interim use will not obstruct redevelopment;

The proposal **complies** with this finding. The project is limited to a small, remote corner of the larger Baylands sub area, and the presence of this facility would not hinder future development within the remainder of the larger specific plan area. In the event of redevelopment the use may be discontinued and the relatively small, wood-framed structure and could easily be removed.

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

The proposal **complies** with this finding. All necessary utilities and site access was provided with the establishment of the facility in 2005.

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

The proposal **complies** with this finding. The proposed facility plays a valuable role in maintaining and enhancing the biological integrity of San Bruno Mountain by propagating native flora for use in restoration projects. This is consistent with a number of General Plan policies pertaining to the conservation and restoration of open space and biological resources.

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

This finding is **not applicable** to the proposal. As noted in the applicant's project description, the facility is operated by the Friends of San Bruno Mountain, a 501(c) (3) non-profit corporation, and is fully staffed by volunteers.

Finally, note that this application was provided to the City of Brisbane Public Works, Fire, Building and Police Departments and to the San Mateo County Environmental Health Services Division and no concerns were raised.

Attachments:

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

Draft - RESOLUTION UP-3-16

A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE
CONDITIONALLY APPROVING INTERIM USE PERMIT UP-3-16
FOR A NATIVE PLANTS NURSERY AT
3435 BAYSHORE BOULEVARD

WHEREAS, Len Corpus, the applicant, applied to the City of Brisbane for Interim Use Permit approval of the continued operation of a native plants nursery at 3435 Bayshore Boulevard, such application being identified as UP-3-16; and

WHEREAS, the proposed use is to allow the continued operation of the native plants nursery which was originally approved in 2005 via use permit UP-11-05; and

WHEREAS, on May 26, 2016, 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 plans, 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 per Section 15301 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 May 26, 2016 did resolve as follows:

Interim Use Permit UP-3-16 is approved per the conditions of approval attached herein as Exhibit A.

ADOPTED this twenty-sixth day of May, 2016, by the following vote:

AYES:

NOES:

ABSENT:

Tuong Van Do
Chairperson

EXHIBIT A

Action Taken: Conditionally approved Interim Use Permit UP-3-16 per the staff memorandum with attachments, via adoption of Resolution UP-3-16.

Findings:

