

PLANNING COMMISSION

CASE NUMBER: PHG 12-0012

APPLICANT: Advanced Chemical Transport (ACT)

LOCATION: 665 and 667 Opper Street (228-420-19 and -20)

TYPE OF PROJECT: Conditional Use Permit

PROJECT DESCRIPTION: A Conditional Use Permit to allow the truck-to-truck transfer of regulated hazardous and bio-hazardous waste for Advanced Chemical Transport (ACT) within a paved area of an industrial-zoned parcel.

STAFF RECOMMENDATION: Approval

GENERAL PLAN DESIGNATION/TIER: Light Industrial (LI)

ZONING: M-1 (Light Industrial)

BACKGROUND/SUMMARY OF ISSUES:

Advanced Chemical Transport (ACT) is an environmental service provider specializing in the management and transportation of laboratory and industrial non-hazardous, hazardous and bio-hazardous waste. ACT customers generally consist of pharmaceutical, biotechnology, hospitals, universities, schools, manufacturers and local agencies. The majority of ACT's services are performed at the customer's location. ACT's services include providing clients with Department of Transportation (DOT) United Nations (UN) approved shipping containers and packaging materials; health and safety supplies; environmental health and safety consulting services; compliance training; on-site waste management and technical services; environmental project management; emergency spill response; and waste transportation. ACT currently is registered by the Department of Toxic Substance Control as a Hazardous Waste Transporter. ACT has a staff of DOT, RCRA, CA Title 22, OSHA, CHP trained and managed technicians/drivers that operate small bobtail box vans that provide on-site services and pick up sealed containerized waste materials packaged for transportation at the customer's location. These bobtail vans return to the ACT yard and transfer the sealed waste materials to 53' long-haul Box Van trailers for shipment to licensed Treatment, Storage and Disposal Facilities (TSDFs). In accordance with the requirements set forth for transporters of waste materials by the California Department of Public Health (CDPH) and Department of Toxic Substances Control (DTSC), ACT is not authorized or permitted to open, use, generate, process, produce, repackage, treat, store, emit, discharge or directly handle any of the containerized waste materials they pick up and transport from their customers to the TSDFs. Escondido currently does not have any hazardous waste treatment/disposal (TSDF) or medical waste treatment facilities.

ACT currently has been operating a hazardous waste transfer facility at its 1.69-acre Escondido location at 2213 Meyers Avenue for the past several years pursuant to an approved Conditional Use Permit (City File No. 2007-41-CUP). The State Department of Toxic Substance Control (DTSC) recently determined that ACT would need to move some of their permitted operations (truck-to-truck) transfer of hazardous waste to a new location in order to maintain a minimum distance of 500 feet from any residential or other sensitive uses as required by Section 25123.3 of the California Health and Safety Code. There are residential homes located approximately 80 feet south of the Meyers property within the County across Country Club Drive. ACT indicated this provision of the Health and Safety Code was in effect when the CUP for the Meyers Avenue site was granted. However, this issue was not identified at that time and was not identified during any subsequent interactions with DTSC until recently. ACT has ceased all hazardous waste transfer activities at the Meyers Avenue location, and as an interim measure has relocated these activities to a location in an unincorporated area of the county.

As a longer-term solution, ACT has submitted a request to use (lease) an approximately 8,710 SF paved portion of an industrial-zoned property located on Opper Street to continue to facilitate their truck-to-truck transfer operations. The Opper Street site is located more than 500 feet residential properties and would meet all other DTSC site

requirements. Packaged materials are not allowed to come in contact with the ground or to be stored with the building or within open areas. The packaged materials would be stored within the enclosed transfer trucks/trailers staged on the site until ready to ship to a licensed TSD. Hazardous materials cannot be stored on the site for more than ten days in accordance with State requirements for this type of transfer facility. All other ACT related business and transfer-related activities would continue to be conducted at their existing facility located on Meyers Avenue, including the transfer of biohazardous-medical type and universal waste (batteries, lamps, etc.).

