

**FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE #CDLP24-02027;
MARK WHITLOCK (APPLICANT) & RAJBIR SARKAIRA (OWNER)**

I. FINDINGS

A. Land Use Permit Findings

1. The project shall not be detrimental to the health, safety and general welfare of the County.

Project Finding: Adding a commercial kitchen within an existing convenient store building to establish a take-out food business is required to comply with all applicable civil, fire, and environmental health codes and regulations. Compliance with all conditions of approval and applicable codes and regulations is considered to be evidence that the project will not present health and safety risks to users of the site or public in general.

2. The project shall not adversely affect the orderly development within the County or the community.

Project Finding: The project will be within the existing building envelope with no physical changes to the building exterior or the property itself. Therefore, the project will not adversely affect the orderly development within the County or the surrounding community.

3. The project shall not adversely affect the preservation of property values and the protection of the tax base within the County.

Project Finding: The project is not of a type and scale that would expectedly adversely affect property values as it is a service business that will be added to an existing commercial property, and should result in a negligible change in net new peak-hour trip generation, particularly because trips associated with the subject project will be primarily pass-by and internal trips. Therefore, the project is not anticipated to adversely affect the tax base within the County.

4. The project shall not adversely affect the policy and goals as set by the General Plan.

Project Finding: The subject property is located within the Commercial (CO) land use designation. The intent of the CO designation is to allow for a broad range of commercial uses typically found in smaller-scale, neighborhood, community, and thoroughfare commercial districts, including retail and personal service facilities, limited office, and financial uses. A take-out food establishment is consistent within

the commercial land use designation and an allowed use with the issuance of a land use permit pursuant to the Take Out Food Ordinance. Therefore, the project is not anticipated to adversely affect the policy and goals as set by the General Plan.

5. The proposed project shall not create a nuisance and/or enforcement problem within the neighborhood or community.

Project Finding: The project as conditioned will be constructed in a manner that does not encourage any nuisance related to drainage, mosquito or vector habitat, substandard buildings/structures, or any other known nuisance types. Therefore, the project will not create a nuisance and/or enforcement problem within the neighborhood or community.

6. The project shall not encourage marginal development within the neighborhood.

Project Finding: The project as conditioned will not encourage marginal development within the neighborhood because development is controlled by the County's Zoning Code and General Plan. Therefore, the project is not anticipated to encourage marginal development within the neighborhood.

7. That special conditions or unique characteristics of the subject property and its location or surroundings are established.

Project Finding: The project has received the support of the Bethel Island Municipal Advisory Council as it is seen as a welcomed addition to the existing businesses in this area.

B. Variance Findings to Required Number of Parking Spaces

1. That any variance authorized shall not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and the respective land use district in which the subject property is located.

Project Finding: The granting of a variance to allow for 23 parking spaces (where 31 spaces are required) and no bicycle parking due to the addition of a take-out food business will not constitute a grant of special privilege. The subject property is surrounded by primarily residential with no other comparable commercial properties in the area. Additional service businesses should be encouraged in this underserved community, especially when its current parking lot is found to be sufficient.

2. That because of special circumstances applicable to the subject property because of its size, shape, topography, location or surroundings, the strict application of the respective zoning regulations is found to deprive the subject property of rights enjoyed by other properties in the vicinity and within the identical land use district.

Project Finding: The project requires approval of the variance stated above. However, the existing parking lot is currently at variance with 23 spaces where 27 are required. According to the County Transportation Program, a local-serving food take-out business should result in a negligible change in net new peak-hour trip generation, particularly because trips associated with the subject project will be primarily pass-by and internal trips, so the current amount of parking spaces is found to be sufficient. Additionally, the road that fronts the subject property currently does not have a sidewalk or a bike lane, so the physical circumstances do not warrant the need for bicycle parking. Thus, strict application of the Off-Street Parking Ordinance would deprive the subject property of the rights enjoyed by other properties in the immediate vicinity and within the identical land use district.

3. That any variance authorized shall substantially meet the intent and purpose of the respective land use district in which the subject property is located.

