

**CITY OF HAYWARD  
PLANNING DIVISION  
ADMINISTRATIVE USE PERMIT  
October 27, 2015**

**ADMINISTRATIVE USE PERMIT PL-2013-0468 – Frank Sanchez for Norcal Rock, Inc.**

**(Applicant) Industrial Parkway LLC (Owner)** – Denial of an administrative use permit request to operate an outdoor concrete and aggregate recycling facility at 30120 Industrial Parkway SW in the Industrial (I) District, (APN: 475-0010-006-00).

**FINDINGS FOR DENIAL .**

- A. Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15270(a), CEQA does not apply to projects that are disapproved by a public agency.
- B. The proposed outdoor concrete and aggregate recycling facility is not desirable for the public welfare in that the facility will generate noise, dust and visual impacts that cannot be contained to the site. The proposed use which involves large-scale industrial equipment and crushing activities will be conducted entirely outdoors and would be visible from surrounding properties and Interstate 880. At 25 feet in height, the stockpiles and equipment cannot be effectively screened by 12 and one-half foot tall perimeter walls.

In addition to visual impacts, noise and dust will migrate over the perimeter walls resulting in nuisances on adjacent light industrial and large-scale retail centers located south and west of the project site. Though the proposed administrative use permit plans include a perimeter dust suppression system with irrigation sprinklers evenly spaced along the perimeter walls, the sprinklers, which will only operate during business hours, cannot reach all areas of the stockpiles at all times. Tall, uncovered stockpiles will result in a high potential for windblown contamination from concrete dust containing silica dust, Mercury and polychlorinated biphenyl (PCBs), among other potential contaminants from pre-treated concrete and aggregate materials. Dust and chemicals escaping the site will settle on adjacent properties, roadways and cars and will run-off following exposure to rainwater into the City's storm drain system, and nearby drainages such as the Alameda County drainage approximately 100 feet from the site and eventually into the San Francisco Bay. Noise and dust will also be generated from unloading and loading the trucks and the concrete crushing machinery as well as movement of concrete rubble around the approximately one-acre project site, which is detrimental to the welfare of nearby businesses and their customers.

The City acknowledges that there is a need for concrete and aggregate recycling services in the region. However, there are already two approved concrete and aggregate recyclers located within the City of Hayward. One concrete recycler would be operated indoors thus mitigating dust and noise impacts to sensitive receptors; and, the other concrete and aggregate recycler was approved to conduct outdoor operations on an approximately five

acre parcel adjacent to automobile wrecking yards, the Russel City Energy Center and other heavy industrial uses, which are located thousands of feet away from established commercial and residential districts and land use designations. Approval of a third concrete and aggregate recycler with outdoor operations adjacent to well-established commercial uses that are frequented by sensitive receptors is not necessary for the convenience of the City residents or businesses.

C. The concrete and aggregate recycling facility impairs the character of the surrounding area. The facility is highly visible from existing commercial uses as well as Interstate 880 because the stockpiles and equipment reach above the height of the screening walls. In addition, the site is located within 1,000 feet (and as close as 400 feet at points) to existing, large-scale commercial retailers, a hotel, and restaurants that are frequented by sensitive receptors.

Although the project site is located in the Industrial District, the area surrounding the site has changed significantly over the past twenty years and it is continuing to evolve from industrial to light industrial and commercial, retail uses that are consistent with the City's General Plan vision for the area. In fact, the transformation of the area south and west of the site into a regional commercial and retail center is well-established both in the current and planned development. The approximately one-acre project site is located less than 1,000 feet northeast of retail and commercial uses including a Motel 6, McDonald's and Denny's that were built in the 1980's; a Home Depot and other supporting retail uses constructed in the early 1990s; a large-scale Target store established in the early 2000s; and a strip retail center with Panda Express among other commercial uses that was built in 2005. In addition, the City is processing an application to convert an existing warehouse adjacent to the site into a large scale retail center to expand the regional commercial uses in the area. While immediately adjacent properties to the project site involve light industrial uses and outdoor storage of materials, the uses do not involve processing outside of a building as is contemplated with the proposed use. In conclusion, the stockpiles, dust and noise generated from an outdoor concrete and aggregate recycling processing use are incompatible with the surrounding neighborhood as a whole and would be more appropriately placed inside a structure or in industrial areas located further from commercial corridors and retail and commercial centers.