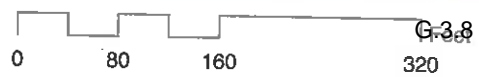
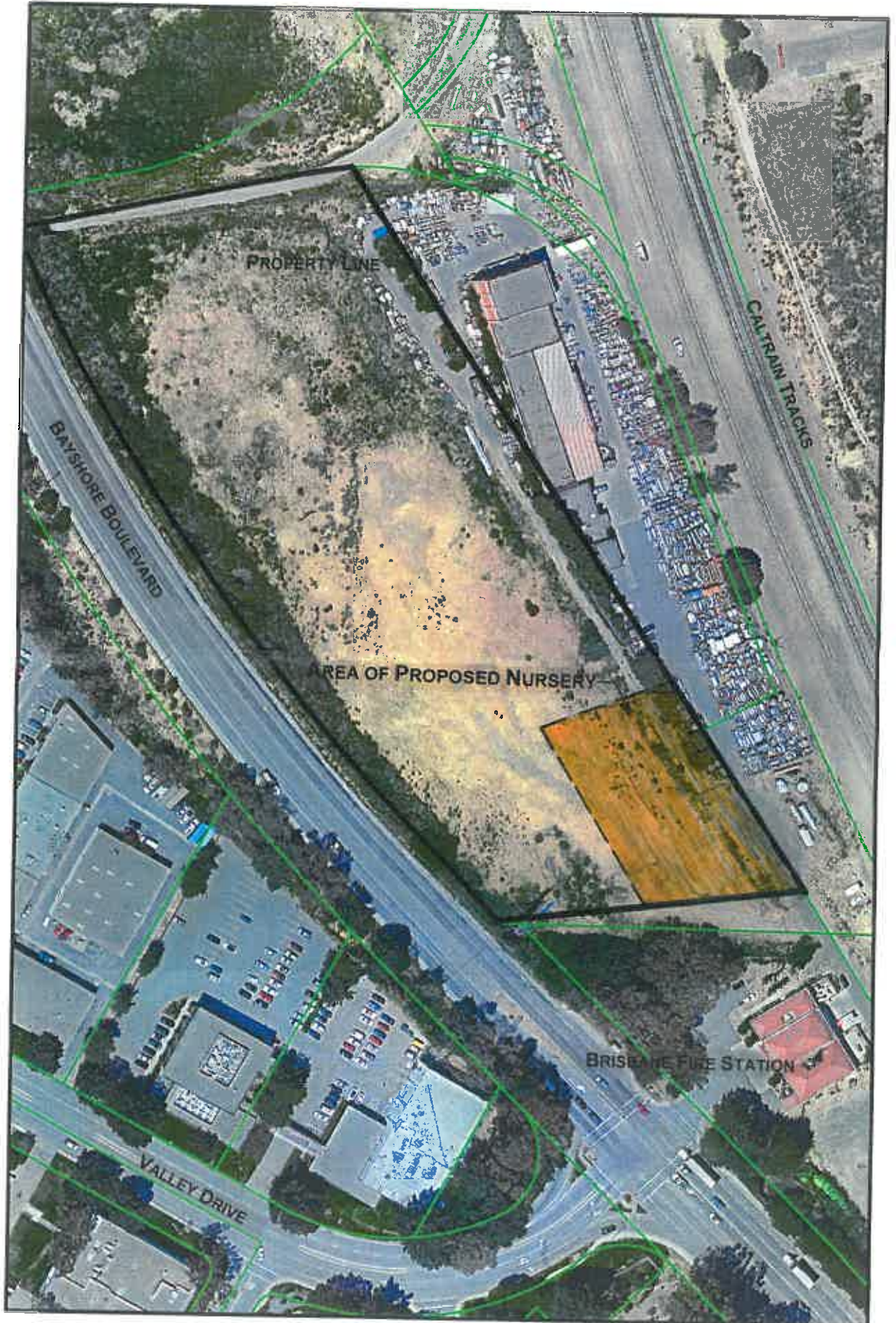
1. Approval of the use permit is consistent with the General Plan by allowing an interim land use within the Baylands General Plan subarea in accordance with all required findings and conditions;
2. The proposed interim use and the conditions under which it would be operated will not be detrimental to the public health, safety or welfare, or injurious to properties or improvements in the vicinity, as described in the staff memorandum;
3. 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;
4. 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, in that the project is located in a remote corner of the larger Baylands subarea and would not hinder future development within the remainder of the larger specific plan area;
5. 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;
6. The use will provide a benefit to the public inasmuch as it assists in the maintenance and enhancement of the biological integrity of San Bruno Mountain through the propagation of native flora for use in restoration projects and opportunities for educational programs in concert with Brisbane School District.

Conditions of Approval:

- A. The Interim Use Permit is approved for continued operation of a native plants nursery to be operated in a manner consistent with the project description provided by the applicant and attached to the May 26, 2016 staff memorandum.
- B. The property owner's agreement with the operator of the interim use shall continue to 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.

- C. 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.
- E. 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.
- F. 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.
- G. This Use Permit shall expire **five years** from its effective date (at the end of the 6-day appeal period). **That expiration date is June 3rd, 2021.**



VICINITY MAP
PROPOSED MISSION BLUE NURSERY



Native Plants Nursery
Photo Date: 5/18/16

SUPPORTING STATEMENTS
For Interim Use Permit

Description of the proposed use: Sunquest Properties, Inc. is requesting a renewal of a 5-year Interim Use Permit at 3435 Bayshore Boulevard to lease yard space to tenants specializing in growing plants native to San Bruno Mountain for use in habitat restoration projects and conducting limited retail sales by appointments only.

Days and hours of operation: Days and hours of operation are Monday through Saturday at 9am – 5pm with occasional Sundays.

Number of employees on site: There is usually one employee on site. On Wednesdays, a group of 15 volunteers are on site for several hours. Occasionally, an intern will assist the tenant's employee few days a week.

Company vehicles and equipment on site: There are no company vehicles on site other than employee and volunteer-owned automobiles. On site are three storage containers consisting of gardening tools and equipment, planting materials and other tools and equipment related to the practice of growing and cultivating plants.