Project Finding: The intent and purpose of the Retail Business (R-B) land use district is to allow sales, demonstrations, displays, services, and other retail business that is conducted within an enclosed building. A take-out food establishment is considered a service business and therefore meets the intent and purpose of the R-B district, and the current parking lot will remain sufficient for all patrons. Therefore, approval of the variance previously stated for the parking lot would meet the intent and purpose of the R-B land use district.

C. California Environmental Quality Act (CEQA) Findings

The project is categorically exempt from the review requirements of the California Environmental Quality Act (CEQA) per section 15301(a), which provides for a Class 1 exemption for the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. The improvements necessary to create a commercial kitchen within the existing building envelope to operate a new take-out food business are found to be a minor alteration of existing private facility, involving negligible expansion of the existing use. None of the exceptions in CEQA guidelines section 15300.2 apply.

II. CONDITIONS OF APPROVAL FOR COUNTY FILE #CDLP24-02027:

Project Approval

1. This Land Use Permit to allow for a new take-out food business to be established within the existing convenient store building is APPROVED.
2. The Variance to the County Off-Street Parking Ordinance to allow for 23 parking spaces (where 31 spaces are required) and for 0 bicycle parking spaces (where 2 short term and 2 long term are required) is APPROVED.
3. The project approval is granted based on what is generally shown in the application materials accepted by the Department of Conservation and Development, Community Development Division (CDD) on January 10, 2025.
4. Any change from this approval may require review and approval by CDD and may require the filing of an application to modify this land use permit.
5. This land use permit is contingent upon approval of County File #CDRZ24-03276 to complete the rezoning of the portion of the property that is Mobile Home/Manufactured Home Park (T-1) to Retail Business (R-B) previously approved under County File #CDRZ05-03162.
6. No construction is approved with this permit. Any part of the project that requires a building permit shall obtain a grading and/or building permit from the Department of Conservation and Development, Building Inspection Division, prior to commencement of work.
7. This application is subject to an initial application deposit of \$5,500.00, which was paid with the application submittal, plus time and material costs if the application review expense exceeds the initial fee deposit. **Any additional fee due must be paid prior to submittal of building permit(s), or within 60 days of the effective date of this Land Use Permit, whichever occurs first.** Pursuant to Contra Costa County Board of Supervisors Resolution Number 2019/553, where a fee payment is over 60 days past due, the Department of Conservation and development may seek a court judgment against the applicant and will charge interest at a rate of ten percent (10%) from the date of judgement. The applicant or owner may obtain current costs by contacting the project planner.

Business Operations

8. Prior to any new business operations, the permittee shall obtain a Property Use Verification form from CDD prior to applying for a business license from the County Treasurer-Tax Collector.
9. Patron seating shall be prohibited.
10. No outdoor activities associated with the take-out food business are permitted with this land use permit.
11. Alcohol sales through the take-out food business are prohibited without the approval of a new land use permit pursuant to Chapter 82-38 - Alcoholic Beverage Sales Commercial Activities.

Trash Pick Up

12. Trash receptacles shall be provided at pedestrian egress points.
13. **Prior to issuance of building permit(s)** provide a site plan to CDD showing all existing and proposed locations for trash receptacles. Also specify what type of waste can be disposed of for each receptacle.
14. **Prior to submittal of building permit(s)** the applicant shall post a cash deposit, in the total amount of \$1,000 to cover possible costs of trash, litter or garbage removal should the proprietor of the take-out food establishment fail to properly police the area. If inflation makes an increase necessary in the security amount, the Zoning Administrator may make the necessary changes at a public hearing. If the cash deposit falls below minimum amount, the applicant shall deposit the difference forthwith.
15. At least three times a week, pick up and properly dispose of trash, litter and garbage originating from such take-out food establishment, deposited on public property within four hundred feet of any boundary of the premises on which such take-out food establishment is located.
16. Upon the request of any private property owner located within 400 feet of the take-out food establishment, the applicant shall ensure the pick-up and proper disposal of trash, litter, and garbage originating from any take-out food establishment in the shopping center that is deposited on such private property and visible from the street, at least three times a week.

