

CITY OF ALAMEDA RESOLUTION NO. _____

APPROVING A USE PERMIT TO ALLOW OUTDOOR RESEARCH AND DEVELOPMENT, AND OUTDOOR STORAGE, AND DESIGN REVIEW FOR AN APPROXIMATELY TWENTY-FIVE FOOT TALL, 5,500 SQUARE FOOT HYDRAULIC TEST FACILITY ON THE NORTH SIDE OF BUILDING 23 AT 2401 MONARCH STREET.

WHEREAS, an application was made on February 12, 2024 by Gregor Cadman on behalf of Natel Energy for a Use Permit and Design Review to allow outdoor research and development, outdoor storage and construct an approximately twenty-five foot tall, 5,500 square foot hydraulic test facility at 2401 Monarch Street; and

WHEREAS, the application was deemed complete on April 4th, 2024; and

WHEREAS, the subject property is designated as Mixed Use in the General Plan; and

WHEREAS, the subject property is located in the AP-AR, Alameda Point – Adaptive Reuse Zoning District; and

WHEREAS, the Planning Board held a duly noticed public hearing for the project on April 22, 2024 and examined pertinent maps, drawings, and documents; and

WHEREAS, the Planning Board unanimously approved Resolution No. PB-24-07 Natel’s application for a Use Permit and Design Review; and

WHEREAS, on May 2, 2024, Councilmembers Herrera Spencer and Daysog filed a Call for Review of the Planning Board’s decision to approve the Use Permit and Design Review; and

WHEREAS, after giving due notice to the applicant, all interested parties, and the public, the Call for Review was considered by the City Council at a public hearing on June 4, 2024; and

WHEREAS, the applicant, supporters of the application, those opposed to the application and interested neutral parties were given the opportunity to participate in the public hearing; and

WHEREAS, the City Council held a de novo public hearing on June 4, 2024, on the application for Use Permit and Design Review at which time the City Council considered the entirety of the record, including all submitted materials and public comments regarding the application; and

WHEREAS, the City Council considered the Call for Review, the public testimony, and all pertinent maps and reports and evidence in the record as a whole, and made

findings to approve Use Permit and Design Review application PLN24-0059 as set forth below.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Alameda that the City Council finds this project categorically exempt from environmental review pursuant to CEQA Guidelines Sections 15301(a) and (e)(2) –Existing Facilities-- in that the outdoor equipment is functionally equivalent to utility equipment, the addition will not exceed 10,000 square feet, the equipment is not located in an environmentally sensitive area and addition of the equipment involves a negligible expansion of use; 15303 (d) – New Construction or Replacement of Small Structures-- in that the proposed equipment is functionally equivalent to new water, sewage, electrical infrastructure; and 15332 – Infill Development—in that **(a)** The project is consistent with the applicable general plan designation and policies as well as with applicable zoning designation and regulations as described in the staff report; **(b)** The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; **(c)** The project site has no value as habitat for endangered, rare or threatened species given the conformance with the Biological Opinion; **(d)** Approval of the project would not result in any *significant* effects relating to traffic, noise, air quality, or water quality; **(e)** The site can be adequately served by all required utilities and public services given its current use. The Council further finds that none of the exceptions to the categorical exemptions apply; and

BE IT FURTHER RESOLVED, as a separate and independent basis, the project is also exempt from CEQA pursuant to the streamlining provision of Public Resources Code Section 21083.3 and Section 15183 of the CEQA Guidelines; no further environmental review is required because the project is consistent with the adopted zoning for the area, the impacts of which were considered in the Alameda Point Project (APP) Final Environmental Impact Report (FEIR) adopted by the City Council on February 4, 2014; and

BE IT FURTHER RESOLVED, that the City Council makes the following findings relative to the Use Permit application (AMC Sections 30-21.3):

- 1. The location of the proposed use is compatible with other land uses in the general neighborhood area, and the project design and size is architecturally, aesthetically, and operationally harmonious with the community and surrounding development.** As conditioned, the proposed outdoor hydraulic test facility and associated outdoor research and development, and outdoor storage uses are compatible with the wide variety of commercial and business uses found at Alameda Point in the NAS Alameda Historic District. The Use Permit is conditioned to minimize clutter and maximize vistas toward San Francisco Bay from Monarch Street and ensure the proposed use is harmonious with the surrounding development.
- 2. The proposed use will be served by adequate transportation and service facilities including pedestrian, bicycle, and transit facilities.** The facility is located on Monarch Street, classified as a Business Commercial Street in the General Plan, with no barriers to access. AC Transit's line 96 serves Alameda Point and stops across

the street. The site has ample off-street parking available and easy access. Therefore, the proposed use is served by adequate transportation and service facilities, including pedestrian, bicycle, and transit facilities.

