

FINDINGS AND CONDITIONS OF APPROVAL – COUNTY FILE CDLP23-02015; STACY HAGERSTRAND/BUILD-TEK INC. (APPLICANT) / 55 HOWE ROAD INVESTORS LLC (OWNER)

FINDINGS

A. Land Use Permit Findings

The following are required findings for the approval of a land use permit in the R-B zoning district.

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

Project Finding: The legalization of the existing contractor's yard will serve the needs of an existing retail business, Build-Tek Inc., without requiring new development or intensifying the use of the project site. The materials and equipment stored on site do not include hazardous materials or anything that will negatively impact surrounding area or the County. The use is consistent with the R-B Retail Business District as well as the Commercial General Plan designation. The project site is located in an area of unincorporated Martinez that has a variety of land uses including other retail businesses and contractor's yards as well as industrial uses. Thus, the project will be compatible with the surrounding neighborhood, and therefore, will not be detrimental to the health, safety, and general welfare of the County.

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

Project Finding: The legalization of the existing contractor's yard does not intensify the use on the project site and includes minor improvements to the existing security fence and frontage improvements in the right-of-way at the southwest corner of Pacheco Boulevard and Howe Road. The contractor's yard serves Build-Tek Inc., which has a primary storefront building across Howe Avenue to receive customers. Further, the project does not impede future use of developable land in the vicinity.

3. *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 existing contractor's yard is an allowed use within the R-B District with approval of a land use permit. The project serves the Build-Tek, Inc. retail business on the adjacent side of Howe Avenue that is a local retail business within the community. The project will not include any new development which may otherwise negatively impact surrounding properties. Thus, the project is compatible with the surrounding area and will protect property values in the local area and within the County.

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

Project Finding: The project is consistent with the applicable goals and policies of the General Plan Land Use, Transportation, and Health and Safety Elements. The project, as conditioned, meets the intent and purpose of the General Plan, while providing additional land resources for an established retail business in the community.

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

Project Finding: The project is conditioned such that use of the contractor's yard will have specific business hours to minimize any potential noise impacts to nearby residences. The project includes upgrades to the existing security fence to prevent trespassing on the project site that may otherwise create a nuisance and/or enforcement problem within the neighborhood. Further, the project will implement frontage improvements in the right-of-way, subject to review and approval by the Public Works Department. Thus, the project, as conditioned, will not create a nuisance and/or enforcement problem within the surrounding neighborhood.

6. *The proposed project as conditioned shall not encourage marginal development within the neighborhood.*

Project Finding: The legalization of the existing contractor's yard will not change the uses on the project site, or land uses in the vicinity. Legalizing the contractor's yard does not require additional fire or police protection service nor additional water or sewer service to the project site. The area immediately around the Build-Tek Inc. contractor's yard has been developed with retail business, industrial, and residential land uses, and the project will not change these uses.

7. *That special conditions or unique characteristics of the project site and its location or surroundings are established.*

Project Finding: Based on staff review of historical orthophotography, the site has been used as a contractor's yard since at least 2002, and has never been developed for other land uses prior to that date. The project site is located within an area of the unincorporated County that is adjacent to the City of Martinez to the east and north and includes a variety of land uses including residential, commercial, and industrial zoning designations. The project has been reviewed by the Public Works Department and is required to implement roadway and site access improvements and limit access onto the project site, which has three street frontages. Except for the minor project improvements, there will be no change to the Build-Tek Inc. property. The project does not impede future use of the property. Approval of the legalization of the existing contractor's yard facilitates the operation of the Build-Tek Inc. retail business, without creating an adverse impact on the surrounding neighborhood.

B. Development Plan Findings

In approving a development plan in an R-B Retail Business District, findings are required that the project is consistent with the intent and purpose of the R-B District and is compatible with other uses in the vicinity, both inside and outside the district.

Project Findings: The purpose of the R-B District is to allow for a wide range of uses oriented primarily towards retail businesses and single and two-family residential districts with the flexibility to be compatible with other intensive land uses including but not limited to some light industrial, storage and multi-family residential development. The project includes the legalization of an existing contractor's yard which was previously established some time prior to 2002. The project site already has established ingress and egress for equipment and vehicle storage as well as security fencing; however, alterations to the access points are proposed, as well as installation of a new pedestrian only access and frontage improvements within the County right-of-way. The contractor's yard will serve an existing retail business, Build-Tek Inc. without requiring any expansion of storage or parking that will otherwise intensify the use of the project site. Thus, the project is consistent with the intent and purpose of the R-B District.