Staff feels the issues are as follows:

1. Whether the site is appropriate for a hazardous and medical waste transfer/distribution facility.

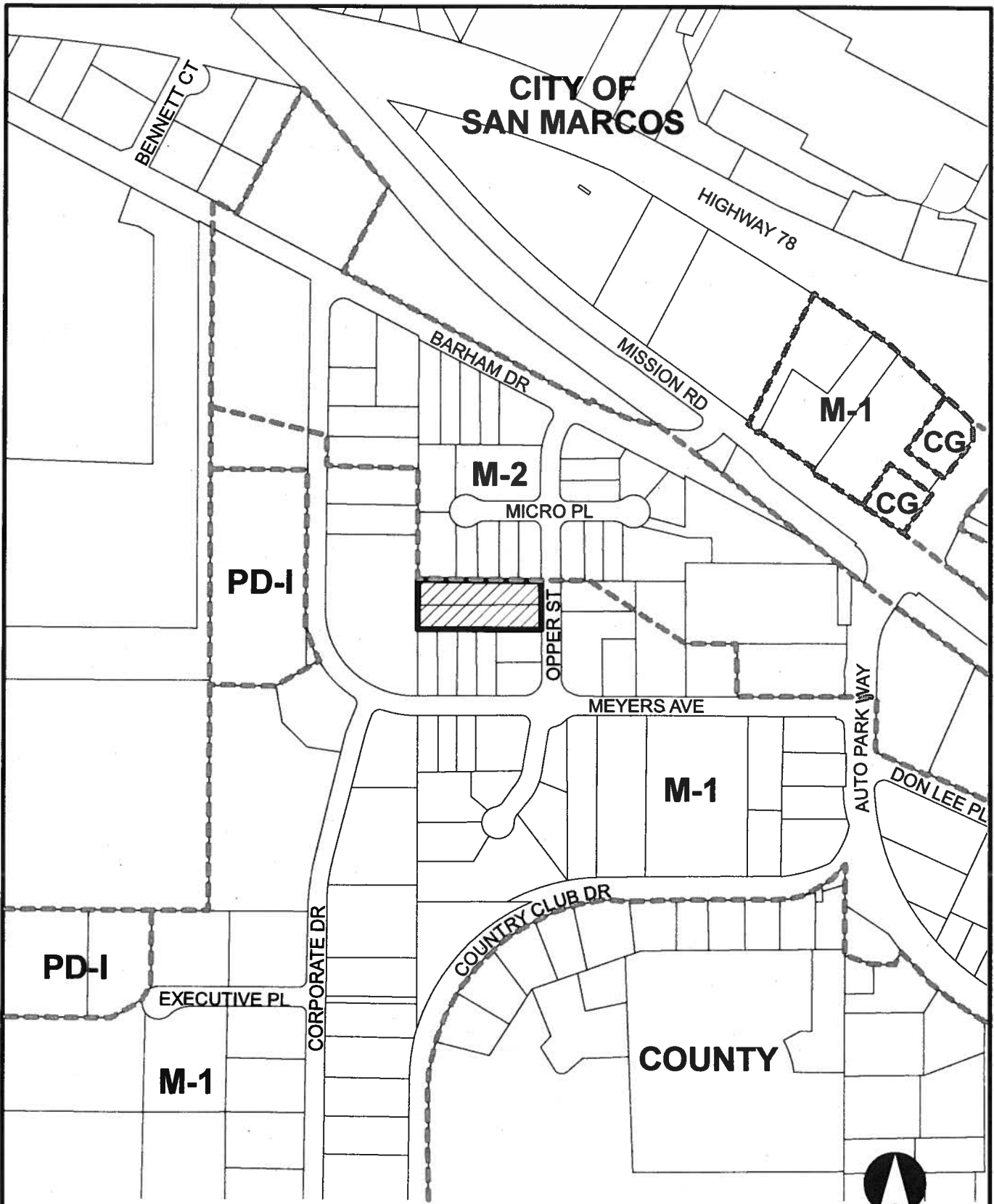
REASONS FOR STAFF RECOMMENDATION:

1. The facility is located within a light industrial zone and is surrounded by a variety of industrial uses. The existing site would be suitable for this type of transfer type operation since appropriate safety and operational protocols would be in place to ensure public health and safety. The request does not have the potential for causing a significant effect on the environment since all materials are sealed in DOT approved containers and the materials are not directly handled, processed or treated at the facility. The probability of upset or spill of materials and release of noxious odors or vapors is minimal since all materials are sealed in their prepackaged containers throughout the entire process, and no waste material is directly handled by ACT. The on-site storage time, handling and monitoring/tracking of the materials is strictly regulated by the California Department of Health Services and Department of Toxic Substance Control.