17. Trash pick-up shall only be during daylight hours.

Lighting

18. Any exterior light fixtures shall emphasize close spacing and lower intensity lighting that is shielded and directed downward in order to minimize light spill to adjacent streets and properties

Indemnification

19. Pursuant to Government Code Section 66474.9, the applicant (including the subdivider or any agent thereof) shall defend, indemnify, and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the Agency (the County) or its agents, officers, or employees, to attack, set aside, void, or annul, the Agency's approval concerning this subdivision map application, which action is brought within the time period provided in Section 66499.37. The County will promptly notify the subdivider of any such claim, action, or proceeding and cooperate full in the defense.

Construction Period Restrictions and Requirements

20. The following shall be implemented during project construction and **shall be present on the site plan for building permit(s) as construction notes:**

Unless specifically approved otherwise via prior authorization from the Zoning Administrator, all construction activities shall be limited to the hours of 8:00 A.M. to 5:00 P.M., Monday through Friday, and are prohibited on state and federal holidays on the calendar dates that these holidays are observed by the state or federal government as listed below:

- New Year's Day (State and Federal)
- Birthday of Martin Luther King, Jr. (State and Federal)
- Washington's Birthday (Federal)
- Lincoln's Birthday (State)
- President's Day (State)
- Cesar Chavez Day (State)
- Memorial Day (State and Federal)
- Juneteenth National Independence Holiday (Federal)
- Independence Day (State and Federal)
- Labor Day (State and Federal)
- Columbus Day (Federal)
- Veterans Day (State and Federal)
- Thanksgiving Day (State and Federal)

Day after Thanksgiving (State)
Christmas Day (State and Federal)

For information on the actual days and dates that these holidays occur, please visit the following websites:

Federal: <http://www.federalreserve.gov/aboutthefed/k8.htm>

State: <http://www.sos.ca.gov/holidays.htm>

- a. The site shall be maintained in an orderly fashion. Following the cessation of construction activity, all construction debris shall be removed from the site.
- b. The project sponsor shall require their contractors and subcontractors to fit all internal combustion engines with mufflers which are in good condition and shall locate stationary noise-generating equipment such as air compressors and concrete pumps as far away from sensitive receptors as possible.
- c. The applicant shall make a good-faith effort to avoid interference with existing neighborhood traffic flows.
- d. Transporting of heavy equipment and trucks shall be limited to the hours of 9:00 A.M. to 4:00 P.M., Monday through Friday, and is prohibited on state and federal holidays.
- e. Unnecessary idling of internal combustion engines is prohibited.

III. PUBLIC WORKS CONDITIONS OF APPROVAL FOR COUNTY FILE #CDLP24-02027:

Applicant shall comply with the requirements of Title 8, Title 9 and Title 10 of the Ordinance Code. Any exceptions(s) must be stipulated in these Conditions of Approval. Conditions of Approval are based on the site plan submitted to the Department of Conservation and Development on January 10, 2025.

COMPLY WITH THE FOLLOWING CONDITIONS OF APPROVAL PRIOR TO INITIATION OF THE USE PROPOSED UNDER THIS PERMIT.

General Requirements

21.For Public Works review for compliance relative to this Land Use Permit, a Compliance Review Fee deposit shall be submitted directly to the Public Works Department in accordance with the County's adopted Fee Schedule for such services. This fee is separate from similar fees required by the Department of Conservation and Development and is a deposit to offset staff costs related to

reviewing and processing of these conditions of approval and other Public Works related services ancillary to the issuance of building permits and completion of this project.

Access to Adjoining Property

22. Encroachment Permit: The applicant shall obtain an encroachment permit from the Public Works Department, if necessary, for construction of driveways or other improvements within the right-of-way of Gateway Road.

Countywide Street Light Financing

23. Property owner(s) shall annex to the County Facilities District (CFD) 2010-1 formed for Countywide Street Light Financing. Annexation into a street light service area does not include the transfer of ownership and maintenance of street lighting on private roads.