As conditioned, the project site will be limited in hours of use. Also, no exterior lighting is included with the project that will otherwise negatively impact the surrounding

residences adjacent to the lot. The minor project improvements include updated security fencing and site access, and right-of-way frontage improvements. Neither the legalization of the existing contractor's yard nor the minor project improvements intensify the use beyond what is allowed in the R-B District. Thus, the project will be compatible with other uses in the vicinity.

C. Environmental Findings

Land Use Permit / Development Plan CDLP20-02048 is categorically exempt under CEQA Guidelines Section 15301, which provides a Class 1 exemption for existing facilities involving negligible or no expansion. There is no substantial evidence that the project involves unusual circumstances, including future activities, resulting in, or which might reasonably result in, significant impacts which threaten the environment. None of the exceptions in CEQA guidelines section 15300.2 apply.

CONDITIONS OF APPROVAL FOR COUNTY FILE CDLP20-02048

Project Approval

1. Land Use Permit / Development Plan CDLP20-02048 to legalize an existing contractor's yard for the storage of construction equipment, with minor project improvements, including modifications to the existing security fence and frontage improvements located in the right-of-way at the southwest corner of Pacheco Boulevard and Howe Road, is APPROVED.
2. The Land Use Permit / Development Plan approval described above is based on:
 - Project application materials and plans accepted by the Department of Conservation and Development, Community Development Division (CDD) on October 15, 2020.
 - Additional materials received on August 22, 2023.
 - Additional plans received on May 7, 2024 and June 4, 2024.
3. Any change from the approved plans shall require review and approval by the CDD and may require the filing of an application to modify this Land Use Permit / Development Plan.

Application Costs

4. This application is subject to an initial application deposit of \$11,000.00, which was paid with the application submittal, plus time and material costs if the application review expenses exceed 100% of the initial deposit. **Any additional costs due must be paid within 60 days of the permit effective date or prior to use of the 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 the applicant owes additional fees, a bill will be sent to the applicant shortly after permit issuance.

Building Permits

5. No construction is approved with this permit. Any construction at the project site will require issuance of building permits from the Department of Conservation and Development, Building Inspection Division, prior to commencement of work.

Operating Hours

6. Operation of the contractor's yard is limited to 8:00 AM to 5:00 PM Monday through Friday, and from 8:00 AM to 12:00 PM on Saturday.

Lighting

7. No lighting is approved with this permit.

Signage

8. No signage is approved with this permit.

Security Fence

9. **Within 90 days of the effective date of this permit.** color photographs showing the condition of the security fence shall be submitted for review by the CDD.

Construction Restrictions

All future construction activity shall comply with the following restrictions, which shall be included in the construction drawings.

10. The applicant shall make a good faith effort to minimize project-related disruptions to adjacent properties, and to uses on the site. This shall be communicated to all project-related contractors.
11. The applicant 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 as far away from existing residences as possible.
12. The site shall be maintained in an orderly fashion. Following the cessation of construction activity, all construction debris shall be removed from the site.
13. A publicly visible sign shall be posted on the property with the telephone number and person to contact regarding construction-related complaints. This person shall respond and take corrective action within 24 hours. The CDD phone number shall also be visible to ensure compliance with applicable regulations.
14. Large trucks and heavy equipment are subject to the same restrictions that are imposed on construction activities, except that the hours are limited to 9:00 AM to 4:00 PM.
15. 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 specific 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/policy-data-oversight/holidays-leave/federal-holidays/)

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

PUBLIC WORKS CONDITIONS OF APPROVAL FOR PERMIT CDLP20-02048

The applicant shall comply with the following conditions of approval **prior to issuance of a building permit or encroachment permit under this permit.**

General Requirements

16. 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 relative to review 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.
17. Improvement plans prepared by a registered civil engineer shall be submitted, if necessary, to the Public Works Department, Engineering Services Division, along with review and inspection fees, and security for all improvements required by the Ordinance Code for the conditions of approval of this development. Any necessary

traffic signing and striping shall be included in the improvement plans for review by the Transportation Engineering Division of the Public Works Department.

Roadway Improvements (Pacheco Boulevard Frontage)

18. The applicant shall reconstruct the curb return and ramp at the southwest corner of Pacheco Boulevard and Howe Road to comply with the current Americans with Disabilities Act (ADA) standards.
19. Any cracked and displaced curb, gutter, and sidewalk shall be removed and replaced along the project frontage of Pacheco Boulevard. Concrete shall be saw-cut prior to removal. Existing lines and grade shall be maintained. New curb and gutter shall be doveled into existing improvements.