Respectfully submitted,



Jay Paul
Associate Planner



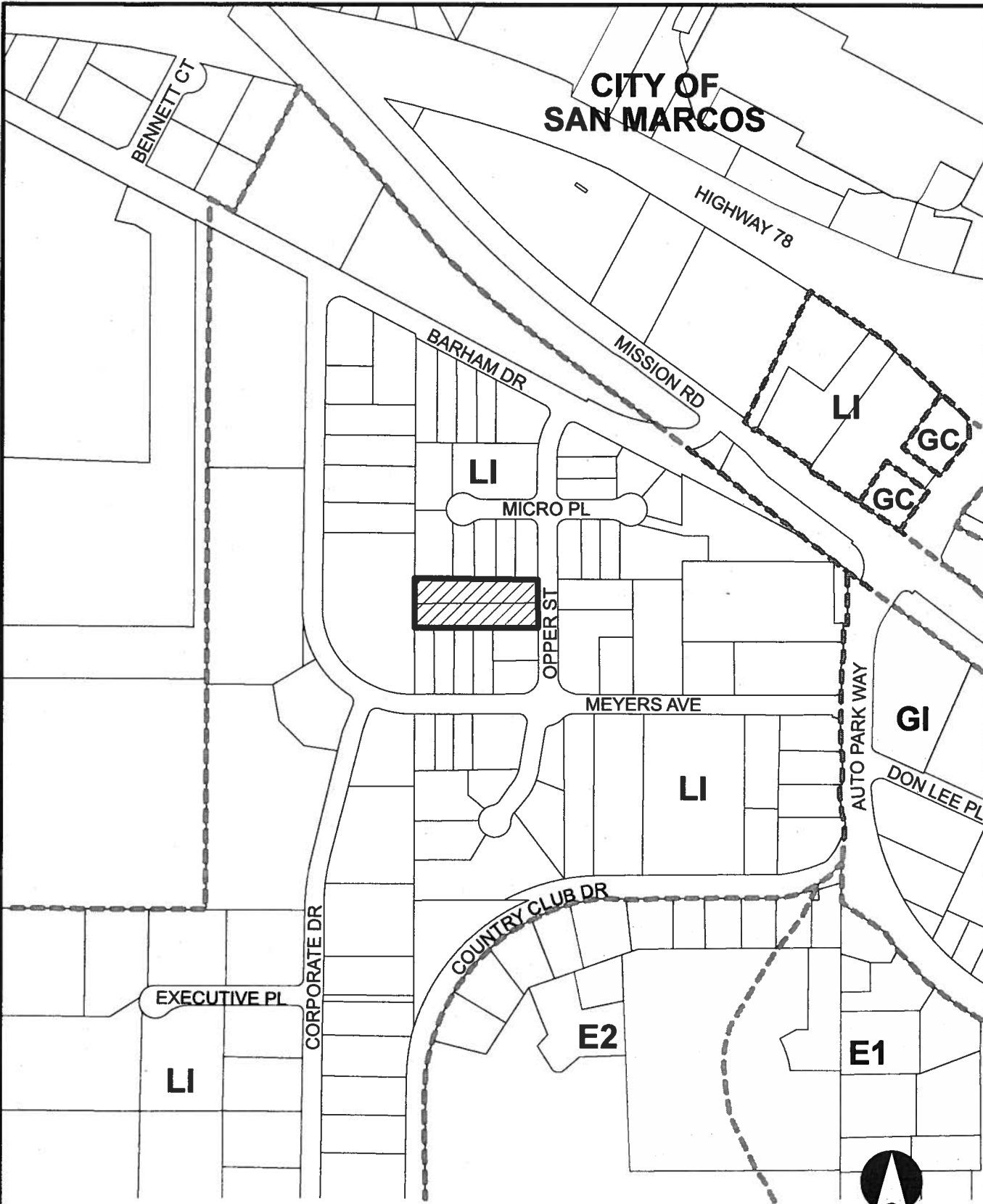
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**PROPOSED PROJECT
PHG 12-0012**



