

FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE #CDLP23-02008; ADVANCE TELECOM, INC (APPLICANT & OWNER)

FINDINGS

A. Land Use Permit Findings

1. ***Required Finding: The proposed project shall not be detrimental to the health, safety and general welfare of the County.***

Project Finding: The project includes the establishment of a contractor's yard on sparsely improved lot within a property designated for commercial land use. The primary function of the project is to provide secure storage for vehicles, equipment, and materials relating to the operation of a low voltage pipeline and traffic control contractor. The materials to be stored on site consist of wire spools, conduit, underground vault enclosures, light/medium duty work trucks, tools, and equipment trailers. The project does not entail the storage of any hazardous materials on site, nor would the property be used for purposes which may pose a hazard to nearby people or property. Additionally, the contractor's yard is a commercial activity that is permitted within the Retail-Business (R-B) zoning district in which the project is located. Thus, the project is consistent and compatible with surrounding land uses and would not expectedly result in any objectionable activities that would negatively affect the health or safety of any surrounding businesses or individuals.

2. ***Required Finding: The proposed project shall not adversely affect the orderly development within the County or the community.***

Project Finding: The project does not include any structural development or substantive modifications to the subject site. Future activities involving new construction or alterations to the existing building on site will be subject to review by Building Inspection Division staff and Fire Protection District staff to ensure that such modifications comply with current provisions of the California Building Code and California Fire Code. Considering that the project is consistent with commercial uses permitted by the County zoning ordinance, the operation of the contractor's yard would not expectedly effect orderly development within the county.

Required Finding: The proposed project shall not adversely affect the preservation of property values and the protection of the tax base within the County.

Project Finding: The activities of the contractor's yard will not adversely affect the preservation of property values. This business is within an area zoned for commercial uses and is adjacent to various commercial types along an established commercial strip. Since the project is compatible with zoning ordinance and its surroundings, there is no expectation for the project to result in adverse effects which are detrimental to the preservation of the property values within the County. The commercial activity generated by the contractor would expectedly add to the existing tax base, rather than adversely affecting it.

3. ***Required Finding: The proposed project as conditioned shall not adversely affect the policy and goals as set by the General Plan.***

Project Finding: The establishment of the business would allow for productive use of an underutilized property. The primary use of the subject site will be an outdoor storage yard for a low-voltage pipeline and traffic control contractor. This land use is clearly consistent with the Commercial general land use designation and thus, no conflict exists with the policies and goals of the General Plan in terms of land use. The Stronger Communities Element of the Contra Costa County 2045 General Plan includes 13 regional policies for the Bethel Island area. These policies primarily pertain to protection of open space and levee systems, limiting residential growth, and supporting locally-serving businesses. The project does not conflict with any of the Bethel Island area policies as it is not residential in nature and would not affect a levee or open-space designated lands. Additionally, the project is located within the "legal delta" as defined by the Delta Protection Act. Consequently, the project is subject to Delta and Shoreline Resource Policies (Policies COS-P9.1 through COS-P9.9) specified within the Conservation, Open Space, and Working Lands Element of the County's 2045 General Plan. However, since the project is located outside of the primary zone of the Delta, is not near a shoreline, and does not affect freshwater flow into or through the delta, the project has no potential for conflict with any of these policies. Therefore, it will not adversely affect the policies and goals as set by the General Plan

4. ***Required Finding: The proposed project shall not create a nuisance and/or enforcement problem within the neighborhood or community.***

Project Finding: The primary business activity on the site will be the provision of secure outdoor storage areas for equipment and vehicles associated with a low voltage pipeline and traffic control contractor. The contractor's yard would generally be unmanned, and the project does not require any processes or work activities occurring onsite which, thus limiting the potential for noise, dust, odors on site becoming a nuisance in the neighborhood. The yard will be secured to prevent unauthorized access to the site via site lighting that is directed downward to minimize light spill-over onto adjoining properties, and chain link security fence with barbed wire. The operation of a relatively small contractor's yard within a commercial strip along Bethel Island road is a project of a type and scale that is unlikely to create a nuisance or enforcement problem.

5. ***Required Finding: The proposed project as conditioned shall not encourage marginal development within the neighborhood.***

Project Finding: No physical development is included in the project, as the building and storage areas shown on the site plan already exist. Nothing in the record suggests that the project could encourage marginal development within the neighborhood.

6. ***Required Finding: That special conditions or unique characteristics of the subject property and its location or surroundings are established.***

Project Finding: The subject site has previously been utilized as a boat storage yard, which is substantially similar to the outdoor storage use approved under this permit. The sparsely developed nature of the project site is conducive to this type of land use, which involves the storage of bulky equipment and vehicles. Vehicular access to the site exists via an existing driveway fronting Bethel Island Road, and the surrounding area has been improved with sidewalk, curb and drainage improvements. The site does not include any special topography or unique characteristics. The surrounding properties are also developed and do not include any special uses and characteristics.

B. Environmental Findings

Following are the findings required pursuant to the California Environmental Quality Act (CEQA) to adopt a Mitigated Negative Declaration/Initial Study for the project, prior to the approval of a project.