List the types and quantities of hazardous, toxic, flammable or explosive materials or wastes are involved with the use: None.

List any governmental permits required for the handling or storage of the hazardous materials involved with the use: None.

List any material and equipment which will be stored outside and explain how these will be screened from public view: The three storage containers are screened from public view by numerous dense willow trees and cannot be seen from Bayshore Boulevard.

Will the use generate air emissions, odors, smoke or dust? If so, how will these be controlled?
The use will not generate air emissions, odors, smoke or dust.

Will the use generate noise or vibration? If so, how will these be controlled? The use will not generate noise or vibrations.

Will the use generate glare, heat, or other impacts? If so, how will these be controlled? The use will not generate glare, heat or other impacts.

Will the use generate waste materials? If so, how will these be disposed? The use will generate a minimal amount of plant waste which are contained and disposed of in a green bin for compost. The portable restroom on site is serviced on a regular basis.

How will waste materials from the use be prevented from polluting storm water runoff? Plant waste materials are non-polluting and will not impact storm water runoff.

What utilities and other infrastructure are required for your use? Are these existing on site? If not, how will they be provided? The only existing utility serving the site is a metered water connection that is billed by the City of Brisbane. No other utilities and infrastructure are required for our use.

The Brisbane Municipal Code requires that your use benefits the property. List the benefits below: (a) eliminate blight or unsightly or hazardous conditions, (b) by installing improvements that will facilitate redevelopment of the property, (c) other: C. The facility is the only native plant nursery in the State of California that grows only plants native to San Bruno Mountain for use in habitat restoration projects. The property is the only source of these plants for the community to use in creating drought tolerant landscapes with plants that won't negatively impact San Bruno Mountain.

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, good or services, (d) other: C and D. The facility is the only native plant nursery in the State of California that grows only plants native to San Bruno Mountain for use in habitat restoration projects. The property is the only source of these plants for the community to use in creating drought tolerant landscapes with plants that won't negatively impact San Bruno Mountain. The location also helps the community stay active by taking on volunteers who has the time and interests to learn and participate in the growing of native plants that will ultimately be used to restore their mountain's drought-tolerant native habitats.

Will you establish a program to encourage employment of Brisbane residents in the construction and operation of the use? Explain: We will encourage our tenants to post open positions and volunteer positions at City Hall or City offices to advertise employment and volunteer work to Brisbane residents.

Will your use include any of the following?

the manufacture, processing, handling, treatment, transportation, recycling, or storage of hazardous, toxic, flammable or explosive materials or wastes in quantities for which a permit is required from any governmental agency? No.

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. No.

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). No.

Will your use include any of the following? 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? No.

What is the length of time for which you are applying for an 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. We are applying for a renewal of an expired Interim Use Permit for an additional 5-year period.

Project Description – Sunquest Properties, Inc.

Sunquest Properties, Inc. is requesting a renewal of a 5-year Interim Use Permit at 3435 Bayshore Boulevard to lease yard space to tenants specializing in growing plants native to San Bruno Mountain for use in habitat restoration projects and conducting limited retail sales by appointments only.

Yard Usage: The primary use of the property is to support our tenant’s activities in growing native plants to San Bruno Mountain for use in habitat restoration projects. The facility is operated by our tenant’s employee and volunteers. On site activity is limited as the facility maintains automatic irrigation powered by a battery pack. Access to the facility is by appointment only.

A major threat to the City of Brisbane’s native ecosystems and endangered butterfly habitats on San Bruno Mountain is the invasion of non-native plants which can take over entire hillsides in one season. The native plants, which are propagated on site by our tenant, continue to be a vital tool in combating this invasion. In conjunction with San Mateo County Parks, seeds are manually collected from the mountain from various locations to ensure genetic diversity. Volunteers then nurture the seedlings on site and replant them back onto the mountain after invasive plants are removed. This effort jumpstarts the native ecosystem and bolsters its ability to survive future invasions.

The days and hours of operation are Mondays through Saturdays at 9am – 5pm with occasional Sundays. Currently, there is one nursery staff throughout the week with 15 core volunteers on Wednesdays for several hours.