LOCATION/ZONING

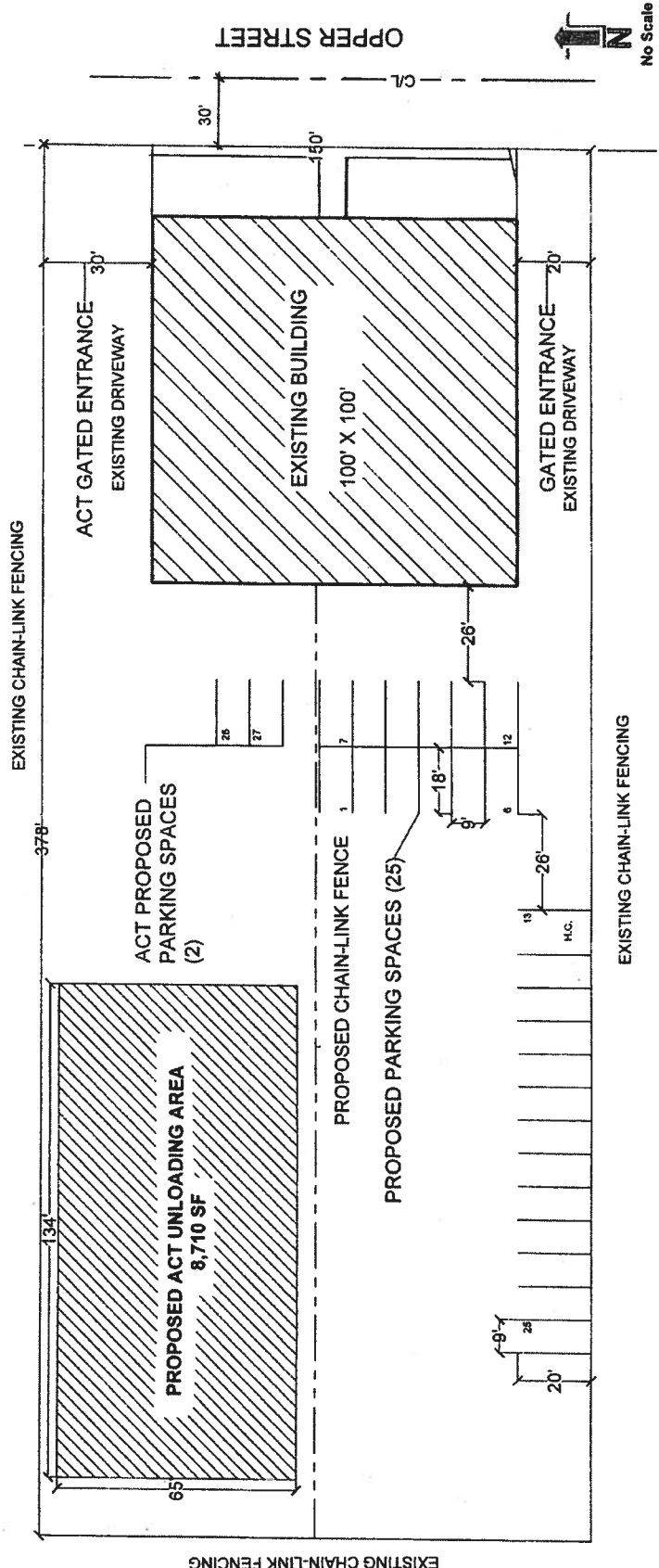
**CITY OF
SAN MARCOS**



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**PROPOSED PROJECT
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SITE PLAN

ANALYSIS

A. LAND USE COMPATIBILITY/SURROUNDING ZONING

NORTH: M-2 zoning (General Industrial) A variety of industrial buildings/uses are located north of the subject site, which are located at a lower elevation. Chain-link fencing separates the site from the adjacent properties.

SOUTH: M-1 zoning (Light Industrial) A variety of industrial buildings/uses are located south of the subject site. Chain-link fencing separates the site from the adjacent properties/uses. The nearest residential use is located approximately 820' south of the Opper Street site within the County of San Diego.

EAST: M-1 zoning (Light Industrial) A variety of industrial uses are located east of the project site across Opper Street.

WEST: M-1 zoning (Light Industrial) A variety of industrial uses are located west of the subject site. Chain-link fencing separates the site from the adjacent properties/uses. The nearest residential use is located approximately 650' west of the site within the City of San Marcos.

B. AVAILABILITY OF PUBLIC SERVICES

1. Effect on Police Service – The Police Department expressed no concern regarding the proposed project and their ability to serve the site.
2. Effect on Fire Service – The Fire Department indicated that adequate services can be provided to the site and the proposed project would not impact levels of service.
3. Traffic – The Engineering Department indicated the project would not have any impacts to existing traffic or circulation within the area.
4. Utilities –Water and sewer is available from existing mains in the adjoining streets or easements. The Engineering Department indicated the project would not result in a significant impact to public services or utilities.
5. Drainage – The Engineering Department determined the project would not materially degrade the levels of service of the existing drainage facilities. The property is not located within a 100-year floodplain as indicated on FEMA maps.