1. A draft Mitigated Negative Declaration/Initial Study (MND), State Clearinghouse Number SCH 2024090613, was prepared for Land Use Permit CDLP23-02008 on September 5, 2024. The public review period for the draft MND started on September 6, 2024, and ended on September 26, 2024. No comment letters or emails were received during the public review period for the draft MND.
2. On the basis of the whole record before it the Zoning Administrator finds that:
 - There is no substantial evidence that the project with the identified mitigation measures will have a significant effect on the environment;
 - MND SCH 2024090613 reflects the County's independent judgement and analysis;
 - The MND is adequate and complete; and
 - The MND has been prepared in compliance with the California Environmental Quality Act and the State and County CEQA guidelines.
3. A Mitigation Monitoring and Reporting Program has been prepared, based on the identified significant environmental impacts and mitigation measures in MND SCH 2024090613. The mitigation measures in the Mitigation Monitoring Program are included in the project Conditions of Approval.

CONDITIONS OF APPROVAL FOR COUNTY FILE #CDLP23-02008

Land Use Permit Approval

1. Land Use Permit #CDLP23-02008 is APPROVED to allow a contractor's yard as generally shown in the plans received March 25, 2024, by the Department of Conservation and Development, Community Development Division, based on the following documents, and subject to the conditions below:
 - Application and materials received on February 21, 2023.
 - Revised architectural plans received May 10, 2023.
 - Applicant's statement summarizing business operations received May 10, 2023.

Application Costs

2. The Land Use Permit application was subject to an initial deposit of \$5,500.00 that was paid with the application submittal, plus time and material costs if the application review expenses exceed the initial deposit. Any additional fee due must be paid prior to an application for a grading or building permit, or 60 days of the approval date of this permit, whichever occurs first. The fees include costs through permit issuance and final file preparation. 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 judgement against the applicant and will charge interest at a rate of ten percent (10%) from the date of judgement. The applicant may obtain current costs by contacting the project planner. If you owe additional fees, a bill will be sent to you shortly after permit issuance in the event that additional fees are due.
3. Prior to the issuance of building permits for the change in building occupancy, or within 60 days of the approval date of this permit, whichever occurs first,

General Provisions

4. Any deviation from or expansion beyond the limits of this permit may necessitate the filing and approval of a request for modification of the Land Use Permit approval.
5. The applicant shall obtain building permits for all work related to the occupancy change. The applicant shall submit plans with a code analysis documenting that the proposed change of occupancy is compatible with the existing type of construction.
6. Exterior appearance of the existing building and perimeter fencing shall be maintained in good order and free of graffiti at all times.

Off-Street Parking

7. This approval does not authorize the installation of any signage for the contractor's yard. Any signage proposed subsequent to this approval should be consistent with other signs along this portion of Bethel Island Road and shall be designed in accord with the County's Sign Ordinance. No internal illumination shall be incorporated into the design of any signage.
8. Prior to the issuance of building permits for the change in building occupancy, or within 60 days of the approval date of this permit, whichever occurs first, the applicant shall submit a landscaping plan for CDD staff review, depicting a minimum 4-foot-wide planter or landscaped areas between all parking areas fronting public roadways. The landscaping plan shall include documentation demonstrating compliance with the State Model Water Efficient Landscape Ordinance (MWEL0).
9. All off-street parking areas shall be striped prior to the initiation of the approved land use.
10. Interior driveway aisles shall be a minimum of 25' in width throughout the site, with the exception of the drive aisle accessing employee parking stalls #7 through #11, for which drive aisle width shall be at least 20'.
11. The operator of the contractor's yard shall provide a minimum of two (2) short-term and two (2) long-term bicycle parking spaces, as specified in section 82-16.412 of the County's off-street parking ordinance. Compliance with bicycle parking requirements shall be verified by CDD staff prior to CDD stamp approval of construction plans for the change of occupancy, or within 60 days of this approval, whichever occurs first.

Hazardous Materials

9. The project applicant/or owners and operators of businesses on the site shall obtain all required permits and follow all applicable regulations regarding the use, storage and disposal of hazardous materials and shall conduct their operations in compliance with such permits and regulations.

Mitigation Measures

Cultural Resources/Tribal Cultural Resources

10. The following Mitigation Measures shall be implemented during project related ground disturbance, and shall be included on all construction plans: **CUL-1**
 - a) All construction personnel, including operators of equipment involved in grading, or trenching activities will be advised of the need to immediately stop work if they observe any indications of the presence of an unanticipated cultural resource discovery (e.g. wood, stone, foundations, and other structural remains; debris-filled wells or privies; deposits of wood, glass, ceramics). If deposits of prehistoric or historical archaeological materials are encountered during ground disturbance

activities, all work within 50 feet of the discovery shall be redirected and a qualified archaeologist, certified by the Society for California Archaeology (SCA) and/or the Society of Professional Archaeology (SOPA), shall be contacted to evaluate the finds and, if necessary, develop appropriate treatment measures in consultation with the County and other appropriate agencies. If the cultural resource is also a tribal cultural resource (TCR) the representative (or consulting) tribe(s) will also require notification and opportunity to consult on the findings.