D. The outdoor concrete and aggregate recycling facility will be detrimental to the public health, safety, or general welfare in that the uncovered and uncontrollable dust created by the concrete crushing process poses a potential health risk. This administrative use permit is intended to legalize a use that has been operating in the City over the past several years. During that time, the City has received complaints related to dust generated by ongoing operations and has documented the user's failure to control fugitive sediment on the property at the ingress/egress to the site and at nearby stormwater inlets. Though the proposed administrative use permit plans include a perimeter dust suppression system with irrigation sprinklers spaced around the piles, dust from crushing activity will escape the site due to the fact that the sprinklers are not able to reach all areas of the stockpiles. In addition, dust will escape during non-business hours when the uncovered stockpiles are not watered. When concrete and aggregate materials are crushed into smaller particles, a percentage of the particulate material released is crystalline silica dust which can lead to

lung disease following repeated exposure. Further, uncovered stockpiles of this material will result in a high potential for windblown contamination from concrete dust containing Mercury and polychlorinated biphenyl (PCBs). The dust and chemicals escaping the site will settle on adjacent properties, roadways and cars and will run-off following exposure to rainwater into the City's storm drain system, into nearby drainages such as the Alameda County drainage approximately 100 feet from the site and eventually into the San Francisco Bay. In addition to dust-related impacts, the outdoor facility will also result in continual noise which cannot be wholly contained by the 12 and one-half foot walls surrounding the use because the equipment will reach above the perimeter walls designed to buffer the noise.

E. The outdoor concrete and aggregate recycling facility is not in harmony with the intent and purpose of the Industrial District nor is it consistent with the City's General Plan. According to Hayward Municipal Code (HMC) Section 10-1.1605:

*“The purpose of the Industrial (I) District is to provide for and encourage the development of industrial uses in areas suitable for same, and to promote a desirable and attractive working environment with a minimum of detriment to surrounding properties.”*

Pursuant to HMC Section 10-1.1645(o), “all uses shall be conducted wholly within enclosed buildings.” Open storage of goods in conjunction with a use that includes indoor processing may be permitted with an administrative or conditional use permit; and, some outdoor processing may occur on very large industrial sites that do not result in significant visual, dust, noise or other impacts. However, the proposed outdoor concrete and aggregate recycling use would occur outside on a relatively small site with visible equipment and stockpiles within 1,000 feet of established commercial and retail uses resulting in visual and environmental detriments to visitors to the well-established, nearby commercial centers.

The proposed project is also incompatible with General Plan policies related to new development in the Industrial Corridor land use designation. Although the proposed use includes minor landscaping improvements along a parking strip, the proposed use would not upgrade existing site facilities to improve the economic viability of the property nor would it enhance the visual character of the corridor (as promoted by Policy LU-6.6) in that it would result in visible concrete crushing equipment and stockpiles from nearby roadways and commercial centers. Nor would the proposed project meet General Plan Policy ED-5.5 which requires new development to include quality site, architectural and landscape design to improve and protect the appearance and reputation of Hayward in that the applicant is not proposing any improvements to the land other than monolithic, masonry walls and minor frontage landscaping. Nor is the project consistent with Policy LU-6.8, which encourages employee amenities in that the proposed project does not include on-site structures such as an employee break-room or restrooms. Overall, the proposed project is not consistent with the City's vision, goals or policies for the Industrial Corridor and it is incompatible with the surrounding neighborhood and would not promote a desirable or attractive working environment.