C. ENVIRONMENTAL STATUS

1. The project is exempt from environmental review in conformance with Section 15301 "Existing Facilities" of the California Environmental Quality Act (CEQA). In staff's opinion, the request does not have the potential for causing a significant effect on the environment since all materials are sealed in DOT approved containers; materials are not directly handled at the facility and all primary shipping containers remain sealed; the project site is located within an industrial zone; the building type is appropriate for this type of use; the probability of upset or spill of materials is minimal since shipping containers remain sealed and no waste material is directly handled by ACT; and appropriate operational and safety protocols will be in place. The subject area does not contain any sensitive vegetation, nor would the project encroach into native vegetation areas. The nearest sensitive receptor (residential property) is located approximately 650 feet to the west. The property is not located within a 100-year floodplain as indicated on FEMA maps, and therefore is not subject to flooding or mudslides. The use would not result in any air-quality or odor impacts since all materials remain in their sealed containers. In staff's opinion, no significant issues remain unresolved through compliance with code requirements, required county, state and federal standards and permits, and the recommended conditions of approval.

D. GENERAL PLAN ANALYSIS:

General Plan – The General Plan land-use designation for the site is Light Industrial, which allows for a wide range of industrial uses. The Community Protection Section of the General Plan establishes goals and policies regarding hazardous materials to protect the public from existing and future hazardous contamination problems. Advanced Chemical Transport (ACT) would be in conformance with the City's Hazardous Waste Policies since they are part of the countywide effort to properly handle, store and transport hazardous and medical waste from the city and county to

licensed disposal facilities. ACT also provides business education in the handling, storage and packaging of hazardous and medical wastes, along with being a qualified responder for any hazardous waste incidents and clean-up activities.

E. PROJECT ANALYSIS

Appropriateness of the Location of the Facility – The 1.3-acre project site is developed with a 10,000 SF industrial building, paved parking and a paved open lot area. The site currently is secured with chain-link fencing and key-coded wrought-iron gates to control access to the site. ACT is proposing only to utilize an approximately 8,710 SF paved portion of the site to provide an area to facilitate the truck-to-truck transfer of packaged hazardous materials, and staging and short-term storage of the transfer trailers. All materials would be directly transferred from one vehicle to the larger container trucks. A portable loading ramp would be used to facilitate the truck-to-truck transfer operations. Secondary containment is setup around the loading operations to properly contain any potential spills. No outdoor storage of materials is proposed, except for the parking of ACT container trucks and loading ramp. The existing industrial building currently is used by a concrete contractor (CJR Concrete) that would continue to use the remainder of the paved lot to support the construction business. Although the entire site is fenced, ACT proposes to install additional chain-link fencing and gates around their lease area to further secure the transfer trailers. Appropriate on-site circulation would still be provided and an appropriate number of parking spaces would be provided to adequately serve both operations.

Staff received one phone call from the Department of Toxic Substance Control regarding the proposed CUP request. DTSC did not have any concerns regarding the request provided the facility maintained a minimum 500' separation from any residential or sensitive uses (such as hospitals, schools, care facilities, etc.). Therefore, staff feels the request to use the industrial property to support ACTs transport activities is appropriate because the facility is located within an industrial zone and there are no sensitive uses within the area. Appropriate safety and operational protocols would be in place to ensure public health and safety. The request does not have the potential for causing a significant effect on the environment since all materials are sealed in DOT approved containers and the materials are not directly handled, processed or treated at the facility. The probability of upset or spill of materials and release of noxious odors or vapors is minimal since all materials are sealed in their prepackaged containers throughout the entire process, and no waste material is directly handled by ACT. The on-site storage time, handling and monitoring/tracking of the materials is strictly regulated by the California Department of Health Services and Department of Toxic Substance Control.

Monitoring – The California Highway Patrol (CHP) is responsible for the oversight of the transportation of hazardous and medical wastes on the area highways, and conducts a yearly inspection to ensure operation/vehicle compliance. The Department of Toxic Substance Control also conducts a yearly inspection of the facility, but may conduct other inspections as they deem necessary. The facility is not required to obtain any permits from the County due to the low representative hazards from such a facility. The facility is required to submit records of all materials transported within 30 days to DTSC to ensure the shipping manifest from the generator to the final destination (TSDF) correspond. Failure to report or for manifests not to match would trigger an investigation and perhaps an audit by DTSC. The CDPH requires a quarterly report to be filed to ensure compliance, and conducts inspections as needed for medical waste. The facility maintains an Emergency Action Plan (EAP) and Hazardous Materials Emergency Response protocols to ensure appropriate safety in the event of an accident or spill, as well as the appropriate incident reporting and records program.