Site Access and Improvements

20. The applicant shall provide sight distance at all public street intersections, as well as the intersection of the private driveway with Catalpa Street in accordance with Chapter 82-18 "Sight Obstructions at Intersections" of the County Ordinance Code. The applicant shall trim vegetation, as necessary, to provide sight distance at this intersection, and any new signage, landscaping, fencing, retaining walls, or other obstructions proposed at this intersection shall be setback to ensure that the sight line is clear of any obstructions.
21. The applicant shall only be permitted access at the locations shown on the approved site/development plan.
22. The applicant shall locate vehicular entrance gates a minimum of 20 feet from the edge of pavement to allow vehicles to queue without obstructing through traffic. As an alternative, the gate can remain at its current location provided it is modified as a remote-controlled motorized sliding gate.
23. The applicant shall pave the first 20 feet of the driveway measured from the existing edge of pavement of Catalpa Street to allow vehicles to pull completely off the roadway and still remain on a paved surface, and to prevent dust, gravel, and debris from spilling on to Catalpa Street.

Encroachment Permits

24. The applicant shall obtain an encroachment permit from the Public Works Department for construction of driveways or other improvements within the right-of-way of Pacheco Boulevard and Catalpa Street.
25. The applicant shall obtain an encroachment permit from the City of Martinez for construction within the right-of-way of Howe Road.

Road Dedications

26. Property owner(s) shall convey to the County, by Offer of Dedication, 5 feet of additional right-of-way along the property frontage of Catalpa Street.
27. If necessary, adequate right-of-way shall be dedicated to the County at the Pacheco Boulevard/Howe Road curb returns to accommodate the ramp, sidewalk and a minimum 4-foot landing on top of said curb ramp.

Drainage Improvements

Collect and Convey

28. 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 nearest public drainage facility is the existing storm drain inlet in Pacheco Boulevard at Howe Road.

Miscellaneous Drainage Requirements

29. The applicant shall design and construct all storm drainage facilities in compliance with the Ordinance Code and Public Works Department design standards.
30. The applicant shall prevent storm drainage from draining across the sidewalk(s) and driveway(s) in a concentrated manner.

National Pollutant Discharge Elimination System (NPDES)

31. 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 (San Francisco Bay - Region II).

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:

- Minimize the amount of directly connected impervious surface area.
- Install approved full trash capture devices on all catch basins (excluding catch basins within bioretention basins) as reviewed and approved by Public Works Department. Trash capture devices shall meet the requirements of the County's NPDES permits.
- Place advisory warnings on all catch basins and storm drains using current storm drain markers.
- Shallow roadside and on-site swales.
- Filtering Inlets.
- Trash bins and storage containers shall be sealed to prevent leakage OR shall be located within a covered enclosure.
- Provide a secondary containment system for the above ground storage containers.
- Develop a spills program for on-site fuel or materials handling and submit the plan to the Contra Costa County Clean Water Program for review and approval.
- Other alternatives comparable to the above as approved by the Public Works Department.

Area of Benefit Fee Ordinance

32. The applicant shall comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the Central Contra Costa Area of Benefit as adopted by the Board of Supervisors prior to initiation of the use.

Drainage Area Fee Ordinance

33. The applicant shall comply with the drainage fee requirements for Drainage Area 40A as adopted by the Board of Supervisors prior to initiation of the use requested with this application.

ADVISORY NOTES

PLEASE NOTE ADVISORY NOTES ARE ATTACHED TO THE CONDITIONS OF APPROVAL BUT ARE NOT A PART OF THE CONDITIONS OF APPROVAL. ADVISORY NOTES ARE PROVIDED FOR THE PURPOSE OF INFORMING THE APPLICANT OF ADDITIONAL ORDINANCE AND OTHER LEGAL REQUIREMENTS THAT MUST BE MET IN ORDER TO PROCEED WITH DEVELOPMENT.

A. NOTICE OF 90-DAY OPPORTUNITY TO PROTEST FEES, DEDICATIONS, RESERVATIONS, OR OTHER EXACTIONS PERTAINING TO THE APPROVAL OF THIS PERMIT.

This notice is intended to advise the applicant that pursuant to Government Code Section 66000, et. Seq, the applicant has the opportunity to protest fees, dedications, reservations, and/or exactions required as part of this project approval. The opportunity to protest is limited to a ninety-day (90) period after the project is approved.

The 90-day period in which you may protest the amount of any fee or imposition of any dedication, reservation, or other exaction required by this approved permit, begins on the date this permit was approved. To be valid, a protest must be in writing pursuant to Government Code Section 66020 and delivered to the CDD within 90 days of the approval date of this permit.

- 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:
- Department of Conservation and Development, Building Inspection Division
 - Mountain View Sanitary District
 - City of Martinez Water District

- Contra Costa County Fire Protection District
 - Contra Costa Mosquito and Vector Control District
- 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 project site 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.