Yard Modifications for Usage: There are no yard modifications planned or needed at this time. However, we may consider future yard modifications that the City may require in obtaining the renewal of the Interim Use Permit.

Supporting Statements: Under BMC sections 17.41.060 A-F, we have provided answers on the Supporting Statement for Interim Use Permit sheet attached to this submittal. Below are each section and a brief answer to what applies to our use.

- a) ***The interim use will not be detrimental to the public health, safety or welfare, or injurious to nearby properties or improvements;***

With the location of the property, public health, safety or welfare to nearby properties will not be a factor. The facility is a native plant greenhouse located in

a self-contained, isolated area with minimal public exposure and/or impact. The small size and low intensity of the current operation ensure that impacts on surrounding properties and improvements will be negligible.

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

The use will not create any significant environmental impacts as indicated in the previously expired Interim Use Permit.-

c) *The interim use will not obstruct redevelopment;*

The area for use is limited to a small, remote corner of the larger Baylands sub area and presence of this facility will not hinder future redevelopment within the remainder of the larger specific plan area. The greenhouse is a small, wood-framed structure which can be easily removed if required in the future.

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

Water and electricity lines are located in close proximity to the site. There is a metered water connection and is being billed by the City of Brisbane. No sewer service is proposed as the facility is served by a portable restroom. The site can be accessed via an existing private road easement from Tunnel Avenue. There are no permanent utilities or infrastructure serving the property, nor will those be allowed to be installed.

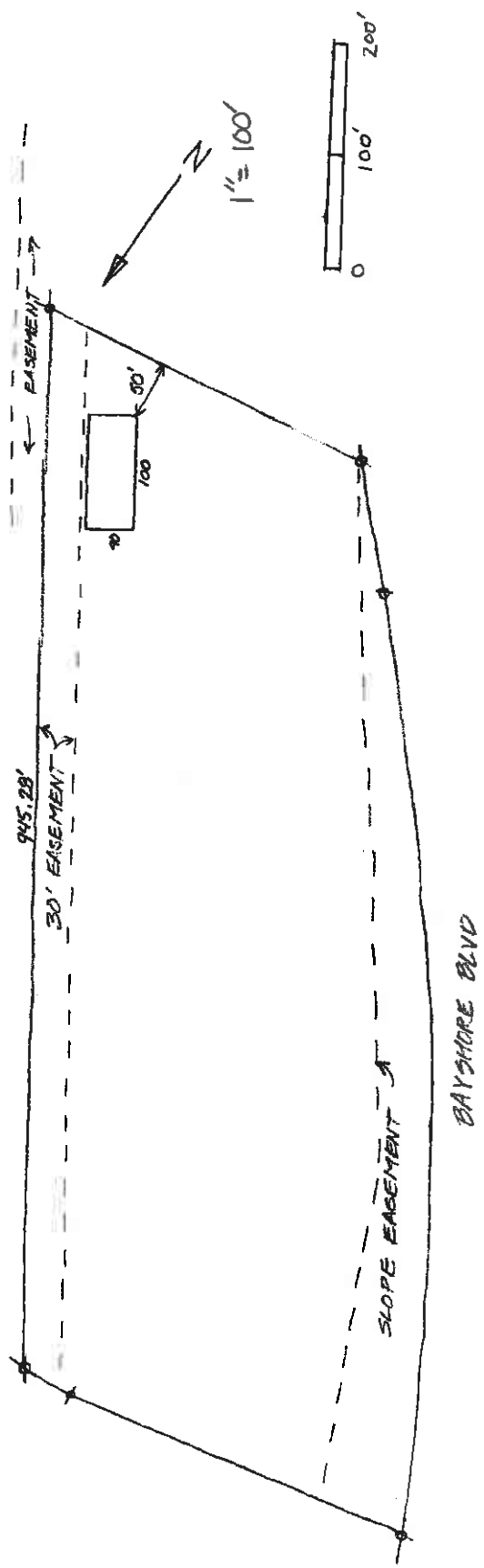
e) *The use will benefit the property and/or public;*

The facility plays a valuable role in the maintaining and enhancing the biological integrity of San Bruno Mountain by propagating native plants for use in restoration projects. The facility is the only plant nursery in the State of California that grows plants native to San Bruno Mountain. This would be consistent with a number of General Plan policies pertaining to the conservation and restoration open space and biological resources. There are also existing opportunities with the Brisbane School District in conservation-related programming, providing another community benefit.