SUPPLEMENT TO STAFF REPORT/DETAILS OF REQUEST

A. PHYSICAL CHARACTERISTICS

The 1.3-acre site is developed with a 10,000 SF industrial building and paved parking. The perimeter of the site is secured by chain-link fencing with slats along various sections to screen on-site uses. Ornamental landscaping is located along the Opper Street frontage. Access to the site is provided from Opper Street on the west. The site does not contain any sensitive habitat or species. The site is listed on the current County of San Diego Department of Environmental Health (DEH) as a hazardous waste site (SAM Case Listing) due to unauthorized discharge of industrial waste resulting in groundwater contamination. The site currently is under an ongoing cleanup and abatement effort as required by the California Regional Waste Quality Control Board (Order No. R9-2010-0007). The proposed use of the site by ACT would not interfere with these ongoing mitigation and monitoring efforts.

B. SUPPLEMENTAL DETAILS OF REQUEST

1. Property Size: 1.3 acres (two parcels)
2. Building Size: 10,000 SF (single-story)
3. Parking: Existing 24 spaces that supports the current tenant CJR Concrete. 2 additional spaces proposed to support ACT outdoor loading and unloading/storage activities for a total of 27 spaces. Employees normally would park at the Meyers Avenue site.
4. ACT Loading Area: 8,710 SF (134' x 65') area designated for ACT use within the paved rear area of the parcel. Lease area to be fenced with gates.
6. Number of Employees: Up to 12 (5 drivers/technicians and 7 admin/sales) at the Meyers Avenue facility. Up to four employees typically would be located at the Opper Street site as needed to facilitate the loading and unloading of materials, and to tow the loaded trailers from the site.
7. Number of Vehicles:
 - 1 Tractor (Conventional Cab) which can tow anyone of the following trailers:
 - 1 - 48' Box Van Refer Trailer
 - 3 - 53' Box Van Trailers
 - 3 26' Bobtail Box Vans
 - 1 14' Bobtail Van

The smaller bobtail box vans and tractors cabs generally would be parked at the Meyers Avenue site. The boxed trailers would remain at the Opper Street site.

8. Hours of Operation: Opper Street - Normal business hours: Monday – Friday, 4:30 a.m. – 6:30 p.m. The Opper Street operation would not have any restrictions on hours of operation.

Meyers Avenue Facility – Typical business hours Monday – Friday:

4:30 a.m.	3-5 day/week, driver picks up tractor w/53' van to deliver to TSDFs
6:30 a.m. – 7:30 p.m.	Everyday, drivers pick up bobtails and depart for the days work.
2:00 p.m. – 3:00 p.m.	Everyday, drivers return to the yard to transfer containers to 53' vans and prepared for the next days work. Occasionally drivers will be returning to the yard earlier than 2:00 p.m., but this is not the norm.
5:00 p.m. – 6:00 p.m.	All drivers generally have completed their day and go home.

Admin/Sales Hours:

8:00 a.m. – 5:00 p.m.	Everyday, 3-5 admin/sales staff in the office at all times
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However, deliveries and transfer operations can operate up to seven days a week, 24 hours a day (this is due to the varying pick-up, delivery and transfer times, and limits on storage of materials, or response to an incident).

EXHIBIT "A"

FINDINGS OF FACT PHG 12-0012

Conditional Use Permit

1. The General Plan land-use designation for the site is Light Industrial, which allows for a wide range of industrial uses. The Community Protection Section of the General Plan establishes goals and policies regarding hazardous materials to protect the public from existing and future hazardous contamination problems. Advanced Chemical Transport (ACT) would be in conformance with the City's Hazardous Waste Policies since they are part of the countywide effort to properly handle, store and transport hazardous and medical waste from the city and county to licensed disposal facilities. ACT also provides business education in the handling, storage and packaging of hazardous and medical wastes, along with being a qualified responder for any hazardous waste incidents and clean-up activities.
2. The proposed use of the site for the loading, unloading and temporary storage of hazardous type materials would not result in a substantial alteration of the present or planned land use since the site is zoned for industrial uses and the site has been developed as an industrial uses. ACT would use the existing facility for the temporary storage and distribution of materials. The proposal would not cause deterioration of bordering land uses since the building and site has been used for a number of industrial uses throughout its life. Appropriate on-site circulation and parking would be provided. All on-site storage of materials would be within the trucks and also within a fenced area. No physical modifications are proposed for the building. Therefore, the project would have any visual impact to surrounding uses or views. The project would not result in or generate any adverse noise, dust, odor or traffic impacts. All proposed uses would be typical of an industrial type use within an industrial area.
3. The proposed transfer/distribution facility would not be hazardous to the health of nearby business/uses or residents since all materials would be stored in approved containers and no direct handling of hazardous materials would take place. The facility would operate under the permitting authority of the California Department of Health Services and Department of Toxic Substance Control. The operation would maintain an Emergency Action Plan (EAP) and Hazardous Materials Emergency Response protocols to ensure appropriate safety in the event of an accident or spill, as well as the appropriate incident reporting and records program.