3. **The proposed use, if it complies with all conditions upon which approval is made contingent, will not adversely affect other property in the vicinity and will not have substantial deleterious effects on existing business districts or the local economy.** The proposed outdoor hydraulic test facility and associated outdoor research and development, and outdoor storage uses are critical to the ongoing success and expansion of Natel Energy. As conditioned, the use will not adversely affect other property in the vicinity. As an Alameda-born anchor tenant at Alameda Point, Natel Energy's success will continue to demonstrate that Alameda Point is a hub of innovative, clean energy and other climate-friendly technology companies which will have beneficial effects on businesses in the area by bringing high paying jobs and new employees to the area daily that will patronize local businesses.
4. **The proposed use relates favorably to the General Plan and the purpose of the Alameda Point Zoning District.** Approving this use is consistent with Alameda General Plan goals and policies. General Plan policy LU-13, Green Economy, calls for promoting a green economy. Natel's fish-friendly hydropower turbines help create zero-emission electricity while protecting migratory fish. The proposed use furthers General Plan policy LU-21, Alameda Point Adaptive Reuse Sub-District, by supporting preservation and investment in the NAS Alameda Historic District; and,

BE IT FURTHER RESOLVED, that the City Council makes the following findings relative to the Design Review application (AMC Section 30-37.5):

5. **The proposed design is consistent with the General Plan, Zoning Ordinance, and the City of Alameda Design Review Manual.** The proposed hydraulic test facility and ancillary equipment are consistent with the General Plan. The project furthers General Plan policy LU-13, which calls for promoting a green economy. Natel's fish-friendly hydropower turbines help create zero-emission electricity while protecting migratory fish. The project also furthers General Plan policy LU-21, Alameda Point Adaptive Reuse Sub-District, by supporting preservation and investment in the NAS Alameda Historic District. The project is consistent with the Alameda Point Zoning District, and meets the criteria in Alameda Municipal Code (AMC) Section 30-4.24.b. The hydraulic test platform is equipment that supports the research and development use at the site. The equipment requires a building permit for life safety purposes and is therefore subject to Design Review. However, the Citywide Design Review Manual does not contemplate or provide guidance for this type of structure. No modifications to Building 23 are proposed as part of this project and the improvements constructed as part of the test facility can be easily removed in the future if the use changes.
6. **The proposed design is appropriate for the site, is compatible with adjacent or neighboring buildings or surroundings, and promotes harmonious transitions in scale and character in areas between different designated land uses.** Building 23 is a contributing structure to the NAS Alameda Historic District and no modifications

to the hangar are proposed as part of this project. The design of the hydraulic test facility is appropriate for the site. It is located and designed to minimize visual impacts, including minimizing outdoor storage and locating as much equipment as feasible adjacent to the hangar doors of Building 23 to maximize views towards San Francisco Bay from the public right of way. The scale of the equipment is similar to other light industrial and research and development users at Alameda Point as well as with the historic use of the site as an active naval air station. The property is required to maintain an access easement along the northern property line where no structures or equipment can be located, preserving visual access to San Francisco Bay indefinitely.

7. **The proposed design of the structure(s) and exterior materials and landscaping are visually compatible with the surrounding development, and design elements have been incorporated to ensure the compatibility of the structure with the character and uses of adjacent development.** The proposed structures are consistent with the surrounding development, which includes a row of former aircraft hangars that served as maintenance, repair, storage and test facilities at the former NAS Alameda; and,

BE IT FURTHER RESOLVED, that the City Council approves Use Permit and Design Review application PLN24-0059 to establish a Use Permit to allow outdoor research and development, and outdoor storage, and approve Design Review for an approximately twenty-five foot tall, 5,500 square foot hydraulic test facility on the north side of the building 23 at 2401 Monarch Street, subject to the following conditions:

1. Approved Uses: This Use Permit approves, with conditions, outdoor storage and outdoor research and development associated with the proposed hydraulic test facility as shown in the attached plans, dated 4/3/24 and on file with the Planning, Building and Transportation Department. The hydraulic test facility consists of:
 - a. Recirculating Aquaculture System to hold various fish species.
 - b. Small Scale Hydraulic Test Facility (“Miniloop”) with modified shipping container, reservoir, pump, turbine, piping and controls infrastructure.
 - c. Large Scale Hydraulic Test Facility (“Big Loop”) with multiple 20,000+ gallon reservoirs, pumps, turbines, piping, and controls infrastructure.
 - d. Water Storage Tanks.
 - e. Compressor Storage Container with sound dampening materials.
2. Building Permit Conditions: These conditions shall be printed on the first page of all building plans and improvement plans.
3. Changes to Approved Plans: This approval is limited to the scope of the project defined in the project description and does not represent a recognition and/or approval of any work completed without required City permits. Any changes to the approved

scope of the project shall be submitted to the Planning, Building and Transportation Department for review and approval.