Bicycle - Pedestrian Facilities

24. Pedestrian Access: The applicant shall design all public and private pedestrian facilities for accessibility in accordance with Title 24 and the Americans with Disabilities Act. This shall include all sidewalks, paths, driveway depressions, and curb ramps.

Drainage Improvements

25. Collect and Convey: The applicant shall collect and convey all stormwater entering and/or originating on this property, without diversion and within an adequate storm drainage system, to an adequate natural watercourse having definable bed and banks, or to an existing adequate public storm drainage system which conveys the stormwater to an adequate natural watercourse, in accordance with Division 914 of the Ordinance Code.

The applicant shall be permitted to continue to collect and convey stormwaters to a drainage facility maintained by Bethel Island Municipal Improvement District (BIMID)

Floodplain Management

26. The project is located in a Special Flood Hazard Area (100-year flood boundary) as designated on the Federal Emergency Management Agency's Flood Insurance Rate

Maps. The applicant shall be aware of and comply with the requirements of the National Flood Insurance Program (Federal) and the County Floodplain Management Ordinance as they pertain to development and future construction of any structures on this property.

- 27.** Obtain a Floodplain Permit from the Public works Department. The permit application should include a valuation of the proposed improvements as well as a valuation of the building and all permitted improvements to the building over the last 10 years. This information may be accessible from the Building Division of DCD.

National Pollutant Discharge Elimination System (NPDES)

- 28.** The applicant shall be required to comply with all rules, regulations and procedures of the National Pollutant Discharge Elimination System (NPDES) for municipal, construction and industrial activities as promulgated by the California State Water Resources Control Board, or any of its Regional Water Quality Control Boards (Central Valley - Region V).

Compliance shall include developing long-term best management practices (BMPs) for the reduction or elimination of stormwater pollutants. The project design shall incorporate wherever feasible, the following long-term BMPs in accordance with the Contra Costa Clean Water Program for the site's stormwater drainage:

- Trash bins shall be sealed to prevent leakage, OR, shall be located within a covered enclosure.
- Place advisory warnings on all catch basins and storm drains using current storm drain markers.
- Other alternatives comparable to the above as approved by the Public Works Department.

Stormwater Management and Discharge Control Ordinance

- 29.** Based on the proposed new and/or redeveloped impervious surface area totaling less than 5,000 square feet, this project does not require submittal of a final Stormwater Control Plan. This project shall be subject to all other provisions of the County Stormwater Management and Discharge Control Ordinance (§1014, Ordinance No. 2005-01).

Area of Benefit Fee Ordinance

- 30.** The conversion of existing commercial space to a commercial kitchen does not impact the collection of impact fees relative to this project. No additional AOB fees are required in conjunction with this permit.

ADVISORY NOTES

ADVISORY NOTES ARE NOT CONDITIONS OF APPROVAL; THEY ARE PROVIDED TO ALERT THE APPLICANT TO ADDITIONAL ORDINANCES, STATUTES, AND LEGAL REQUIREMENTS OF THE COUNTY AND OTHER PUBLIC AGENCIES THAT MAY BE APPLICABLE TO THIS PROJECT.

- A.** NOTICE OF OPPORTUNITY TO PROTEST FEES, ASSESSMENTS, DEDICATIONS, RESERVATIONS OR OTHER EXACTIONS PERTAINING TO THE APPROVAL OF THIS PERMIT.

Pursuant to California Government Code Section 66000, et seq., the applicant has the opportunity to protest fees, dedications, reservations or exactions required as part of this project approval. To be valid, a protest must be in writing pursuant to Government Code Section 66020 and must be delivered to the Community Development Division within a 90-day period that begins on the date that this project is approved. If the 90th day falls on a day that the Community Development Division is closed, then the protest must be submitted by the end of the next business day.

- B.** Prior to applying for a building permit, the applicant is strongly encouraged to contact the following agencies to determine if additional requirements and/or additional permits are required as part of the proposed project:
- Contra Costa County Public Works Department
 - Contra Costa County Building Inspection Division
 - Contra Costa County Health Services
 - Ironhouse Sanitary District
 - Contra Costa GSA
 - Contra Costa County Fire Protection District
 - County Treasurer-Tax Collector