The project is exempt from environmental review in conformance with Section 15301 "Existing Facilities" of the California Environmental Quality Act (CEQA). In staff's opinion, the request does not have the potential for causing a significant effect on the environment since all materials are sealed in DOT approved containers; materials are not directly handled at the facility and all primary shipping containers remain sealed; the project site is located within the general industrial zone and Hazardous Chemical Overlay zone; the building type is appropriate for this type of use; the probability of upset or spill of materials is minimal since shipping containers remain sealed and no waste material is directly handled by ACT; and appropriate operational and safety protocols will be in place. The subject area does not contain any sensitive vegetation, nor would the project encroach into native vegetation areas. The nearest sensitive receptor (residential property) is located more than 500 feet to the south. The property is not located within a 100-year floodplain as indicated on FEMA maps, and therefore is not subject to flooding or mudslides. The use would not result in any air-quality or odor impacts since all materials remain in their sealed containers.

4. The proposed Conditional Use Permit has been considered in relationship to its effect on the community, and the request would be in compliance with the General Plan Policies and reasons stated above.

EXHIBIT "B"

CONDITIONS OF APPROVAL PHG 12-0012

General

1. All construction shall comply with all applicable requirements of the Escondido Zoning Code and requirements of the Planning Department, Director of Building, and the Fire Chief. Prior to or concurrent with the issuance of any building permits, the appropriate development fees and Citywide Facility fees shall be paid in accordance with the prevailing fee schedule in effect at the time of building permit issuance, to the satisfaction of the Director of Planning and Building.
2. The legal description attached to the application has been provided by the applicant and neither the City of Escondido nor any of its employees assume responsibility for the accuracy of said legal description.
3. All exterior lighting shall conform to the requirements of Article 1072, Outdoor Lighting (Ordinance No. 86-75).
4. Any proposed signage associated with the project must comply with the City of Escondido Sign Ordinance (Ord. 92-47) and the exhibits included in the staff report(s), to the satisfaction of the Planning Division. Separate sign permits will be required for project signage.
5. All project generated noise shall conform to the City's Noise Ordinance (Ordinance 90-08).
6. This CUP only is for the truck-to-truck transfer of materials associated with ACTs transfer operations, as detailed in the staff report. The operation of the facility shall be consistent with the Details of Request contained within the Planning Commission staff report. No containers or hazardous materials may be stored outside the building, unless stored within completely sealed and secured transportation vehicles, in conformance with county, state and federal requirements. The facility shall operate in conformance with any permits and regulations issued or required by the California Department of Toxic Substance Control and California Department of Public Health.
7. Any changes to operational characteristics of the facility (such as long-term storage, direct handling of waste material, or treatment/disposal of materials, storage of materials within the existing or any new buildings or on the site) must first be approved by the City through the appropriate review process.
8. There shall be no discharge of any hazardous or medical waste materials to the sanitary sewer system, unless approved by the Engineering Division and Utilities Department.
9. The Conditional Use Permit shall be null and void if not utilized within twelve months of the effective date of approval.
10. This item may be referred back to the Planning Commission upon recommendation of the Director of Community Development for review and possible revocation or modification of the Conditional Use Permit upon receipt of nuisance complaints regarding the facility or non-compliance with the Conditions of Approval.
11. The City of Escondido hereby notifies the applicant that the County Clerk's Office requires a documentary handling fee of \$50.00 in order to file a Notice of Exemption for the project (environmental determination for the project). In order to file the Notice of Exemption with the County Clerk, in conformance with California Environmental Quality Act (CEQA) Section 15062, the applicant should remit to the City of Escondido Planning Division, within two working days of the final approval of the project (the final approval being the date of this letter) a certified check payable to the "County Clerk" in the amount of \$50.00. The filing of a Notice of Exemption and the posting with the County Clerk starts a 35 day statute of limitations period on legal challenges to the agency's decision that the project is exempt from CEQA. Failure to submit the required fee within the specified time noted above will result in the Notice of Exemption not being filed with the County Clerk, and a 180 day statute of limitations will apply.