If the deposits are not eligible, avoidance is not necessary. If eligible, deposits will need to be avoided by impacts or such impacts must be mitigated. Upon completion of the archaeological assessment, a report should be prepared documenting the methods, results, and recommendations. The report should be submitted to the Northwest Information Center and appropriate Contra Costa County agencies.

- b) Should human remains be uncovered during grading, trenching, or other on-site excavation(s), earthwork within 30 yards of these materials shall be stopped until the County coroner has had an opportunity to evaluate the significance of the human remains and determine the proper treatment and disposition of the remains. Pursuant to California Health and Safety Code Section 7050.5, if the coroner determines the remains may be those of a Native American, the coroner is responsible for contacting the Native American Heritage Commission (NAHC) by telephone within 24 hours. Pursuant to California Public Resources Code Section 5097.98, the NAHC will then determine a Most Likely Descendant (MLD) tribe and contact them. The MLD tribe has 48 hours from the time they are given access to the site to make recommendations to the land owner for treatment and disposition of the ancestor's remains. The land owner shall follow the requirements of Public Resources Code Section 5097.98 for the remains.

Construction Air Quality

11. The following Bay Area Air Quality Management District, Basic Construction Mitigation Measures shall be implemented during project construction and shall be included on all construction plans: **AIR QUALITY-1**

- a) All exposed surfaces (e.g. parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- b) All haul trucks transporting soil, sand, or other loose material off-site shall be covered.

- c) All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- d) Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at construction sites.
- e) Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
- f) Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.).
- g) Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- h) Replant vegetation in disturbed areas as quickly as possible.
- i) All vehicle speeds on unpaved roads shall be limited to 15mph.
- j) All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- k) Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- l) All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- m) Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

Construction Noise

12. The applicant shall comply with the following restrictions and requirements, which shall be stated on the face of the construction drawings: **NOI-1**

- A. 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)
Presidents' Day (State and Federal)
Cesar Chavez Day (State)
Memorial Day (State and Federal)
Juneteenth National Independence Day (Federal)
Independence Day (State and Federal)
Labor Day (State and Federal)
Columbus Day (State and Federal)
Veterans Day (State and Federal)
Thanksgiving Day (State and Federal)
Day after Thanksgiving (State)
Christmas Day (State and Federal)

For details on the actual date the state and federal holidays occur, please visit the following websites:

Federal holidays: [Federal Holidays \(opm.gov\)](https://www.opm.gov)

California holidays: [State Holidays \(sos.ca.gov\)](https://sos.ca.gov)

- B. Transportation of heavy equipment (e.g. graders, cranes, excavators, etc.) and trucks to and from the site shall be limited to weekdays between the hours of 9:00 A.M. and 4:00 P.M., and is prohibited on Federal and State Holidays. This restriction does not apply to typical material and equipment delivery or grading activities. **NOI-2**
- C. The applicant shall require their contractors and contractors to fit all internal compustion engines with mufflers which are in good condition and shall locate stationary noise-generating equipment such as air compressors as far away from existing residences as possible. **NOI-3**
- D. The applicant shall notify neighbors within 300 feet of the subject property at least one week in advance of grading and construction activities. **(NOI-4)**
- E. The applicant shall designate a noise coordinator who will be responsible for implementing the noise control measures and responding to complaints. This person's name and contact information shall be posted clearly on a sign at the project site and shall also be included in the notification to properties within 300 feet of the project site. The construction noise coordinator shall be available during all construction activities and shall maintain a log of complaints, which shall be available for review by County staff upon request. **NOI-5**
- F. Prior to the issuance of building permits, a preconstruction meeting shall be held with the job inspectors, designated construction noise coordinator, and the general contractor/onsite manager in attendance. The purpose of the meeting is to confirm that all noise mitigation measures and practices (including construction hours, neighborhood

notification, posted signs, etc.) are completed and in place prior to beginning grading or construction activities. The applicant shall provide written confirmation to CDD staff verifying the time and date that the meeting took place, and identifying those in attendance. **NOI-6**

- G. The applicant shall require their contractors and subcontractors to fit all internal combustion engines with mufflers that are in good condition and shall locate stationary noise-generating equipment such as air compressors as far away from existing residences as possible.

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. Additional requirements may be imposed by the following agencies and departments:

- Public Works Department
- Department of Conservation and Development, Grading Division
- Building Inspection Division
- Contra Costa County Fire Protection District
- Health Services Department
- Bethel Island Municipal Improvement District

The Applicant is strongly encouraged to review these agencies' requirements prior to continuing with the project.

- C. Further development of the parcel may need to comply with the latest Stormwater Management and Discharge Control Ordinance (§1014) and Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) Permit. This compliance may require a Stormwater Control Plan and an Operations and Maintenance Plan prepared in accordance with the latest edition of the Stormwater C.3 Guidebook. Compliance may also require annexation of the subject property into the Community Facilities District

2007-1 (Stormwater Management Facilities) and entering into a standard Stormwater Management Facilities Operation and Maintenance Agreement with Contra Costa County.