4. Biological Opinion: Applicant/owner shall comply with the Biological Opinion issued by U.S. Fish and Wildlife to protect the endangered least tern colony, including:
 - a. No new structures greater than 4 feet in height shall be constructed in “Zone 1,” as defined by the Biological Opinion, which includes areas on the property to the west and south of Building 23.
 - b. In Zone 2, as defined by the Biological Opinion, which includes the operational area on the north side of Building 23, anti-perching devices shall be used on structures and permanently installed equipment over 20 feet tall and within line of sight of the existing least tern colony.
 - c. During the least tern breeding season (April 1 to August 15), operation of the test equipment may not result in an increase in the ambient noise level at the least tern colony by more than 10 percent over the baseline established in the most recent least tern monitoring and management report (55 decibels in March 2009).
5. View Maximization: Owner/applicant shall not place any permanent structures or permanent storage containers, including but not limited to shipping containers or water tanks, in the northeast corner of Area 5 in the Lot Use Area Diagram included in the attached plans. Such area shall be defined as the area between the existing fence line on the north side of the property and a parallel line 30 feet from the north wall of Building 23 and within 50 feet of the front (east) fence line. This area can still be used for short-term staging of materials, parking, staging of waste collection containers and other temporary uses for up to seven (7) days per instance. To the maximum extent possible, owner/applicant should utilize the areas on the western portion of the site for staging of materials and other short-term uses to maximize views from Monarch Street.
6. Streetscape Maintenance: Owner/applicant shall maintain a clean and tidy operations yard, free of trash and debris, especially within 50 feet of the building frontage/front fence line to present an attractive streetscape that invites passersby to enjoy the views of the intricate testing equipment on site and the views beyond.
7. Noise: Operations shall comply with the Alameda Noise Ordinance (AMC Section 4-10) and the maximum allowable noise levels in Section 4-10.4.b.
8. Lighting: No new permanent exterior lighting may be installed without prior ministerial approval of the Planning Director to ensure compliance with the Dark Sky Ordinance and the Biological Opinion.
9. Fire Lane: Owner/applicant shall stripe an Aerial Fire Apparatus Access Road on the south side of Building 23 with a minimum unobstructed width of 26 feet parallel to the entire side of the building not less than 15 feet and not greater than 30 feet from the building to the satisfaction of the Fire Marshal.

10. Drainage:

- a. The applicant shall be responsible to maintain access to and function of existing storm drain lines that run onto and/or through the applicant's property.
- b. Stormwater shall be dispersed, diffused, detained, or otherwise infiltrated on-site to the extent feasible. Downspouts shall not be directly connected to public or private storm drain facilities. Stormwater, including roof drainage, shall not be directed across sidewalks or driveways.

11. Stormwater Quality Protection and Treatment:

- a. Prior to use of the newly permitted facility, Natel shall self-assess the applicability of the State's General Industrial Stormwater Permit to the Natel facility operations at 2401 Monarch Street. https://www.waterboards.ca.gov/water_issues/programs/stormwater/industrial.html.
- b. Prior to use of the newly permitted facility, provide City of Alameda Public Works (PW) Engineering and Clean Water staff with
 - i. Natel's Standard Industrial Classification (SIC) code for the 2401 Monarch facility and
 - ii. Written verification of the results of the self-assessment, as above, and the applicability of the State General Industrial Stormwater Permit to the Natel operations.
- c. Prior to the use of the newly permitted facility, provide City of Alameda PW Engineering and Clean Water staff with a copy of:
 - i. If the site is subject to a State General Industrial Stormwater Permit, provide both the Natel WDID# and SWPPP, prepared in compliance with the application requirements of the State General Industrial Stormwater Permit.
 - ii. The SWPPP or a revised Natel "Spill, Leak and Water Management Plan" that presents and discusses comprehensive operational practices, procedures, and equipment to effectively prevent and contain all potential discharges or the release of any water, waste water, and/or other materials from the operations and/or maintenance of Permit-subject facility to the pavement onsite or offsite or to the local storm drain inlets in the vicinity of the Natel facility.
 - 1. A spill response plan, including a possible containment system or response team and procedures to contain large spills on site.
 - 2. Required maintenance of all systems to prevent leaks and spills, including scheduled inspections, oversight and staff training.

