



**Oakley City
Planning Commission
Staff Report**

**CONDITIONAL USE PERMIT – 45 E. Boulderville Road
Applicant: Daniel Chavez**

To: Oakley City Planning Commission
From: Stephanie Woolstenhulme, City Planner
Report Date: July 7, 2021
Date of Meeting: August 4, 2021
Type of Item: Conditional Use Permit – Public Hearing, Possible Action
Process: Administrative Review

RECOMMENDATION: Staff recommends that the Planning Commission hold a public hearing, review and deny the Conditional Use Permit according to the findings of fact, conclusions of law and any condition set forth by the Commission.

PROJECT DESCRIPTION

Project Name: Chavez CUP
Applicant(s): Daniel Chavez
Property Owner(s): Daniel Chavez
Location: 45 E. Boulderville Road
Parcel Number(s): SBJAC-A-AM
Size: 1.14 acres
Zone District: A-5 (1 unit of density per 5)
Adjacent Land Uses: Residential/Agricultural
Existing Uses: Residential; Commercial uses have been ongoing, but not pursuant to a CUP nor in compliance with Home Occupation Ordinances
Public Hearing: Public notice was given for a public hearing at this Planning Commission meeting

APPLICANT PROPOSAL:

See attached: proposed “Formal Plan” by applicant. Key issues raised by the application:

1. Applicant recognizes use of property creates undue noise, dust, debris, odors, and other nuisances. Suggests expansion of accessory shed to park vehicles and putting up a fence to screen vehicles and equipment.
2. Applicant states that employees briefly visit the property two times per week to pick up and drop off trucks, but no customers visit. City has received complaints from neighbors regarding truck idling and employee visits.

FINDINGS OF FACT

1. Parcel is zoned Agricultural 5.
2. Oakley City Code 13.4.19 – Potentially allows “contractor’s yard and material storage areas,” with some equipment/vehicles, as a conditional use within the Agricultural zone.

Permitted Uses	C R -2	C R -3	C R -4	R R -1	R R -2	A R -5	A R -10	A R -20	A R -40	A F	C	L M	V M	PF	Additional Reference
Contractor's yard and material storage areas				C	C	C	C	C	C	C	C	C			Screening specified in CUP. See 13-9-22
Contractors storage of one piece of light equipment.	L	L	L	L	L	L	L	L	L	L	L				See 13-9-22
Contractors storage of 2 or more trucks, heavy and light equipment, including trailers				C	C	C	C	C	C	C	C	L			See 13-9-22

3. Oakley City Code Appendix A: Definitions

HOME OCCUPATIONS: Those occupations or professions which may be conducted within a dwelling unit or on the premises thereof and is clearly incidental and secondary to the use of the dwelling unit for residential purposes.

4. **Oakley City Code 13.9.22.D. Parking and Vehicular Storage.** Vehicles and equipment associated with any type of permanent construction or contracting business which do not meet the limits and requirements of 13.4.19 of this Title, must receive and maintain a valid conditional use permit for such parking and storage. Limits on sizes, noise, types of equipment, quantity of equipment, storage of materials, and the proper provision of off-street parking and screening may be part of any conditional use permit.

CONCLUSIONS OF LAW

1. Per state law, the Planning Commission “shall approve a conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.” Full elimination of all detrimental impacts generally cannot be required, so long as the impact can be substantially mitigated through reasonable conditions.
2. Planning Commission must find that neither the public nor person are materially injured by the proposed subdivision.

CITY PLANNER COMMENTS

1. Due to fact that the primary use of the majority of the land is for commercial purposes, and the use of the property exceeds that allowed by a home occupation, this business would not be considered a home occupation
2. Per the definition of Contractor’s Yard in Oakley Land Management and Development Code “**CONTRACTOR’S YARD:** *Any land or buildings used primarily for the storage of equipment, vehicles, machinery (new or used), building materials, paints, pipe, or electrical components used by the owner or occupant of the premises in the conduct of any building trades or building craft,*” the requested land use is an allowable use with a Conditional Use Permit.
3. Potential impacts and conditions to mitigate the impacts to neighbors and surrounding areas are listed below.

ITEMS OF CONSIDERATION/POSSIBLE CONDITIONS OF APPROVAL CONDITIONS OF APPROVAL

IMPACT: Traffic. Traffic should not exceed that which would normally be expected in the area in which this business is located. Also, traffic, including deliveries, should not impede traffic on Oakley City roadways or impede emergency vehicular traffic.

IMPACT: Parking. There appears to be sufficient parking space, but no hard surfaces, which can lead to dust. City Code 10.07.020 requires certain parking for industrial, manufacturing, and wholesale establishments: “One (1) parking space for each two (2) employees working on the highest employment shift, or one (1) parking space for each two hundred (200) square feet of the total floor area in the building or structure, whichever requirement is greater.” City Code 10.07.040 states, among other requirements, that parking areas must be an asphalt or concrete surface.

IMPACT: Dust, fumes, and Noise. There should be minimal dust, odor, fumes, noise, light and other similar impacts that are not customary

to the intended use of the zone. Each nuisance should be individually addressed. Hours of operation discussed. No idle requirement. Staggered deployment of vehicles from property. While the applicant states that employees briefly visit the property just to pick up or drop off trucks, the City has received complaints regarding idling vehicles and related impacts (noise, pollution, smells, etc.). Oakley City Code 8.07.030 states that sources of pollution and other conditions that are deleterious to surroundings should be prohibited, and City Code 10.05.010 generally prohibits idling vehicles.

IMPACT: View of stored materials. Screening should be required of all stored materials including all listed above in definition of Contractor's Yard. Discussion as to what screening material is appropriate and the use of a barn for storage of vehicles. Any new building requires a building permit. No storage of items on the exterior of the screening material.

IMPACT: Unused materials, dead trees, trailers of garbage and debris.

IMPACT: Exterior Advertising. No exterior advertising beyond the markings on the business vehicles and trailers.

The Planning Commission is empowered to require additional and reasonable improvements to mitigate any detrimental effects to surrounding property and residents and to safeguard the general welfare of the future inhabitants of the subdivision. In making its decision, the Planning Commission should identify the specific conditions of approval and what impacts those conditions are addressing. The Planning Commission can approve the CUP subject to the conditions described above, or can impose different or more reasonable conditions, based on evidence of impact and objective standards.