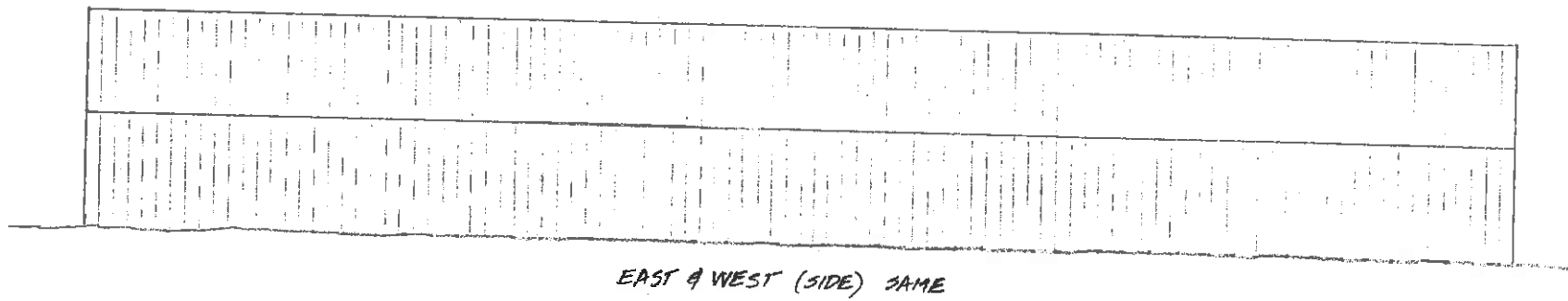
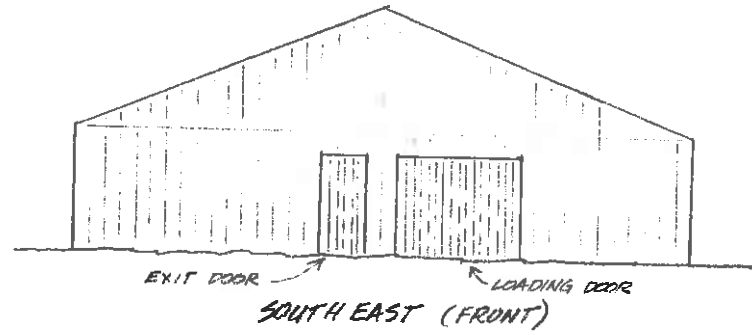
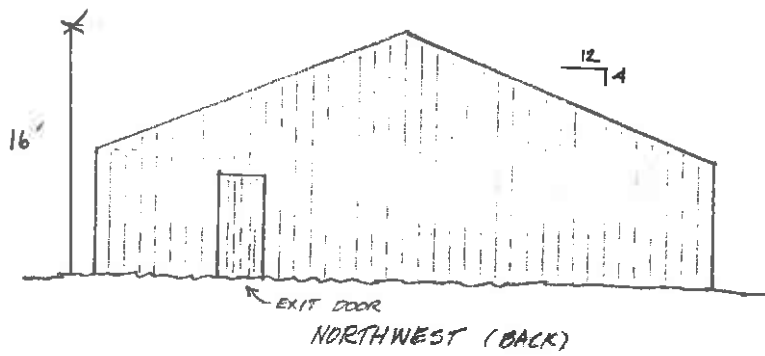
f) *Encourage the employment of Brisbane residents to the extent it is reasonably possible to do so;*

We will continue to encourage and recommend our tenants to post job and volunteer opportunities at City Hall or City offices where residents are encouraged to apply for employment and volunteer work.





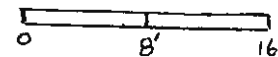
BRISBANE GREENHOUSE
 7/20/05 JAF
 3435 Baysore Blvd APN 005-162-240



BUILDING IS WOOD FRAME

BRISBANE GREENHOUSE

1/28/05 JGF



$\frac{1}{8}'' = 1'$