Fire Department:

1. ACT shall submit a Technical Report to the Fire Department, which includes items such as a list of materials handled, transferred and stored; safety protocols; containment methods; response to on-site emergencies/spills; types of on-site transfer methods; and manifest logs).



CITY OF ESCONDIDO
 PLANNING DIVISION
 201 NORTH BROADWAY
 ESCONDIDO, CA 92025-2798
 (760) 839-4671

Notice of Exemption

To: San Diego County Recorder's Office
 Attn: Vanessa Esquivel
 P.O. Box 121750
 San Diego, CA 92112-1750

From: City of Escondido
 201 North Broadway
 Escondido, CA 92025

Project Title/Case No.: PHG 12-0012

Project Location - Specific: 665 and 667 Opper Street (228-420-19 and -20)

Project Location - City: Escondido, **Project Location - County:** San Diego

Description of Project: A Conditional Use Permit to allow the truck-to-truck transfer of regulated hazardous and bio-hazardous waste for Advanced Chemical Transport (ACT) within a paved area of an industrial-zoned parcel. The 1.3-acre project site is developed with a 10,000 SF industrial building, paved parking and a paved open lot area. The site currently is secured with chain-link fencing and key-coded wrought-iron gates to control access to the site. ACT is proposing only to utilize an approximately 8,710 SF paved portion of the site to provide an area to facilities the truck-to-truck transfer of packaged hazardous materials, and staging and short-term storage of the transfer trailers. All materials would be directly transferred from one vehicle to the larger container trucks. A portable loading ramp would be used to facilitate the truck-to-truck transfer operations. All other ACT related business and transfer-related activities would continue to be conducted at their existing facility located at 2213 Meyers Avenue in the City of Escondido, including the transfer of biohazardous-medical type and universal waste (batteries, lamps, etc.).

Name of Public Agency Approving Project: City of Escondido

Name of Person or Agency Carrying Out Project

Name Advanced Chemical Transport (Larry Moore, General Mgr.) Telephone (760) 489-5600

Address 2213 Meyers Avenue, Escondido, CA 92029

Private entity School district Local public agency State agency Other special district

Exempt Status: Categorical Exemption. Section 15301, "Existing Facilities."

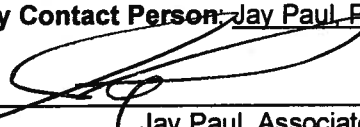
Reasons why project is exempt:

1. In staff's opinion, the request does not have the potential for causing a significant effect on the environment since all materials are sealed in DOT approved containers; materials are not directly handled at the facility and all primary shipping containers remain sealed; the project site is located within an industrial zone; the site is appropriate for this type of use; the probability of upset or spill of materials is minimal since shipping containers remain sealed and no waste material is directly handled by ACT; there are no sensitive receptors within 500 feet of the site; and appropriate operational and safety protocols will be in place. The use would not result in any air-quality or odor impacts since all materials remain in their sealed containers. No physical alterations to the site or existing building is proposed except for the installation of additional security fencing around the lease area. No significant issues remain unresolved through compliance with code requirements, required county, state and federal standards and permits.
2. The site is in an area where all public services and facilities are available to allow for the proposed use.

- 3. The project site is not in an area that is environmentally sensitive due to any sensitive habitat or species. The site is listed on the current County of San Diego Department of Environmental Health (DEH) as a hazardous waste site (SAM Case Listing) due to unauthorized discharge of industrial waste resulting in groundwater contamination. The site currently is under an ongoing cleanup and abatement effort as required by the California Regional Waste Quality Control Board (Order No. R9-2010-0007). The proposed use of the site by ACT would not interfere with these ongoing mitigation and monitoring efforts. The site is not a hazardous waste site which is included on any list compiled pursuant to Section 65962.5 of the Government Code (Cortese List).
- 4. The project would not create any significant increase in vehicle trips, nor impact vehicular circulation on or around the site. Appropriate parking is provided on the site to accommodate all uses. The project would not generate any significant noise impacts to adjacent uses through the project design and compliance with the project Conditions of Approval. The project would not result in the destruction of desirable natural features, nor be visibly obtrusive or disharmonious with surrounding areas.

Lead Agency Contact Person: Jay Paul, Planning Division

Area Code/Telephone/Extension (760) 839-4537

Signature: 
Jay Paul, Associate Planner

June 11, 2012
Date

Signed by Lead Agency

Date received for filing at OPR: N/A