3. Standard procedure should not include discharging water to the ground for evaporation. Discharging commercial/industrial water/wastewater/and waste to the ground or to the City's storm drainage system, including streets, curbs and gutters and storm drain inlet is prohibited.
- d. During the project installation phase, applicant shall incorporate appropriate means and methods to prevent the discharge of any pollutant sources that may impact stormwater or enter the City's storm drainage system.
- e. The Applicant shall obtain all necessary permits from other regulatory agencies for projects within sensitive areas or which have significant stormwater pollution potential. Other regulatory agencies include, but are not limited to, the Regional Water Quality Control Board, Department of Fish and Wildlife, Army Corps of Engineers, and the Bay Conservation and Development Commission.

12. Sewer and Water:

- a. Sanitary sewerage shall be in accordance with the EBMUD Regional Standards for Sanitary Sewer Installation. All permits, easements, and/or approvals for modifications to the sewer system required by EBMUD shall be obtained prior to issuance of any building permits by the City.
- b. Existing Sewer: The applicant/developer shall be responsible to maintain access and utility services to the existing buildings within Alameda Point to the satisfaction of the Deputy Public Works Director.
- c. The Applicant shall secure all necessary permit approvals from EBMUD regarding the installation of all water service for the project or discharge of wastewater.

13. Solid Waste:

- a. Driveways or aisles shall provide unobstructed access for collection vehicles and personnel and provide at least the minimum clearance required by the collection methods and vehicles used by the City's designated collector or hauler. In all cases where a parcel is served by an alley, all exterior storage areas shall be directly accessible to the alley. For safety reasons, a turnaround must be provided for any street that would otherwise require the collection truck to back up a distance greater than 150 feet.
- b. The storage area(s) and the individual bins and containers provided within shall be adequate in capacity, number and distribution to serve the anticipated demand as determined by the Public Works Director.
- c. A sign clearly identifying each exterior solid waste and recyclable and organic material storage area and the accepted material(s) is required. Each sign shall not exceed two square feet in area and shall be posted on the exterior of the storage area adjacent to all access points.

- 14. Expiration: The Use Permit shall expire two (2) years, and Design Review approval shall expire three (3) years, after the date of approval unless authorized construction or use of the property has commenced. A one-time extension for an additional two years may be granted by the Planning, Building and Transportation Director upon written request and payment of applicable fees.

- 15. Revocation: This Use Permit may be modified or revoked by the Zoning Administrator, pursuant to Alameda Municipal Code Section 30-21.3d should the Zoning Administrator determine that: 1) the use or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity; 2) the property is operated or maintained so as to constitute a public nuisance; or 3) the use is operated in violation of the conditions of the Use Permit.

HOLD HARMLESS. To the maximum extent permitted by law, the applicant (or its successor in interest) shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Alameda, its City Council, City Planning Board, officials, employees, agents and volunteers (collectively, "Indemnitees") from and against any and all claims, actions, or proceedings against Indemnitees to attack, set aside, void or annul an approval by Indemnitees relating to this project. This indemnification shall include, but is not limited to, all damages, losses, and expenses (including, without limitation, legal costs and attorney's fees) that may be awarded to the prevailing party arising out of or in connection with an approval by the Indemnitees relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate in the defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding and the applicant (or its successor in interest) shall reimburse the City for its reasonable legal costs and attorneys' fees.

NOTICE. No judicial proceedings subject to review pursuant to California Code of Civil Procedure Section 1094.5 may be prosecuted more than ninety (90) days following the date of this decision plus extensions authorized by California Code of Civil Procedure Section 1094.6.

NOTICE. The conditions of project approval set forth herein include certain fees and other exactions. Pursuant to Government Code section 66020(d) (1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations and exactions. The Applicant is hereby further notified that the 90-day appeal period, in which the Applicant may protest these fees and other exactions, pursuant to Government Code section 66020(a) has begun. If the Applicant fails to file a protest within this 90-day period complying with all requirements of section 66020, the Applicant will be legally barred from later challenging such fees or exactions.

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Council of the City of Alameda in a regular meeting assembled on the 4th day of June 2024, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the seal of said City this 5th day of June 2024.

Lara Weisiger, City Clerk
City of Alameda

APPROVED AS TO FORM:

Yibin Shen, City Attorney
City of Alameda